

## Swale Borough Council



### Hackney Carriage (Taxi) and Private Hire Licensing Policy 2022 – 2027

**Next Scheduled Review: 2027**

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## **Executive Summary**

### **The Role of Licensing**

The aim of local authority licensing of Hackney Carriage (Taxi) and Private Hire Vehicle (PHV) trades is to protect the public. Swale Borough Council is also aware that the public should have reasonable access to Hackney Carriage and PHV services because of the part they play in local transport provision. Licensing requirements which are unduly stringent will tend to unreasonably restrict the supply of Hackney Carriage and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade.

Swale Borough Council recognises that too restrictive an approach can work against the public interest and can, indeed, have safety implications. For example, it is clearly important that somebody using a Hackney Carriage or PHV to go home alone late at night should be confident that the driver is “fit and proper” and that the vehicle is safe. However, on the other hand if the supply of Hackney Carriage or PHVs has been unduly constrained by onerous licensing conditions, then that person’s safety might be put at risk by having to wait on streets late at night for a Hackney Carriage or PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.

Swale Borough Council, therefore, wants to be sure that every licensing requirement is in proportion to the risk it aims to address; or to put it another way, whether the cost of a requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety. This is not to propose that a detailed, quantitative, cost-benefit assessment should be made in each case; but it is to say that Swale Borough Council does look carefully at the costs – financial and otherwise – imposed by all of its licensing policies.

# **1 Introduction**

## **1.1 Powers and Duties**

**1.1.1** This Statement of Licensing Policy is written pursuant to the powers conferred by the Town Police Clauses Act 1847 (as amended), and the Local Government (Miscellaneous Provisions) Act 1976 (as amended) which places on Swale Borough Council (the “Licensing Authority”) the duty to carry out its licensing functions as to hackney carriage and private hire vehicles and drivers.

**1.1.2** In undertaking its licensing function, the Council will also have regard to other relevant legislation (and any legislation replacing or amending the same or any regulations made thereunder) including:

- a) Transport Act 1985
- b) Road Vehicles (Constructions and Use) Regulations 1986.
- c) Crime and Disorder Act 1998
- d) Environmental Protection Act 1990
- e) Health Act 2006 and Smoke-free Regulations 2006/7
- f) Legislative and Regulatory Reform Act 2006
- g) Road Safety Act 2006 Road Traffic Acts
- h) Health & Safety (First Aid) Regulations 1981
- i) Immigration Act 2016
- j) Equalities Act 2010
- k) The Finance Act 2021

## **1.2 Background to Policy**

**1.2.1** The Department of Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales.

**1.2.2** In 2006 the DfT produced a Best Practice Guidance to assist local authorities with the regulation of the hackney carriage and private hire trades. It was directed at local authorities “to decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”. There was recognition, within the document, that is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations.

**1.2.3** In 2010 the DfT’s Guidance was updated, and this policy revision takes the 2010 version into account.

**1.2.4** In July 2020, the DfT issued Statutory Taxi and Private Hire Vehicle Standards to which all Licensing Authorities must have regard in carrying out their licensing function. Whilst the focus of these standards is on protecting children and vulnerable adults, they are intended to benefit all passengers; primarily through ensuring the fitness and propriety of applicants and licence holders. The national standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the Best Practice Guidance, and consequently replace relevant sections; where there is a conflict between the national standards and the Best Practice Guidance, the national standards take precedence.

**1.2.5** In the light of this and in order for Swale Borough Council to maintain a modern, forward thinking licensing function by adopting this licensing policy recognition is given to both the needs of residents for safe, healthy, convenient and effective taxi

transport while facilitating a sustainable taxi industry and the importance of this provision to the local economy and vibrancy of the borough. The hackney carriage and private hire industry within the Council's area is comprehensive and provides its population with a good service. This 2022 revision seeks to build on the 2018 policy by:

- a) Adopting the standards set out within the Statutory Taxi and Private Hire Vehicle Standards, where they are not already in place.
- b) Supporting the council's declaration of a climate and ecological emergency and commitment to becoming a carbon neutral borough by 2030 by strengthening vehicle emission limits and by setting out when the taxi fleet will need to consist of wholly electric vehicles
- c) Supporting the council's strategic Air Quality Action Plan which identifies measures to target reductions in emissions from all vehicle fleets by emphasising and encouraging the switch to zero emission vehicles. This is important across the whole borough, but in particular, within the 6 declared Air Quality Management Areas.
- d) Improving the knowledge and calibre of licence holders through additional training requirements
- e) Continue to support the digitisation of the Council's services

**1.2.6** This Hackney Carriage and Private Hire Vehicle Licensing policy is also intended to ensure that both the trade and the public have a document that fully explains the licensing procedures in a clear and transparent manner. The policy sets out what is considered to be best practice in terms of hackney carriage and private hire licensing. It does not seek to cover the whole range of possible licensing requirements. Instead it seeks to concentrate only on those issues that have caused difficulty in the past or that seem of particular significance.

**1.2.7** The Council sees the licensing process as an integral part to its approach to achieving its strategic and corporate objectives which encompasses the visionary goals of:

- a) Keeping Swale safe
- b) Engaging and empowering communities within the Borough
- c) Driving the economic development of the Borough
- d) Ensuring a strong customer focus and delivering quality frontline services

**1.2.8** The Council currently (2021) licenses approximately 300 drivers. There are approximately 190 hackney carriage vehicles and approximately 45 private hire vehicles. There are 35 private hire operators.

### **1.3 Objectives**

**1.3.1** Hackney carriages and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where other public transport is either not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or on Sundays), or for those with mobility difficulties.

**1.3.2** In setting out its policy, Swale Borough Council seeks to promote the following:

- a) The protection of the health and safety of the public and of licensed drivers

- b) The prevention of crime and disorder and protection of customers and drivers from being the victims of crime
- c) The provision of a professional and respected hackney carriage and private hire trade, by continued partnership working with the trade and also by monitoring and improvement of their required standards of service
- d) Vehicle safety and the provision of assistance with public access to an efficient and effective public transport service

**1.3.3** The aim of the licensing process in this context is to regulate the hackney carriage and private hire trade in order to promote the above objectives. It is the Licensing Authority's wish to facilitate well-run and responsible businesses which display sensitivity to the wishes and needs of the general public.

**1.3.4** In exercising its discretion in carrying out its regulatory functions, the Licensing Authority shall have regard to this policy document and the objectives set out above.

**1.3.5** This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.

This is also in accordance with the Regulator's Compliance Code.

However, despite the existence of this policy, each application or enforcement measure shall be considered on its own merits. In certain instances, we may conclude that a provision in the policy or code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the policy or code will be properly reasoned, based on material evidence and documented giving clear and compelling reasons for doing so.

**1.3.6** The Council acknowledges that the current fleet of hackney carriages and private hire vehicles and drivers generally set a very high standard of appearance and performance of which the Council is proud. Whilst the number of occasions where suspension, revocation or prosecution are very rare, this Policy seeks to reinforce the existing high standards for all new licence holders joining the trade in Swale and emphasise the full range of enforcement options available should they be needed.

## **1.4 Consultation and Implementation**

**1.4.1** In drawing up this policy, Swale Borough Council has consulted with the following

- a) Representatives of the hackney carriage and private hire trade
- b) Kent Police
- c) Kent County Council Traffic & Road Safety
- d) Kent County Council Highways department
- e) Kent County Council (Schools contracts)
- f) Driver and Vehicle Standards Agency (DVSA)
- g) Disabled Persons Transport Advisory Committee
- h) Local businesses and their representatives
- i) Local Residents and their representatives
- j) Swale Town Centre management
- k) Ward Councillors, Town and Parish Councils
- l) Community Safety Unit
- m) The National Private Hire Association
- n) The National Taxi Association
- o) Public Health Kent

- p) Chamber of Commerce
- q) Citizens Advice
- r) Age UK
- s) Swale Council Environmental Health Department
- t) Swale Council Engineers

**1.4.2** This policy will take effect on \*\*\*\*\* after it has been fully consulted upon and received formal approval from the council's General Licensing Committee. It will remain in existence for a period of five years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change.

**1.4.3** Upon implementation of this policy, the Authority expects licence-holders to comply with its terms immediately.

**1.4.4** Any substantial amendment to this policy will only be implemented after further consultation with the trade and the public. All substantial amendments must be authorised by the relevant committee of the Council.

**1.4.5** For the purpose of this section, any substantial amendment is defined as one that:

- a) will have a significant financial effect on licence holders, or
- b) will have a significant procedural effect on licence holders, or
- c) may not be perceived by the trade or the public to be consistent with the published objectives in Section 1.3 of this policy.

**1.4.6** Any minor amendment to this policy may be authorised by the Resilience and Licensing Manager in conjunction with the chair of the General Licensing Committee or Cabinet Member.

**1.4.7** The Policy and associated documentation are available for inspection on the Council's website and a hard copy can be viewed at Swale Borough Council Offices, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

## **1.5 Data Protection**

**1.5.1** In holding and exchanging information with other bodies/departments during the exercise of its functions under this Policy, officers are required to act in accordance with the provisions of the Acts and the Data Protection principles as set out in the General Data Protection Regulation, Data Protection Acts, and any duties under the Freedom of Information Act 2000.

## **1.6 Equality and Diversity & Human Rights**

**1.6.1** Swale Council is committed to ensuring equality in employment and service delivery. To achieve this standard the authority is aware of its duties and obligations under the following legislation amongst others:

- a) Equality Act 2010
- b) Human Rights Act 1998

**1.6.2** Applicants and licensees should be aware of their obligations and the avoidance of unlawful discrimination under the Equality Act 2010 and the characteristics protect by the legislation which are:

- a) Age
- b) Disability



- c) Gender reassignment
- d) Marriage and civil partnership
- e) Pregnancy and maternity
- f) Race
- g) Religion
- h) Sex
- i) Sexual Orientation

**1.6.3** It is expected that responsible licensees will be sensitive to the needs of their varied customer base and be prepared to make reasonable adjustment to accommodate those needs.

**1.6.4** Licensed drivers are under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles and passengers with disabilities without additional charge. Drivers who have a medical condition that is aggravated by exposure to dogs may apply for an exemption from the duty on medical grounds. A medical certificate must be provided at the drivers' expense, from the drivers own GP stating the details of their medical condition.

## **1.7 Right to live and work in the UK**

**1.7.1** Under the Immigration Act 2016 all applicants for hackney carriage and private hire driver licences and private hire operator licences are required to prove that they have a right to live and work in the UK before being considered for a licence. A list of suitable documents that are required is available at:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

**1.7.2** A licence will not be granted until the applicant is able to prove that they have the right to live and work in the UK. If an applicant has only limited leave to remain then any licence will only be issued for this period. A time limited licence may be granted if evidence of an in-time application to extend a right to remain to the UK Visas and Immigration is presented.

## **2. Vehicles**

### **2.1 Limitation of Numbers**

**2.1.1** The present legal provisions on quantity restrictions for hackney carriage vehicles are set out in section 16 of the Transport Act 1985. This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of licensed hackney carriages "if, but only if, the local authority is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet". In the event of a challenge to a decision to refuse a licence on these grounds, it would, therefore, have to be established that the authority had been reasonably satisfied that there was no significant unmet demand.

**2.1.2** Many local licensing authorities do not impose any quantity restrictions on hackney vehicles and the DfT regards this as best practice. Where restrictions are imposed, licensing authorities are urged to regularly reconsider the matter, taking into account whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of those who use the services of such vehicles. The over-riding principles are the benefit to be achieved for them by the continuation of controls and how they might benefit if the controls were removed.

Evidence should be sought as to whether removal of the controls would result in a clear and unambiguous deterioration in the amount or quality of service provision.

- 2.1.3 Where quantity restrictions are imposed, vehicle licence plates command a premium, often of thousands of pounds. This tends to suggest that there are people who want to enter the market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.
- 2.1.4 If the local authority were to take the view that a quantity restriction can be justified in principle, the Guidance advises that the level at which the limit should be set is addressed by means of a survey.
- 2.1.5 The Council does not intend to set a limit on the number of hackney carriages which it licences, which is in keeping with the DfT guidance.
- 2.1.6 In the event of this changing and the Council commissioning an unmet demand survey, the cost would likely need to be funded by an increase in licence fees
- 2.1.7 No powers exist for licensing authorities to limit the number of private hire vehicles which they license.

## **2.2 Specifications and Conditions**

- 2.2.1 Licensing Authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages or private hire vehicles.
- 2.2.2 The Best Practice Guidance suggests that local Licensing Authorities should adopt the principle of specifying as many different types of vehicle as possible. Authorities are encouraged to leave it open to the trade to put forward vehicles of their own choice which can be shown to meet basic criteria. In that way, emerging new designs for vehicles can be readily taken into account
- 2.2.3 The Council is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licences. Hackney carriages and private hire vehicles provide a necessary service to the public, so it is appropriate to set standards for the external and internal condition of the vehicles, provided that the standards are reasonable and proportionate.
- 2.2.4 All vehicles must have at least four doors, being two each side of the vehicle, a rear door not being accepted as one of the four doors. Vehicles with exits sited over petrol tanks will not be permitted. Doors should open and close to 90 degrees to the body of the vehicle, except in the case of sliding doors. For vehicles with 8 seats and sliding doors providing access to rear seats – one sliding door is acceptable on the near side of the vehicle subject to alternative emergency escape measures being provided.
- 2.2.5 All vehicles will be subjected to a vehicle test and Certificate of Compliance every year. After five years old then the vehicle will require an additional Certificate of Compliance at six months.

**APPENDIX A sets out the minimum standards of vehicle specification, which apply in respect of all licensed vehicle applications.**

## **2.3 Accessibility**

- 2.3.1** Swale Borough Council is committed to social inclusion and ensuring a wide range of opportunities are available to disabled residents to enjoy a high quality of life. Without the ability to travel, people with disabilities are denied access to life opportunities. Their access to education, shopping, employment, healthcare as well as social and family life is significantly improved when journeys become accessible. For this reason, the Council considers it important that people with disabilities have access to all forms of public transportation. Accessibility is an important consideration in respect of vehicles licensed as hackney carriages. The Council therefore maintains a list of designated wheelchair accessible vehicles on the Council's website in accordance with section 167 of the Equality Act 2010.
- 2.3.2** This section of the policy also takes into account the 2007 report published by the European Conference of Ministers of Transport and the International Road Transport Union: It recognised that it is impossible to provide for 100% of wheelchair users without reducing the operational viability of the vehicle for the taxi operator and other passengers. There will be a small proportion of people who, because of the size of their wheelchair or the nature of their disability are unable to access taxis or indeed other forms of mainstream public transport. They will continue to need specialist door-to-door services.
- 2.3.3** Currently, the council are satisfied that there is an adequate number of Wheelchair Accessible Vehicles (WAV's) within the borough to provide for the needs of users, but should the supply of WAV's diminish it will consider what action to take to remedy this.

## **2.4 Environmental Considerations**

- 2.4.1** The Best Practice Guidance asks licensing authorities to consider how far their vehicle licensing policies can and should support any local environmental policies that they have adopted, bearing in mind the need to ensure that the benefits outweigh costs (in whatever form). They suggest that authorities may, for example, wish to consider setting vehicle emissions standards, perhaps by promoting cleaner fuels.
- 2.4.2** In June 2019, the Council declared a climate and ecological emergency and committed to becoming a carbon neutral borough by 2030. The climate and ecological emergency action plan contains an action to "promote business fleet decarbonisation, including the potential cost and reputational benefits". The timescale for this action is medium term which is completion between the end of 2023 and the end of 2027. In addition, the Council's Electric Vehicle Strategy (2022-2030) anticipates that the review of the taxi licensing policy will provide an opportunity to include mechanisms to encourage the uptake of ULEV taxis in the borough, in consultation with operators." In working towards achieving these targets and goals, the council must consider the environmental impacts arising from its licensed taxis and private hire vehicles and seek to reduce the resultant carbon footprints. This section, and the associated vehicle criteria, will therefore be kept under review.
- 2.4.3** The vast majority of vehicles, other than Wheelchair Accessible Vehicles and limousines are likely to meet Euro 6 standard (as a minimum) however, to ensure

that this is achieved particular attention should be paid to the age criteria and emissions standards as shown in **Appendix A**.

**2.4.4** Clearly emissions from hackney carriages and private hire vehicles could be reduced further, by encouraging better maintenance of vehicles and by switching off engines when stationary or idling, particularly at hackney carriage ranks. It is proposed that this aspect be tackled through education and promotion. Swale Borough Council has implemented anti-idling legislation and as such can issue fixed penalty notices for offences under the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. In order to comply with these regulations, drivers are advised to switch off their engine when the vehicle is stationary to avoid any unnecessary vehicle idling, especially in the vicinity of sensitive areas such as schools, hospitals, train stations and residential areas, except in the following circumstances:

- a) where the licensed vehicle is stationary owing to the necessities of traffic – e.g., when vehicles are queuing at traffic signals.
- b) where an engine is being run so that a defect can be traced and rectified – e.g., when a defective vehicle is being attended to by a breakdown/recovery agent.

**2.4.5** If a vehicle is fitted with a stop/start engine technology, this must not be disabled at any time when the vehicle is operating as a taxi or private hire vehicle.

## **2.5 Signage**

**2.5.1** Within the Borough of Swale, both hackney carriages and private hire vehicles are required to display licence plates that are permanently fixed externally on the rear of the vehicle with Hackney plates being white and private hire being yellow. This is a key feature in helping to identify vehicles that are properly licensed. The plate details Swale Borough Council as the Licensing Authority, the vehicle make, colour and registration mark, the number of passengers the vehicle can carry and the expiry date of the licence.

