

16 January 2024 at 7.00 pm

Council Chamber, Argyle Road, Sevenoaks

Published: 08.01.24



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## Licensing Committee

### Membership:

Chairman, Cllr. Clack; Vice-Chairman, Cllr. Abraham

Cllrs. Edwards-Winsor, Esler, Waterton, Barnes, Barnett, Clayton, Ferrari, Haslam, Leaman, Lindop and Skinner

### Agenda

There are no fire drills planned. If the fire alarm is activated, which is a continuous siren with a flashing red light, please leave the building immediately, following the fire exit signs.

	Pages	Contact
Apologies for Absence		
1. <b>Minutes</b> To agree the Minutes of the meeting of the Licensing Committee held on 20 September 2023, and the Licensing Hearing held on 4 July 2023.	(Pages 1 - 8)	
2. <b>Declarations of interest</b> Any interests not already registered.		
3. <b>Actions from the previous meeting</b>		
4. <b>Gambling Act 2005: Licence Fees from April 2024</b>	(Pages 9 - 14)	Jessica Foley Tel: 01732 227480
5. <b>Sexual Entertainment Licensing Fees</b>	(Pages 15 - 18)	Jessica Foley Tel: 01732 227480
6. <b>Licensing Pavement Fees and Charges</b>	(Pages 19 - 42)	Sharon Bamborough Tel: 01732 227325
7. <b>Review Of Statement of Hackney Carriage &amp; Private Hire Policy</b>	(Pages 43 - 184)	Sue Lindsey Tel: 01732 227491
8. <b>Work Plan</b>	(Pages 185 - 186)	

## EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227000 or [democratic.services@sevenoaks.gov.uk](mailto:democratic.services@sevenoaks.gov.uk).

LICENSING COMMITTEE

Minutes of the meeting held on 20 September 2023 commencing at 7.00 pm

Present: Cllr. Clack (Chairman)

Cllr. Abraham (Vice Chairman)

Cllrs. Edwards-Winsor, Waterton, Barnes, Barnett, Clayton, Ferrari, Haslam and Leaman

Apologies for absence were received from Cllrs. Esler and Skinner

Cllr. Lindop was also present via a virtual media platform, which did not constitute attendance as recognised by the Local Government Act 1972.

8. Minutes

Resolved: That the Minutes of the Licensing Committee meeting held 29 June 2023 be approved and signed by the Chairman as a correct record.

9. Declarations of interest

There were none.

10. Actions from the previous meeting

There were none.

11. Introduction of Protocols/Guidance Notes for Members and Attendees at Licensing Sub Committee

The Chairman presented the report, which set out guidance for Members and proposed protocols for attendees at Licensing Sub-Committees. The committee thanked the Head of Licensing Partnership for producing the guidance.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty.

Resolved: That the proposed guide and attendee protocol set out at Appendices A & B be approved for future use at future meetings of the Licensing Sub Committee (who are meeting to consider applications made under the Licensing Act 2003).

12. Review of the Hackney Carriage and Private Hire Licensing Policy.

The Senior Licensing Officer presented the report, which set out the proposed Hackney Carriage & Private Hire policy. The officer outlined the main areas of change. Several elements of current practice, required by legislation, were integrated into the policy, including mandatory Safeguarding Training for new drivers, and the authorisation for drivers to work whilst administrative processes were progressing. The environmental considerations within the policy were updated to reflect the Council's position, and would be kept under review. All new vehicles besides stretched limousines and Wheelchair Accessible Vehicles would be required to meet or exceed the Euro 5 or Euro 6 emissions standards. Hybrid, electric, and LPG vehicles would be able to be licensed for 15 years, to incentivise drivers to change to them.

The six-year maximum age limit for newly licensed vehicles would be removed to widen the options available for drivers. It was emphasised that the biannual MOT tests and 100,000 mileage maximum limit would be kept, to ensure cars met the Council's high standards of safety. Card payment machines would be required in Hackney carriages. This would be enforced by a condition on the vehicle license that would require the option for passengers to pay via contactless payment. All drivers would be required to be trained in the card machines operation. This would not replace cash payments but exist alongside them, to address the frequent complaints regarding the lack of availability of Hackney carriages that accept card payments in the district.

Members discussed the report. In response to questions, the officer explained that the Council kept a list of Wheelchair Accessible Vehicles on its website to help customers that required one. It would be the responsibility of the driver of LPG vehicles to understand the limitations of their boot capacity, and to not accept journeys where this would be an issue. Members discussed the possibility of drivers acquiring vehicles that did not meet the ULEZ standards and were thus being sold by London-based drivers.

Members discussed the penalties for drivers failing to have card payment facilities. They expressed concerns regarding the impact of bank holidays and weekends on the availability of card machines. It was proposed and duly seconded that the penalty associated with the failure to arrange repair or replacement of card payment facilities be amended to apply after two working days, rather than 48 hours.

The motion was put to the vote and it was carried.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty

Resolved: That the draft policy as set out as Appendix A to the report be approved for public consultation, subject to the below amendment:

“Failure to arrange repair or replacement of card payment facilities within 48 hours: 2 points for each day without card payment facilities after initial 48 hours” be amended to be “Failure to arrange repair or replacement of card payment facilities within 2 working days: 2 points for each day without card payment facilities after initial 2 working days”.

13. Hackney Carriage And Private Hire Licensing: Licence Fees And Charges 2024/25

The Senior Licensing Officer presented the report, which set out the proposed fees and charges for licences for 2024/25. The taxi licensing service was required to be self-financing, and the proposed changes were to ensure this was maintained. Fees for all licences were monitored throughout the year to ensure they reflected the resource required to process them. The current position of roughly £10,000 in credit was largely due to a £6,000 grant for Hub services, which had been utilised.

The main application fees would remain the same, as they ran for periods longer than 1 year, and would be evaluated when they expired. It was expected that service costs would increase, as a result of the pay award and the cost of Hub resources rising. A new 1-year licence for drivers in exceptional circumstances would be introduced, to better serve customers that may not require extended 3-year licences.

In response to questions, the officer explained that new efficiencies created by the team meant some applications took less time to process, and thus the fees for these licences would be reduced. Others were found to take more time, such as licences for replacement vehicles, and had thus increased. The fees were comparable with other local authorities in Kent, and reflected the high standards enforced by the Council.

Public Sector Equality Duty

Members noted that consideration had been given to impacts under the Public Sector Equality Duty

Resolved: That

- a) having taken into account the information provided by the Senior Licensing Officer, the changes to the fees set out at Appendix A be subject to a 6 week public consultation process;
- b) if, following consultation, there are no adverse comments to the proposed levels, the proposed fees and charges be implemented from 1 April 2024; and
- c) if, following consultation, there are adverse comments to the proposed levels, a further report be brought back to the Licensing Committee for consideration.

## Agenda Item 1

### Licensing Committee - 20 September 2023

#### 14. Work Plan

The Work Plan was noted. It was further noted that an extraordinary meeting may be required before the next meeting to address changes to the legislation governing pavement licences, and that the Committee would be updated should this need arise.

THE MEETING WAS CONCLUDED AT 7:38PM

CHAIRMAN

LICENSING HEARING

Minutes of the meeting held on 4 July 2023 commencing at 10.30 am

Present: Cllr. Clack (Chairman)

Cllrs. Barnes and Lindop

Also Present:	Jamie Moore	Applicant's Representative
	PC Phillip Comben	Kent Police Representative
	Susan Lindsey	Senior Licensing Officer (SDC)
	David Lagzdins	Council's Legal Advisor (SDC)
	Phil Magee	Democratic Services Officer (SDC)

1. Appointment of Chairman

Resolved: That Cllr. Clack be appointed as Chairman for the meeting.

(Cllr. Clack in the Chair)

2. Declarations of interest

There were none.

3. LICENSING ACT 2003 TEMPORARY EVENT NOTICE - Eureka, Manor Lane, Fawkham, Kent DA3 8ND

The Hearing gave consideration to the report by the Senior Licensing Officer giving details of an application under Section 100 (1) of the Licensing Act 2003 for a Temporary Event Notice (TEN) for Eureka, Manor Lane, Fawkham, Kent DA3 8ND for 15 - 16 July 2023. It was noted that an objection had been received from Kent Police and that accordingly the application had been referred to the Sub-Committee for determination. Attention was directed to the supplementary agenda, wherein the applicant and Kent Police had discussed their objection and agreed that conditions from the premises license they agreed to be appropriate to be imposed on the TEN. With the agreement of the Sub-Committee and the other attendees, the Senior Licensing Officer tabled further documents provided by the applicant comprising a risk assessment and event management plan.

The Hearing heard from the applicant and asked questions of clarification. The applicant explained that the premises licence applied to the building only, and that the TEN was required for two outdoor music areas and an outdoor bar. These would operate until 11pm, after which attendees would be directed inside the building. The standard security measures deployed for members would also be applied to guests, including the scanning of photographic ID and the collection of all relevant personal details. 300 attendees had been anticipated. SIA security staff would operate for the

## Agenda Item 1

### Licensing Hearing - 4 July 2023

duration of the event in two shifts of seven personnel, with seven marshals assisting each shift. The swimming pool was closed and gated at 8pm, with a life guard on duty for the period it was open (11am – 8pm). CCTV covered the entry gates, the main building, the swimming pool, and would cover the outdoor bar at the event. Some security staff would remain on site and patrol through the night.

The Hearing heard from Kent Police regarding their objection. It was explained that the objection was on the basis of a lack of detail in the initial application, and the historic issue of sexual assault at the premises, though It was noted that this had declined since 2018. The police met with the applicant on 30 June to discuss the event, and were shown risk assessments and detailed information. Both the applicant and the objector found the imposition of the conditions of the premises license satisfactory, excluding the condition requiring the premises to be for members only. The police explained they felt this would help protect the public.

At 10:57 the Hearing Members withdrew to consider the issues raised, accompanied by the Council's Legal Advisor and the Clerk to the Hearing for the purpose of providing advice only.

At 11:12 the Hearing Members, the Council's Legal Advisor, and the Clerk returned to the Conference Room.

The Chairman informed the Hearing that the Sub-Committee considered that the TEN would be acceptable subject to proposed conditions, which would be appropriate in achieving the licensing objectives, in particular public safety and the protection of children from harm.

Resolved: that a counter-notice not be issued for the Temporary Event Notice (TEN) for Eureka, Manor Lane, Fawkham, Kent DA3 8ND for 15 - 16 July, subject to the statement of conditions contained in the prescribed form of notice attached as an appendix to the minutes.

THE MEETING WAS CONCLUDED AT 11.13 AM

CHAIRMAN



PREScribed FORM OF NOTICE (CONDITIONS ON A TEMPORARY EVENT NOTICE) AND STATEMENT OF CONDITIONS

Sevenoaks District Council, Argyle Road, Sevenoaks, Kent TN13 1HG  
Reference: 23/02418/LATEN

Notice (Conditions on a Temporary Event Notice) – Permitted Temporary Activities

On 21<sup>st</sup> June 2023 the licensing authority received from you, Mr Stuart Moore, a temporary event notice (“the notice”) in respect of proposed temporary licensable activities due to take place on 15<sup>th</sup> and 16<sup>th</sup> July 2023 at Eureka, Manor Lane Fawkham, Kent DA3 8ND. The licensing authority has received an objection under section 104(2) of the Licensing Act 2003 (“the Act”). The licensing authority has decided not to give you a counter notice under section 105 of the Act and instead is imposing one or more conditions on the notice in accordance with section 106A(2) of the Act.

The attached statement (“statement of conditions”) sets out the condition(s) which has/have been imposed on the notice.

The objection which applies is indicated by an “X” in the following table.

Objection	Insert “X” as applicable
A chief officer of police for any police area in which the premises are situated is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective.	X
A local authority exercising environmental health functions for the area in which the premises are situated is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective.	

A copy of this notice will be sent to the chief of police and the local authority exercising environmental health functions for the area in which the premises specified in the temporary event notice you gave is situated.

The Licensing Act 2003 does not make provision for you to appeal against this counter notice.


Under section 136 of the Licensing Act 2003, a person commits an offence if he carries on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation; or if he knowingly allows a licensable activity to be so carried on. A person convicted of such an offence is liable to imprisonment for a term not exceeding six months or to a fine of any amount, or to both.