**2.5.2** Details of the required signage is contained in **Appendix A**.

**2.5.3** No vehicle will be granted a licence by Swale Borough Council if it is licensed by another authority. This is because a vehicle is unlikely to comply with the requirements of two separate licensing authorities, could cause confusion to members of the public and impede the Council's ability to effectively regulate

## **2.6 Security and Closed Circuit Television (CCTV) and Protective Screens**

**2.6.1** The hackney carriage and private hire trade provide a valuable public service, especially late at night when other forms of public transport are no longer available. Security for drivers and passengers is of paramount importance. Across the UK there is evidence that attacks and incidents involving taxi drivers are sadly becoming more common. The main areas of concern are:

- a) Threats and assaults on drivers
- b) Allegations of drivers assaulting passengers
- c) Customers leaving vehicles without paying
- d) Allegations of theft associated with licensed vehicles

- 2.6.2** CCTV cameras can be a valuable deterrent for such incidents and, as well as protecting the driver from unjustified complaints, can protect the travelling public similarly by:
- a) Helping to prevent crime
  - b) Identifying the perpetrators of crime
  - c) Reducing the fear of crime
  - d) Increasing the safety of drivers and passengers
- 2.6.3** The DfT Statutory Taxi and Private Hire Vehicle Standards recommends that local authorities should consult to identify whether there are any local circumstances which would indicate that the mandatory installation of CCTV in vehicles would have either a positive or adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues. The DfT also state that the imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and if imposed must require an appropriately strong justification and kept under review.
- 2.6.4** In the light of the above the Council permits the installation of a CCTV camera system in all hackney carriage and private hire vehicles it licences but does not at this stage intend to make it a mandatory condition of licensing.
- 2.6.5** If CCTV facilities are installed in a licensed vehicle, the installation and operation of all CCTV systems must comply with the Surveillance Camera Commissioner's Code of Practice and the Information Commissioner's Code of Practice for Surveillance Cameras and Personal Information (or subsequent amendments or replacements). All equipment must comply with any legislative requirements in response of Motor Vehicle Construction and Use Regulations.
- 2.6.6** In order to offer additional personal protection, drivers may wish to install a protective screen/shield around the driving seat. There will be no objection to the installation of such screens/shields provided that, to the satisfaction of the Council, they:
- a) Are of a make, type and design approved by authorised officers of the Council
  - b) Are not changed in any way from the original design and are free of damage
  - c) Remain clear, clean and transparent
  - d) Are free of scratches, clouding or stickers which could impede the drivers' or passengers' visibility
  - e) Do not impede entry and egress or present a trip or other hazard to passengers
  - f) Are installed and maintained in accordance with manufacturer's specifications and recommendations
  - g) Do not impede the ability for clear, two way communication between the driver and any passengers

## **2.7 Stretched Limousines**

- 2.7.1** Licensing authorities are sometimes asked to licence stretched limousines as private hire vehicles. The Guidance suggests that such requests should be approached on the basis that these vehicles have a legitimate role to play in the private hire trade, meeting a public demand.
- 2.7.2** PHV licence applications for limousines which meet the relevant statutory criteria and those specified in Appendix A will therefore be duly considered on their merits

**2.7.3** All licensed limousines must adhere to the additional applicable conditions in **APPENDIX B**.

## **2.8 Funeral Vehicles**

**2.8.1** There is no requirement for a vehicle to be licensed where it is being used in connection with a funeral or is being wholly or mainly used by a person carrying on the business of a Funeral Director for the purpose of funerals.

## **2.9 Contract Vehicles**

**2.9.1** Previously there was no requirement for a vehicle to be licensed where it was used for a contract with an organisation/firm for a period of more than seven days for carrying passengers for hire or reward under a contract for the hire of the vehicle. This exemption only applied to the vehicle and driver subject to the contract and then only during the period of the contract. Any vehicles being used for a contract with one firm could not be used for any other contract or purpose during the period of that contract. This exemption has been repealed by provisions contained within the Road Safety Act 2006 that became effective in January 2008 and amended the Local Government Miscellaneous Provision Act 1976 (S.75), thus vehicles which previously took advantage of this exemption will now have to become licensed private hire vehicles.

## **2.10 Wedding Vehicles**

**2.10.1** A vehicle does not need to be licensed while it is being used in connection with a wedding.

**2.10.2** Written certification from the Council of the relevant exemption claimed is not currently required and it is not proposed to change this arrangement.

## **2.11 Courtesy Cars**

**2.11.1** All vehicles with less than 8 passenger seats or fewer that carry passengers for hire and reward must be licensed by the Local Authority. Although there has been some legal debate regarding this particular issue, current case law supports the view that vehicles which are used as 'courtesy cars', i.e. for transporting customers to and from hotel, night-clubs, etc are being provided for hire and reward in the course of business, irrespective of whether or not a charge is made for such service. They should, accordingly be licensed with the Local Authority, as should their Operator.

**2.11.2** Those operating 'courtesy cars', e.g. for transporting customers to and from hotels, night-clubs etc. should have an operator's licence and the vehicles and driver must be appropriately licensed.

## **2.12 Ambulances and Other Patient Transport**

**2.12.1** All ambulances registered with the British Ambulance Association will be exempt from private hire licensing.

**2.12.2** Other patient transport that is registered with the British Ambulance Association will be exempt from private hire licensing. These services include:

- a) Primary Care Trusts

## b) Voluntary services

- 2.12.3** All other ambulance or patient transport services that are not registered with the British Ambulance Association may be required to conform to private hire licensing requirements. The Council strongly recommends that anyone wishing to provide this type of service contacts the licensing authority for each case to be considered on its merits.

## **2.13 Voluntary Sector Transport**

- 2.13.1** The Council will assess each individual organisation on its own merits to determine whether or not it will require licensing as a private hire business. Whilst it is clear that the organisation is providing a service, it is less clear that such provision can be defined as operating a private hire business.
- 2.13.2** The Council will, however, seek to enforce against unlicensed businesses where it can be proven that the business obtains a benefit and the Council considers that private hire vehicle licensing is necessary.

## **2.14 Livery**

- 2.14.1** Swale Borough Council requires that Taxis are white with a 2inch Kelly Green stripe. Private Hire Vehicles may be any colour except white. It is felt that the visual distinction between a Hackney Carriage and a Private Hire vehicle is important for the public to distinguish between those vehicles that are for immediate hire and those that are required to be pre-booked.

## **2.15 Application Procedure**

- 2.15.1** The application procedures for hackney carriage or private hire vehicle licence are not prescribed in law. The Council requires that an application must be made on a specified application form in accordance with application procedures set out in **APPENDIX C**.
- 2.15.2** Swale Borough Council has introduced online forms to facilitate applications. The Authority is committed to keeping the cost of providing the licensing service down and online forms assist with this aim. We are happy to accept scanned accompanying documents or photograph images with online applications however this authority reserves the right to require the original documentation to be presented to the Licensing Authority.

## **2.16 Consideration of Applications**

- 2.16.1** The Council will consider all applications on their merits once it is satisfied that the appropriate criteria have been met and the application form and supporting documents are complete.

## **3. Drivers**

### **3.1 Licences**

- 3.1.1** This Council issues a dual Hackney Carriage and Private Hire licence as well as a Private Hire only licence. Conditions cannot be imposed on Hackney Carriage drivers' licences but where a licence is issued for a dual Hackney Carriage and Private Hire licence the conditions set out in **Appendix F** apply.

- 3.1.2** The statutory and practical criteria and qualifications for a private hire driver are broadly identical to those for a hackney carriage driver. The sections below, therefore, apply equally to private hire and hackney carriage drivers.
- 3.1.3** The licensing authority will issue a licence to an applicant provided the applicant is assessed as fit and proper. In determining whether a driver is fit and proper the Authority will consider amongst other things; the applicant's relevant skills, knowledge, experience, qualifications, medical fitness, criminal records, offences and prosecutions and previous history as a licence holder. The offence, conviction, prosecution or cautions which the Council consider to be relevant offences when considering an application for either the grant or renewal of a licence are shown in **APPENDIX D**. The licensing authority will consider each case on its merits.
- 3.1.4** In line with recommendations contained in the DfT Statutory Taxi and Private Hire Vehicle Standards all applicants are expected to be suitably proficient in the English language, in terms of oral, reading and written skills.

### **3.2 Age and Experience**

- 3.2.1** A licence to drive a hackney carriage or private hire vehicle will not be granted to a person who is under 21 years of age. However, no upper age limit is proposed provided that a driver can demonstrate that they are still medically fit to hold such a licence. In this respect therefore, if a driver wishes to continue to be licensed once they reach 65 years of age the licensing authority shall require that they obtain a medical certificate at yearly intervals.
- 3.2.2** A licence will not be granted to anyone that has not held a valid full DVLA or EEA driving licence, for a period of at least 12 months immediately prior to the application.
- 3.2.3** An applicant will also be asked to agree to the Council checking with the DVLA for a driver licence history. This policy requirement is to ensure appropriate regulation of any penalty points by the courts in relation to road traffic offences.

### **3.3 Driver Knowledge Tests**

- 3.3.1** Drivers clearly need a good working knowledge of the area for which they are licensed. The DfT recognises that most authorities require prospective drivers to pass a test as to their knowledge of the local geography (known locally as the Knowledge Test) as a condition of first grant of a licence. This test will also identify the driver's knowledge of the Highway Code and the Council's Licensing Policy as well as basic knowledge of hackney carriage and private hire law and safeguarding. The procedures in relation to the above are set out in **APPENDIX G**.
- 3.3.2** Hackney Carriage drivers require a greater knowledge than Private Hire drivers because their vehicles can be hired immediately at ranks or on the street. However, whilst the Council recognises that as Private Hire vehicles must be pre-booked, therefore affording a Private Hire driver the opportunity to research the required route, it will still be necessary for any prospective driver to pass the Street Knowledge Test albeit with a lower pass mark.
- 3.3.3** There are no specimen tests to view or study. This is because we want our licensed drivers to have genuine and thorough knowledge of the subject areas being tested and we do not consider this can be properly achieved or gauged where applicants



are able to memorise a select number of questions and answers. However, **APPENDIX G** gives an overview of the content of the test to assist applicants in preparing for the test.

**3.3.4** Update training maybe required during the life of the licence.

### **3.4 Driving Proficiency and Qualifications**

**3.4.1** Swale Borough Council believes that as a profession, hackney carriage and private hire drivers have a special responsibility for the safe transportation of fare paying passengers.

**3.4.2** An additional driving test with a company authorised by the Council should be taken by any existing driver, where in the opinion of either an authorised officer of the Council, the Licensing Sub-Committee or the police, there is doubt as to the driver's technical competency.

**3.4.3** The Council would encourage drivers to obtain a professional qualification, for example an NVQ or BTEC in transporting passengers by taxi, which would be considered a credit to the taxi trade in Swale.

**3.4.4** Similarly the Council would encourage drivers to undergo practical passenger assistance training with particular regard to those with special physical needs.

### **3.5 Medical Examination**

**3.5.1** The DfT recognises that it is clearly good practice for medical checks as a condition for the initial grant of a licence and thereafter for each renewal. Adopting 'Group 2' medical standards as applied by DVLA to the licensing of lorry and bus drivers and applying C1 standards to hackney carriage and private hire drivers with insulin treated diabetes is considered to be best practice.

**3.5.2** Applicants are required to complete a medical examination for the initial grant of a licence and every three years thereafter. A yearly medical will be required for those who are aged over 65 and may be required for those with certain medical conditions

**3.5.3** In the light of the above, medical examinations by the driver's own GP or someone with access to his medical records is required before any licence can be granted or renewed. A request form for a medical examination will be supplied by the Council. This report must be submitted at the time of applying for a driver's licence. The applicant will be responsible for payment of the appropriate fee.

**3.5.4** Licence holders must advise the Council immediately of any deterioration in their health that may affect their driving capabilities.

**3.5.5** Where there is any doubt as to the medical fitness of either an applicant or an existing driver, the Council may require the applicant or existing driver to undergo further medical examination by a doctor appointed by the Council, at the applicant's or existing driver's own expense.

**3.5.6** Where there remains any doubt about the fitness of any applicant the Head of Housing and Community Services/Resilience and Licensing Manager will review the medical evidence in consultation with the Council's Occupational Health Advisor and make a final decision in the light of the medical evidence available.

### **3.6 Disclosure and Barring Service Criminal Records Checks**

- 3.6.1** A Disclosure and Barring Service (DBS) criminal records check on a driver is an important safety measure. The Rehabilitation of Offenders Act 1974 sets out the period after which an offence or conviction is regarded as 'spent' and which would not normally necessitate disclosure of that offence, conviction or caution. However, in 2002 the Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for licences are, therefore, required to disclose all offences, convictions, prosecutions and police cautions, including those that would previously been regarded as 'spent' under the 1974 Act. This is called an 'enhanced' DBS check. An enhanced DBS check allows councils access to intelligence on alleged sexual assaults, rapes, terrorist activity, drug dealing and organised crime.
- 3.6.2** It is the Council's view that the public expects all reasonable precautions to be taken when determining whether to grant a licence to drive a hackney carriage or private hire. The DfT National Standards recommend that an enhanced DBS check is carried out via the DBS Update Service every six months.
- 3.6.3** All new applicants are to provide a completed Enhanced DBS Disclosure Application when they have successfully passed the Street Knowledge Test and register for the DBS Update Service upon receipt of their Certificate, which will be sent to them by the DBS and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered appropriate.
- 3.6.4** All existing drivers who are not already registered with the DBS Update Service must, upon application for the renewal of their drivers' licence provide a current (less than 3 months old at the date of application) Enhanced DBS Disclosure Certificate, register for the DBS Update Service and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered necessary.

### **3.7 Tax checks**

- 3.7.1** The Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information) Regulation 2022 has introduced new legal requirements for local authorities regarding tax checks. From 4 April 2022, licensing authorities will need to obtain confirmation from HMRC that applicants for taxi and private hire driver licences and private hire operators have completed a tax check. The tax check is to confirm that someone is appropriately registered for tax when they should be.
- 3.7.2** Under the terms of the Finance Act 2021 the Council will not be able to process an application without this information being provided and any driver or private operator who fails to do so will become unlicensed.

### **3.8 Relevance of Offences, Convictions, Prosecutions and Cautions**

- 3.8.1** The DfT Statutory Standards recommend that in considering an individual's criminal record authorities be encouraged to consider each case on its merits, but to take a particularly cautious view of any offences involving violence, dishonesty, drugs/alcohol and sexual offences. Authorities are recommended to have a clear policy for the consideration of criminal records. For example, the number of years

they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 3.8.2** In assessing whether the applicant is a fit and proper person to hold a licence the Council will consider each case on its merits. It will take account of cautions, offences, convictions, prosecutions, and fixed penalty notices whether spent or unspent, but only in so far as they are relevant to an application for a licence. Upon receipt of a licence application the Licensing Officer will assess from the information provided whether any or all of the current or spent offences, convictions, prosecutions are capable of having significant relevance as to whether the applicant is a fit and proper person to hold a licence. Where necessary the application will be referred to the Resilience and Licensing Manager or the Licensing Sub-Committee for consideration as to the outcome of an application.
- 3.8.3** In relation to cautions the Council will have regard to the class and age of the offence and the age of the applicant when the offence occurred when considering their relevance to an application.
- 3.8.4** In relation to previous offences, convictions and prosecutions the Council will have regard to the following:
- a) Whether the offences, convictions and prosecutions are technically spent or unspent;
  - b) The class of the offences;
  - c) The age of the offences;
  - d) The apparent seriousness, as gauged by the penalty.
- Guidance in relation to specific offences is given in **APPENDIX D**. In general terms the more recent, serious and relevant to public safety the offence is, the less likely that an application will be granted.
- 3.8.5** A failure by a licence holder to disclose a matter referred to in Appendix D that the council is subsequently advised of may be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

### **3.9 Grant and Renewal of Licences**

- 3.9.1** Drivers' licences are granted for a period of three years. However, they may be issued for a lesser period of time if in the opinion of a medical practitioner who conducted the medical examination advised it would be more appropriate to do so.
- 3.9.2** Council officers will send a reminder letter to the current taxi driver, three months before the existing licence expires in order to assist applicants in their prompt submission of re-licensing applications.
- 3.9.3** From the date of receipt of a satisfactory and complete licence application a minimum of one week is required before the appropriate licence can be issued.
- 3.9.4** Officers may only accept complete applications comprising all the necessary paperwork. If an application is received late the applicant may be unlicensed for a period of time during which they will be unable to work as a licensed hackney

carriage or private hire driver. The timely return of documents is the responsibility of the driver.

- 3.9.5** The licence fees payable are subject to periodic review and will be published together with other Council licensing fees

### **3.10 Conditions of Licence**

- 3.10.1** The Authority is not permitted to attach conditions to a hackney carriage driver's licence. It is, however, empowered to attach such conditions to a private hire driver's licence and operator Licence as are considered necessary.

- 3.10.2** However, it could be argued that many of the requirements prescribed within the Hackney bye-laws are effectively hackney carriage driver's licence conditions which are binding on drivers. Swale Borough Council's bye-laws were, however, enacted many years ago and do not therefore impose controls over many aspects of a driver's conduct when operating a hackney carriage vehicle and therefore separate from this policy.

### **3.11 Code of Good Conduct**

- 3.11.1** Adopting a Code of Good Conduct for hackney carriage and private hire drivers serves to promote the Council's licensing objectives set out in Paragraph 1.3.2 above.

- 3.11.2** The Licensing Authority considers that to assist both drivers and the public, it would be useful to set down the standards which must be adopted in maintaining a safe professional and efficient approach to the transport of members of the public. It is considered that drivers must be aware of the law and minimum standards of behaviour, should adopt safe and non-aggressive driving techniques, and set a good example to other road users. The standards expected of licensed drivers are set out in the Code of Good Conduct, included in this policy document at **APPENDIX H**

- 3.11.3** Failure to comply with any aspect of the Code of Good Conduct will result in enforcement action. The Code of Conduct is an indicator which officers will use to help decide upon subsequent enforcement action. This may result in warnings or penalty points being given by officers. Repeated breaches following such warnings or penalty points may lead to more serious consequences including, if necessary, non-renewal, suspension or revocation of licences.

### **3.12 Public Safeguarding and Child Sexual Exploitation**

- 3.12.1** The overriding consideration for the Council in its determination of applications is the promotion of the licensing objectives detailed within this policy, in particular the protection of public safety, particularly young people and vulnerable adults

- 3.12.2** Child Sexual Exploitation (CSE) is a form of child abuse. It can involve sexual abuse, physical abuse and emotional abuse of children by adults.