SIGNATURE	On 	DATE	04.07.23
Officer Print name	SUSAN LINDSEY		

Agenda Item 1

The condition(s) is/are:

1. The premises will have installed a comprehensive CCTV system that enables frontal ID of every person entering the premises. The System shall continually record for 24 hours a day. Recordings shall be stored and will be made available on request within 31 days.
2. A staff member conversant with the operation of the CCTV system will be available at all time to provide copies to the relevant authorities.
3. CCTV must be on the front entrance gate and internal areas of the Clubhouse (excluding the Spa) to see who is being let in.
4. A list of every club member's details is available for inspection by relevant authorities.
5. Zero Tolerance to drugs is enforced and any illegal drugs will be confiscated and disposed of in the correct manner.
6. Signs must be displayed to say the premises has a zero tolerance on drugs. If drugs are found, the person/s are to be barred and the Police informed immediately.
7. SIA staff must be on site every day. On party nights, a minimum of 2 SIA staff must be present; all SIA staff are required to sign in and out when they are on duty.
8. If the premises is used by a Third Party, a comprehensive list of staff members, activities, safety measures and contact details of organisers will be taken and stored for a minimum of six months.
9. A designated member of staff, employed by the Licence Holder, will supervise any Third Party events.
10. Sign must be displayed on the gate to ask members to respect the neighbours and leave quietly.
11. Glasses are to be plastic.
12. No person under 18 years old are to be allowed on site.

SIGNATURE	On behalf of 	DATE	04.07.23
Officer (print name)	SUSAN LINDSEY		

**GAMBLING ACT 2005: LICENCE FEES FROM APRIL 2024**

**Licensing Committee - 16<sup>th</sup> January 2024**

**Report of:** Chief Officer, Planning & Regulatory Services

**Status:** For consideration and decision

**Key Decision:** Yes

**Portfolio Holder:** Cllr. Margot McArthur

**Contact Officers:** Jessica Foley Ext. 7480 and Sharon Bamborough, Head of Licensing Partnership Ext. 7325

**Recommendation to Licensing Committee:**

That it be recommended to approve the level of fees and charges with effect from 1<sup>st</sup> April 2024 as set out in Appendix A.

**Reason for recommendation:** To ensure the Council complies with its statutory duty and ensures the licensing of gambling premises is self-financing.

## Agenda Item 4

### Introduction and Background

- 1 The Gambling Act 2005 Section 212 gives the Secretary of State power to make regulations prescribing the fees payable to the Licensing Authority. It also gives the power to devolve to Licensing Authorities in England and Wales the freedom to set fees for premises licence applications, subject to any constraints the Secretary of State may prescribe which includes a maximum fee level. The government has decided that for England and Wales, Licensing Authorities will determine their own fees for gambling premises licences but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
- 2 The maximum levels have been included in Appendix A in brackets for comparison purposes. The previous year's fees are printed in italics for your information. Those cells that are shaded in the body of the table are where we have reached the maximum fee level that may be set.
- 3 There is an initial fee to cover the cost of application and an annual fee.
- 4 Licensing Authorities have been asked to set fees to ensure full cost recovery and that the fee levels represent fairness and value for money for the gambling industry. All Licensing Authorities must set their fees upon a cost recovery basis only and will be required to review their fee levels on an annual basis to ensure this.
- 5 Fees must be set for all types of premises licence and Temporary Use Notices (TUNs):  
  
Premises Types:
  - Casino
  - Bingo
  - Betting Office (off-course)
  - Tracks (on-course betting)
  - Adult Gaming Centres
  - Family Entertainment Centres
- 6 Fees must be set by each Licensing Authority for the following:
  - Application for a (new) premises licence
  - Application to vary a premises licence
  - Application to transfer the licence
  - Application for re-instatement of the premises licence
  - Application for a provisional statement
  - Application for a premises licence for a premises which already has a provisional statement
  - Fee to accompany a request for a copy of the premises licence

- Fee to accompany a notification of change of circumstances (only relevant change is that of address)
- Fee to accompany a temporary use notice

7 The District currently has six betting premises. There are no other gambling premises currently operating in the District.

The betting premises are:

- William Hill - Swanley
- Betfred - Swanley
- Ladbrokes - Swanley
- Coral - St John's Hill, Sevenoaks
- Coral - London Road, Sevenoaks
- Coral - Edenbridge

8 The type of tasks involved in Gambling premises application include assistance to applicant, checking of an application upon receipt, processing the application, assess representations for relevance, undertake informal mediation, undertaking site visits where necessary. Once processed determining the licence or arranging a hearing and holding a hearing, notification of the decision, prepare and issue the licence, update the records/register, appeal preparation and holding an appeal hearing.

9 The result of the calculations is set out in Appendix A of the report. There are three figures for each licence type/fee. The figure in bold font is the new proposed fee, the figure in brackets is the maximum fee set by the legislation and the figure in italics is the existing fee. Those cells that are shaded in the body of the table are where we have reached the maximum level of fee that can be set.

10 The fees have been set for 2024-2025 to include the current inflationary cost and staffing costs of 7% set by Sevenoaks District Council and in liaison with Finance.

#### **Other options Considered and/or rejected**

If the Licensing Committee were minded not to approve these fees the Council would not be able to meet the Council's Service and Budget Plan or ensure the licensing of Gambling premises was self-financing.

## Agenda Item 4

### **Key Implications**

#### Financial

The cost of licence fees takes into account the need to maintain a 'self financing' position for the service. The proposals contained in this report will achieve this.

#### Legal Implications and Risk Assessment Statement

Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake a 'judicial review proceeding'. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.

#### Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

#### Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.

#### **Appendices**

Appendix A - Gambling Act 2005 Fees

#### **Background Papers**

None

**Richard Morris**  
**Chief Officer Planning and Regulatory Services**

## APPENDIX A

### SEVENOAKS DISTRICT COUNCIL: GAMBLING ACT 2005 - FEES

From April 2024

The proposed **new fees** are shown in **bold** type in the table above. For ease of reference the maximum fees that could be charged are shown in brackets and *last year's fees are in italics*. Those cells that are shaded in the body of the table are where we have reached the maximum level of fee that can be set.

NEW APPLICATIONS AND ANNUAL FEES	New Application proposed fee	New Application maximum fee possible	New Application current fee	Annual Fee proposed	Annual Fee maximum possible	Annual Fee currently
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a
New Small Casino	<b>8000</b>	(8000)	<i>8000</i>	<b>5000</b>	(5000)	<i>4850</i>
New Large Casino	<b>10000</b>	(10000)	<i>10000</i>	<b>8376</b>	(10000)	<i>7828</i>
Bingo Club	<b>2654</b>	(3500)	<i>2480</i>	<b>931</b>	(1000)	<i>870</i>
Betting Premises (excluding Tracks)	<b>3000</b>	(3000)	<i>3000</i>	<b>600</b>	(600)	<i>600</i>
Tracks	<b>2080</b>	(2500)	<i>1944</i>	<b>931</b>	(1000)	<i>870</i>
Family entertainment Centres	<b>2000</b>	(2000)	<i>1944</i>	<b>750</b>	(750)	<i>715</i>
Adult Gaming centre	<b>2000</b>	(2000)	<i>1944</i>	<b>750</b>	(750)	<i>750</i>
Temporary Use Notice	<b>269</b>	(500)	<i>251</i>	n/a	n/a	n/a

OTHER APPLICATIONS	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application (provisional Statement holders)	Copy Licence	Notification of Change
	£	£	£	£	£	£	£
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a)	n/a)
<b>New Small Casino proposed fee</b>	<b>4000</b>	<b>1800</b>	<b>1800</b>	<b>8000</b>	<b>3000</b>	<b>14</b>	<b>35</b>
New Small Casino maximum fee possible	(4000)	(1800)	(1800)	(8000)	(3000)	(25)	(50)
<i>New Small Casino current fee</i>	<i>4000</i>	<i>1800</i>	<i>1800</i>	<i>8000</i>	<i>3000</i>	<i>13</i>	<i>32</i>
<b>New Large Casino proposed fee</b>	<b>5000</b>	<b>2150</b>	<b>2150</b>	<b>10000</b>	<b>4931</b>	<b>14</b>	<b>35</b>
New Large Casino maximum fee possible	(5000)	(2150)	(2150)	(10000)	(5000)	(25)	(50)
<i>New Large Casino current fee</i>	<i>4776</i>	<i>2150</i>	<i>2150</i>	<i>10000</i>	<i>4608</i>	<i>13</i>	<i>32</i>

## Agenda Item 4

	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application (provisional Statement holders)	Copy Licence	Notification of Change
<b>Bingo Club proposed fee</b>	<b>1750</b>	<b>1200</b>	<b>484</b>	<b>2654</b>	<b>1200</b>	<b>14</b>	<b>35</b>
Bingo Club maximum fee possible	(1750)	(1200)	(1200)	(3500)	(1200)	(25)	(50)
<i>Bingo Club current fee</i>	<i>1750</i>	<i>1200</i>	<i>452</i>	<i>2480</i>	<i>1200</i>	<i>13</i>	<i>32</i>
<b>Betting Premises proposed fee</b>	<b>1500</b>	<b>1200</b>	<b>459</b>	<b>2080</b>	<b>1200</b>	<b>14</b>	<b>35</b>
Betting Premises maximum fee possible	(1500)	(1200)	(1200)	(3000)	(1200)	(25)	(50)
<i>Betting Premises current fee</i>	<i>1500</i>	<i>1200</i>	<i>429</i>	<i>1944</i>	<i>1200</i>	<i>13</i>	<i>32</i>
<b>Tracks proposed fee</b>	<b>1250</b>	<b>950</b>	<b>459</b>	<b>2027</b>	<b>950</b>	<b>14</b>	<b>35</b>
Tracks maximum fee possible	(1250)	(950)	(1200)	(2500)	(950)	(25)	(50)
<i>Tracks current fee</i>	<i>1250</i>	<i>950</i>	<i>429</i>	<i>1894</i>	<i>950</i>	<i>13</i>	<i>32</i>
<b>FEC's* proposed fee</b>	<b>1000</b>	<b>950</b>	<b>459</b>	<b>2000</b>	<b>950</b>	<b>14</b>	<b>35</b>
FEC's maximum fee possible	(1000)	(950)	(950)	(2000)	(950)	(25)	(50)
<i>FEC's current fee</i>	<i>1000</i>	<i>950</i>	<i>429</i>	<i>1938</i>	<i>950</i>	<i>13</i>	<i>32</i>
<b>Adult Gaming Centre proposed fee</b>	<b>1000</b>	<b>1200</b>	<b>466</b>	<b>2000</b>	<b>1200</b>	<b>14</b>	<b>35</b>
Adult Gaming Centre maximum fee possible	(1000)	(1200)	(950)	(2000)	(1200)	(25)	(50)
<i>Adult Gaming Centre current fee</i>	<i>1000</i>	<i>1200</i>	<i>435</i>	<i>1938</i>	<i>1200</i>	<i>13</i>	<i>32</i>
<b>TUN** proposed fee</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>14</b>	<b>35</b>
TUN maximum fee possible	n/a	n/a	n/a	n/a	n/a	(25)	(50)
<i>TUN current fee</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	<i>13</i>	<i>32</i>

\*FECs = Family Entertainment Centres

\*\* TUN - Temporary Use Notice



**SEXUAL ENTERTAINMENT LICENSING FEES**

**Licensing Committee - 16<sup>th</sup> January 2024**

**Report of:** Chief Officer, Planning & Regulatory Services

**Status:** For consideration and decision

**Key Decision:** Yes

**Portfolio Holder:** Cllr. Margot McArthur

**Contact Officer:** Jessica Foley Ext. 7480 and Sharon Bamborough, Head of Licensing Partnership Ext. 7325

**Recommendation to Licensing Committee:**

Members are recommended to approve the level of fees and charges with effect from 1<sup>st</sup> April 2024 as set out at item 9 of this report

**Reason for recommendation:** The fees have been set for 2024-2025 to include the current inflationary cost and staffing costs of 7% set by Sevenoaks District Council and in liaison with Finance.

## Agenda Item 5

- 1 The Council is required to review any charges which it makes for licences and other associated items, from time to time.
- 2 The Council must seek to recover the costs associated with processing applications for licences as well as the administration and monitoring of compliance with conditions. The fees charged should be capable of withstanding legal challenge, should the need arise.
- 3 It is not permitted to make a surplus or to subsidise licence holders so where necessary fees are adjusted in succeeding years to achieve and maintain the correct balance.
- 4 The cost to the Council of this work is regularly checked and real time costs are used in compiling the figures. Where it is possible to reduce costs by use of more efficient working this is reflected in the charges made.
- 5 The Licensing Department has not received or processed an application for a Sexual Establishment within the Sevenoaks District, The fees have been set for 2024-2025 to include the current inflationary cost and staffing costs of 7% set by Sevenoaks District Council and in liaison with Finance.

**Sex Establishment Licensing:**

- 6 The fees for applications made under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, have previously been calculated by examining the time it could take to process an application.
- 7 The tasks involved with processing an application include assisting the applicant, checking the validity of an application, assessing representations, formal mediation and site visits.
- 8 The Council does not currently have any Sexual Entertainment venues.
- 9 As the Council is unable to demonstrate any additional costs involved with the processing of applications made under this Act (due to the point raise in section 8 above), the Licensing Department proposes to keep these fees the same as those set in 2023.