- 3.12.3** Licensed drivers, proprietors and operators provide a public service and have a duty of care to all passengers. They also have a moral and social responsibility to report concerns about someone who is vulnerable.

**3.12.4** Should a licenced driver, proprietor or operator have any concern about the vulnerability of a child or adult, they should contact the safeguarding officer of Swale BC or call Crime Stoppers 0800 555 111

**3.12.5** Swale Borough Council requires all licensed drivers, proprietors and operators to undertake child and adult safeguarding awareness training (provided by the Council). Existing drivers will undergo the training at the time of renewal of their badges, or earlier if requested by Swale Borough Council.

**3.12.6** All new drivers will undergo the training at the time of the Street Knowledge Test.

**3.12.7** The Council will provide suitable sessions for licensed drivers, proprietors and operators to attend in order to receive the awareness training. The costs of this training will be met by the Council.

#### **4. Private Hire Operators**

**4.1.1** The objective of licensing Private Hire Vehicle Operators is, again, the safety of the public, who will be using operator premises, vehicles and drivers arranged through them. The Council will grant a private hire operator licence provided the Council is satisfied that the applicant is a fit and proper person to hold such a licence.

**4.1.2** Any person who operates a private hire service utilising one or more private hire vehicles must apply to the Council for a Private Hire Operator's Licence. Individual Hackney Carriage drivers operating under their own or a trading name as a sole trader are not required to hold a Private Hire Operator's Licence.

**4.1.3** A private hire vehicle may only be despatched to a customer by a private hire operator who holds a private hire operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a private hire vehicle.

**4.1.4** In order for an operator to prove that they are fit and proper they must provide evidence that they:

- a) are of good repute;
- b) have adequate arrangements for monitoring drivers, vehicles and the keeping of records;
- c) are capable of ensuring that both themselves and their staff/drivers obey all the rules.

**4.1.5** All applicants for initial grant of a licence should allow at least four weeks before the licence is required to enable the local authority to undertake the necessary vetting procedures as detailed in this document.

**4.1.6** Planning consent may be required and all applicants must ensure that they obtain all the correct and necessary permissions before trading.

**4.1.7** Any application for the renewal of a licence which is not made before the expiry of the previous licence will be treated as an application for a new licence.

**4.1.8** Applications will only be acceptable if they include an application form completed in its entirety and signed by the applicant along with all the information prescribed.

**4.1.9** Private hire operators, that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. The national standards recommend however that

licensing authorities should request a basic disclosure from the DBS and that subsequent checks are undertaken annually.

## **4.2 Criminal Record Checks**

- 4.2.1** Private Hire Vehicle operators are not exempted from the Rehabilitation of Offenders Act 1974. However, Private hire operators' that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. A Basic Disclosure from the DBS or Scottish Disclosure, or a certificate of good conduct from the relevant embassy for overseas applicants, is however, considered appropriate in promoting the objective of public safety.
- 4.2.2** Before an application for a private hire operators' licence will be considered, the applicant must provide a current (less than one months old) Basic DBS or Scottish Disclosure of Criminal Convictions or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current Drivers Licence with the Council will be exempt from this requirement.
- 4.2.3** Prior to consideration of any new application, overseas applicants who have lived in the United Kingdom for a continuous period of less than five years are required to provide a certificate of good conduct from their previous country or countries of residence (within the previous five years) in addition to a Basic Disclosure Certificate. A certificate of good conduct authenticated by the relevant embassy will satisfy this requirement.
- 4.2.4** A reference covering, for example, the applicant's financial records and/or business history could also be considered appropriate as well as the requirements outlined above in some instances.

## **4.3 Conditions**

- 4.3.1** The Council has the power to impose such conditions on an operator's licence as it considers reasonable, necessary and proportionate. The conditions set out in **APPENDIX I** are those considered to be reasonably necessary.

## **4.4 Insurance**

- 4.4.1** The conditions applicable to Private Hire Operator's Licences as detailed in **APPENDIX I** require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate and public liability insurance for the premises to be licensed.

## **4.5 Licence Duration**

- 4.5.1** The DfT considers that annual licence renewal is not necessary or appropriate for private hire operators. They recommend, as good practice, that a licence period of five years would be reasonable. The Council will, therefore, issue a successful applicant for a Private Hire Operator's Licence with a five-year licence from the date of grant
- 4.5.2** Holders of existing Private Hire Operator's Licences will be reminded, three months preceding their expiry, when their licences are due to be renewed. The timely return of documents is the responsibility of the operator.

#### **4.6 Address from which an Operator may operate**

- 4.6.1** Upon grant of an operator's licence the Council will specify the address from which the operator may operate. The operator must notify the Council in writing of any change of address during the period of the licence, whether this is a home address or the operating address, within seven days of such a change taking place.
- 4.6.1** The Council will not grant an operator's licence for an operator with an operating base that is outside the Council's area. This is to ensure that proper regulation and enforcement measures may be taken by the Authority and is not a restraint of trade.

#### **4.7 Gaming Machines**

- 4.7.1** Operators that provide a waiting facility for members of the public and/or drivers should be aware that they cannot make gaming machines available for use. This action would be a criminal offence under the Gambling Act 2005.

#### **4.8 Sub-contracting**

- 4.8.1** In accordance with the Deregulation Act 2015, a Private Hire Operator is permitted to subcontract a booking to another operator who is licensed in a different licensing district.

### **5. Fares and Fees**

#### **5.1 Fares**

- 5.1.1** Fare rates are reviewed following discussions with the trade or any section of the trade. The fares will not normally be reviewed more than once a year unless there are exceptional circumstances which would justify a further increase, for example a particularly sharp increase in petrol/diesel prices.
- 5.1.2** When determining the level of fares consideration will be given as to what it is reasonable to expect the travelling public to pay as well as the need to give drivers an incentive to provide a cost-effective service at the times it is needed.
- 5.1.3** Hackney Carriage Fares, set by the Council, are a maximum and can be negotiated downwards by the hirer. Fares can be negotiated prior to the commencement of the journey in both private hire vehicles and hackney carriages.
- 5.1.4** One of the main complaints relating to hackney carriages concerns overcharging. To protect the fare paying public from overcharging, as well as to protect the drivers from complaints, Swale Council will operate a simple fare tariff that must be displayed in all hackney carriages. Details of the current tariff are available on the Council website: <https://swale.gov.uk/business-licensing-and-procurement/taxi-licensing/charging-a-fare>
- 5.1.5** In reviewing the fare tariff the Council will consult with the trade and follow the appropriate procedures in the Local Government (Miscellaneous Provisions) Act 1976.
- 5.1.6** These regulations in relation to fares do not apply to private hire vehicles.
- 5.1.7** A table of authorised fares will be provided to each hackney carriage licence holder, which must be displayed in each vehicle so that it is easily visible to all hirers.

- 5.1.8** A hackney carriage driver must, if requested by the passenger, provide a written receipt for the fare paid.
- 5.1.9** The Guidance also recognises that there is a case for allowing any hackney carriage proprietor who wish to do so, to make it clear by advertising that they charge less than the maximum fare.

## **5.2 Fees**

- 5.2.1** The Guidance does not deal with the issue of licensing fees at all. It is, however, generally recognised that the fees set for all hackney carriage and private hire licences should be such as to ensure that the costs of the service, including the cost of issue and administration will so far as possible be met from fee income.
- 5.2.2** It is, on the other hand, not lawful for the Council to seek to make a profit from licence fees that are within its discretion. In particular, with regard to the fees charged for hackney carriage and private hire vehicle and operator licences, the legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands and administering the control and supervision of hackney carriages and private hire vehicles.
- 5.2.3** The fees payable for the grant and renewal of hackney carriage and private hire licences will be reviewed annually as part of the budgetary process and licence holders will be consulted and notified of any changes.

## **5.3 Payments**

- 5.3.1** Online payments can be made via the Council's website ([www.swale.gov.uk](http://www.swale.gov.uk))
- 5.3.2** All payments must be made before plates and badges will be issued.

## **5.4 Refunds, Transfers and Duplicate Copies**

- 5.4.1** In the case of any licence where the licence holder surrenders their licence prior to the expiry date, there will be no refund in respect of the unexpired portion of the licence fee.
- 5.4.2** In common with most types of licence, an appropriate fee will be paid to cover the administrative costs associated with the transfer of a licence
- 5.4.3** Where the Council receives a request for a duplicate copy of any previously issued licence, an appropriate fee will apply to cover the associated administrative costs.

## **6. Disciplinary and Enforcement Measures**

### **6.1 Enforcement**

- 6.1.1** It is recognised that well-directed enforcement activity by the Authority benefits not only the public but also the responsible members of the hackney carriage and private hire trades. The DfT accepts that the resources devoted by licensing authorities to enforcement will vary according to local circumstances. They remind authorities, however, that it is desirable to ensure that hackney carriage and private hire enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise.



**6.1.2** In pursuance of its objective to encourage responsible hackney carriage/private hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference the Council will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in section 1.3 of this document.

**6.1.3** The Taxi Licensing and Enforcement Policy & Practice set out at **APPENDIX J** will be used to ensure that its enforcement effort is reasonable, transparent and well directed.

## **6.2 Disciplinary Hearings**

**6.2.1** Disciplinary matters, except in the case of mechanical defects to the vehicle, will ordinarily be referred to the Licensing Sub Committee or will be dealt with by officers. One of the functions of the Licensing Sub Committee is to consider the impact of transgressions of the law on the fitness of an individual to hold a hackney carriage or private hire licence and to take the action appropriate to the circumstances.

## **6.3 Penalty Points Scheme**

**6.3.1** Whilst the operation of a successful hackney carriage and private hire vehicle service is important to the economic well-being of the Borough, it is equally important that the service provided by the trade is properly regulated in order to instil confidence in the travelling public who wish to use the service.

**6.3.2** The Council clearly has a responsibility to ensure that all drivers, owners and operators of vehicles adhere to basic minimum standards and to do this in a consistent and transparent manner. These standards are defined by legislation, licence conditions, codes or bye-laws adopted by the Council. Together they identify what is required of the trade and help to ensure that a consistent approach is taken by Council Officers, in their application.

**6.3.3** The Council has found that an effective means of applying the conditions is through a penalty point's scheme. This acts as a first step in ensuring compliance with the conditions and serves as an "early warning" system to drivers and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions. This scheme is used to enforce current legislation and any bye laws in respect of Hackney Carriage Drivers and will be operated as follows:

- a) The Council's Taxi Licensing and Enforcement Policy will be fully considered by an authorised officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
- b) Where it is decided that the use of the penalty points system is appropriate, the points are issued in accordance with **APPENDIX G**. If the appendix allows a range of points for a particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
- c) The Licensing Sub-Committee may also require that a driver undertake additional training in order to maintain their licence. Any additional training will be at the drivers' expense. The Licensing Sub-Committee may also suspend a licence until such times as a driver successfully completes such training.

- d) The penalty points system outlined in **APPENDIX G** identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of maximum points to be invoked should the breach be proven.

**6.3.4** It is believed that the penalty points scheme has assisted the trade in maintaining its high standards. The Penalty Points System does not however compromise the Council's ability to enforce breaches of statute or local conditions in the Courts should an offence warrant such action. A copy of the current penalty points system can be found in **APPENDIX G**.

## **7. OFFENCES**

**7.1** Offences in relation to hackney carriages are derived from the following sources:

- a) Town Police Clauses Act 1847 (hackney only);
- b) Local Government (Miscellaneous Provisions) 1976 (hackney and private hire);
- c) Transport Act 1980 (private hire only)

## **8. TAXI RANKS**

**8.1.1** A number of ranks (also known as stands) for hackney carriages have been designated within the Swale Borough Council area:

### **Faversham:**

- Station Road
- Stone Street
- Leslie Smith Drive

### **Sittingbourne:**

- Railway Station (permit only)
- High Street (time limited)
- Forum Service Road
- Central Avenue

### **Sheerness:**

- Railway Station
- Bridge Road
- Hope Way

**8.1.2** The number and position of taxi ranks within the Borough may change due to regeneration schemes. These will be reviewed and appointed as and when schemes are planned and adopted.

## **8.2 Waiting on Stands**

**8.2.1** It is an offence for any person to cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages. Drivers of hackney carriages may only wait on a stand whilst plying for hire or waiting for a fare; drivers who park on a stand and leave their vehicle unattended are committing an offence.

## **9. RIGHTS OF APPEAL**

**9.1** In certain circumstances, where an applicant is aggrieved by the Council's decision to refuse to grant, refuse to renew, suspend or revoke a licence; the applicant has a right of appeal to the local Magistrates' Court. The specific grounds for appeal are detailed below:

- a) Any person aggrieved by the refusal of the Council to grant a private hire vehicle licence under the Local Government (Miscellaneous Provisions) Act 1976, or by any conditions specified in such a licence, may appeal under Section 48 of such Act
- b) Any person aggrieved by the refusal of the Council to grant a licence to drive private hire vehicles, or by any conditions attached to the grant of such a driver's licence, may appeal to a Magistrates' Court under Section 52, Local Government (Miscellaneous Provisions) Act 1976
- c) Any person aggrieved by the refusal of the Council to grant a licence to operate private hire vehicles under the Local Government (Miscellaneous Provisions) Act 1976, or by any conditions attached to the grant of such a licence, may appeal to a Magistrates' Court under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976
- d) Any person aggrieved by the refusal of the Council to grant a licence to drive a hackney carriage on the ground that he is not a fit and proper person to hold such a licence may appeal to a Magistrates' Court under Section 59 of the Local Government (Miscellaneous Provisions) Act 1976
- e) Any driver aggrieved by a decision of the Council to suspend, revoke or refusal to renew any licence for a hackney carriage or private hire vehicle may appeal to the relevant Court under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976
- f) Any driver aggrieved by a decision of the Council to suspend, revoke or refusal to renew any Licence to drive a hackney carriage or private hire vehicle may appeal to Magistrates' Court under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.
- g) Any operator aggrieved by a decision of the council to suspend, revoke or refusal to renew an operator's licence may appeal to a Magistrates' Court under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976

**9.2** Any appeal must be lodged at the Court within twenty-one (21) days of the applicant receiving notification of the Council's decision. The appeal must state the grounds

**9.3** Any person aggrieved by any conditions attached to a hackney carriage licence may appeal to a Magistrates Court under Section 47, Local Government (Miscellaneous Provisions) Act 1976

## **10. COMPLAINTS**

**10.1** Anyone wishing to complain about a taxi company or an individual taxi driver can either email [taxis@swale.gov.uk](mailto:taxis@swale.gov.uk) or access the formal complaints system on the council's website <https://swale.gov.uk/news-and-your-council/contact-us/comments->

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## **APPENDIX A**

### **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES SPECIFICATION AND SCHEDULE OF CONDITIONS**

#### **Conditions that apply to Hackney Carriage and Private Hire vehicles**

##### **1. General Construction**

- 1.1** Every hackney carriage and private hire vehicle must comply in all respects with these specifications and conditions
- 1.2** Whilst these specifications may have been complied with, a licence may nevertheless be withheld if the Council is of the opinion that any vehicle is unsuitable for public use.

##### **2 Age**

- 2.1.** All vehicles will be licensed for up to 10 years from the date of first registration with the exception of purpose built and multi-seat vehicles with wheelchair accessibility which can be licensed for up to 15 years from first registration.
- 2.2** Vehicles will be no more than 8 years old at the time of presenting as a new vehicle for a 10 year licence and no more than 12 years old at the time of presenting as a new vehicle for a 15 year licence and must be in a pristine condition.
- 2.3** From 1 April 2023, all vehicle licence applications for newly licensed vehicles (i.e. all applications other than those to 'renew' an existing vehicle licence for the same vehicle by the same holder) must be for low emission vehicles (LEV) - either all electric, electric/fuel hybrid or Euro 6 diesel and Euro 6 petrol compliant. Older vehicles have over 3 times and some as much as 6 times the permitted emissions limit of Euro 6 diesel and petrol.
- 2.4** From 1 April 2023, all Euro 6 diesel and Euro 6 petrol vehicles will be licensed for a maximum period not to exceed 1 April 2030. Any Euro 6 diesel or Euro 6 petrol driven vehicles licensed before 1 April 2023 will also cease to be licensed on 1 April 2030.
- 2.5** From 1 April 2025, all new vehicle licence applications must be for vehicles that are ultra-low emission (ULEV) ie: less than 75 grams of CO<sub>2</sub>. ULEV includes battery electric vehicle (BEV), extended range electric vehicle (E-REV) plug-in hybrid electric vehicle (PHEV) or fuel cell electric vehicle (FCEV-hydrogen vehicle).
- 2.6** Vehicles licensed for 10 years may only have a maximum of 6 passenger seats in addition to one driver seat.
- 2.7** All multi-seat vehicles with more than 6 passenger seats that are licensed for 15 years must be fitted with full tracking and/or flip up seating to be wheelchair accessible with a minimum space for the wheelchair of 1.4m and wheelchairs must be secured in accordance with safety regulations. Vehicles with fixed seating must have a permanent available space to accommodate a wheelchair. For Licensed

Vehicles which are exempt in displaying their plate (known as executive vehicles), these are not required to have wheelchair access, however other conditions are applicable as shown in **APPENDIX B**.

## **2.8 Vehicle Testing, Inspections and Insurance**

- 2.8.1** It is vitally important that the vehicles are covered at all times by appropriate insurance and that certification is provided to the Council to evidence this. Failure to present insurance within three (3) weeks of its due date will result in suspension of the licence. Failure to produce insurance within six (6) weeks will result in revocation of the licence.
- 2.8.2** No vehicle may be used as a taxi unless it has been given a Certificate of Compliance in respect of a satisfactory test from a Swale accredited test station and has been appropriately licensed by the Council.
- 2.8.3** There will be an annual test for all licensed vehicles. The test must be carried out by a Swale Borough Council approved garage.
- 2.8.4** All vehicles over 5 years old will be required to pass two Certificates of Compliance in respect of a satisfactory test from a Swale accredited test station, 6 months apart.
- 2.8.5** Vehicles will be subjected to periodic, random inspections by authorised officers of the council or other agencies (e.g. police). These inspections will be carried out on taxi ranks, at taxi offices or a driver may be required to present his vehicle to authorised officers of the council at the council offices in Sittingbourne or any other reasonable location. Any driver that refuses to present their vehicle without a satisfactory reason could be issued penalty points
- 2.8.6** Where an authorised officer of the Council has reasonable grounds to suspect that the condition of a vehicle poses a danger to either passengers or other members of the public, he/she may serve on the driver/proprietor a vehicle defect notice. In such cases the vehicle licence shall be immediately suspended until such time as the defect(s) have been remedied. The suspension shall not be lifted until it is proven to the authorised officer that the vehicle defect has been corrected.
- 2.8.7** Where an authorised officer of the Council has reasonable grounds to suspect that the vehicle has defects of a minor or cosmetic nature he may serve the driver/proprietor with a vehicle defect notice and may specify a period of time to allow for these defects to be remedied to his satisfaction.
- 2.8.8** Failure to comply with a vehicle defect notice issued by the Council within the statutory period for compliance will result in the revocation of the vehicle licence as required by law.
- 2.8.9** Where the relevant Committee or Sub-Committee of the Council is satisfied that a vehicle fails in any respect to meet any specification or condition of licence the relevant construction and use regulations required by law they may suspend a vehicle licence for any specified period.

### **3. Engine Capacity**

**3.1** All licensed vehicles, with the exception of wheelchair accessible vehicles, must achieve a level of carbon dioxide emissions of less than 160g/km up to 31/03/2025. Liquid petroleum gas (LPG) is an approved fuel type and vehicles so fitted can display this fact on the vehicles in a form to be approved by an authorised officer.

**3.2** From 1 April 2023 all newly licenced vehicles must achieve Euro 6 emissions standards i.e.

For petrol cars;

CO – 1.0g/km

HC – 0.10g/km

NOx – 0.06g/km

PM – 0.005g/km (direct injection only)

PM –  $6.0 \times 10^{-11}$ /km (direct injection only)

For diesel cars

CO – 0.50g/km

HC + NOx – 0.17g/km

NOx – 0.08g/km

PM – 0.005g/km

PM –  $6.0 \times 10^{-11}$ /k

**3.3** Licensed vehicles must be capable of producing at least 90 bhp.

### **4. Body**

**4.1** Passengers' doors must be capable of being readily opened from inside and outside the vehicle by one operation of the latch mechanism, provided that this condition shall not prevent doors being fitted with a child safety lock.

**4.2** Provision must be made for carrying and securing luggage and if luggage is carried or intended to be carried on the roof a roof rack of a type or roof mounted luggage box approved by the Council must be fitted.

**4.3** All Hackney Carriages will be coloured white, with a permanent green stripe (Kelly Green 2" wide), front to rear fixed on both sides. Magnetic stripes are not acceptable. Private Hire vehicles will be any colour other than white.

**4.4** The body must be of the fixed head type.

**4.5** Windows must be provided at the sides and rear and passengers door windows must be capable of being easily opened and closed by passengers.

**4.6** Towing Bars may only be fitted with the approval of Swale Borough Council. An additional licence plate will be required to be fitted to the rear of the trailer and the trailer be subjected to an annual test.

**4.7** The name of the Taxi Company or operator must be clearly and permanently displayed by all operators on the front doors of all vehicles with a minimum size of 250mm wide x 250 mm deep and a maximum size of 450mm wide x 350mm deep. The same maximum sizes may be applied to the rear bodywork if desired. The email

address and/or Fax or Phone number of the operator may also be included within the display area on front doors of vehicles and on the rear of the roof sign. Operators are allowed to display the company telephone number, e-mail address and fleet car number along the bottom of the rear window of vehicles with a maximum height of 50mm. No other advertising, including radio stickers, football stickers or any other signs is permitted. Signs are not mandatory on Private Hire vehicles but can be fitted if desired. It is suggested best practice to do so. The size and style will be subject to the approval of an authorised officer.

**4.8** The flying of flags from vehicles is also prohibited on safety grounds.

## **5. Steering**

**5.1** The vehicle must not be left-hand drive. Right hand drive passenger vehicles offer the drivers clearer and safer vision in an overtaking manoeuvre, and also eliminate the need for a front seat passenger to alight from the vehicle into the road.

## **6. Tyres**

**6.1** All tyres at normal pressure under load must have a suitable minimum circumference for correct operation of the taximeter.

**6.2** In view of the high mileage covered by hackney carriage and private hire vehicles the depth of tyre tread on all vehicles must be a minimum of 2mm.

**6.3** A full set of matching wheel trims should be maintained on all vehicles that do not have alloy wheels.

**6.4** To ensure vehicle safety standards are met, all licensed vehicles must be certified by the Vehicle Certification Agency (VCA) to one of the standards listed below and be M1 classified i.e. built to be a passenger carrying vehicle:

- EC Whole Vehicle Type Approval
- UK Low Volume Type Approval
- Individual Vehicle Approval

## **7 Suspension**

**7.1** The vehicle must be fitted with an efficient suspension system so designed and constructed that there is no excessive roll or pitch.

## **8 Fuel Tank**

**8.1** The filling point for all fuel tanks must be accessible only from the outside of the vehicle and filler caps must be so designed and constructed that they cannot be dislodged by accidental operation.

## **9. Seating**

**9.1** Seating in saloon and estate cars does not normally cause concern. Multi-purpose vehicles (MPV's) or people carriers offer a bewildering number of seat configurations often to match the owner's needs. In the interests of public safety of the passengers it is necessary to examine these seating arrangements to ensure that in the event of a



collision or fire there is unobstructed egress from the vehicle. If MPV's or people carriers have individual seats, it may be necessary to remove a second row middle seat to permit improved access to the rearmost seats. This however would reduce the maximum permissible passengers by one. Alternatively, in the event of an emergency, passengers should be able to exit the vehicle through the rear and emergency brake glass hammers should be fitted.

## **9.2 Therefore:**

- a) The passenger carrying capacity will be at the discretion of the licensing authority.
- b) The rear seat of the vehicle of the vehicle must be a width of 53"
- c) The seat is to be measured door to door
- d) All seats must be fitted with fully operational seat belts
- e) The number of passenger seats must remain as stated on the vehicle licence
- f) There must be no alteration to the seating configuration without notifying the Council
- g) All seats must be forward or rear facing
- h) All vehicles must be able to seat a minimum of 4 passengers in comfort with sufficient legroom for all passengers
- i) The seat covering must be clean and in a good state of repair
- j) Seat covers may not be used to conceal serious defects in passenger seats. Seat covers should be removed when the Hackney Carriage test and inspection is undertaken. Seats identified with major defects or tears replaced.

## **10. Luggage**

**10.1** Adequate storage for passenger luggage must be available, adequately separated from the passenger compartment without obstructing any emergency exits. Luggage carried must be suitably secured in place.

**10.2** Estate cars or multi-passenger type vehicles, can cause a safety concern when stacking luggage in the vehicle by the potential danger to passengers should the vehicle have to harshly brake or be involved in an accident. It is recommended that luggage should not be stacked above the height of the rear seats unless the vehicle is designed with or fitted with suitable luggage restraints or covers to prevent luggage from entering the passenger compartment. Alternatively, a guard rail should be fitted.

## **11 Facilities for driver**

**11.1** The vehicle must be so designed and constructed that the driver has adequate room, can easily reach and operate the controls and give hand signals on the offside of the vehicle.

**11.2** The vehicle must be fitted with at least two mirrors fitted externally to the vehicle, one to the offside and one to the nearside, with another mirror fitted internally. All mirrors are to be fitted and adjusted to afford the driver a clear view to the rear of the vehicle.

**11.3** The vehicle must be fitted with adequate devices for demisting and defrosting the windscreen and rear window and for washing the windscreen.

## **12 Heating**

**12.1** An adequate heating system must be provided and maintained for the driver and passengers and, where the driver's compartment and passenger compartment are separate, controls must be provided for independent control by the driver and passengers

## **13 Communication between Passenger and Driver**

**13.1** Sufficient means must be provided by which any person in the vehicle may communicate with the driver.

**13.2** CB radios are not permitted in Hackney Carriage/Private Hire Vehicles.

**13.3** Radio Scanners of any kind will not be permitted to be carried or installed within Hackney Carriage and Private Hire vehicles.

## **14 Floor covering**

**14.1** The floor of the vehicle must be covered with a suitable carpet, mat or other covering which can be readily cleaned.

## **15 Radio Equipment**

**15.1** If two-way equipment is provided in the vehicle, it must be in a position approved by the Council and maintained in a sound condition.

## **16 Mobile Telephones**

**16.1** Mobile telephones may only be used with a hands-free kit or a Bluetooth headset.

## **17 CCTV Systems**

**17.1** All CCTV systems fitted to licensed vehicles must comply with the Approved CCTV protocol and be confirmed by Swale Borough Council in writing. See **APPENDIX O**.

## **18 Insurance**

**18.1** If a cover note rather than a 'full' insurance certificate is presented, a Hackney Carriage Licence/Private Hire licence will not be issued. A faxed certificate from insurance companies/brokers is acceptable. In all cases drivers must carry such insurance certificates with them when their vehicle is in commercial use. (photocopies will be acceptable).

## **19 Disability Access**

**19.1** Where a vehicle is utilised for the carriage of passengers in a wheelchair, the following conditions shall apply:

- a) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.

- b) Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as to not obstruct any emergency exit.
  - c) A suitable restraint must be available for the occupant of a wheelchair.
  - d) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
  - e) Ramps and lifts must be securely stored in the vehicle before it may move off.
- 19.2** Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.
- 19.3** Test certification is to be made available to an authorised officer of the council upon request.
- 19.4** Subject to the provisions of paragraph 4 above the proprietor may affix a sign on the outside of the vehicle indicating that it is able to convey passengers in wheelchairs provided the vehicle has been manufactured or properly adapted for that purpose.
- 20 Smoking**
- 20.1** The Health Act 2006 and its associated regulations require vehicles to be smoke free. A vehicle means every type of enclosed hackney carriage and private hire vehicle shall be smoke free at all times.
- 20.2** Under the Health Act 2006 and the Smoke-free (Signs) Regulations 2007, all hackney carriage and private hire vehicles will also be required to display the prescribed no-smoking signs and be 70 mm square. The signage must be displayed in a prominent position which includes all rear passenger door windows at high level, plus one on the front passenger side dashboard or door window at high level. The signs will be included on the annual inspection and vehicles with either damaged or no signs, will not be licensed until satisfactory signs are in place.
- 20.3** The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 set out the persons who have legal duties to stop any person who is smoking in a smoke free vehicle, they are:
- a) the driver
  - b) any person with management responsibilities for the vehicle
  - c) any person in a vehicle who is responsible for order or safety in it
- 20.4** The smoking of e-cigarettes, vapes or any similar devices are not permitted in licenced vehicles.
- 21 Animals**
- 21.1** Since 31 March 2001 licensed taxi drivers in England and Wales have been under a duty (under s.37 of the Disability Discrimination Act 1995) to carry guide, hearing and other prescribed assistance dogs in the vehicles, without additional charge.

- 21.2** Drivers who have a medical condition that is aggravated by exposure to dogs may apply to the licensing authority for exemption from the duty on medical grounds. Any other driver who fails to comply with the duty is guilty of a criminal offence and liable, on summary conviction, to a fine of up to £1,000.
- 21.3** No animals, other than those falling into the criteria above or those owned by bona-fide fare paying passengers with the agreement of the driver, shall be carried in or on any licensed vehicle whilst the vehicle is so engaged under the terms of its licence.

## **22 The Licensing Officer**

- 22.1** It is a criminal offence to obstruct a Licensing Officer or any other authorised officer of the Council.
- 22.2** From time to time it is necessary for the Licensing Officer or any other authorised officer to examine or check the vehicle.
- 22.3** Vehicles are liable to be examined at any time by an authorised officer of the council, the Vehicle Inspectorate or the Police.

### **Conditions that apply to Hackney Carriage Vehicles only**

## **23 Seating for purpose built hackney carriages**

- 23.1** In the case of any folding seat as found in purpose built hackney carriages:
- a) the width of the cushion seat must not be less than 16 inches (406mm)
  - b) the depth from the upholstery at the back to front edge of the seat must not be less than 14 inches (355mm)
  - c) the shortest vertical distance between the un-deflected seat cushion and the roof lining immediately above must not be less than 33 inches (839mm)
  - d) the vertical distance between the highest point of the un-deflected seat cushion and the top of the floor covering must not be less than 12 inches (305mm)
  - e) where seats are placed facing each other there must be a clear space of 17 inches (432mm) between any part of the front of a seat and any part of any other seat which faces it.
  - f) any such folding seat must be so constructed and arranged to rise automatically when not in use and must not obstruct any doorway when not in use.
- 23.2** Nothing shall prevent
- a) the licensing of any purpose built hackney carriage which has 2 folding seats and a rear seat width of 45 inches (1143mm) for the carriage of four passengers
  - b) the licensing of any purpose built hackney carriage which has 2 folding seats and a rear seat width of not less than 50 inches (1227 mm) for the carriage of 5 passengers

## **24 Taximeters**

- 24.1** An approved taximeter must be fitted in all hackney carriages and must be correctly calibrated, sealed and fully functional in accordance with the current Council approved fare structure. All taximeters must be appropriately stamped to ensure compliance with The Measuring Instruments (Taximeters) Regulations 2006, or any subsequent legislation.
- 24.2** The taximeter shall be positioned so that the display on the face of the meter may be clearly visible to any person being conveyed in the vehicle at all times. The dial of the taximeter shall be kept properly illuminated throughout any part of the hiring.
- 24.3** The vehicle taximeter shall be brought into operation at the commencement of a journey. When the meter is operating there shall be recorded, on the face of the meter, on clearly legible figures a fare not exceeding the maximum fare that may be charged for that journey.
- 24.4** In the event of a journey commencing in but ending outside the area covered by Swale Borough Council, there may be charged for the journey such fare as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that fixed by the Council in connection with the fare tariff for the hire of hackney carriages.
- 24.5** Private hire vehicles are not required to be fitted with a taximeter but where a taximeter has been fitted, it must be of a type approved by the Council.
- 24.6** The fare recorded on the face of the taximeter must be of an amount calculated strictly in accordance with the Council's table of fares in force at the time.
- 24.7** When a taxi meter is programmed to record a new table of fares, action must be taken at that time to ensure that it is impossible to record on the face of the meter any table of fares other than that currently in force.
- 24.8** Any taximeter with which the vehicle is provided shall be so constructed, attached and maintained as to comply with the following requirements:
- a) the taximeter shall be fitted with a flag or other device bearing the words 'FOR HIRE'
  - b) the taximeter shall be fitted with a key or other device the turning of which will bring the machinery of the taximeter into action and cause the word 'HIRED' to appear on the face of the taximeter
  - c) such key or device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and no fare is recorded on the face of the taximeter
  - d) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in figures clearly legible and free from ambiguity a fare not exceeding the rate or fare which the proprietor or drivers is entitled to demand and take in pursuance of the table of fares approved by the Council in that behalf for the hire of the vehicle by distance or by distance and time.

- e) the word 'FARE' shall be printed on the face of the taximeter in plain letters so as to clearly apply to the fare recorded thereon.
- f) the taximeter shall be so placed that all letters and figures on the face thereof may at all times be plainly visible to any person being conveyed in the vehicle and that for the purpose the letters and figures shall be suitably illuminated during any period of hiring.
- g) the taximeter and all fittings thereof shall be so affixed to the vehicle with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

## **25 Signage**

- 25.1** All hackney carriage vehicles, except those with built-in roof signs should carry illuminated roof-mounted signs indicating that they are a hackney carriage (the use of the word "Taxi" is acceptable to fulfil this requirement.
- 25.2** The roof sign shall be so arranged that it is illuminated when the vehicle is available for hire but that when the machinery of the taximeter is in action the illumination of the sign shall be extinguished.
- 25.3** The roof sign must be white, minimum width 400mm (16 inches long), centrally placed on the width of the roof with TAXI to be displayed on the front face. Lettering should be black and may include the company name on the rear face.
- 25.4** Similarly, and in order to differentiate between the two types of licensed vehicle, private hire vehicles are not permitted to carry roof- mounted signs of any kind or display any references to the words 'Taxi' or 'Hackney Carriage'.
- 25.5** The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles and drivers display the relevant licence plate and badge issued by the authority at all times.
- 25.6** The open display of these identifying plates and badges is important in terms of protecting both the public and the taxi trade. However, there are limited occasions where the display of such identification may have the opposite effect both in terms of customer safety and commercial implications for the operating business. The executive and limousine vehicles are a case in point. Identification of the vehicle as a licensed vehicle may allow "high risk" passengers to be more readily targeted putting both them and driver at risk. The display of local authority plates externally may also deter some customers from using the service; because of these factors the exemption below is available.
- 25.7** The only exception to not displaying the external plate is with the provision of an exempted plate that is pre-approved by an authorised Officer. The following requirements set the standard for this approval;
  - a) Vehicles that can have an exempted plate will generally be the accepted luxury brands such as Rolls Royce and Bentley. The highest specification executive

type cars from other high-end manufacturers may also be considered following inspection and approval from an authorised Officer.

- b) The vehicle must have no visible defects, dents or blemishes to the external bodywork or internal trim.
- c) The exemption letter must always be carried in the vehicle at all times

## **26 Advertising**

- 26.1** Third party advertising is not permitted on vehicles including radio stickers, football stickers or any other signs with the exception of the vehicle producer / supplier details. However, the name of the taxi company must be displayed on the front doors of all Hackney vehicles and Proprietors are allowed to also display company details on the rear of vehicles. Door signs are not mandatory on Private Hire vehicles.

## **27 Fare Table**

- 27.1** A fare table of a size and design approved by the Council must be permanently affixed in a conspicuous position inside the vehicle so that it is clearly and conveniently visible to any passenger being conveyed in the vehicle.