**Proposed Fee(s)**

Type of Application	Current Fee	Proposed Fee
New Application	3641	<b>3896</b>
Renewal Application	3641	<b>3896</b>
Transfer Application	1825	<b>1953</b>

**Other options Considered and/or rejected**

If the Licensing Committee were minded not to approve these fees the Council would not be able to meet the Council’s Service and Budget Plan or ensure the licensing of Sexual Entertainment premises was self-financing.

**Key Implications**

Financial

There are no financial implications resulting from this report. The Council does not currently have any sexual entertainment venues within the district and we are, therefore, not currently receiving any income from this particular regime.

Legal Implications and Risk Assessment Statement

Should parts of industry believe the authority’s fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake a ‘judicial review proceeding’. Should this arise, the authority would

## Agenda Item 5

need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.

### Equality Assessment

Officers have considered the impact of the proposals contained in this report and consider that there would be no, or very limited adverse or disproportionate impact on those who share a protected characteristic. This will be kept under review as part of the Council's ongoing duty.

### Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.

#### **Appendices**

None

#### **Background Papers**

None

**Richard Morris**  
**Chief Officer Planning and Regulatory Services**

**PAVEMENT LICENSING - approve & adopt updated policy and setting of fees**

**Licensing Committee - 16<sup>th</sup> January 2024**

**Report of:** Chief Officer, Planning & Regulatory Services

**Status:** For consideration and decision

**Key Decision:** Yes

**Portfolio Holder:** Cllr. Margot McArthur

**Contact Officer:** Sharon Bamborough, Head of Licensing Partnership Ext. 7325

**Recommendation to Licensing Committee:**

1. That the committee consider the proposed draft revision of the Pavement Licensing Policy (which are made to be in line with recent changes to legislation) and adopt the policy - to take effect upon commencement of Schedule 22 of the Leveling Up and Regeneration Act 2023. The amended policy is attached as **Appendix A**
2. To approve the proposed fees for applications set out in **Appendix B**, to take effect upon commencement of Schedule 22 of the Leveling Up and Regeneration Act 2023

**Reason for recommendation:**

**Policy Review**

The preferred option is that Members agree to review and amend the current policy. To have an updated policy ensures the Council continues to have a modern, effective document that ensures the trade, and the public has a document that fully explains the licensing process.

**Fee setting**

The preferred option is to set the fees as proposed as they have been calculated to recover costs.

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### Introduction and Background

- 1 On 25 June 2020, the Government announced relaxations to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown. The Business and Planning Act 2020 made it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.
- 2 Initially, the legislation was temporary, with the pavement licensing aspect expiring 30 September 2021. This was then extended several times with the current expiry being 30 September 2024. As part of the application process, applicant must submit an application form, fee, site plan of the proposed area for use, photos or brochure of proposed furniture and evidence of public liability insurance.
- 3 With Schedule 22 of the Levelling Up and Regeneration Act 2023, the government has permanently moved pavement licensing to the district/ borough level, away from the highways authority and amended the Business and Planning Act 2020 to introduce some changes to processes and introduce enforcement powers.
- 4 The policy was initially drawn up without referral to committee due to the timing of it being during the pandemic lockdowns and the temporary nature of the legislation. It is now necessary to update and adopt the policy to be in line with these amendments.
- 5 In addition, new fees should be considered. Previously, the statutory cap for applications was £100. The legislation has amended this to introduce higher caps for new and renewal applications.

### **Review of Pavement Licensing Policy**

- 6 The revised policy, is attached as Appendix A.
- 7 The changes are fully in line with the new legislation and do not propose anything in addition other than an opportunity to tidy up some of the wording throughout.
- 8 The amendments include the following:
  - Removal of sections no longer relevant or needed
  - Updating of references to legislation /consultation periods (in line with legislative amendments)
  - Addition on new section on enforcement (directly lifted from the legislation)
  - Tidying up of terminology
- 9 As the major amendments are in line with the new legislation and minor changes to tidy up terminology, it is not considered necessary that a consultation exercise is needed.

### **Review of Fees**

- 10 The fee payable for a pavement licensing was previously capped at £100 in the legislation, and this was the fee set and charged when the legislation came at very short notice in July 2020.
- 11 The fees have new caps set in legislation - £500 for a new application and £350 for a renewal.
- 12 The duration of licences has changed from a minimum of three months and up to 30 September each year, to no minimum duration and a maximum of two years. This allows the possibility of introducing a fee for a temporary/event linked pavement licence should an event organiser be interested in having a pavement licence as part of their facilities for the duration of the event.
- 13 The proposed fees have been calculated based upon timings and estimated costs for processing of applications, site assessments, compliance checking after licence is issued, etc. and are set out at in Appendix B.

## Agenda Item 6

### **Other options Considered and/or rejected**

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the Borough's residents, visitors, and business community.

The proposed policy changes are needed to bring it in line with the legislative amendments under the Levelling Up and Regeneration Act 2023 and gives the opportunity to improve upon the existing terminology where needed.

With respect to the setting of fees, the current fee (£100) did not adequately provide income to cover ongoing compliance checking follow the issue of a licence and barely covered the assessment and processing of the application. It is hoped that the new proposed fees will redress the balance.

Members must decide whether firstly, the policy should be updated and adopted, and secondly, whether the proposed fees should be approved.

### **Key Implications**

#### Financial

There are no financial implications resulting from this report. The Council does not currently have any sexual entertainment venues within the district and we are, therefore, not currently receiving any income from this particular regime.

#### Legal Implications and Risk Assessment Statement

There is no statutory requirement to have a pavement licensing policy; however, it is good practice to do so. A policy assists with consistent and transparent decision making; however, each case must be considered on its own merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances.

#### Equality Assessment

In formulating this draft Policy, the Council has had regard to the provisions of the Human Rights Act 1998 and the Public Sector Equality Duty.

Officers have considered the impact of the proposals contained in this report and consider that there would be no, or very limited adverse or disproportionate impact on those who share a protected characteristic. This will be kept under review as part of the Council's ongoing duty.

#### Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.



**Appendices**

- Appendix A: Pavement Licensing Policy
- Appendix B: Proposed fees

**Background Papers**

- Business and Planning Act 2020
- Levelling Up and Regeneration Act 2023

**Richard Morris**  
**Chief Officer Planning and Regulatory Services**

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Licensing  
Partnership



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# Pavement Licensing Policy

Effective: July 2020, last updated 2023

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## 1. Introduction

### BACKGROUND

In 2020 the Covid-19 pandemic affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.

When the economy started to re-open, on 25 June 2020 the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing short term obstacles that could get in their way.

Up until June 2020 , tables and chairs permissions were granted as Pavement licences by Kent County Council, the Highways Authority, under Part 7A of the Highways Act 1980. The fee varied between local authorities and there was a 28 day consultation period.

The Business and Planning Act 2020 made it easier for premises serving food and drink such as bars, restaurants and pubs, as lockdown restrictions were lifted but social distancing guidelines remained in place to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing. These temporary regulations have been extended until 30 September 2024.

The Act introduced a fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from the District or Borough Council for the placement of furniture such as tables and chairs on the pavement outside their premise which will enable them to maximise their capacity whilst adhering to social distancing guidelines.

### CURRENT POSITION

The regulations under the Business and Planning Act 2020 in respect of pavement licensing have been amended and made permanent by the Levelling Up and Regeneration Act 2023 which received Royal Assent 26 October 2023. The amendments include:

- Increasing the public consultation period to 14 days (with an further 14 days to determine)
- Increasing the statutory fee cap
- Additional enforcement powers for unlicensed activity
- Duration of licences – no longer a minimum of three months, and can be granted for up to two years.

## 2. Scope

### 2.1 Definition of pavement licence

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which permits the licence-holder to place removable furniture on the public

## Agenda Item 6

highway adjacent to the premises in relation to which the application was made, for certain purposes.

## **2.2 Eligible Businesses**

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

## **2.3 Eligible Locations**

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

## **2.4 Type of furniture permitted**

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which, in principle, means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening. For example, picnic tables which are not removable would not be suitable. Each application is determined on its own merits.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

## **2.5 Planning Permission**

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

### 3. Application and Determination of Pavement Licences

#### 3.1 Submission of the Application

An application for a NEW Pavement Licence must be made electronically to the Council, and the following will be required to be submitted with the application:

- a completed Application Form
- the required fee, to be paid by credit or debit card
- a plan showing the location of the premises shown by a red line, so the application site can be clearly identified
- a plan showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway
- the proposed duration of the licence ( maximum duration is two years)
- photos showing the proposed furniture and information on potential siting of it within the area
- Reference of existing pavement licence if applicable
- evidence that the applicant has met the requirement to give a public Notice of the application (for example photographs of the notice displayed)
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, (caveat: there may be rare circumstances where a different minimum value may be agreed in advance before submission of application)
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.

An application for a RENEWAL of a pavement licence must be made electronically to the Council and be accompanied by the following:

- a completed application form
- the required fee
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million, (caveat: there may be rare circumstances where a different minimum value may be agreed in advance before submission of application)
- any other information or evidence requested
- Note: photographs of furniture are not required on renewal unless the proposed items differ from those currently licensed

NOTE: a renewal cannot be submitted after expiry of the current licence. A new application would be required.

#### 3.2 Fees



The fee for applying for a licence under the new process are set locally, but are capped at £500 for a new application and £350 for renewal. . Please refer to the Council's website to look up current fees. .

### 3.3 Consultation

Applications are consulted upon for 14 days, starting with the day after which a valid application was received by the Council.

The Council will publish details of the application on its website. The Council is required by law to consult with the Highways Authority. In addition, the Council will consult with:

- Environmental Health Service
- Police
- Fire Service

Members of the public can also submit a representation in support of or against the application within the consultation period.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

### 3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of the site notice requirement must be supplied to the Council.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (14 days starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 1.

### 3.5 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

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- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
  - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
  - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
  - the impact on any neighbouring premises
  - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people
  - other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and take any issues around noise and/or nuisance into consideration as part of the proposal.

### 3.6 Determination

Once the application is submitted the Council has 28 days from the day after the application is made (excluding public holidays) to consult on, and determine the application. This consists of 14 days for public consultation, and then 14 days to consider and determine the application after the consultation.

If the local authority determines the application before the end of the determination period the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

If the local authority does not determine the application within the 28 day period, the application will be deemed to have been granted.

### 3.7 Approval of Applications

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions, which will be attached to all Pavement Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council will only permit Pavement Licences between 07:00 and 23:00. However, there may occasions where longer hours maybe permitted. *An example of this may be where a premises has longer licensed operating hours and has previously held a highways licence for those hours without prior issue or problem. A request to operate outside of the permitted times must accompany the application, giving reasons for the request.*

Applications outside these hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

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### 3.8 Licence Duration

If the Council determines an application before the end of the determination period they can specify the duration of the licence, subject to a maximum of 2 years. .

**The Council will normally grant applications for a 12 month period unless a shorter period has been requested or it is necessary for good reason, such as known upcoming street works, for example.**

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a period of two years.

### 3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against decision to refuse an application.

### 3.10 Variation of licences

**There is no provision in the legislation to apply for variation of a pavement licence. Should the licence holder wish to vary the licence, they would need to submit a new application.**

As an alternative to revoking the licence the Licensing Authority may, with the consent of the licence holder, amend the licence if it considers that—

(a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,

(b) as a result of the licence—

(i) there is a risk to public health or safety,

(ii) anti-social behaviour or public nuisance is being caused or risks being caused, or

(iii) the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),

## 4. Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case-by-case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

However, this is not the case for the statutory no-obstruction condition which is as applies to all Licences. The National 'no obstruction conditions is shown in Appendix 3.

### 5. Enforcement

The Council aims to work closely with other enforcement agencies to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, and applicants must ensure all such permissions, etc. are in place prior to applying.

#### Where a licence is issued:

If a condition imposed on a licence either by the Council or via a National Condition is breached the Council is able to issue a notice requiring the breach to be remedied.

The authority may revoke a licence in the following circumstances:

1. For breach of condition, (whether or not a remediation notice has been issued) or
2. Where:
  - the highway is being obstructed (other than by anything permitted by the licence);
  - there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
  - it transpires the applicant has provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
  - the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.
3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

#### Unlicensed activity

Where a person/business puts removable furniture on a relevant highway and is not authorised to do so, the licensing authority may, by issuing a notice, require the person/business to:

- Remove the furniture before the date specified on the notice and
- Refrain from putting furniture on the highway unless authorised to do so.

## Agenda Item 6

Contravention of such a notice may lead to the authority removing the furniture and storing it, and require the person/business to pay the authority's reasonable costs in removing and storing the furniture and to refuse to return the furniture until those costs are paid.

If, within the period of three months beginning with the day on which the notice is given, the person/business does not pay those reasonable costs, or does not recover the furniture, the local authority may-

- Dispose of the furniture by sale or in any other way it thinks fit, and
- Retain any proceeds of sale for any purpose it thinks fit

In this section, 'authorised' means authorised by –

- A pavement licence,
- Permission under Part 7A of the Highways Act 1980, or
- Permission granted under any other enactment

### **6. Review of Policy**

This Policy covers the processes and procedures for Pavement Licences under the Business and Planning Act 2020 (as amended by the Levelling Up and Regeneration Act 2023) .

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement licences generally, or as a result of local considerations within the District / Borough.

Appendix 1



Business and Planning Act 2020 Section 2 (6)

**NOTICE IS GIVEN THAT**

An application has been made to \*Maidstone Borough Council  
\*Sevenoaks District Council / \*Tunbridge Wells Borough Council  
**\*DELETE AS APPROPRIATE**

(The Licensing Authority) for a

**PAVEMENT LICENCE**

In respects of the premise shown below.

**[INSERT THE NAME OF YOUR PREMISES]**

Details of the application may be inspected by contacting the Licensing Partnership on **01732 227004** or by visiting [www.sevenoaks.gov.uk/licensing](http://www.sevenoaks.gov.uk/licensing)

Any interested party or responsible authority may make representations in respects of the application, which must be submitted in writing to the following address before the date shown below.

Licensing Partnership, Sevenoaks District Council, Council Offices, Argyle Road, Sevenoaks, Kent TN13 1HG or email [licensing@sevenoaks.gov.uk](mailto:licensing@sevenoaks.gov.uk)

Name of Applicant **INSERT NAME**  
Postal address of the premises **INSERT ADDRESS**

Dates by which representations must be made:

This notice remains in force from and including the day after the application was served on the Licensing Authority **INSERT DATE**, for fourteen consecutive days.

### Appendix 2

#### Standard Conditions Attached to a Pavement Licence

1. The licence must only be used for the purpose of placing removable furniture on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the licence holder's business premises.
2. Furniture may only be placed within the area of the highway identified on the plan that accompanied the application for the licence.
3. The licence holder shall not make excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
4. The licence holder must observe and comply with any direction made by a Police Officer, Fire and Rescue Officer, or authorised officer of the local authority in relation to the use of the highway, including any direction to remove furniture from the highway.
5. The licence holder must at all times hold a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million (caveat: or other amount agreed in advance before submission of application).
6. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.
7. The licence holder must not allow customers using the area to engage in anti-social or disorderly behaviour.
8. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that the conditions above are being adhered to.

#### 9. Highway Authority Conditions

No tables, chairs or temporary street furniture sited on a footway are to be placed within 1.2m of the edge of an adjacent carriageway. A minimum clear footway width of 1.5m must be obtained at all times and 2m in busy locations or at busy times except in the following circumstances where additional width may be required:

- A – Proposals which place furniture within 20m of a road junction or roundabout.
- B – Proposals which place furniture within 15m of a push button, zebra crossing or pedestrian island crossing.
- C – Proposals which place furniture within 5m of a bus stop

- Every table, chair and item of temporary street furniture shall be positioned so that it does not impede the surface water drainage of the highway nor obstruct



access to any premises unless the consent of the occupier of these premises has been obtained.

- No items shall be sited as to obstruct access to any premises unless the consent of the occupier of these premises has been obtained. No items shall be sited in such a way that is obstructs any fire exits or dry risers etc.
- No tables, chairs or temporary street furniture shall be left on the highway longer that is necessary. Tables, chairs and temporary furniture within a pedestrianised area cover by a traffic Regulation Order shall only be placed on the highway during the hours of pedestrianisation. Tables, chairs and temporary street furniture shall be taken inside and stored during the hours when business is not trading.
- All tables, Chairs and temporary furniture shall be separated from the remaining highway using disability compliant barriers. This means that barriers MUST:
  - (a) Be between 1000mm and 1200mm in height
  - (b) Have a continuous tapping rail (150mm to 200mm deep) or panel edge either on the ground or up to a maximum height of 200mm above the ground
  - (c) Have a colour contrast to ensure they are highly visible
  - (d) Be continuous around the area of tables, Chairs and temporary street furniture except for the access point.
- No tables, chairs or temporary street furniture shall remain on the highway pursuant to this permission after the period of the pavement license has expired.
- The licensee shall be responsible for keeping the designated area in a clean and tidy condition at all times and shall ensure that any associated debris is removed at the end of each day and make good any damage caused to the surface area.
- No apparatus such as power cables or water pipes shall be allowed to be laid across or suspended above the highway for the purposes of providing services to outside areas on or off the highway.
- No wastewater or other substances shall be discharged on to the highway or highway drainage system.

## Appendix 3

### Statutory conditions attached to a pavement licence

1. Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6). These effects are:
  - (a) preventing traffic, other than vehicular traffic, from:
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway,
  - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
2. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

## APPENDIX B

### PROPOSED FEES FOR PAVEMENT LICENSING

#### NEW APPLICATION

	Current (statutory cap of £100)	Proposed
UP TO ONE YEAR - (made up of up to 2hrs application processing, and up to 4 hrs for site visits and compliance checking throughout one year, plus element for policy and fee review work)	£100	£280
UP TO 2 YEARS (made up as above plus additional cost of compliance checks for 2 <sup>nd</sup> year)	n/a	£430
<i>(note – it is policy to only grant for one year but there may be occasions where a two year licence is granted)</i>		

#### RENEWAL

	Current	
Up to one year (made up of 1.5 hrs application processing, up to 3 hrs for compliance checking throughout one year plus element for policy and fee review work)	n/a as no renewal process	£180
Up to 2 years (made up as above plus additional cost of compliance checks for 2 <sup>nd</sup> year)	n/a as no renewal process and licences were limited to up 1 year in practical terms	£280
<i>(note – it is policy to only grant for one year but there may be occasions where a two year licence is granted)</i>		

#### Short term Pavement licence (up to 6 weeks)

£130

(made up of 2 hrs processing time, one hour site visit & compliance and element of policy work etc )

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**REVIEW OF STATEMENT OF HACKNEY CARRIAGE & PRIVATE HIRE POLICY**

**Licensing Committee – 16 January 2024**

**Report of:** Chief Officer Planning & Regulatory Services

**Status:** For Decision

**Key Decision:** No

**Executive Summary:**

This report presents the 'Statement of Hackney Carriage and Private Hire Policy' following a 7 week consultation. The purpose of the Policy is to define how the Council will exercise and administer applications submitted under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The Policy sets out the expectations of the Council when licensing drivers, vehicles and operators.

**Portfolio Holder:** Cllr. Margot McArthur

**Contact Officer:** Susan Lindsey Ext. 7491

**Recommendation to Licensing Committee:**

That the revised Statement of Hackney Carriage and Private Hire Policy 2024-2029 (attached as **Appendix A**) be adopted as from 1 April 2024.

**Reason for recommendation:**

While it is not a legal requirement, it is best practice for a Licensing Authority to have a Statement of Hackney Carriage & Private Hire Policy.

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy. There have been a number of changes to the Policy which is outlined in the contents of this report, however no changes to this proposed Policy have been made since the last Licensing Committee in September 2023.

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### Introduction and Background

- 1 The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 put a duty on the Council, acting as the Licensing Authority (LA), to determine the suitability of licensed drivers, vehicles and operators, with a view to public safety.
- 2 There is no legal requirement for the Council to have a Statement of Hackney Carriage and Private Hire Policy (SHCPHP).
- 3 The purpose of the policy is to outline the approach that Sevenoaks will take when dealing with applications made under The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976; the document covers the following:
  - a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications, enforcement and complaints.
  - b) How the Council will assess the suitability of licensed drivers, vehicles and operators
  - c) The LA's approach to regulation and expected standards.
  - d) The scheme of delegation
- 4 The last revision of the SHCPHP took place in March 2021.
- 5 The SHCPHP 2024-2029 can be reviewed and updated at any time during the life of the document. The Council keeps the SHCPHP under constant review to support the trade and continually improve public safety.
- 6 The new SHCPHP 2024-2029 for the District is proposed to commence from 1 April 2024.
- 7 As of the start of December 2023 Sevenoaks licenced 298 drivers, 267 vehicles and 39 operators. This includes both Hackney Carriage and Private Hire.

### Proposal and Reasons

- 8 On 20<sup>th</sup> September 2023 the Licensing Committee agreed that the proposed draft SHCPHP 2024-2029 be approved for public consultation. **Appendix A**
- 9 A 7 week public consultation took place between 21<sup>st</sup> September and 12<sup>th</sup> November 2023.
- 10 The proposed amendments include the following main changes to Policy:
  - a) To formalise in policy the introduction of the Equo Safeguarding training for all new and existing drivers.

- b) To formalise in policy the new HMRC rules for taxi and private hire drivers and operators.
  - c) To formalise in policy online right to work checks.
  - d) To formalise in policy the inclusion of driver 'suspensions' as well as refused and revoked drivers through the NAFN (NR3) central database.
  - e) To include in policy a process whereby authorisations be given for continued work where all documentation for a licence has been submitted, assessed and validated but not yet processed.
  - f) To include in policy that all new licensed vehicles (other than stretched limousines and wheelchair accessible vehicles) must meet or exceed Euro 5 and Euro 6 emission standards.
  - g) Hybrid, electric and LPG vehicles to be licensed for up to 15 years.
  - h) To remove the 6 year maximum age of a vehicle when first presented for licensing.
  - i) To formalise in policy the responsibilities placed upon drivers under the Equalities Act 2010.
  - j) To mandate the use of card payment machines (as an addition to taking cash payments) in Hackney Carriage Vehicles by way of adding a condition to each licence.
- 11 The Sevenoaks Trade (through their Union representative) requested a meeting with Officers to discuss some of the issues they experience when using card payment facilities. This meeting was held on Thursday 2<sup>nd</sup> November and notes from that meeting are attached to this report at **Appendix B**
- 12 18 responses were received during the consultation period and are attached to this report at **Appendix C**
- 13 The majority of these responses relate to the proposed implementation of mandatory card payment machines in licensed vehicles. The main areas of concern raised in relation to this subject are summarised below:
- a) Lack of phone signal in certain areas within the Sevenoaks District
  - b) Additional cost to driver
  - c) Customer aggression when card payments declined
  - d) Additional time it takes to sort out card issues at peak times
  - e) More time requested to report and replace broken card readers to Local Authority.

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- 14 Officer comments in relation to Shareb Affiliates response to the consultation are attached at **Appendix D**

### Conclusions

- 15 Officers recommend that all changes proposed to the draft Policy (shown in red at **Appendix A**) are agreed, unless Members are minded to make changes following the content of responses to the consultation.
- 16 Officers would like to bring to Members attention that the implementation of mandating card payment facilities in Hackney Carriage Vehicles is to address complaints previously received where customers were unable to utilise any licensed vehicles on a local rank as fares were refused by the trade due to the customer wishing to pay by card. It is recognised by Officers that many more Hackney Vehicles now have card payment facilities, but the mandating of this will assist Officers when enforcing, should complaints of fare refusals be received. Officers do not consider it acceptable for a Hackney Carriage fare to be refused as a result of the customer wishing to pay by card.
- 17 Kent Police have informed Licensing Officers that they are in full support of licensed vehicles having card payment facilities.

### Key Implications

#### Financial

None directly arising from this report.

#### Legal Implications and Risk Assessment Statement.

The legal implications are as set out in this report

#### Equality Assessment

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact has been analysed and varies between groups of people dependent upon their personal needs. The results of this analysis are set out immediately below.

Sevenoaks Council is committed to social inclusion and ensuring a wide variety of vehicle types are available for disabled residents to avoid discrimination in terms of travel arrangements.



The Sevenoaks Statement of Hackney Carriage and Private Hire Policy has been updated in relation to the responsibilities placed upon drivers under the Equalities Act 2010, and the maintenance by the Authority of a list of wheelchair-accessible vehicles in accordance with section 167 of that Act.

Implementation of Disability Awareness training is being rolled out to all existing drivers and all new applicants must pass this training prior to a licence being issued.

Sevenoaks District Council is committed to taking appropriate action against any licensed driver failing to carry out their duties imposed upon them under the Equality Act 2010.

### Net Zero Implications

Members are reminded of the Council's stated ambition to be Net Zero with regards to carbon emissions by 2030. The decisions recommended in this paper directly impact on this ambition. The impact has been reviewed and there will be a decrease on carbon emissions produced in the district as a result of this decision.

Any decision to extend the licence life of a hybrid, electric or LPG licensed vehicle to 15 years, rather than the current 10 years, may encourage proprietors to look at the purchase of low/zero emission vehicles having a positive impact on air quality in the district.