## **28 Breakdowns.**

- 28.1** If, whilst hired, the vehicle breaks down or otherwise becomes unfit or unable to carry the hirer to his/her destination the proprietor must;
- a) secure, without delay, suitable alternative transport to carry the hirer to his/her destination unless the hirer voluntarily elects to wait until the vehicle is repaired or is otherwise able to continue the journey
  - b) report the occurrence to the Council within 24 hours.

## **29 Presentation of vehicle for inspection**

- 29.1** The proprietor must present the vehicle for inspection at any time and at any place required by the Council. If the vehicle is not presented at the place and time required by the Council, then it may not be used as a Licensed Vehicle without the Council's approval.
- 29.2** Hackney carriage vehicles and private hire vehicles must be kept at all times in an efficient, safe, tidy and clean condition. Compliance with the vehicle specifications and conditions is essential and will be enforced by periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the proprietor setting out the defect(s) and where public safety is likely to be imperilled the further use of the vehicle will be suspended until the defects have been remedied. The suspension will then not be lifted until the vehicle has undergone a further test at the proprietor's expense and been passed as fit for use as a hackney carriage or private hire vehicle.

## **APPENDIX B CONDITIONS FOR EXECUTIVE VEHICLES AND LIMOUSINES**

### **1 TYPES OF VEHICLES**

- 1.1** The vehicle must have one of the following:
- a) A UK Single Vehicle Approval Certificate
  - b) A European Whole Vehicle Approval Certificate
  - c) UK Low Volume Type Approval Certificate
- 1.2** If the vehicle has a UK Single Vehicle Approval Certificate, the licensing authority will expect that the vehicle will have been modified in accordance with a program approved by the original vehicle manufacturer and have appropriate documentary proof.
- 1.3** All limousines require Individual Vehicle Approval. Further information is available on the GOV.uk website.
- a) An age limit will not normally be applied to limousines
  - b) Both left hand and right hand drive limousines will be considered for private hire licensing
  - c) Sideways facing seating will be permitted in limousines providing that it conforms to all relevant road traffic vehicle legislation
  - d) There is no restriction to the level of tint for glass windows in the passenger compartment. However, for the safety of passengers, tinted glass in the windscreen and front doors must comply with The Road Vehicles (Construction and Use) Regulations 1986
- 1.4** The Council strongly recommends that anyone wishing to licence a limousine contacts the licensing authority before purchasing a vehicle to ensure that advice can be provided as to whether the vehicle will meet the required standards, as each vehicle will be considered on its merits.

### **2 VEHICLE AND SAFETY EQUIPMENT**

- 2.1** Stretched limousines and similar vehicles shall comply with the existing conditions of licence applicable to licensed private hire vehicles in so far as they are not superseded by these additional conditions and the local private hire licence fee shall be the same.
- 2.2** The Proprietor of a vehicle shall:
- a) ensure that the vehicle and all its fittings and equipment are at all times kept in a fit, serviceable, efficient, safe and clean condition and all relevant statutory requirements (including those contained in the Motor Vehicles (Construction & Use) Regulations) are fully complied with. Should the vehicle fail to comply with any legal requirement then the vehicle should be removed from service until the reasons for non-compliance is rectified;



- b) ensure that loose luggage is not carried within the passenger compartment of the vehicle;
  - c) ensure that if any CCTV cameras installed in the vehicle have received prior written approval of the Council; and
  - d) display a Council approved sign, in a position clearly visible to passengers, warning customers that camera surveillance equipment may be in operation.
  - e) ensure the vehicle is fitted with tyres that meet both the size and weight specification.
- 2.3** Vehicles may be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive.
- 2.4** Limousines with sideways facing seating to be considered for private hire licensing.
- 2.5** The passenger compartment of the vehicle may be fitted with darkened or blackened glass.
- 2.6** The driver's compartment, including the front passenger seat must not be fitted with darkened or blackened glass.
- 2.7** The licence holder shall not at any time use or permit to be used in the vehicle a radio scanner or citizen band radio.

### **3 USE OF VEHICLE**

- 3.1** The proprietor of the vehicle or the holder of a private hire operator's licence responsible for the booking shall:
- a) ensure that the vehicle is at all times only driven by a person who holds a relevant driver's licence issued by Swale Borough Council;
  - b) not permit to be conveyed in the vehicle more than the number of persons for which the vehicle is licensed, regardless of the age or size of the passengers;
  - c) ensure that in any advertisement publicising their limousine service, the vehicle is only licensed to carry a maximum of eight passengers.
  - d) not convey any passengers in the front compartment of the vehicle;
  - e) A taxi office shall not supply any alcohol in the vehicle unless there is in force an appropriate authorisation under the Licensing Act 2003 permitting the sale or supply of the same.
  - f) if the occupants are below the age of 18, there should be no alcohol in the vehicle for consumption or otherwise.
  - g) any glassware in the vehicle must be made of either shatterproof glass or plastic.
  - h) the driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the passengers in the vehicle.
  - i) when directed by the Council, display and maintain any notices in a conspicuous position.

## **4 VEHICLE IDENTIFICATION**

- 4.1** The vehicle will not be required to display the rear, external private hire vehicle licence plates which must normally be displayed by licensed private hire vehicles. The proprietor of the vehicle will be issued, by the Council, with the licence identification which identify the vehicle as a private hire vehicle on which will be displayed the registration number of that vehicle and the number of passengers permitted to be carried. The proprietor shall ensure that:
- a) The internal plate shall be fixed inside the vehicle in such a position (such as the bulkhead or security screen) as to be visible to persons conveyed therein;
  - b) No private hire limousine vehicle identification shall be parted with, lent or used on any other vehicle and the loss or damage of the vehicle identification shall be reported to the Council as soon as the proprietor is aware of the loss. In the event of ceasing to use the vehicle for private hire (special event) purposes the proprietor shall surrender the vehicle identification and licence to the Council within seven days.
  - c) The Exemption Letter issued by the Council, to be readily available in the licensed vehicle at all times, for inspection by an authorised officer.

## **5 SIGNS, NOTICES, ETC**

- 5.1** No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle, other than those specifically approved by the Council.

## **6 INSURANCE/MOT TEST CERTIFICATE**

- 6.1** The vehicle must not be used to carry passengers for private hire special events unless there is in force for the vehicle:
- a) A statutory MOT and certificate of compliance by a Council approved testing station every year. Once the vehicle is over 5 years old it requires two Certificates of Compliance a year being at 6 monthly intervals.
  - b) a policy of insurance covering the use of the vehicle for private hire special events and the proprietor of the vehicle is shown as the policy holder and any other licensed private hire limousine vehicle drivers who drive the vehicle are covered.
- 6.2** These documents shall be produced to an authorised officer of the Council or a Police Officer at such time and place as may be required.
- 6.3** If the insurance cover on the vehicle is cancelled, expires or fails to cover the use to which the vehicle is being put, the Licensing Officer shall be informed immediately and the vehicle shall not be used until appropriate cover is obtained.

## **7 DEPOSIT OF LICENCES**

- 7.1** If the proprietor permits or employs any other person to drive their private hire limousine vehicle, they shall, before that person commences to drive the vehicle, cause the driver to deliver to him a copy of their relevant licence for retention until such time as the driver ceases to be permitted or employed to drive that vehicle.
- 7.2** The loss of any vehicle or driver licence shall be reported to the Council as soon as possible.

## **8 GENERAL CONDITIONS**

- 8.1** All Operators will be required to sign a declaration stating that the vehicle will not carry more than 8 passengers and at the time of booking the vehicle, the restriction of carrying no more than 8 passengers shall be explained to the hirer.
- 8.2** The Licensee must produce a copy of the Single Vehicle Approval certificate at time of licensing.

## **APPENDIX C**

### **HACKNEY CARRIAGE AND PRIVATE HIRE APPLICATION PROCEDURES**

#### **1. Vehicles**

- 1.1 A Hackney Carriage or Private Hire Vehicle Licence shall be valid for a standard term of one year.
- 1.2 Council officers will send a reminder letter to the current taxi proprietor or operator three months before the existing licence expires in order to assist applicants in their prompt submission of re-licensing applications. However, responsibility for the prompt submission of all required documents rests with the proprietor or operator.
- 1.3 Officers may only accept complete applications comprising all the necessary paperwork. If an application is received late the applicant's vehicle may be unlicensed for a period of time during which they will be unable to use it as a licensed vehicle.
- 1.4 From the date of receipt of a satisfactory and complete vehicle licence application a minimum of one week is required before the appropriate licence can be issued.
- 1.5 The licence fees payable are subject to periodic review and will be published together with other Council licensing fees

#### **2. New licences and renewal licences for vehicles**

- 2.1 An applicant will need to complete the following at least five working days before their vehicle plating:
    - a) the necessary online application form
    - b) the relevant fee
    - c) the Vehicle Registration Document issued by the DVLA, or proof of ownership
    - d) Insurance Certificate confirming the vehicle is covered for 'Hire and Reward' – if a cover note is provided licence holders will be required to produce further insurance certificates on or before the expiry of the cover note
    - e) MOT certificate
    - f) Certificate of Compliance completed by a Council approved garage
  - 2.2 All documents must be sent to the Licensing Department via email to [taxis@swale.gov.uk](mailto:taxis@swale.gov.uk)
  - 2.3 The successful completion of this procedure will be indicated by the issue of an appropriate hackney carriage/private hire vehicle licence together with the necessary plates for the vehicle, which must not be used for hire or reward until these are attached to the licence.
- #### **3. Replacement Vehicle on an existing hackney carriage or private hire vehicle licence**

**3.1** If, during the term of the vehicle licence, it becomes necessary to replace the existing vehicle with another, all of the supporting documents as detailed above must be submitted, together with the original licence for endorsement with the new vehicle details. All of the documentation must be submitted in sufficient time to take into account that a minimum of one week is required before the appropriate licence can be issued.

**3.2** The appropriate fee will be charged for this process which takes into account the supply of a new vehicle plate.

**4. Transfer application for an existing hackney carriage or private hire vehicle from one licensed driver to another**

**4.1** This is the only licence that may be transferred

**4.2** Documentation as described in 2.1. above must be provided together with the original licence for endorsement with the new details. All of the documentation must be submitted in sufficient time to take into account that a minimum of one week is required before the appropriate licence can be issued.

**4.3** There is a fee for this process.

**5. DRIVERS**

**5.1** An applicant will need to complete, in full, the necessary application form accompanied with the appropriate fee.

**5.2** All applicants must be over 21 years of age

**5.3** All new applicants can apply for either a Private Hire only or Dual licence. To obtain either licence, the applicant must pass the Knowledge Test as detailed in **APPENDIX E**. Those with a Private Hire only licence, may upgrade to a Dual licence by sitting the appropriate Knowledge Test and paying the relevant fees.

**5.4** An applicant has 6 months in which to take out a licence subsequent to successfully passing the Knowledge Test. Failure to complete the application process within this time will result in your application being terminated and no refunds are given.

**5.5** The following documentation must be provided:

<b>Documents to be supplied to Licensing, Swale Borough Council</b>	<b>When documents must be supplied</b>
Full DVLA, Northern Ireland, or other EEA state Drivers licence which has been held for at least 12 months.  A holder of an acceptable non-UK driving licence must obtain a full UK driving licence within twelve months of the grant of a hackney carriage or private hire drivers' licence.	New and Renewal Application
1 colour photograph of passport size and standard, showing the full face of the applicant as it would normally appear.	New and Renewal Application

A medical certificate, obtained from the drivers own GP or someone with access to their medical records indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards.	New and Renewal Application
Enhanced Disclosure and Barring Service certificate, less than one month old. All overseas applicants who have resided in this country for less than three years obtain a Certificate of Good Conduct from their relevant embassy or consulate, at the applicant's expense, authenticated, translated and sealed by the embassy or consulate.	New Application
Details of the reference number of the DBS Update Service which all drivers must join as a mandatory condition of licence	New and Renewal Application
Proof of identity – Passport or Birth Certificate	New and Renewal Application
Confirmation of address – Utility bill or similar as approved by an authorised officer. The document must be dated less than 3 months old.	New and Renewal Application
Proof of National Insurance Number	New and Renewal Application
Proof of right to live and work in the UK. Suitable documents that are required are available at: <a href="https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks">https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks</a>	New and Renewal Application

## 6. DBS Checks

- 6.1** All new applicants are to provide a completed Enhanced DBS Disclosure Application when they have successfully passed the Street Knowledge Test and register for the DBS Update Service upon receipt of their Certificate, which will be sent to them by the DBS and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered appropriate.
- 6.1.1** All existing drivers who are not already registered with the DBS Update Service must, upon application for the renewal of their drivers' licence provide a current (less than 3 months old at the date of application) Enhanced DBS Disclosure Certificate, register for the DBS Update Service and give the Council ongoing permission and the information required to check the status of their certificate every six months or otherwise as considered necessary.
- 6.1.2** Once a driver has registered for the Update Service, they must remain registered, and give the Council permission to check the status of their certificate as considered necessary, for the duration of their time as a licensed driver with the Council.
- 6.1.3** Anyone who fails to register for the Update Service or maintain continuous registration as required will be subject to enforcement action, including suspension until such times as the situation has been rectified to the Council's satisfaction i.e. until they have applied for a further Enhanced DBS check through the Council at their

own expense in order that they can apply/reapply to join the Update Service within the required timescales as set out by the DBS.

- 6.1.4** The Council will check on the status of a drivers' DBS certificate via the Update Service as part of the renewal application process, at six monthly intervals thereafter and at any other time considered appropriate during the validity of that person's licence.
- 6.1.5** Where a status check reveals that the individual's certificate remains current, that person's criminal record check will ordinarily be deemed as satisfactory.
- 6.1.6** Where a status check reveals that the individual's certificate is no longer current, that person's criminal records check will be deemed as unsatisfactory, they may be subject to enforcement intervention, and they will need to apply for a new Enhanced DBS check through the Council and provide their Certificate to the Council.
- 6.1.7** Details of how to sign up to the Update Service can be found on the GOV.UK website. <https://www.gov.uk/guidance/digital-and-online-services#update-service>  
Applicants are responsible for paying all fees.
- 6.1.8** The council may, at any point throughout the duration of this Policy, specify (by way of updating the relevant sections on its website) the way in which applicants can/must apply for their DBS certificates (e.g., via a 3<sup>rd</sup> party). Applicants will continue to be responsible for all costs associated with this.
- 6.1.9** Licences will not be issued until such times as the Council has sight of a satisfactory returned DBS check. Swale Council will not issue temporary badges as a result of delayed checks. It will be the driver's responsibility to make sure they have joined the DBS Update Service to be able to renew their licence on time.
- 6.1.10** The licence is conditional upon there being no adverse information revealed on the DBS disclosure that would render the applicant not 'fit and proper'. If the licence is issued and relevant information is later revealed on a disclosure certificate, then that licence will be subject to review.
- 6.1.11** The Council is bound by rules of confidentiality and will not divulge information obtained to any third parties (except Councillors at Sub/Committee Meetings). The applicant for a DBS check will be sent a certificate to their home address (if using the paper version).
- 6.1.12** The Council recognises that there are occasions when requiring a DBS Certificate from an applicant will not achieve its original aim, for example, where the DBS are unlikely to have any information recorded against them due to the short period of time that they have resided in this country.
- 6.1.13** The Council therefore requires that all overseas applicants who have resided in this country for less than five years obtain a Certificate of Good Conduct from their relevant embassy or consulate, at the applicant's expense, authenticated, translated and sealed by the embassy or consulate.

**6.1.14** No Disclosure and Barring Service checks from any other Authority will be accepted. This Council is a registered DBS body and has a robust system for checking applicants and their documentation and only checks made by this council will be accepted, unless the applicant has an Update Service Certificate which is in date.

**6.1.15** The applicant will be responsible for payment of the appropriate fee.

**6.1.16** When a driver is applying for the renewal of their licence where a DBS check is required, attention is drawn to the fact that the badge renewal will not be issued until such times as the Council has sight of the original satisfactory DBS check. Should there be a period of time between the expiry of the existing badge and the return of the DBS check, drivers will not be able to work and will be required to return their badge to the Council within 5 working days of the expiry date.

## **Tax Checks**

**7.1** From 4 April 2022 first-time applicants for licensing will need to confirm on their application form that they have read the HMRC guidance regarding being properly registered <https://www.gov.uk/guidance/changes-for-taxi-private-hire-or-scrap-metal-licence-applications-from-april-2022>

**7.2** From 4 April 2022 all applicants who are:

- a) renewing a licence
- b) applying for the same type of licence they previously held, that ceased to be valid less than a year ago
- c) applying for the same type of licence they already hold with another licensing authority

must obtain a 9-character tax check code and provide this to the council so that it can be confirmed that they are registered with HMRC. The council can only confirm that the tax check has been conducted and no financial details will be revealed to them.

## **8. Private Hire Operator's**

**8.1** The applicant will complete, in full, the application form

**8.2** The following documentation must be provided to [taxis@swale.gov.uk](mailto:taxis@swale.gov.uk) to validate the application:

- a) Proof of public liability insurance for £5,000,000
- b) Basic certificate from for each person named on the application form if applicant is not a licensed driver with Swale Borough Council.
- c) A list of vehicle(s) and driver(s).

**8.3** The appropriate fee must be paid,

## **9. Applications general**

**9.1** If the application form contains any details to suggest that any relevant offence, conviction, prosecution or cautions have been imposed on the applicant since the licence was last issued or renewed, an authorised officer will discuss the matter with



the applicant. Penalty points will be imposed in line with APPENDIX H if a conviction, prosecution or caution is disclosed which had not been notified to the licensing team previously.

- 9.2** At that time it will be decided whether the application is likely to be successful in the light of the Council's Policy of the Relevance of Offence, conviction, prosecution or cautions, either by approval by authorised officers, or by reference to the Licensing Sub Committee.
- 9.3** If an application is refused or if the licence holder surrenders the licence early, no refund will be issued.
- 9.4** Applicants will be issued with a paper licence and also a driver's badge which shall remain the property of the Council and must be surrendered when the driver ceases to work as a licensed driver.
- 9.5** Failure to renew the licence before the expiry date will result in the driver being treated as if they were a new applicant. However, the applicant will only be required to re-sit the Street Knowledge Test, if a period of two years or more has elapsed since the date of expiry from the last licence.