### **Appendices**

Appendix A – Proposed Statement of Hackney Carriage & Private Hire Policy

Appendix B – Current Statement of Hackney Carriage & Private Hire Policy

Appendix C – Consultation Responses

Appendix D – Officer comments in relation to Shareb Affiliates' consultation response

### **Background Papers**

[Cartledge v Gelding Borough Council](#)

[Equality Act 2010 taxi and private hire provisions](#)

[Statutory Taxi and Private Hire Vehicle Standards](#)

**Richard Morris**  
**Chief Officer Planning & Regulatory Services**

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## Appendix A



# Hackney carriage and private hire licensing policy

1 April 2024 to 31 March 2029

## Agenda Item 7

Effective from 1 April 2024

### **The role of licensing: Policy justification**

The aim of local authority licensing of Hackney Carriage and Private Hire trade is to protect the public by ensuring that all drivers, vehicles and operators are licensed in accordance with the Statutory Provisions and the Council's Policy. The Council is aware that the public should have reasonable access to Hackney Carriage (HC) and Private Hire Vehicle (PHV) services which are integral to local transport provisions.

Licensing requirements which are unduly stringent may prevent the supply of HC and PHV services, by increasing the cost of operation or restricting entry to the trade. Sevenoaks District Council recognises that an unduly restrictive approach may be detrimental to the public interest and could have adverse safety implications.

For example, it is important that a member of the public using a HC or PHV to travel alone late at night, can be confident the driver is "fit and proper" and the vehicle is safe. However, on the other hand if the supply of HC 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 HC or PHV to become available.

## 1 Introduction

The Licensing Authority at Sevenoaks District Council (“the Council”) is responsible for processing all applications for hackney carriage and private hire licences including drivers, vehicles and private hire operators. The team also deals with complaints and compliance in relation to hackney carriage and private hire matters.

The licensing of hackney carriage and private hire drivers, vehicles and operators aims to secure the following objectives:

- All licensed drivers and operators are “fit and proper” persons in accordance with the statutory legislation;
- All vehicles licensed by the Council are safe, comfortable, properly insured and available where and when required;
- To encourage the use of environmentally friendly vehicles; and
- To encourage the use of vehicles that are accessible to persons who have disabilities.

The Council will ensure that these aims are met by setting minimum requirements for the licensing of drivers, vehicles and operators. These requirements include:

- Up to three yearly licensing of drivers including medical checks, six monthly criminal record clearance, an appropriate level of driving ability and a sound knowledge of the area.
- DVLA checks of all drivers’ licences at first application and at renewal.
- Five yearly licensing of private hire operators, subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances, with basic criminal checks.
- Routine inspections of records maintained by private hire operators.
- Annual licensing of vehicles will include inspections by authorised officers which will incorporate mechanical vehicle testing and confirmation of appropriate documentation such as insurance certificate;
- Investigation of complaints and enforcement of legislation and licence conditions with appropriate action taken in accordance with the Council’s Enforcement Policy statement.
- Ongoing training and development of the Council’s Licensing staff.
- Provision of information to the hackney carriage and private hire trades with members of the public through press releases and publications, the Council’s website and attendance at relevant forums.

## 2 Review of policy and procedures

### 2.1 Legislation

In undertaking its licensing function, the Council will have particular regard for:

- Town Police Clauses Act 1847 and 1889
- Local Government (Miscellaneous Provisions) Act 1976
- Transport Act 1985 and 2000
- Crime and Disorder Act 1998
- Environmental Protection Act 1990
- Equalities Act 2010
- Road Traffic Acts
- Health Act 2006
- Human Rights Act 1998
- Regulators Code

### 2.2 Taxi and Private Hire Licensing: best practice guidance March 2010 & Statutory Taxi & Private Hire Vehicle Standards 2020

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. Following widespread consultation, the DfT has produced Best Practice Guidance (superseded by the Statutory Taxi & Private Hire Vehicle Standards) for licensing authorities which sets out standards which can be considered good practice in this area of licensing, although it also recognises that individual licensing authorities should produce their own policies in relation to specific licensing matters. Both these Guidance documents have been taken into consideration in preparing this policy. Regard has also been given to the Licensing Partnership and this has been seen as an opportunity to have some consistency across the three authorities. The Licensing Partnership includes Maidstone Borough Council, Sevenoaks District Council and Tunbridge Wells Borough Council. This policy relates to Sevenoaks District Council.

### 2.3 Consultation

The Council is keen to hear the views of persons who may be affected by this policy and has identified people and organisations that may be interested in commenting on this document. The Council has consulted widely and invited comments from any interested party in particular those listed below.

- Representatives of Sevenoaks licensed hackney & private hire drivers
- Representatives and trade groups of Sevenoaks taxi proprietors and private hire vehicle licence holders.

- Representatives of the District's Operators
- All District Councillors
- Town and Parish Councils
- Neighbouring Authorities
- Community Safety Unit
- Sevenoaks Access Group
- Local businesses and residents
- The National Private Hire & Taxi Association
- The National Taxi Association
- Members of the Public through the Council's website
- Public Health Kent
- Chamber of Commerce
- Kent Police
- Kent County Council Traffic & Road Safety
- Kent County Council (School Contracts)
- Citizens Advice Bureau
- Age Concern

Minor amendments to this Policy required, for example, by virtue of legislative change or administrative procedural change, may be made by the Head of Licensing following consultation with the chair of the Licensing Committee and the Cabinet Member with responsibility for Licensing. These will be reported back to the next full Licensing Committee.

### **2.4 Implementation**

The Policy and associated documentation are available for inspection on the Council's website.

The Policy will remain in existence for a period of three years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change.

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

### **2.5 Online forms**

The Licensing Partnership 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.

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All **new** applications that are made online will require an applicant to meet with an officer to complete the application process. At this meeting **all original documents are required to be presented.**

The Council will accept scanned accompanying documents or photographic images with online **renewal** applications. However, if the submitted images do not match with the electronic images already held by the Licensing Partnership, we reserve the right to require the original documentation to be presented to the Licensing Authority.



### 3. Hackney Carriage and/or Private Hire Driver Licence – new and renewal applications

Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that a district council shall not grant a driver's licence to drive a private hire vehicle or hackney carriage unless they are satisfied that an applicant is a fit and proper person.

In order for the Council to establish whether an applicant is fit and proper the applicant must provide evidence of:

- Honesty and trustworthiness
- Driving standard
- Medical fitness
- Criminal history
- Relevant knowledge of the district
- Understanding of English (spoken, written and reading)

All applicants must read the Council's Policy regarding convictions and cautions located at **Appendix 1** before considering whether to apply for a Hackney Carriage/ Private Hire Vehicle driver's licence.

Application forms must be completed in full. Any incomplete forms will be returned to the applicant as invalid. An email address provided by an applicant or licensed driver is deemed to be valid for all email correspondence sent by officers, and can only be updated by written notification of a change of email address.

Applications will only be accepted as valid if they include and/or are accompanied by the following:

- Application form provided by the Council, complete in its entirety and signed by the applicant.
- The appropriate fee. The current fees are available from the licensing department or our website.
- The applicant's original DVLA driving licence. Applicants must have held a full DVLA or EU licence for at least 1 year for a new application.
- A completed medical certificate
- Driving Standards Assessment practical taxi test and wheelchair test for all new hackney carriage/ private hire drivers, delivered by an external company; details available on our website
- Evidence of passing the Council's knowledge test (new applicants only);
- Evidence of passing the Council's Safeguarding test (for both new applicants and existing drivers)

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- One recent, colour, passport sized photograph of the applicant (no sunglasses or hats. Hats may only be worn for religious beliefs while showing full facial features.)
- Applicants must obtain and submit to the Council the 8 digit driving licence 'Check Code' from the DVLA. The 'Check Code' is only valid for 21 days from the date of issue.
- Application for a Disclosure and Barring Service Enhanced Check completed by the applicant with accompanying identification or a current valid disclosure certificate completed within 1 month and obtained via an approved body which will allow an update service check to be performed. This must include a check for 'adults and child workforce'. Applicants who are not signed up to the DBS update service will be expected to do so.
- **Any applicant who has previously held a Hackney Carriage or Private Hire driver licence with any Authority that stopped being valid less than a year ago, or is still valid, will be required to provide an HMRC check code (this applies to both new and renewal applications)**
- For all applicants who have lived in the United Kingdom for less than 5 years continuously, a certificate of good conduct from the appropriate embassy is required (new applications only).
- For those applicants not holding an EU passport, evidence will need to be provided of the applicant's right to work in the United Kingdom, which will include a relevant VISA or letter from the appropriate Embassy/Authority **or the provision of a right to work share code (which can be obtained through the .GOV webpage**. The Licensing Authority may also contact the Home Office to carry out immigration checks when it is appropriate to do so.
- All applicants must provide **original** documentary evidence confirming their right to live and work in the UK. Any licence granted to drivers whose leave to remain in the UK is time limited will only be valid for the period which they are entitled to work in the UK. In order for the licence to be extended, drivers must produce further evidence to prove they have the right to work in the UK.
- Two items confirming the applicant's address.
- Documentary proof of the applicants National Insurance number.

### 3.1 Fees

All applications must be accompanied by the appropriate fee as prescribed from time to time by the Council. Licensing fees are reviewed on an annual basis and approved by the Council.

No refunds are payable where applications are not pursued or completed or where applications are refused e.g. as a result of relevant criminal records, where relevant information has been withheld or where applicants fail to meet application requirements. The Licensing Officers can advise individual applicants who have queries in relation to this issue and any such information is strictly confidential.

Any outstanding application older than 12 months will be destroyed. Should the applicant wish to pursue the application after 12 months a new application will need to

be submitted with a fee together with a new Disclosure and Barring Service (DBS) and medical certificate.

### **3.2 Driving standards**

It is a statutory requirement that a licence will not be issued to any person, who at the time of the application has not held a full driving licence for a continuous period of one year immediately prior to the date of receipt of a valid application to the Council.

Driving licences issued by EU/EEA States and Countries detailed in the Driving Licences (Exchangeable Licences) Orders are also permitted to count towards the 1 year period qualification requirement for the grant of a private hire and/or hackney carriage licence.

In order to establish that an applicant has reached an acceptable driving standard, new applicants will also be required to have successfully undertaken the driving standards practical taxi test delivered by one of the Council's nominated providers.

Existing drivers may also be required to undertake this test where serious concerns are raised about the standards of their driving.

All new applications for a driver's licence will be required to successfully complete a practical taxi test and wheelchair test without exception.

Drivers of a wheelchair accessible vehicle (WAV's) must have undertaken the enhanced practical taxi test which includes the wheelchair exercise. If a driver changes his vehicle to a wheelchair accessible one then they must undertake the element that includes the wheelchair exercise.

A first time driver applicant must demonstrate by means of an online test, an acceptable knowledge of the Council's district. The Council may also require the applicant to demonstrate their knowledge of any byelaws, rules and conditions that apply to certain licence types.

### **3.3 Age**

All applicants for HC/PHV driver licences will be assessed on their individual merits. Sevenoaks District Council does not consider it necessary to set a maximum age limit for drivers provided that regular medical checks are made (see 3.4), nor does it consider a minimum age limit, beyond the statutory limitations, to be appropriate.

### **3.4 Medical fitness**

There is a general recognition that it is appropriate for HC/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:

- they carry members of the public who have expectations of a safe journey;

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- they are on the road for longer hours than most drivers; and
- they may have to assist disabled passengers and handle luggage.

Sevenoaks District Council supports the widely held view that Group 2 medical standards should also be applied by local authorities to HC/PHV drivers.

All applicants will be required to obtain a Group 2 medical standards certificate signed by their own GP, or another practitioner (registered with the General Medical Council) who have accessed at least 2 years medical records.

Once licensed, a new medical will be required to be undertaken at renewal (every 3 years) or annually once the driver reaches the age of 65 years.

The Group 2 medical standards now include the licensing of drivers with insulin treated diabetes. It is the policy of Sevenoaks District Council to apply the standards to taxi and PHV drivers with insulin treated diabetes. The criteria is summarised in Appendix 3.

Should concerns arise regarding the health of a licensed driver, the Council at any time may request further information or a further medical examination to be carried out and submitted. The Council reserves the right to revoke or suspend a licence if requested information is not submitted within 4 weeks of the request and a satisfactory explanation is not given for the failure to provide such information, or where the information provided raises further concerns as to the applicant's fitness to carry out their duties as a licensed driver.

### **3.5 Criminal record**

Prior to consideration of any application, the Council will obtain from the applicant a Disclosure & Barring Service Enhanced Certificate in respect of the applicant (and access to their online DBS update service account if they have one), to be assessed in accordance with the Council's statement of policy about relevant convictions. This must include a check for working with adults and children.

It is recognised that many vehicles are used for the carriage of children and vulnerable persons and the Enhanced Disclosure is most appropriate.

It will be a mandatory requirement for all drivers to sign up to the online Disclosure & Barring Service update service and to give Sevenoaks District Council authority to access records at any time. The licence holder will be responsible for paying the relevant fee. Six monthly DBS checks will be carried out throughout the duration of a licence or more frequently should this be necessary. Should the Authority not be able to access online records, a driver will still be required to undertake an Enhanced Check, at an additional cost to the driver. If no check is undertaken within 2 months of the 6 month requirement, the licence will be suspended.

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 an Enhanced Certificate from the Disclosure & Barring Service which includes whether an applicant is barred from working with children or adults.

A licence will generally not be granted to any applicant who does not comply with the minimum requirements as set out in the Council's Statement of Policy about Relevant Convictions (see [Appendix 1](#)). Where several minor offences have been committed the Council will take into consideration any pattern of offending. The Council can also take into consideration spent convictions and cautions when determining an application for a driver's licence.

A licence may be suspended or revoked pending the outcome of any investigation or trial where an existing driver is found to be awaiting trial or has been charged with a serious crime relating to:

- Driving or being in charge of a vehicle whilst under the influence of drink or drugs
- A drug related offence
- Indecent exposure, indecent assault or any of the more serious sexual offences or,
- Grievous bodily harm, wounding or assault or,
- Dishonesty

A licence may also be suspended or revoked where information received raises grave doubts as to the fitness of a driver, regardless of whether criminal charges are brought.

Any application from a new applicant charged with a serious offence as outlined above will not be determined until the outcome of that matter has been determined.

Where an existing driver commits an offence and/or breaches the licence conditions/byelaws, the nature and number of incidents will be taken into consideration when considering if the driver continues to be considered "fit and proper".

Complaints in relation to existing drivers will generally be held on file and taken into consideration for a period of three years from receipt. Although where a further warning is issued during this period, the original warning will be kept on file from the date of the most recent warning. Where a licence is revoked for persistent breach of licence conditions a period of 3 to 5 years should generally elapse before a further application is favourably considered.

A licence holder or applicant shall immediately notify the Council of any charges/convictions/cautions (including motoring offences) imposed during the term of their current licence or application.

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The licensing authority provides information to the National Register of Taxi Licence **Refusals, Revocations, and Suspensions** (NR3), a mechanism for licensing authorities to share details of individuals who have had a Hackney Carriage or Private Hire drivers licence revoked, **suspended** or an application for one refused.

Following a decision to **refuse, revoke or suspend** a licence by Sevenoaks District Council as the individual is thought to present a risk of harm to a child or vulnerable adult, the authority shall consider a referral to the DBS under the Safeguarding Vulnerable Groups Act 2006.

### 3.6 Renewal of licences

It is the driver's responsibility to ensure that their licence is renewed prior to the expiry of their current licence.

A licence may be renewed up to 6 weeks prior to the expiry date.

Any licence that is not renewed within 1 month following expiry will not be renewed and a new application in full will be required. A Driving Standards pass certificate will also need to be provided. Any licence that is renewed within the 1 month grace period may be subject to a late fee.

Where a licence holder will not be available at the time of renewal, for example due to an extended holiday, then they may apply in writing to the Licensing Office, prior to the expiry date, explaining their circumstances and request a waiver. If granted, this waiver will allow the licence holder to renew their licence after the expiry date or depending on the circumstances the licence can be renewed early. The date of renewal of the licence will start from the day after the expiry of the previous licence.

In any case, following expiry of a licence, the driver will not be considered licensed and will not be permitted to drive a licensed vehicle until such time as the licence **application and all associated documentation has been received and assessed, and confirmation of this sent in written format to the applicant.**

The Council will endeavour to issue reminder letters at least six weeks prior to the expiry of a licence although there is no statutory duty for the Council to do so and the responsibility ultimately lies with the licensee to ensure that complete applications for renewal are submitted on time. Applicants are encouraged to submit their applications as soon as possible.

At each renewal a current driving licence must be in force, a renewal application must include a completed application form, fee, DBS enhanced check (if not part of the DBS update service), Medical and a generated DVLA check code will be required (and provided on the application form). **It is also a requirement that existing drivers submit an HMRC tax check code to the Authority as evidence they have registered for tax**

purposes with HMRC. A renewal application cannot be processed without this information.

Applicants are encouraged to make their renewal application online.

### **3.7 Change of type of licence**

Licensees wishing to change from holding a private hire licence to a hackney carriage licence will be required to undertake a knowledge test and the wheelchair element of the Driving Standards Assessment (or equivalent) before the licence is issued. The required fee will need to be paid with the application and no refund will be payable in respect of an existing licence.

### **3.8 Surrender/suspension/revocation of licence or failure to complete application**

In the event of the surrender of a driver's licence before its expiry or failure to complete the application process, there shall be no refund of the licence fee.

In the event of a driver's licence being suspended or revoked there shall be no refund of the licence fee.

### **3.9 Driver's dress code**

Sevenoaks District Council is committed to encouraging the professional image of the hackney carriage and private hire trade, and considers that drivers of licensed vehicles are vocational drivers. Therefore, the Council considers that drivers should conform to a minimum standard of dress, as set out in Appendix 4, in order to raise and maintain the profile of the licensed trade. The Authority does not impose such standards by way of conditions to any licence. However, it is expected that such standards will be maintained at all times.

### **3.10 Right of appeal**

Where refusal, suspension or revocation of an application/licence has been advised by an Officer, the applicant/driver will be entitled to request the matter be referred to the Licensing Committee to discuss the concerns, unless the driver has lost his DVLA driving licence in which case revocation will be automatic. During this meeting the applicant/driver will be given every opportunity to state their case in relation to the issue(s) of concern. The Committee on hearing all the facts will decide whether to grant any licence or not.

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Any applicant who is aggrieved by the Council's refusal to grant/suspend/revoke a driver's licence may appeal to a Magistrates Court within 21 days of being notified in writing of the decision.

In line with s61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, as amended by s.52 of the Road Safety Act 2006, where it appears to the Council that it is in the interests of public safety for any revocation to have immediate effect there will be no right to drive as a private hire or hackney carriage driver pending an appeal. This power will only generally be invoked where there are allegations of serious violence offences, offences of a sexual nature or where there is considered to be a serious risk to passengers or members of the public in allowing the driver to continue as a hackney carriage/private hire driver.

### **3.11 Duration of drivers' licences**

A Hackney Carriage or Private Hire Driver's Licence shall be valid for a standard term of three years (unless, for administrative reasons, a shorter period is appropriate).



## 4. Hackney Carriage / Private Hire Vehicle Licences

Section 47(2) of the Town Police Clauses Act 1847 permits a Borough/District Council to require that a hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.

### 4.1 Environmental considerations

The Guidance suggests that licensing authorities may wish to consider how far their vehicle licensing policies can and should support any local environmental policies they have adopted, for example, by considering setting vehicle emissions standards, but bearing in mind the need to ensure that the benefits outweigh costs (in whatever form).

Sevenoaks District Council are committed to working towards achieving net zero carbon emissions by 2030, and have an ambition to assist the District to become net zero by working closely with local communities to improve the resilience of the District to a changing climate. In working towards achieving this, the council must consider the environmental impacts arising from its licensed taxis and PHVs, and seek to help reduce the resultant carbon footprints. This section, and the associated vehicle criteria, will therefore be kept under review.

In support of the council's efforts to reduce air pollution in Sevenoaks however, all vehicles presented for first time licensing from the start date of this policy, other than stretched limousines and Wheelchair Accessible Vehicles will have to meet or exceed the Euro 5 and Euro 6 emission standards.

Emissions from taxis and PHVs can however also be further reduced by encouraging better maintenance of vehicles, such as by way of frequent MOT tests and inspections, and switching off engines when stationary or idling, particularly at taxi ranks.

The Council will keep this matter under review and continue to monitor published research, its air quality monitoring results and recommendations, best practice and Government guidelines, etc. with a view to specifying more stringent vehicle emission and/or inspection standards and promoting cleaner fuels in respect of licensed vehicles as soon as practicable.

The Council would however strongly encourage all applicants and existing licence holders to licence vehicles that are of an electric, hybrid, or other low emission type. Each application will be considered on its merits.

### 4.2 Taximeters

The Authority requires every vehicle licensed as a Hackney Carriage to be fitted with a taximeter. The taximeter shall be of a type which is EU approved or specifically authorised by the Council.

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A Private Hire vehicle may be fitted with a taximeter. If a taximeter is fitted it shall be of a type which is EU approved or specifically authorised by the Council.

### 4.3 Roof signs

The Authority requires all Hackney Carriage vehicles to be fitted with working roof-mounted signs. If the illuminated roof lights have red in them, they must be fitted so that the red light is only visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

The Authority requires that no Private Hire vehicle be fitted with a roof-mounted sign of any kind.

### 4.4 Numbers limit

At the moment there is no restriction on how many hackney carriage vehicles can be licensed, Sevenoaks District Council will seek to address this matter when the need arises and may carry out a demand survey to seek clarification whether there is unmet demand for Hackney carriage vehicles within the whole district.

Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 states that the Council shall grant a private hire vehicle licence provided the Council is satisfied that the vehicle is:

- Suitable in type, size and design for the use of a Private Hire Vehicle;
- Not of such a design and appearance as to lead any person to believe that the vehicle is a Hackney Carriage;
- In a suitable mechanical condition;
- Safe; and
- Comfortable;
- That there is in force in relation to the use of the vehicle a policy of insurance that complies with the Road Traffic Act 1988.

Once licensed, a hackney carriage or private hire vehicle remains a hackney carriage or private hire vehicle until the licence either expires, is suspended or revoked. A licensed vehicle can, subject to very limited exemptions, only ever be legally driven by a driver who holds the relevant hackney carriage or private hire drivers' licence and appropriate insurance.

Sevenoaks District Council will not permit dual plating, therefore once a vehicle is licensed by Sevenoaks District Council it cannot be licensed with any other authority or Transport for London.

### 4.5 Accessibility

Sevenoaks Council is committed to social inclusion and ensuring a wide variety of vehicle types are available for disabled residents to avoid discrimination in terms of travel arrangements.

Since 2016 all new hackney carriage vehicles requiring a new plate have had to be wheelchair accessible. Those non wheelchair accessible vehicles (licensed prior to this date) can be permanently replaced by another non wheelchair accessible vehicle in order to keep a mix of vehicle types available for hire.

Wheelchair accessible vehicles may be either rear or side loading.

It is arguable that different accessibility considerations should apply between hackney carriages and private hire vehicles in that hackney carriages can be hired in the street or at a rank, by the customer dealing directly with a driver. Private hire vehicles, however, can only be booked through an operator. It is considered particularly important that a person with a disability should be able to hire a hackney carriage with the minimum delay or inconvenience.

Drivers who for medical reasons are unable to accept wheelchair passengers or assistance dogs are able to apply to the Council for an exemption certificate. Such a certificate will only be issued on production of medical evidence from the driver's own registered General Practitioner (GP). In relation to exemption from the carriage of assistance dogs a certificate will be issued for the nominated vehicle. Exemption certificates, which show the photograph of the driver and must be displayed in the vehicle at all times the driver is working.

If drivers fail to carry out the duties imposed upon them under the Equality Act 2010 without the appropriate exemptions they will be subject to enforcement action by the Council.

This authority maintains a list of wheelchair-accessible vehicles in accordance with section 167 of the Equality Act 2010; therefore in accordance with s165 additional conditions are imposed on the driver of the said vehicles.

#### **4.6 Applications**

All applications submitted for the initial grant of a licence are advised to apply **at least 12 working days before** the licence is required to allow time for the vehicle to be tested and the licence to be processed.

Application forms must be completed in full, accompanied by all required documents and signed by the applicant and the operator where relevant. Any incomplete forms will be deemed invalid and returned immediately to the applicant.

Applications will only be acceptable as valid if they include and/or are accompanied by the following:

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Application form provided by the Council completed in its entirety and signed by the applicant and operator where relevant.

- Original vehicle registration document showing the applicant to be the registered keeper or other acceptable proof of ownership (the V5 New Keeper Supplement completed by the applicant or an official receipt from a registered company in the case of newly manufactured vehicles).
- When a renewal application is made online the authority will accept scanned documentation or a photograph of the documentation.
- Original documentation will only be required for new vehicles or if there is a discrepancy between the scanned copy held on file by the authority and the scanned/photograph submitted with an online renewal application.
- Certificate of insurance for the vehicle which covers the activity required (i.e. public or private hire) and which is valid on the date that the licence is due to come into force. With online applications we will accept emails from the insurance company sent to [licensing@sevenoaks.gov.uk](mailto:licensing@sevenoaks.gov.uk)

#### **4.7 Licence fee**

All applications must be accompanied by the appropriate fee as prescribed by the Council; the current scale of fees is available from the Council or on our website.