## **APPENDIX D**

### **GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS, OFFENCES, PROSECUTIONS AND CAUTIONS**

#### **1 General Policy**

**1.1** The purpose of this appendix is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver licence and/or private hire operator licence in relation to convictions.

**1.2** Applicants and existing licensed drivers should note that they must be, and remain, a fit and proper person at all times; not only when they are acting in the capacity as a licensed driver.

**1.3** The onus is on the applicant to demonstrate that they meet this requirement; not on the council to demonstrate that the applicant does not.

**1.4** In the absence of a judicially approved definition of 'fit and proper', the council will apply the test of:

*Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?*

The wording of this test originates from the national standards.

**1.5** All decisions on the suitability of an applicant or licensee can take into consideration conduct that has not resulted in a criminal conviction and will be made on the balance of probability. Applicants and licence holders will not be 'given the benefit of doubt'.

**1.6** If, on the balance of probabilities, the answer to the question set out in 1.4 is 'no', then the council will ordinarily take the view that the individual should not hold a licence.

**1.7** The overriding consideration is the safety of the public. In accordance with the cases of *McCool v Rushcliffe Borough Council* and *Leeds City Council v Hussain*, the council will therefore expect applicants and existing licence holders alike to demonstrate, "...that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers," as part of its assessment of fitness and propriety.

**1.8** In addition, the council will want to be satisfied that a licensed driver/operator will not defraud, discriminate against or otherwise act inappropriately towards or in front of their customers, i.e. the public.

**1.9** It should be borne in mind that drivers may carry vulnerable members of public such as unaccompanied children; disabled people; elderly people; people who are incapacitated from alcohol or other substances, lone people and foreign visitors or others with communication difficulties.

- 1.10** If a court has found an applicant guilty of an offence, that person cannot subsequently claim to the council that they did not commit the offence. If they seek to do so, their representation will not be considered as this is entirely a matter for the courts.
- 1.11** In making its decision the council will consider, amongst other matters, the nature/class of any offence, how long ago it occurred and the applicants' age at that time, the apparent seriousness as gauged by the penalty imposed, and any other factors which the council may consider to be relevant.
- 1.12** A person with a current offence, conviction, prosecution or caution for a serious crime need not be permanently barred from obtaining a licence but should be expected to
- (a) remain free of offence, conviction, prosecution or caution for an appropriate period and
  - (b) show adequate evidence of good character from the time of the offence, conviction, prosecution or caution.
- Simply remaining free of offence, conviction, prosecution or caution will not generally be regarded as sufficient evidence of good character. For example, a continuous course of conduct which shows cause for concern.
- 1.13** Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances that the applicant wishes to be taken into account. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.
- 1.14** Since it is not practicable to make reference to every offence, the following examples afford a general guide on the action which might be taken where offence, conviction, prosecution or cautions are disclosed.

## **2 Existing Drivers**

- 2.1** Any existing licence holder convicted of an offence during the period of their current licence will be subject to this policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their licence refused, an existing licence holder would normally have their licence revoked.
- 2.2** Licensed drivers and operators who are convicted of any criminal or motoring offence during the period covered by their licence, must disclose the conviction and the penalty involved to the council in writing within 14 days of the conviction(s). For these purposes, any offence resulting in the acceptance of a fixed penalty notice will be considered to be a conviction. The exception to this is a parking ticket, which is in fact a penalty charge notice.

## **3 Revocation**

- 3.1** Where the council believes that, based on information available at that time, that on the balance of probability it is considered that a driver presents a risk to public safety

it can decide to immediately revoke a drivers' licence pending any investigation regardless of whether criminal charges are brought.

- 3.2** Where a licence holder has been referred to the relevant Committee/Sub-committee because he/she has been convicted of a serious criminal offence or has accumulated 12 penalty points or more under the Authority's penalty points system, the Committee/Sub-committee may order the revocation of the licence.

#### **4 Refusal to Renew**

- 4.1** As an alternative to revocation the Licensing Sub Committee may decide that the appropriate action, in a situation where the licence is shortly to expire, is to order that the licence shall not be renewed.

#### **5 National Register of Taxi Licence Revocations and Refusals (NR3)**

- 5.1** In the event that a licence is refused or revoked the council will enter details on the National Register of Taxi Licence Revocations and Refusals as set out in **Appendix K**.

#### **6 Crimes resulting in death**

- 6.1** Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### **7 Exploitation**

- 7.1** Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

#### **8 Offences involving violence against the person**

- 8.1** Where an applicant has a conviction for an offence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

#### **9 Possession of a weapon**

- 9.1** Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

#### **10 Sexual Offences**

- 10.1** Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. In addition, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

## **11 Dishonesty**

- 11.1** Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## **12 Drugs**

- 12.1** Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 12.2** Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

## **13 Discrimination**

- 13.1** Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## **14 Motoring convictions**

- 14.1** Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.
- 14.2** Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority consider that the licensee remains a fit and proper person to retain a licence.

## **15 Major Traffic Offences**

- 15.1** An isolated offence, conviction, prosecution or caution, without disqualification, for an offence such as dangerous driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the offence, conviction, prosecution or caution is within 6 months prior to the date of the application the application will normally be refused.
- 15.2** More than one offence, conviction, prosecution or caution for this type of offence within the last 5 years is likely to merit refusal.

**15.3** A list of offences to which this paragraph applies can be found at 17.1 of this Appendix.

## **16 Minor Traffic Offences**

**16.1** Isolated offence, conviction, prosecution or cautions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of offence, conviction, prosecution or caution of at least 6 months.

**16.2** In particular, an application will normally be refused where the applicant has 6 or more penalty points on his DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one offence, conviction, prosecution or caution for this type of offence within the last 6 months.

**16.3** A list of offences to which this paragraph applies can be found at 17.2 of this Appendix.

## **17 Hybrid Traffic Offences**

**17.1** Offences of the type listed below in Section 17.3 and 17.4 of this Appendix, will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

## **18 Disqualification**

**18.1** Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from offence, conviction, prosecution or caution has elapsed from the restoration of the DVLA licence.

**18.2** Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 12 months free from offence, conviction, prosecution or caution must have elapsed from the restoration of the DVLA licence.

**18.3** In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver is likely to be refused a driver's licence because different criteria apply and an applicant will normally be expected to show a period of 12 months free from offence, conviction, prosecution or caution from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

## **19 Drink driving/driving under the influence of drugs**

**19.1** Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the

completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, an applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

## **20 Using a hand-held device whilst driving**

- 20.1** Where an applicant has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

## **21 Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976**

- 21.1** One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason, a serious view is taken of offence, conviction, prosecution or cautions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.
- 21.2** In particular, an applicant will normally be refused a licence where they have been convicted of an offence under the Acts at any time during the 6 months preceding the application or has more than one offence, conviction, prosecution or caution within

## **22 Notification of offences**

- 22.1** Licence holders are required by this Authority to notify the Licensing Team within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope (with the exception of one-off minor traffic offences) will result in a review by this Authority as to whether the licence holder is fit to continue to hold a licence. This will not however be seen as a direction that a licence should be withdrawn; it is for the Licensing Authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.

## **23 Cautions and Endorsable Fixed Penalties**

- 23.1** Spent Convictions and the Principles of The Rehabilitation of Offenders Act 1974. Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely.
- 23.2** The possibility of rehabilitation and the length of time before rehabilitation occurs depends on the sentence imposed, and not the offence committed.
- 23.3** Despite the above, the principles of the Act do not apply to applicants for hackney carriage and private hire drivers' licences. This is because the driving of these vehicles is listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

- 23.4** Although the Act does not prevent any determining authorities, including the Licensing Authority, from taking spent offence, conviction, prosecution or cautions into account, such offence, conviction, prosecution or cautions are only admissible in so far as they are relevant to the issue as to whether the applicant is a 'fit and proper person' to hold a licence.
- 23.5** The determination as to whether certain offence, conviction, prosecution or cautions are spent, therefore, may be a relevant exercise.
- 23.6** The rehabilitation periods to which reference is most commonly made are set out below. For further details on the periods of rehabilitation applicable to all sentencing options, reference will need to be made to a specialist textbook on the Act

## **24 The Rehabilitation Period of Sentences**

<b>Sentence/disposal</b>	<b>Rehabilitation Period</b>	
	<b>Adults (18 or over when convicted)</b>	<b>Young Persons (under 18 when convicted)</b>
Custodial sentences, including: Imprisonment (including suspended sentence), Detention in a young offender institution, Borstal, Youth custody, Corrective training	These periods are measured from the day on which the sentence, including any licence period, is completed	
Over 48 months (4 years)	Never	Never
From 30 months to 48 months (2½ -4yrs)	7 years from end of sentence	3½ years from end of sentence
From 6 months to 30 months (½ -2½yrs)	4 years from end of sentence	2 years from end of sentence
6 months or less	2 years from end of sentence	18 months from end of sentence
Armed forces service detention	1 year from end of sentence*	6 months from end of sentence
Removal from Her Majesty's service	1 year from conviction date	6 months from conviction date
Fine	1 year from conviction date	6 months from conviction date
Compensation Order	When paid in full	When paid in full



Community Order Youth Rehabilitation Order	1 year from end of order	6 months from end of order
Conditional discharge	End of period specified in the order	End of the period specified in the order
Referral Order, Disqualification Order, Hospital Order,	End of the period specified in the order	End of the period specified in the order
Supervision Order	Spent immediately	Spent immediately
<b>Cautions</b>	<b>Adults (18 or over when convicted)</b>	<b>Young Persons (under 18 when convicted)</b>
Conditional Caution	3 months after issue, or on discharge of the conditions	3 months after issue, or on discharge of the conditions
Simple caution, Reprimand, Final warning	Spent immediately	Spent immediately

The periods of time which must elapse before the conviction becomes 'spent' may vary according to the circumstances of the individual and the offence. The rehabilitation period, may for example, be extended by the commission of further offences during the rehabilitation period. Further information is available from the Government guidance on the Rehabilitation of Offenders Act, available at [www.justice.gov.uk/offenders/rehabilitation-of-offenders-act](http://www.justice.gov.uk/offenders/rehabilitation-of-offenders-act)

## **25 Relevant Previous Convictions**

### **25.1 Major Traffic Offences**

AC10 Failing to stop after an accident

AC20 Failing to give particulars or to report an accident within 24 hours

AC30 Undefined accident offences

BA10 Driving while disqualified by order of court

BA20 Attempting to drive while disqualified by order of court

CD10 Driving without due care and attention

CD20 Driving without reasonable consideration for other road users

CD30 Driving without due care and attention or without reasonable consideration for other road users

CD40 Causing death through careless driving when unfit through drink

CD50 Causing death by careless driving when unfit through drugs

CD60 Causing death by careless driving with alcohol level above the limit

CD70 Causing death by careless driving then failing to supply a specimen for analysis

DD40 Dangerous driving

DD60 Manslaughter or culpable homicide while driving a vehicle

DD80 Causing death by dangerous driving

DR10 Driving or attempting to drive with alcohol level above limit

DR20 Driving or attempting to drive while unfit through drink

DR30 Driving or attempting to drive then failing to supply a specimen for analysis

DR40 In charge of a vehicle while alcohol level above limit

DR50 In charge of a vehicle while unfit through drink

DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive

DR70 Failing to provide specimen for breath test

DR80 Driving or attempting to drive when unfit through drugs

DR90 In charge of a vehicle when unfit through drugs

IN 10 Using a vehicle uninsured against third party risks

LC20 Driving otherwise than in accordance with a licence

LC30 Driving after making a false declaration about fitness when applying for a licence

LC40 Driving a vehicle having failed to notify a disability

LC50 Driving after a licence has been revoked or refused on medical grounds

MS50 Motor racing on the highway MS60 Offences not covered by other codes

UT50 Aggravated taking of a vehicle

Aiding, abetting, counselling or procuring Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)

Causing or permitting Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)

Inciting Offences as coded above, but with 0 changed to 6 (e.g. IN16 becomes IN16)

## **25.2 Minor Traffic Offences**

MS10 Leaving a vehicle in a dangerous position

MS20 Unlawful pillion riding

MS30 Play Street Offences

MS40 Driving with uncorrected defective eyesight or refusing to submit to a test

MS70 Driving with uncorrected defective eyesight

MS80 Refusing to submit to an eyesight test

MS90 Failure to give information as to identity of driver, etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations

PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle

PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

TS10 Failing to comply with traffic light signals

TS20 Failing to comply with double white lines

TS30 Failing to comply with a "Stop" sign

TS40 Failing to comply with direction of a constable or traffic warden

TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)

TS60 Failing to comply with school crossing patrol sign

TS70 Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting Offences as coded above, but with 0 changed to 6 (e.g. PC16 becomes PC16)

### **25.3 Hybrid Traffic Offences**

CU10 Using vehicle with defective brakes

CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition

CU30 Using a vehicle with defective tyre(s)

CU40 Using a vehicle with defective steering

CU50 Causing or likely to cause danger by reason of load or passengers

SP10 Exceeding goods vehicle speed limit

SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)

SP30 Exceeding statutory speed limit on a public road

SP40 Exceeding passenger vehicle speed limit

SP50 Exceeding speed limit on a motorway

SP60 Undefined speed limit offence

Aiding, abetting, counselling or procuring Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12)

Causing or permitting Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14) Inciting Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16)

## **APPENDIX E**

### **DRIVER KNOWLEDGE TESTS**

#### **1. Introduction**

- 1.1** In order to maintain the high standards, the Council expects of its licensed drivers operating within the Borough, all new applicants who are applying for a Swale Borough Council drivers licence are required to pass a Knowledge Test.
- 1.2** Before an individual applies to sit the Knowledge Tests they should be satisfied that they can fulfil all other Council requirements to become a licensed driver.
- 1.3** It is recommended that an individual should not obtain a Disclosure and Barring Service Enhanced Check or a medical until they pass the Knowledge Test. If an applicant completes an Enhanced DBS Check or medical before they have successfully passed the Knowledge Test, they may be required to provide an updated document before their licence is issued, the final decision will be with the Licensing Manager.
- 1.4** Each element of the test must achieve the required pass mark. If applying for a Private Hire only licence, then the applicant will have a reduced pass rate on Section A to C as outlined in the table below.

<b>Street Knowledge Test Sections</b>	<b>Minimum Percentage</b>	
	<b>Dual Applicants</b>	<b>Private Hire Only Applicants</b>
<b>Section A:</b> Shortest journey between two points within a specific area i.e. Faversham, Sittingbourne or Isle of Sheppey	80%	60%
<b>Section B:</b> Shortest journey between two points throughout the whole borough of Swale	80%	60%
<b>Section C :</b> Name of street key landmarks are situated on	80%	60%
<b>Section D:</b> Hackney Carriage and Private Hire Law and Highway Code	80%	80%
<b>Section E:</b> Swale Borough Council Local Policy	80%	80%
<b>Section F:</b> Safeguard of vulnerable adults and children	100%	100%
<b>Section G:</b> Basic arithmetic	80%	80%

- 1.5** Any number of tests may be taken, however priority will be given to new applicants for available places. A waiting list is therefore in place. Places are allocated on a 'first come first served basis.
- 1.6** All questions are held on a data base and selected at random; therefore, no test paper will ever be the same as any other and there are no specimen tests for view or study.

- 1.7** Any person found cheating will be disqualified from the test and another application will not be accepted for a period of two years.
- 1.8** Knowledge Tests will normally be held on the first Tuesday in each month but may be subject to change in accordance with any Covid-19 regulations that may be in place at any time and the applicant will only be eligible to sit the test following a completed application form and the relevant payment which must be submitted to the Licensing Department 6 working days in advance. If there is high demand for the Knowledge Test, additional tests may be arranged.
- 1.9** The outcome and decision made by the authorised officer regarding a Knowledge Test is final. Appeals can only be made in exceptional circumstances where the results will be considered by the Licensing Manager.
- 1.10** The applicant will not be permitted to use any additional resources when sitting the test.

## **2. The Knowledge Test**

### **2.1** The test will consist of six sections:

- a) Section A: Questions requiring the shortest route by distance between a pick-up point and destination in the Swale area. (Dual Licence only)
- b) Section B: Questions relating to the locations of prominent buildings, such as schools, churches, hotels, public houses, restaurants and places of interest (Dual Licence only).
- c) Section C: Multiple choice questions relating to applicants' knowledge and understating of the law in respect of hackney carriage and private hire licensing.
- d) Section D: Multiple choice questions relating to applicants' knowledge and of Swale Borough Council's Local Policy.
- e) Section E: Multiple choice questions relating to the Highway Code
- f) Section F: Multiple choice questions relating to applicants' knowledge and understating of safeguarding vulnerable adults and children. A PowerPoint presentation is provided to candidates when they first apply and will be shown prior to the test beginning to demonstrate to applicants what is expected of them.
- g) Section G: Multiple choice questions relating to basic arithmetic when handling customer's money.

### **2.2** The test lasts 90 minutes and consists of 55 questions. Applicants are strongly advised to thoroughly revise prior to sitting the test as many candidates fail on several sections which seems to suggest lack of preparation.

## **APPENDIX F**

### **PRIVATE HIRE DRIVER'S LICENCE CONDITIONS**

#### **1. Conduct of Driver**

- 1.1. The holder of a driver's licence (hereafter known in this Appendix as the driver) shall comply with the following conditions, which should be read in conjunction with the Code of Conduct set out in **APPENDIX H**.
- 1.2 The driver shall be respectably dressed, clean and tidy in appearance at all times whilst his vehicle is being made available for hire.
- 1.3 The driver shall at all times, when acting in accordance with the drivers licence granted to him, wear such badge as supplied by the Council in such position and manner as to be plainly and distinctly visible at all times.
- 1.4 The driver shall not lend the badge to any other person or cause or permit any other person to wear it.
- 1.5 All licences, badges and plates remain the property of the Council at all times. They must be returned forthwith when employment as a licensed driver ceases, the licence expires or is not renewed, or where the licence is suspended or revoked.
- 1.6 The driver shall behave in a civil, polite and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, or entering or alighting from, the vehicle.
- 1.7 The driver shall not wilfully or negligently cause or permit the vehicle licence plate to be concealed from public view, or allow the licence plate to be so defaced as to make any figure or information illegible.
- 1.8 The driver who has agreed to, or has been hired to, be in attendance with the vehicle at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such vehicle as such appointed time and place.
- 1.9 The driver when hired to drive to a particular destination shall proceed to that destination by the shortest available route.
- 1.10 The driver shall not convey, or permit to be conveyed, in such vehicle any greater number of persons than the number of persons specified on the vehicle licence.
- 1.11 The driver shall convey a reasonable amount of luggage and afford reasonable assistance in loading and unloading luggage.
- 1.12 The driver must not solicit, by calling out or otherwise harass, any person to hire or be carried for hire and must not accept an offer for the hire of the vehicle except where that is first communicated to the driver by pre-booking.
- 1.13 The vehicle shall be presented in a clean and tidy condition for each journey.
- 1.14 The private hire vehicle must only be driven with the consent of the proprietor of the vehicle.