Licensing fees are reviewed on an annual basis and adopted by the Council following advertisement by a notice in a local newspaper. The notice will also be displayed at the Council Offices to allow for any comments to be made.

In the event of the surrender of a vehicle licence before its expiry there is no refund made.

#### **4.8 Insurance**

All hackney carriage and private hire vehicles must be insured for public hire and reward, such insurance to provide cover for fully comprehensive.

**Evidence of insurance cover will be required both upon first licensing and subsequent annual renewal.**

#### **4.9 Testing of vehicles**

In addition to the MOT testing requirements, all licensed vehicles are required to be tested at the Council's nominated testing station for compliance with the Council's policy.

Where concerns arise during the period of the licence regarding the mechanical fitness of a licensed vehicle the Council may request a further test to be undertaken. However, the Licensing Authority cannot require a vehicle to have more than 3 tests per year.

Where an application for a vehicle renewal is made 28 days after the expiry of the licence the application will be considered as a new application and any age restrictions will apply.

Any vehicle failing its examination test will be required to undertake and pass a further examination test before it can be licensed or, in the case of an existing licensed vehicle, before it can continue to be used as a licensed vehicle. This further examination is known as a retest. The proprietor is responsible for the cost of the retest and it must be paid in full prior to further testing taking place.

The Council will suspend a vehicle licence if the vehicle is not presented for its interim test (6 month) by the due date.

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### **4.10 Re-allocation of Expired Hackney Carriage Vehicle Plates**

If, when a hackney carriage licence expires, the vehicle is not re-licensed within twenty-eight days and the owner does not take steps to inform the Council of their intentions, then the plate will be re-allocated. A letter will be sent to the owner of the vehicle advising them that the licence has expired.

### **4.11 Type of vehicle**

In order to assess vehicle suitability, the Council will take into account passenger safety, comfort and the design of the vehicle.

In order to be considered suitable to be licensed as a Hackney Carriage the vehicle must comply with the basic specification set out in Appendix 5A and 5B and pass the Council's vehicle inspection test.

Any vehicle complying with the basic specification set out in Appendix 5 and 5B will be considered suitable to be licensed as a Private Hire Vehicle subject to it complying with the conditions listed in Appendix 5C and passing the Council's vehicle inspection test.

### **4.12 Vehicles powered by Liquid Petroleum Gas (LPG)**

An applicant for a licence involving a vehicle which has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming that the LPG installation conforms with the Association's Code of Practice and is, therefore, considered safe.

If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage, and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.

In exceptional circumstances the Council's basic requirements for vehicles may be waived to facilitate the licensing of Novelty Vehicles although confirmation should be sought from the Licensing Office prior to any application being made. All applications for Novelty Vehicles will be considered on their own merits.

In addition to meeting the relevant vehicle specifications all Private Hire Vehicles, including Novelty Vehicles, will have to comply with the private hire vehicle conditions (Appendix 5C). In the case of novelty vehicles further specific conditions may be applied to the licence.

#### **4.13 Seating capacity**

No vehicle capable of carrying more than 8 passengers can be licensed by the Council.

In order to facilitate the licensing of a wide variety of vehicle types and to encourage more environmentally friendly vehicles the Council has not set a limit on the minimum number of seats but instead requires a minimum space standard per passenger as detailed in the basic specifications for vehicles.

It is the proprietor's and operator's responsibility to ensure that they establish the number of passengers at the time of booking. This is particularly important for those proprietors and operators who choose to utilise smaller vehicles.

#### **4.14 Seating dimensions**

Passenger seats must be at least 400mm wide for each passenger measured along the front of each seat. This criteria also applies where there are folding arms. The front seat of the vehicle next to the driver will be regarded as a seat for one passenger only.

Suitable means must be provided to assist persons to rise from the rear seat with particular attention to the needs of the elderly and disabled.

#### **4.15 Tinted windows**

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

### 5. Private Hire Operators Licence

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.

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

- Are of good repute;
- Have adequate arrangements for monitoring drivers, vehicles and the keeping of records;
- Are capable of ensuring that both themselves and their staff/drivers obey all the rules.
- Have sight of Basic DBS checks on all individuals listed on a register of booking and dispatch staff
- Have a policy in place on employing ex-offenders listed on the register of booking and dispatch staff

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.

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

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.

Applications will only be acceptable if they include the following:

- Application form completed in its entirety and signed by the applicant along with all the information prescribed.
- Application for a Disclosure and Barring Service Basic Check, which can be obtained from DBS or Disclosure Scotland, completed by the applicant with accompanying identification or a current valid disclosure certificate completed within 1 month and obtained via an approved body which will allow an update service check to be performed. **For applications submitted by a company or partnership, each director or partner in that company should submit a basic DBS Certificate, and any changes to directors or partners advised to the Licensing Authority for appropriate further checks to be made.**
- The appropriate fee. The current fees are available online on our website.
- A policy on employing ex-offenders listed on the register of booking and dispatch staff



### **5.1 Criminal Records checks**

Private Hire Vehicle operators are not exceptions to 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.

Before an application for a private hire operator's licence will be considered, the applicant must provide a current (less than one months old) Basic DBS or Scottish Disclosure of Criminal Convictions (issued specifically for Sevenoaks District Council), or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current Driver's Licence with the Council will be exempt from this requirement.

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.

### **5.2 Record keeping**

It is a requirement for operators to keep comprehensive records of each booking. All bookings will be kept for a period of 6 months.

It is also a requirement for operators to keep a register of all booking and dispatch staff and to keep records of sight of basic DBS checks for these staff.

### **5.3 Licence Duration**

The Department of Transport 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; subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances.

### **5.4 Fees**

On receipt of the appropriate fee, the permitted number of vehicles can be increased at any time during the period of the licence.

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### 5.5 Operation

A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.

All three licences:

- private hire operator's licence,
- private hire driver's licence and
- private hire vehicle licence

must be issued by the same Licensing Authority.

### 5.6 Conditions

The Council has power to impose such conditions on a private hire operator's licence as it considers reasonable, necessary and proportionate.

**The Council consider the conditions detailed in Appendix 7 to be reasonable, necessary and proportionate. All private hire operator's licences will be issued with these conditions attached.**

### 5.7 Insurance

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.

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.

The conditions applicable to Private Hire Operator's Licences, as detailed in Appendix 7 require that the operator produces an appropriate certificate of motor insurance which covers every private hire vehicle they operate as well as appropriate public liability insurance for their premises.

### 5.8 Address from which an Operator may operate

Upon the grant of an operator's licence, the Council will specify on the licence the address from which the operator may operate. This address will be the address stated on the application form. 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.

The Council will not grant a licence to an operator whose premises are located outside the district of Sevenoaks. This is to ensure that proper regulation and

enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.

Operators based outside the district who have been granted a licence prior to the adoption of this amendment to policy (2018/19) will retain 'grandfather rights' providing the conditions of the licence are fully met.

### **5.9 Gaming machines**

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.

## **6. Penalty Points Scheme**

Any vehicle that is approached by an Authorised Officer of Sevenoaks District Council in order to carry out a vehicle inspection/driver check must remain until the inspection has been carried out. An exemption to this is if a fare arrives, which the driver is obliged to take or the driver informs the officer of a pre-booked fare prior to the inspection taking place.

Alternatively an Authorised Officer of Sevenoaks District Council may request that you attend the Council offices with the licensed vehicle in order to carry out an inspection.

Sevenoaks District Council has implemented a Penalty points system in order to regulate enforcement and any action required.

This scheme is used to enforce current legislation and any future bye laws in respect of Hackney Carriage Drivers and will be operated as follows:

- 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.
- Where it is decided that the use of the penalty points system is appropriate, the points are issued in accordance with the appendix. 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.
- Penalty points will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place, the matter will be referred in the first instance to the Licensing Manager for consideration regarding further action. The Licensee may be required to appear before the Licensing Committee.
- The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to their employer or operator. However the Council retains the discretion to issue penalty points to drivers,

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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.

- Points issued to either a proprietor or driver will be confirmed in writing within ten working days from the discovery of the contravention.
- When issued, the penalty points will remain “live” for a period of one year from the date they are imposed so that only points accumulated in a rolling twelve month period will be taken into account.
- There is no financial penalty associated with the system and the licensee may continue to work. However, the licensee may be asked to attend either a meeting with the Licensing Manager or attend a hearing of the Licensing Committee if 12 penalty points are imposed on an individual licence in any one 12 month period, where appropriate action will be taken in accordance with this policy.
- Where a driver, proprietor or operator attains more than 12 penalty points, disciplinary options available to the Licensing Committee will include suspension or revocation of the driver’s licence, where appropriate.
- 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.
- 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.
- A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances they deem necessary.
- Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.
- 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.
- The penalty points system outlined in Appendix 9 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.

## **7. Taxi ranks**

### **7.1. Appointed Stands**

Comments are welcomed from either the trade or the public on the need for additional bays in specific locations, the potential for re-locating or extending existing bays or indeed arguments for the removal of bays which no longer fulfil a useful purpose.

### **7.2 Waiting on stands**

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

## **8. Plying for hire**

For the avoidance of doubt, the Council does not have a byelaw requiring hackney carriages to return to a taxi rank between fares. Hackney carriages can, therefore, park and be available for hire in any position where an ordinary member of the public can lawfully park. Hackney carriages are, however, subject to road traffic regulations and should not park in any position that obstructs the highway, the highway being both the road and the footway.

## **9. Taxi/Private hire meetings**

The Council wishes to encourage discussions between the trade and the Licensing Authority, in order to promote a successful working relationship taxi/private hire liaison meetings will take place.

## **10. Departure from the Policy**

There may be instances whereby the Council may need to consider applications outside the policy. Where it is necessary to depart substantially from this policy, clear and compelling reasons for doing so will be given. Any such decision may be referred to the Licensing Committee.

**11. Amendments to the Policy**

All changes to the Policy are agreed by the Licensing Committee and then considered by Full Council.

## **Appendix 1 - Statement of policy about relevant convictions**

When submitting an application for a licence to drive a hackney carriage or private hire vehicle you are required to declare any motoring offences and any non-motoring convictions or cautions you may have in addition to completing a Disclosure & Barring Service check. The information received will be treated in confidence.

The disclosure of a criminal record or other information will not debar you from gaining a licence unless the Authority considers that the conviction(s) renders you unsuitable. In making this decision the authority will consider the nature of the offence, how long ago and what age you were when it was committed, and any other factors which may be relevant. To facilitate a consistent approach the licensing authority has devised guidelines relating to the relevance of convictions and cautions. Any applicant refused a driver's licence on the ground that they are not a fit and proper person to hold such a licence has a right of appeal to Magistrates Court.

If you would like to discuss what effect a conviction might have on your application you may telephone the Licensing Department, in confidence, on 01732 227000 for advice.

### **General**

Notwithstanding the existence of this Policy, each application will be determined on its own merits. Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons will be given for doing so. The purpose of this appendix is to formulate guidelines, consistent with national guidance, which detail the Council's current stance on the relevance of convictions and cautions in respect of applications for the grant of new licences, and the renewal of existing licences, for hackney carriage and private vehicle, driver and operator licences.

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. The applicant can, however, offer any mitigating circumstances relating to the offence that they wish the Council to consider.

For the purpose of this Policy, the acceptance of a fixed penalty notice will be treated as a conviction depending on the individual merits and mitigating circumstances of each case.

### **"Fit and proper" person**

The legislation clearly states that the Council may grant a licence only if it is satisfied that the applicant is a "fit and proper" person.

The onus is on the applicant to demonstrate that they meet this requirement, not on the Council to demonstrate that the applicant does not.

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In considering whether an applicant or licensee is 'fit and proper' (and in line with Statutory Guidance) the Council will pose itself the following question:

*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?*

If, on the balance of probabilities, the answer to the question is 'no', then the 'fit and proper' test will not be considered met, and a licence will not be issued, or in the case of an existing driver, the licence will be suspended or revoked. If the Committee or delegated officer is only 50/50 as to whether the applicant or licensee is 'fit and proper', they should not hold a licence.

In order to further assist in understanding the interpretation of this definition, the Council will be considering issues that assist them in determining whether or not applicants are safe drivers with a good driving record, are mentally and physically fit, are honest, and that they are persons who would not take advantage of their position to abuse, assault or defraud members of the public.

It should be borne in mind that drivers may carry vulnerable members of the public such as elderly persons, unaccompanied children, disabled persons, persons who are incapacitated from alcohol, lone women and foreign visitors. Some examples of areas of concern that the Council will consider include, but are not limited to:

### **Honesty and trustworthiness**

Drivers often have knowledge that a customer is leaving a property empty; they have opportunities to defraud drunken, vulnerable or foreign person; or they have opportunities to abuse their position of trust. For example, all passengers would expect to be charged the correct fare of the journey and be given the correct change; they would expect any lost property to be handed in to the Licensing Authority; and they would expect confidentiality to be maintained between themselves and the driver.