- 1.15** The driver must not drink or eat in the vehicle whilst in the presence of customers.
- 1.16** The driver must comply with any hirer's request not to play any radio or sound equipment which is not connected with the operation of the business.
- 1.17** The driver must ensure that the noise emitted from any sound equipment in the vehicle does not cause annoyance to any persons, whether inside or outside the vehicle.
- 1.18** The driver shall not operate the horn late at night as a means of signalling that the vehicle has arrived.
- 1.19** The drivers must not cause or permit the vehicle to stand on a public road, on a hackney carriage rank, or in a public place so as to suggest that it is plying for, or available for, hire.
- 1.20** Drivers must not use a mobile phone whilst driving unless it is designed for hand-free operation.
- 1.21** Any change affecting the licence must be notified to the Council. Notification should be as soon as reasonably practicable and in any event, no later than seven days after the change was effected.
- 1.22** If the driver is convicted or bound over for any offence, they shall within 7 days give details in writing of the offence, conviction, prosecution or caution or binding over to the Council.
- 1.23** The private hire driver's licence must be made available for inspection, upon request, by any authorised officer of the Council or any police officer.
- 1.24** The driver must notify the Council within seven days of starting or terminating employment, as to the name and address of the proprietor concerned and the date when the employment either started or ended.
- 1.25** The private hire driver's licence must be presented to the proprietor concerned at the beginning of the employment.
- 1.26** In accordance with section 50(3) of the Local Government (Miscellaneous Provisions) act 1976, any accident to a private hire vehicle causing damage materially affecting:
- a) The safety, performance or appearance of the vehicle
  - b) The comfort or convenience of the passengers
- must be reported to the Council as soon as reasonably practicable, and in any case within 72 hours of the accident.
- 1.27** A driver must carry assistance dogs when required. Assistance dogs include guide dogs for the blind or partially sighted, hearing dogs for the hard of hearing, and other assistance dogs which assist disabled people with a physical impairment. Any driver with a medical condition, which may be exacerbated by dogs, may apply for exemption from this condition. On production of suitable medical evidence, a certificate of exemption will be issued which must be carried in the vehicle at all



times. Unless the certificate of exemption is available in the vehicle, the exemption will not apply.

## **2. Medical Fitness of Driver**

**2.1** The driver of a private hire vehicle must at any time, or at such intervals as the Council may reasonably require, produce a certificate issued by the drivers own GP or someone with access to their medical records to the effect that they are, or continue to be, physically fit to be a driver of a private hire vehicle.

**2.2** The driver must cease driving any private hire vehicle and contact the Council immediately if they know of any medical condition which may affect their:

- a) Driving ability
- b) The health and safety of themselves or any passengers.

## **3. Fares and Journeys**

**3.1** The driver/operator of a private hire vehicle may make their own agreement with the hirer as to the fare for a particular journey.

**3.2** The driver shall, if requested by the hirer, provide him with a written receipt for the fare paid.

**3.3** If the vehicle is fitted with a taximeter, then the driver of a private hire vehicle must:

- a) Unless the hirer expresses at the commencement of the journey their desire to engage by time, bring the meter into operation at the commencement of the journey, and bring the machinery of the taxi-meter into action by moving the said key, flag or other device, before beginning a journey and keep the machinery of the taxi-meter in action until the termination of the hiring.
- b) When standing, keep the key, flag or other device fitted for that purpose locked in the position in which no fare is recorded on the face of the meter.
- c) Cause the dial of the taxi-meter to be kept properly illuminated throughout any part of the hiring which is during the hours of darkness as defined for the purposes of the Road Traffic Act 1972, and also at any other time at the request of the hirer.
- d) Not demand from any hirer of a private hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a fare meter, the fare shown on the face of the taxi-meter.

**3.4** In the event of a journey commencing in but ending outside the Borough of Swale there may be charged, for the journey, such fare or rate (if any) as was agreed before the hiring was effected. If no such agreement was made then the fare to be charged should be no greater than that determined by the taxi-meter.

## **4 Wheelchair Accessible Vehicles**

**4.1** All drivers of wheelchair accessible vehicles must:

- a) Be fully conversant with the correct method of operation of all ramps, lifts and wheelchair restraints fitted to the vehicle.

- b) Before any movement of the vehicle takes place, ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and the brakes of the wheelchair have been applied.
- c) Ensure that any wheelchairs, equipment and passengers are carried in such a manner that no danger is likely to be caused to those passengers, or to anyone else, in accordance with the regulations detailed in section 100 of the Road Vehicles (Constructions and Use) Regulations 1986.

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## **APPENDIX G**

### **PENALTY POINTS SYSTEM**

1. The details of how the scheme will be operated are as follows:
  - 1.1 The Council's Taxi Licensing and Enforcement Policy will be fully considered by an authorised officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
  - 1.2 Where it is decided that the use of the penalty points system is appropriate, the points will be issued in accordance with this appendix. If this appendix allows a range of points for a particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
  - 1.3 The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator. However, the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
  - 1.4 When issued, the penalty points will remain "live" for a rolling period of 36 months from the date they were imposed.
  - 1.5 There is no financial penalty associated with the system, and the licensee may continue to work. However, if 12 penalty points are imposed on an individual licence in any one 36 month rolling period, the driver will appear in front of the Licensing Sub Committee where appropriate action will be taken in accordance with this policy.
  - 1.6 Where a driver, proprietor or operator attains more than 12 penalty points, disciplinary options available to the Licensing Sub-Committee will include warning, suspension or revocation of the driver's licence, where appropriate.
  - 1.7 If it is felt that the matter does not warrant suspension or revocation of the licence, the period for which the points are to remain "live" may be extended or a written warning may be issued to the driver as to his future conduct.
  - 1.8 The Licensing Sub-Committee may also require that a driver undertake additional training in order to maintain their licence. Any additional training will be at the drivers' expense. The Licensing Sub-Committee may also suspend a licence until such times as a driver successfully completes such training.
  - 1.9 Periods of suspension of a licence will be dependent on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.
  - 1.10 A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances he deems necessary.
  - 1.11 Any driver, vehicle, proprietor or operator subject to suspension has the right of appeal to the Magistrates Court against the suspension. Suspensions will normally be subject to a 21-day appeals period prior to implementation to allow for the formal

appeals process, except where the relevant legislation allows for a suspension to take place with immediate effect.

- 1.12** Any driver, vehicle, proprietor or operator subject to revocation has the right of appeal to the Magistrates Court against the revocation. Revocation of the licence will take place with immediate effect.
- 1.13** The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
- 1.14** The penalty points system outlined below identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven.
- 1.15** Any penalty points issued to a driver or operator have the right of appeal which must be made in writing to the Resilience and Licensing Manager within 21 days of receipt of notification.

## **2. Penalty Points Tariff**

### **2.1 Legislative offences and penalties**

Two statutes principally create offences relating to hackney carriages and private hire vehicles, the offences are set out below under the relevant statute –

- a) Town Police Clauses Act 1847
- b) Local Government (Miscellaneous Provisions) Act 1976

<b>Town Police Clauses Act 1847</b>	
<b>Section</b>	<b>Offence</b>
<b>Maximum Penalty Points 2-5</b>	
44	Failure to notify change of address on a hackney carriage licence
47	Lending or parting with a hackney carriage driver's licence
62	Driver leaving a hackney carriage unattended on the rank
64	Hackney carriage driver obstructing other hackney carriages
<b>Maximum Penalty Points 6-9</b>	
48	Failure of a proprietor to hold and produce a hackney carriage driver's licence
52	Failure to display a hackney carriage plate
56	Travelling less than the lawful distance for an agreed fare
57	Failure to wait after a deposit to wait has been paid
59	Carrying persons other than with the consent of the hirer
<b>Maximum Penalty Points 10-12</b>	
40	Giving false information on a hackney carriage licence application
45	Plying for hire without a hackney carriage licence
47	Driving a hackney carriage without a hackney carriage driver's licence
47	Hackney carriage proprietor employing an unlicensed driver
53	Refusal to take a fare without a reasonable excuse
54	Charging more than the agreed fare
55	Obtaining more than the legal fare (including failure to refund)
58	Charging more than the legal fare
60	Driving a hackney carriage without the proprietor's consent

60	Allowing a person to drive a hackney carriage without the proprietor's consent
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<b>Local Government (Miscellaneous Provision) Act 1976</b>	
<b>Section</b>	<b>Offence</b>
<b>Maximum Penalty Points 2-5</b>	
49	Failure to notify the transfer of a vehicle licence
50(2)	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested
56(4)	Failure of a private hire operator to produce their licence upon request
<b>Maximum Penalty Points 6-9</b>	
48(6)	Failure to display a private hire vehicle plate
50(3)	Failure to report an accident to the Council within seventy two hours
53(3)	Failure to produce a driver's licence upon request
54(2)	Failure to wear a private hire driver's badge
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon request of an authorised officer of the Council or a police officer
56(3)	Failure of a private hire operator to keep proper records of all private hire vehicles, or failure to produce them on request of an authorised officer of the Council or a police officer
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage rank
<b>Maximum Penalty Points 10-12</b>	
46(1)(a)	Using an unlicensed private hire vehicle
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver
46(1)(d)	Operating a private hire vehicle without a private hire operators' licence
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire driver
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle
50(1)	Failure to present a hackney carriage or private hire vehicle for inspection upon request
50(4)	Failure to produce the vehicle and insurance upon request
57	Making a false statement or withholding information to obtain a hackney carriage private hire driver's licence
58(2)	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence
61(2)	Failure to surrender a driver's licence after suspension, revocation, or refusal to renew
66	Charging more than the meter fare for a journey ending outside the District, without prior agreement
67	Charging more than the meter fare when a hackney carriage is used as a private hire vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taxi-meter with intent to mislead
73(1)(a)	Obstruction of an authorised officer of the Council or a police officer
73(1)(b)	Failure to comply with a requirement of an authorised officer of the

	Council or a police officer
73(1)(c)	Failure to give information or assistance to an authorised officer of the Council or police officer

## 2.2 Hackney Carriage and Private Hire Licensing Policy

<b>Swale Borough Council's Hackney Carriage and Private Hire Licensing Policy</b>	
<b>Offence</b>	
<b>Maximum Penalty Points 2-5</b>	
Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Council	
Failure to give reasonable assistance with passenger's luggage	
Operating/using a vehicle that is not clean and tidy and in a safe condition internally or externally	
Failure to notify the Council of any amendment to the details of a licence within fourteen days	
Failure to notify within seven days of starting or terminating employment, the name and address of the proprietor and the term of employment	
Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	
Failure of a private hire operator to keep the operating premises in accordance with council requirements	
Failure to observe rank discipline e.g. failure to move up	
Failure to have a working hackney carriage roof light that is lit when available for hire	
Failure to display the current fare chart so that it is clearly visible to passengers	
Failure to keep a copy of a valid insurance certificate in the vehicle	
Failure to display door logos (to the required measurements) on the exterior of the two front doors of the vehicle	
Display of flags and other promotional material	
Failure to adhere to dress code	
Failure to attend on time for a pre-arranged booking without reasonable cause	
Drinking or eating in the vehicle whilst carrying passengers	
Causing excessive noise from any radio or sound-reproducing equipment	
Sounding the horn to signal that the vehicle has arrived disturbing residents	
Failure to notify the Council of DVLA penalty points within 14 days	
Failure to provide a receipt for a fare when requested	
Carrying radio equipment or similar devices not in accordance with council requirements	
<b>Maximum Penalty Points 6-9</b>	
Failure to wear a driver's badge	
Concealing or defacing a vehicle licence plate	
Failure to display or maintain external plates as issued by the Council or displaying them incorrectly e.g. in the window of a vehicle	
Failure to display or maintain Internal plates as issued by the Council or displaying them incorrectly e.g. near the driver side	
Failure to proceed with all reasonable speed to the next available rank	
Modifying a vehicle without the consent of the Council	
Failure to adhere to the Code of Good Conduct for Licensed Drivers where not mentioned below	

Smoking or prevent smoking in the vehicle at any time this includes vaping and e-cigarettes
Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand
Allowing a hackney carriage vehicle to stand in a position, not being a hackney carriage stand, to suggest that is plying for hire
Failure to comply with requirements for the safe carrying of a wheelchair
Operating a vehicle that does not comply with the Council's licensing policy where such a breach of policy requirements is not otherwise specified herein
Using a taxi-meter that does not conform to Council requirements
Waiting or stopping on a double yellow line or a bus stop
Failure to produce a licence upon request
Failure to report an accident within seventy-two hours
Failure to show a private hire driver's licence to the private hire operator at the commencement of employment
Failure of a private hire operator to request and/or record details of a private hire driver's licence at the beginning of employment
<b>Maximum Penalty Points 10-12</b>
Failure to ensure the safety of passengers
Private hire soliciting for hire or accepting a fare that is not pre-booked
Using a non-hands free mobile telephone whilst driving
Failure to advise of a relevant medical condition
Failure to operate the meter from the commencement of the journey and /or charging more than the fixed charge for hire of a hackney carriage
Failure to surrender a driver's licence, badge or plate upon request
Failure of a licence holder to disclose offence, conviction, prosecution or cautions within seven days
Failure to notify the Licensing Team within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence
Operating/using a vehicle which is not maintained in a sound and roadworthy condition
Affixing or displaying a roof sign on a private hire vehicle
Driving with no insurance or inadequate insurance for the vehicle
Permitting the vehicle to be used for any illegal or immoral purposes
Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured
Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access
Failure to produce a valid certificate of compliance every 6 months upon request of an authorised officer
Carrying an offensive weapon in the vehicle including imitation firearms
Unsatisfactory behaviour or conduct of a driver including failing to behave in a civil and orderly manner to both the public, authorised officers or to other drivers
Any other transgression not contained within the penalty points system which in the opinion of an authorised officer should have penalty points imposed
Conveying a greater number of passengers than permitted
Driving without the consent of the proprietor
Failure to notify, a change in medical circumstances
A licensed vehicle with a defective tyre

## APPENDIX H

### **CODE OF GOOD CONDUCT FOR LICENSED DRIVERS**

1. In order to promote its licensing objectives as regards hackney carriage and private hire licensing, the Council has adopted the following Code of Good Conduct, which should be read in conjunction with the other statutory and policy requirements set out in this document.

- 1.1 Anything that serves to enhance the professional image of the hackney carriage and private hire trade and promotes the concept that drivers of licensed vehicles are vocational drivers is to be welcomed.

- 1.1.2 It is considered that in order to raise the profile of the licensed trade drivers should operate at all times in a professional manner and dress so as to present a professional image to the public.

#### **2. Responsibility to the Trade**

Licence holders shall endeavour to promote the image of the hackney carriage and private hire trade by:

- a) complying with this Code of Conduct
- b) complying with the Council's Hackney Carriage and Private Hire Licensing Policy
- c) behaving in a civil, orderly and responsible manner at all times.

#### **3. Responsibility to the public**

Licence holders shall:

- a) maintain their vehicles in a safe and satisfactory condition at all times
- b) keep their vehicles clean and suitable for hire to the public at all times
- c) attend punctually when undertaking pre-booked hiring
- d) assist, where necessary, passengers' ingress to and egress from vehicles
- e) offer passengers reasonable assistance with luggage or belongings

#### **4. Responsibility to Residents**

To avoid nuisance to residents when picking up or waiting for a fare, a driver shall:

- a) not sound the vehicle's horn illegally
- b) keep the volume of all audio equipment and two-way radios to a minimum
- c) switch off the engine if required to wait
- d) take whatever additional action is necessary to avoid disturbance to residents in the neighbourhood
- e) at hackney carriage ranks, in addition to the requirements above:
  - i) rank in an orderly manner and proceed along the rank in order and promptly
  - ii) remain in the vehicle
- f) at private hire offices:
  - i) not undertake servicing or repairs of vehicles



## **5. Dress Code**

**5.1** The dress code is smart and professional. Drivers are allowed to wear:

- a) Shirts
- b) Polo T-Shirts
- c) Smart T-shirts
- d) Plain tailored trousers
- e) Smart Jeans
- f) Three Quarter length trousers (plain tailored)
- g) Shoes/sandals
- h) Smart clean trainers
- i) Dresses with short or long sleeves
- j) Skirts
- k) Collarless blouses, jumpers and shirts

**5.2** Items of clothing that are specifically not allowed:

- a) T-shirts
- b) Tracksuit tops or bottoms
- c) Football shirts or shorts
- d) Combat style trousers
- e) Short skirts
- f) Clothing showing bare midriff
- g) Beach shorts
- h) Sleeveless tops
- i) Sleeveless vests
- j) Sleeveless dress
- k) Any other indecent clothing

**5.3** Clothing should not include sport and associated logos or motifs. However company logos are acceptable.

## **6. General**

Drivers shall:

- a) pay attention to personal hygiene, so as to present a professional image to the public
- b) be polite, helpful and fair to passengers
- c) drive with care and due consideration for other road users and pedestrians and, in particular, shall not use a hand held mobile phone whilst driving
- d) obey all Traffic Regulation Orders and directions at all time
- e) not smoke at any time when inside the vehicle. Smoking of E-Cigarettes, vapes or similar devices is not allowed.
- f) not consume alcohol immediately before, or at any time whilst driving or whilst in charge of a hackney carriage or private hire vehicle (any amount of alcohol can affect a drivers' judgement)
- g) not drive while having misused legal or illegal drugs (any amount of drugs can affect a drivers' judgement). If a driver properly uses prescription drugs that make him drowsy he should not drive

- h) fulfil their responsibility to ensure compliance with legislation regarding the length of working hours
- i) not eat in the vehicle in the presence of customers

ANY AMOUNT OF ALCOHOL OR DRUGS CAN AFFECT A DRIVER'S JUDGEMENT. THIS COUNCIL SHALL TAKE A VERY SERIOUS VIEW OF ANY DRIVER BEING FOUND TO HAVE HAD ANY ALCOHOL OR HAVING MISUSED ANY DRUGS WHILST IN CHARGE OF A LICENSED VEHICLE.

## **7. Disciplinary Hearings**

Drivers should be aware of the powers the Council has to take action, by way of suspension, revocation or refusal to renew a driver's licence where:

- a) the driver has been convicted, since the grant of the licence, of an offence involving dishonesty, indecency or violence
- b) the driver has been convicted of an offence under any legislation relating to hackney carriage or private hire regulation
- c) the driver has breached any requirements of the Council's Hackney Carriage and Private Hire Licensing Policy
- d) there is a breach of condition of this code

## **APPENDIX I**

### **PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS**

#### **1. Standards of Service**

##### **1.1 The operator shall:**

- a) Provide a prompt, efficient and reliable service to members of the public at all reasonable times.
- b) Ensure that their office staff act in a civil and courteous manner at all times to members of the public and council officers.
- c) Ensure that when a vehicle has been hired, it arrives punctually at the appointed place, unless delayed by unforeseen circumstances.
- d) Ensure that premises provided for the purpose of booking or waiting are kept clean and are adequately lit, heated and ventilated.
- e) Ensure that any waiting area provided has adequate seating facilities and telephone facilities are in good working order.
- f) Fulfil his responsibilities to ensure compliance with legislation regarding the length of working hours.

#### **2. Records**

- 2.1** Records, which must be kept by private hire operators under the Local Government (Miscellaneous Provisions) Act 1976, shall be kept in a non-erasable form in a suitable log or book, the pages of which are numbered consecutively. Where an operator sub-contracts a booking to a second operator both operators are obliged to keep the records in accordance with this appendix
- 2.2** All records shall be maintained by the operator and shall be kept for at least three years after entry and shall be produced for inspection, on request, by any authorised officer of the Council or any police officer.
- 2.3** The private hire operator's licence shall similarly be available for inspection upon request by any authorised officer of the Council or any police officer.
- 2.4** The operator shall, at all times keep a copy of these conditions at any premises used by him for a private hire business and shall make the same available for inspection by fare-paying passengers.

#### **3. Bookings**

- 3.1** Prior to each journey, the operator shall enter the following particulars of every booking of a private hire vehicle accepted, pursuant to section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:
  - a) Date of the booking
  - b) Name and address of the hirer
  - c) Time of pick-up
  - d) Address of the point of pick-up
  - e) Destination
  - f) Time at which a driver was allocated to the booking, plate number (or other identification) of the vehicle allocated and fare (if agreed between the operator and hirer at the time of booking).

- g) The name of the driver
- h) The vehicle registration number of the vehicle
- i) The name of any individual that responded to the booking request
- j) The name of any individual that dispatched the vehicle

#### **4. Vehicles**

**4.1** The operator shall keep records of the particulars of all private hire vehicles operated by him, pursuant to section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, namely the:

- a) Type, make, model, colour and engine size of vehicles
- b) Year when the vehicle was first licensed for private hire
- c) Vehicle registration numbers
- d) Number of seats for passengers
- e) Owners of the vehicles
- f) Insurance details of vehicles
- g) Method of charging, i.e. whether or not a meter is fitted
- h) Private hire vehicle plate numbers

#### **5. Insurance**

**5.1** The operator shall ensure that a certificate of motor insurance covers every private hire vehicle operated by him under the operator's licence, which is compliant with the Road Traffic Act 1988 as regards the carriage of passengers for hire or reward.

**5.2** If the private hire operator has premises to which the public have access, in connection with the hiring of vehicles, he shall ensure that there is public liability insurance in force, which indemnifies him against any claim for loss, damage or personal injury by any person using the premises.

**5.3** It is considered appropriate for a Licensing Authority to check that appropriate public liability insurance has been taken out for premises that are open to the public.

**5.4** Before an application for a private hire operator's licence is granted, the applicant must produce evidence that they have taken out appropriate public liability insurance for the premises to be licensed

#### **6. Drivers**

**6.1** The operator shall keep records of the particulars of all drivers of private hire vehicles operated by him, pursuant to section 56(3) of the Local Government (Miscellaneous Provisions) Act 1976, namely:

- a) The names and addresses of drivers, and their call signs if any
- b) Date any new driver begins service
- c) Date when any driver's service ceases
- d) Any change of address of any driver in service
- e) Any illness, disability or condition which may affect the driver's ability to safely carry out their duties, if the operator becomes aware of any such condition
- f) Expiry dates of drivers' badges and vehicle licences

#### **7. Disclosure of Offence, conviction, prosecution or cautions**

**7.1** The operator shall, within seven days of offence, conviction, prosecution or caution, notify the Council in writing, of any offence, conviction, prosecution or caution or fixed penalty notice imposed on him during the period of duration of their operator's licence.

**7.2** If the operator is a company or partnership, this requirement shall equally apply if any of the directors or partners receives a offence, conviction, prosecution or caution or fixed penalty notice.

## **8. Private Hire Drivers' Licences**

**8.1** The operator shall ensure that every driver engaged by him has obtained a private hire driver's licence obtained by the same Licensing Authority which issued the private hire operator's licence. The operator shall ensure that all drivers have a licence issued by the Council and that the drivers wear the badge in a conspicuous place at all times whilst available for hire.

## **9. Miscellaneous**

**9.1** If a licensed operator changes either their home or business address, he must, within seven days, give written notice to the Council specifying their new address.

**9.2** The operator shall ensure that the licence plate issued and allocated by the Council is affixed to the outside of the vehicle in a position as approved by an authorised officer.

**9.3** The operator shall ensure the licence plate is maintained in a clean and legible condition and shall inform the Council immediately if it becomes lost, broken or defaced.

**9.4** To operate a private hire business from home, planning permission will normally be required. A private hire operator's licence will not be granted without evidence that either planning permission has been issued for the premises concerned, or planning permission is not required for the use proposed.

**9.5** An operator's licence is liable to suspension or revocation on any of the following grounds:

- (a) Any offences under, or non-compliance with, the provisions of Part II, Local Government (Miscellaneous Provisions) Act 1976
- b) Any conduct on the part of the operator which appears to the council to render him unfit to hold an operator's licence.
- c) Any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted
- d) Any other reasonable cause

**9.6** A private hire operator must ensure that every private hire vehicle is driven by a person who holds a Swale drivers licence

**9.7** Both Private hire operator's licence and Private hire vehicle licence must be issued by the same Licensing Authority

## **10. Private Hire Operators Despatch Staff**

- 10.1** The licence holder(s) must keep an up to date record of all members of staff included in taking bookings and dispatching vehicles.
- 10.2** All staff listed on the register referred to in 10.1 must provide the licence holder(s) with a Basic DBS check certificate that is less than 3 months old prior to taking bookings and dispatching vehicles.
- 10.3** The licence holder(s) must be able to provide evidence to the satisfaction of the council, upon request, that they have had sight of the Basic DBS check certificates referred to in 10.2 (although DBS certificates must not be retained) and record this, along with the date seen, in the register referred to in 10.1.
- 10.4** Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested
- 10.5** The licence holder(s) must have and apply a policy on employing ex-offenders in roles that would be on the register above. As with the threshold to obtaining a private hire vehicle operator's licence, those with a conviction for offences provided in Appendix E of this Policy, other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car. The policy on employing ex-offenders should reflect this and be properly applied by the licence holder (s)

## **11 DBS checks**

- 11.1** All new applicants must provide a completed Basic DBS Check Certificate at the point of their initial application, register with the DBS Update Service upon receipt of their certificate, which will be sent to them by the DBS, and give the Council ongoing permission and the information required to check the status of their certificate every year or otherwise as considered appropriate.
- 11.1.2** All existing operators who have not already registered with the DBS Update Service must provide a current (less than 3 months old at the date of application) Basic DBS Check certificate, register for the DBS Update Service and give the Council ongoing permission and the information required to check the status of their certificate every year or otherwise as considered necessary, by no later than 1 July 2021. Any operator who fails to do so will be subject to suspension or other enforcement intervention as appropriate.
- 11.1.3** Where an applicant or licence holder has spent an extended period (three or more continuous months) outside the UK, A Certificate of Good Conduct will also be required from the relevant embassy.
- 11.1.4** Where the applicant is a company or partnership, these requirements shall apply to all directors, partners, and secretaries.

- 11.1.5** Once an operator has registered for the Update Service they must remain registered, and give the Council permission to check the status of their certificate as considered necessary, for the duration of their time as a licensed Operator with the Council.
- 11.1.6** The council may, at any point throughout the duration of this Policy, specify (by way of updating the relevant sections on its website) the way in which applicants can/must apply for their DBS certificates (e.g. via a 3<sup>rd</sup> party). Applicants will continue to be responsible for all costs associated with this.

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## **APPENDIX J**

### **TAXI LICENSING AND ENFORCEMENT POLICY**

#### **1. Enforcement Policy Statement**

- 1.1** It is the policy of Swale Borough Council to ensure that taxi drivers and operators are licensed correctly and carry out their trade in accordance with the relevant law, the conditions attached to the licences and this policy.
- 1.2** This policy is intended to fairly and firmly enforce the law in a consistent and transparent way. The Council has adopted or is in agreement with the provisions of the Government's Enforcement Concordat. This is reflected in the Councils' Common Enforcement Policy which underpins all service or topic specific enforcement policies adopted by the council. This represents a graduated approach to enforcement based on the principles of:
- a) agreed standards and procedures
  - b) helpfulness
  - c) openness
  - d) transparency
  - e) proportionality
  - f) consistency
- 1.3** All enforcement action will be conducted in accordance with the Council's Enforcement Policy.
- 1.4** Authorised officers, when making enforcement decisions, will abide by this policy. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed by the Licensing Manager or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).
- 1.5** Authorised officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.
- 1.6** Officers will be authorised by the Resilience and Licensing Manager to take enforcement actions relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.

#### **2 Enforcement Options**

- 2.1** Achieving and maintaining a consistency of approach to making all decisions that concern taxi licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.
- 2.2** Licence application and enforcement decisions must always be consistent, balanced, proportionate and relate to common standards which ensure that the public is



adequately protected. In reaching any decision many criteria must be considered including the:

- a) Seriousness of any offences;
- b) Driver, proprietor or Operator's past history;
- c) likely effectiveness of the various enforcement options;
- d) danger to the public.

**2.3** Having considered all relevant information and evidence, the choices for action are:-

**2.3.1** Licence Applications:

- a) grant licences subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements
- b) refuse to grant a licence.

**2.3.2** Enforcement Action:

- a) no action;
- b) informal action;
- c) formal action
- d) use statutory notices, (stop notices etc.);
- e) suspend a licence;
- f) revoke a licence;
- g) use simple cautions;
- h) prosecute
- i) a combination of any of the above

**2.4** This policy document provides detailed guidance applicable to the various options for enforcement action.

### **3. Informal Action**

**3.1** Such informal enforcement action may be appropriate in any of the following circumstances:

- a) the act or omission is not serious enough to warrant more formal action
- b) it can be reasonably expected that informal action will achieve compliance
- c) perhaps by taking into account the individual driver or operator's past history
- d) confidence in the operator's management is high
- e) the consequences of non-compliance will not pose a significant risk to the safety of the public

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

**3.2** Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and requests for action and the use of letters.

#### **4. Appearance before the relevant Committee of the Council**

- 4.1** An offending individual or company may be summoned before the Licensing Sub Committee to answer allegations of breaches of relevant legislation, Bye-laws or conditions attached to licences or a contravention of this policy.
- 4.2** Current licence holders who report offence, conviction, prosecution, cautions or breach relevant legislation during the period of their licence may be brought before the Licensing Sub Committee.
- 4.3** The Committee may decide to take one or more of the following actions:-
- a) no action;
  - b) a written warning;
  - c) require the production of driving licences or other specified documentation at the Council's Office;
  - d) suspend a licence;
  - e) revoke a licence;
  - f) recommend prosecution action;
  - g) taking an additional driving standards test;
  - h) other appropriate action as deemed necessary

#### **5 Section 68 Notices (Stop Notices)**

- 5.1** An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle or the taximeter affixed to such vehicle to be examined at the Council's appointed garage at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter.
- 5.2** An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the hackney carriage or private hire vehicle. This action will only be taken when he has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passenger and/or other road users.
- 5.3** The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given. Until such time as written confirmation has been received, the suspension notification will remain active.
- 5.4** If the Authorised Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue, the vehicle licence shall be deemed to be revoked.

#### **6 Appeals**

- 6.1** Appeals against decisions of the Licensing Sub Committee or authorised officers may in appropriate circumstances be made to the Magistrates' Court.

**6.2** Any notifications of enforcement actions will include written information on how to appeal. Where the Council suspends or revokes a driver's licence the revocation or suspension may take place immediately where relevant legislation allows, regardless of the fact that the driver may have made an appeal against the decision to the Magistrates' Court.

**6.3** A driver can also appeal against a refusal to renew his drivers licence, but as his previous licence would have already expired he cannot continue to drive as he would no longer hold a current licence.

## **7 Prosecution**

**7.1** The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. It is important that the criteria on which a decision to prosecute is made provide common standards which ensure a consistent approach.

**7.2** The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:

- a) where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- b) when there appears to have been reckless disregard for the safety of passengers or other road users;
- c) where there have been repeated breaches of legal requirements;
- d) where a particular type of offence is prevalent;
- e) where a particular contravention has caused serious public alarm.

**7.3** When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.

**7.4** Before referring a matter to the Legal Section for possible prosecution, the Licensing Manager as well as an authorised officer must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or company. There must be a realistic prospect of conviction; a bare prima facie case is not enough. With insufficient evidence to prosecute, the issue of a simple caution is not an alternative.

**7.5** In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors (eighth edition or any subsequent edition), issued by the Crown Prosecution Service, provides guidance which will be considered, including relevant public interest criteria

**7.6** When a decision is being taken on whether to prosecute, the factors to be considered may include:-

- a) the seriousness of the alleged offence;
- b) the risk or harm to the public;
- c) identifiable victims;
- d) failure to comply with a statutory notice served for a significant breach of legislation;
- e) disregard of safety for financial reward;
- f) the previous history of the party concerned;
- g) offences following a history of similar offences;
- h) failure to respond positively to past warnings;
- i) the ability of any important witnesses and their willingness to cooperate;
- j) the willingness of the party to prevent a recurrence of the problem;
- k) the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent. (As indicated above, advice on the public interest is contained in the code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution);
- l) whether other action, such as issuing a simple caution

## **8 Simple Cautions**

**8.1** A simple caution may be used as an alternative to a prosecution in certain circumstances.

**8.2** The purposes of the simple caution are:-

- a) to deal quickly and simply with less serious offences;
- b) to divert less serious offences away from the Courts;
- c) to reduce the chances of repeat offences

**8.3** To safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered:-

- a) there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
- b) the suspected offender must admit the offence;
- c) the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.

**8.4** If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria is not satisfied for the use of a simple caution. A simple caution should also not be used where the suspected offender does not make a clear and reliable admission of the offence. (It should be noted that there is no legal obligation for any person to accept the offer of a simple caution and no pressure should be applied to the person to accept a caution).

**8.5** Where a person declines the offer of a simple caution, it will be necessary to consider taking alternative enforcement action. Whilst this will usually mean prosecution, this is not necessarily inevitable. For example, it may be considered that a written warning would be appropriate.

## **9 Transparency**

**9.1** Following the completion of an investigation into a complaint or any enforcement activity, the licence holder will be informed of the action intended to be taken.

**9.2** Any written documentation issued or sent will:-

- a) contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
- b) indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen; and
- c) clearly indicate any recommendations of good practice under an appropriate heading, to show that they are not a legal requirement.

**9.3** The clear distinction between legal requirements and matters which are recommended as good practice recommendations in all enforcement action, even if only giving verbal advice, is vitally important.

## **APPENDIX K TO BE NUMBERED**

### **NATIONAL REGISTER OF TAXI LICENCE REVOCATIONS AND REFUSALS (NR3)**

This policy covers the use that Swale Council will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers' licence. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

Swale Council has signed up to the National Register of Taxi Licence Revocations and Refusals (NR3). This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Swale licensing officers will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application<sup>9</sup>.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned.

Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

The data will be held securely in accordance with this Swale Council's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure and destruction of personal data.

When an application is made to this authority for the grant of a new, or renewal of, a taxi driver's licence, Swale BC licensing officers will check the NR3.

The Council will make and then retain a clear written record of every search that is made of the register. This will detail:

- a) the date of the search;
- b) the name or names searched;
- c) the reason for the search (new application or renewal);
- d) the results of the search; and
- e) the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If the Council discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of the Council's data protection policy in relation to the use of any data that is obtained as a result of this process.

When the Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

The Council will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

The Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If the Council is satisfied that the other authority's (the 2<sup>nd</sup> authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed<sup>16</sup>. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but Swale Council (the 1<sup>st</sup> authority) will

not disclose information relating to every entry. Each application will be considered on its own merits.

The Council will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's *"Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades"*<sup>17</sup> [or own policy if this differs]. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of scheduled 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

The officer will record what action was taken and why. The Council will make and then retain a clear written record of every decision that is made as a result of a request from another authority. This will detail:

- a) the date the request was received
- b) how the data protection impact assessment was conducted and its conclusions
- c) the name or names searched
- d) whether any information was provided
- e) if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- f) if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- g) how and when the decision (and any information) was communicated to the requesting authority.