### **Professionalism**

Drivers are often subject to unpleasant, abusive or dishonest behaviour, albeit from a small minority of passengers. Although this is clearly unacceptable behaviour by passengers, it does not excuse in any way aggressive or abusive conduct by drivers. Confrontation should be avoided and all disputes should be resolved through the formal legal channels. Under no circumstances must drivers take the law into their own hands.

### **Good and safe driving ability**

Passengers are paying for a service whereby they expect to reach their chosen destination promptly and safely. Drivers must be fully conversant with all road traffic legislation and this Policy and drive in a professional, lawful and safe manner at all times.



### **Protecting the Public**

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.

### **History**

The Council may take into account an applicant's history as a licence holder with this, or any other Council. In considering whether or not a person is "fit and proper the Council may consider such matters as the applicant's complaint history, their compliance with this Policy, their cooperation with Licensing Officer's requests and any other reasonable matters.

### **Driving offences**

Hackney carriage and private hire drivers should provide a professional service to the public and must be aware of the safety of passengers and other road users at all times. Any traffic offence shows a lack of responsibility whilst driving either in terms of vehicle maintenance or the level of driving standards.

Convictions or cautions for traffic offences will not automatically preclude any applicant from obtaining a licence, however, the number, nature and frequency of such offences will be considered. In some circumstances it may be appropriate to issue a licence together with a written warning as to future driving standards detailing the likely effect of further offences. Where there is a significant history of driving offences, an application is likely to be refused.

In cases of six penalty points or less on an applicant's DVLA driving licence, an application will be granted.

A licence granted under these circumstances is likely to be issued together with a verbal warning as to future driving standards detailing the likely effect of further offences.

In cases of seven penalty points or more on an applicant's DVLA driving licence, an application may be referred to the Licensing Committee for decision.

### **Major traffic offences**

For the purposes of this section, major traffic offences includes, but is not limited to, dangerous driving, driving whilst disqualified, failure to stop after an accident, driving with no/invalid insurance, careless driving, and driving a vehicle with mechanical defectives (such as brakes, steering, tyres, etc..).

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The driving offences of causing death by dangerous or careless driving, due to their nature, will be considered by the Council to be violent offences and should be considered in conjunction with the section of this appendix relating to violent offences.

If the applicant has been convicted of more than one major traffic offence then a licence application will normally be refused until the applicant has completed a period of at least five years free from conviction. Where the combination of offences are considered to be of increased risk to the public, a period longer than five years may be substituted by the Council dependent on the extent of the risk to the public.

### **“Totting Up” under section 35 of the Road Traffic Offenders Act 1988**

Where an applicant has been disqualified from driving by the courts under the “totting up” procedure, the Council will normally refuse an application until there has been a period of three years free of relevant convictions.

**If the applicant has demonstrated to the court “exceptional hardship” and avoided a driving disqualification, applications will still normally be refused until there has been a period of three years free of relevant convictions. The Council believe that the risk to the public is sufficient to maintain this consistent stance.**

### **Motor insurance offences**

An isolated motor insurance offence will not automatically preclude an application form being granted, however the Council deem such offences to be serious given the risk to the public.

More than one conviction for motor insurance offences will be considered to raise serious doubts as to an applicant’s suitability to hold a hackney carriage/private hire driver’s licence. Ordinarily in these circumstances, an application will be refused until such time as a period of three years has elapsed since the restoration of the applicant’s DVLA driving licence.

### **Failure to declare motoring offences**

Where an applicant fails to disclose motoring offences on their application form, even if they have been declared on previous applications or are spent, the Council will normally deal with this by way of issuing penalty points.

If, however, the Council determines that there was a premeditated intention to deceive, the matter will be considered as an offence of dishonesty and dealt with in accordance with that section of this Policy.

### **Drunkness**

Separate consideration will be given to convictions for drunkness whilst in charge of a vehicle as opposed to drunkness whilst not in charge of a vehicle, due to the differing risk to the public.

### **In charge of a motor vehicle**

The Council considers driving or being in charge of a vehicle whilst under the influence of alcohol as a serious offence causing a high element of risk to the public.

A single conviction for any alcohol-related driving offence will normally preclude an application from being granted for a period of five years from the restoration of the DVLA driving licence.

If there is a suggestion that the applicant is an alcoholic, a special medical examination is likely to be required before the application is considered and a referral may be made to the Council's Safeguarding Group. If the applicant is confirmed as an alcoholic, a period of three years must elapse after treatment is complete before an application can be considered.

More than one conviction for any alcohol-related driving offence represents an unacceptable risk to the public and an application will normally be refused.

### **Not in charge of a motor vehicle**

An isolated conviction for drunkenness not associated with driving or being in charge of a motor vehicle will not automatically preclude an application.

Where there is an isolated conviction for disorder and/or drunkenness, a licence will normally be granted together with a written warning as to future driving standards detailing the likely effect of further offences.

More than two convictions for disorder and/or drunkenness will normally lead to refusal of an application until such time as a period of three years free of convictions has elapsed.

### **Drug offences**

The Council considers all offences related to controlled substances as a serious risk to the public.

An applicant with a conviction of any Class A or Class B drug related offence, including supplying or trafficking, will be required to show a period of five to ten years free of convictions before an application is considered. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

An applicant with a conviction of any Class C drug related offence will be required to show a period of at least three years free of conviction

In all cases, where an applicant has been medically classed as an addict, an application will be precluded until such time as a period of five years has elapsed since the completion of a recognised detoxification programme.

### **Sexual or indecency offences**

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As hackney carriage and private hire drivers often carry unaccompanied and/or vulnerable people, any applicant with a conviction or caution for any sexual or indecency offence will normally be refused a licence until they have been free of convictions for a period of at least ten years. The length of period over and above the minimum ten years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

Existing licence holders should be aware that if the Council receives notification from the police that the driver is being investigated for a sexual or indecency offence, their licence will normally be revoked with immediate effect pending the outcome of the investigation.

### Major sexual or indecency offences

For the purpose of the Policy, the following offences will be considered as major sexual or indecency offences with the highest of risk to the public.

- rape
- ~~indecent assault~~ sexual assault
- gross indecency
- possession of child pornography
- ~~buggery~~ assault by penetration
- ~~sexual assault of a child~~ indecent assault of a child

Any applicant with a conviction for a major sexual or indecency offence will be considered an unacceptable risk to the public and any application will be refused, save for exceptional circumstances.

### Violent offences

The Council considers all violence related offences as a serious risk to the public.

An application will normally be refused where the applicant has been convicted of murder, manslaughter or causing death by careless or dangerous driving.

An application will normally be refused where the applicant has a conviction for a violent offence, other than those listed above, unless there has been a period of five to ten years free of convictions. The length of period over and above the minimum five years will be dependent on factors such as the nature and severity of the offence, and the length of any custodial sentence.

Offences of criminal damage and public order will be treated as violent offences for the purposes of this Policy.

Whilst an isolated conviction for a violent offence, other than those listed above will not necessarily permanently preclude an application, the Council will have grave concern for public safety if an applicant has committed multiple violent offences.

### **Multiple offences**

In all cases where an applicant has more than two convictions for violent offences, as application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

### **Possession of a weapon**

If an applicant has been convicted of an offence involving the possession of a weapon, or any other weapon-related offence, the Council considers this to be an unacceptable risk to members of the public and the application will normally be refused. In the case of an existing driver, their licence will normally be revoked.

### **Dishonesty**

Hackney carriage and private hire drivers are expected to be persons of trust. It is comparatively easy for dishonest drivers to defraud the public, for example, by demanding more than the legal fare or giving incorrect change. Overseas visitors can be confused by the change in currency and become vulnerable to an unscrupulous driver. Equally, any customers can be defrauded by a driver taking them by any other than the shortest route or by them retaining lost property left in the vehicle.

As members of the public entrust themselves to the care of licensed drivers, the Council consider offences involving dishonesty as a serious risk to public safety.

An applicant that has been convicted of an offence related to dishonesty will normally be refused a licence until such time as they have been free of convictions for a period of five to ten years. The length of period over and above the minimum five years will be dependent of factors such as the nature and severity of the offence, and the length of any custodial sentence.

### **Other offences**

If the applicant has declared any other offences not specifically covered by this policy on the relevance of convictions, the application may be referred to the Licensing Committee for determination in line with the Policy Objectives.

~~Receipt of any of the following may result in the licence holder being required to provide annual DBS disclosures until a period of five years has expired.~~

- criminal conviction
- final warning letter from the Council
- period of suspension of an existing licence.

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### **Outstanding charges or summonses**

If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration may be made at committee.

If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

### **Non-conviction information**

If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests they could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.

In assessing the action to take, the safety of the travelling public must be the paramount concern.

### **Cautions**

Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

### **Summary**

Except in the most serious of circumstances, an applicant having a previous or current conviction will not normally be permanently precluded from obtaining a hackney carriage/private hire driver's licence.

The Council believe that a person convicted of an offence, who is required to wait for the expiry of a rehabilitation period prior to their application being considered, is more likely to value their licence and ensure that future convictions are avoided.

The Council consider that there are, however, certain offences that are so serious in nature or frequency that an applicant should be precluded from obtaining or retaining a licence. The Council's over-riding policy objective is to safeguard the safety of the

general public by ensuring that all licensed drivers are safe, competent, and are able to maintain their vehicles to an acceptable standard.

By producing clear and transparent guidelines on the relevance of convictions, the Council is seeking to maintain the high standard of hackney carriage and private hire drivers, proprietors and operators within Sevenoaks.

### **Existing licence holders**

Any existing licence holder convicted of an offence during the period of their current licence will be subject to the above policy relating to the relevance of convictions. In circumstances where a new applicant would normally have their application refused, an existing licence holder would normally have their licence revoked.

### **Principles of the Rehabilitation of Offenders Act 1974 (“the 1974 Act”)**

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. The possibility of rehabilitation, and the length of time before the rehabilitation occurs, depends on the sentence imposed and not the offence committed. Where a person is sentenced to imprisonment for a period exceeding thirty months, the convictions can never be spent.

Despite the above general principles, the Act does not apply to applicants for hackney carriage and private hire driver’s 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.

Although the 1974 Act does not prevent any judicial authority, including the Council acting as the licensing authority, from taking spent convictions into account, such convictions 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.

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

The licensing authority provides information to the National Register of Taxi Licence Refusals, Revocations and Suspensions (NR3), a mechanism for licensing authorities to share details of individuals who have had a Hackney Carriage, Private Hire, or Dual drivers licence revoked, an application for one refused, or a suspension issued. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a Hackney Carriage/ PHV drivers licence. This authority issues Hackney Carriage, Private Hire and Dual driver licences.

On this basis:

- Where a Hackney Carriage, Private Hire, or Dual drivers licence is revoked, an application for one refused, or a suspension issued, the authority will record this decision on NR3;

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- All applications for a new licence or licence renewal will be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of applying for/being granted, a Hackney Carriage, Private Hire, or Dual drivers licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it.

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR) or any subsequent legislation. Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom. If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer.



## **Appendix 2 - Vehicle test standards**

Sevenoaks District Council will not licence any vehicle that is classed as a Category S insurance write off.

### **Licence Plates - currently licensed vehicles**

Where vehicles are presented with licence plates affixed such licence plates in the case of both Hackney Carriages and Private Hire vehicles shall be securely affixed as follows;

#### **External Plate**

External Plates should be fixed under the rear number plate. Elsewhere on the rear exterior bodywork is acceptable (i.e. bumper, boot) subject to the agreement of the Council, provided always that the plate is fixed in the vertical plane; the external plate should never be displayed inside the rear window of the vehicle.

#### **Internal Plate**

Internal Plates should be inside the vehicle on the left hand side of the front windscreen and in plain view of the passengers but avoiding the windscreen wiper area.

#### **Fare Chart**

The Fare Chart should be securely affixed inside the vehicle in such a position that it is clearly visible to passengers and shall contain a copy of the current maximum Hackney Carriage Fare Tariff as currently adopted by the Council (or, if vehicle is Private Hire, the Operator's fares if they are displayed). The vehicle plate number will be shown on the fare chart together with details of how the passenger(s) can make a complaint regarding the vehicle or driver.

#### **Insurance**

A valid copy of the insurance certificate appertaining to the tested vehicle shall be available inside the vehicle.

#### **The standard of the Test**

Any vehicle tested must reach the standards specified within this appendix and be certified roadworthy to MOT standards.

Vehicles of a class that are not subject to EU Type approval, and are being tested for the first time will be additionally tested to ensure tyres, weight limits and any other aspect of the vehicle are safe and mechanically sound as possible for the safety of the passenger. Costs of such additional testing must be paid by the person wishing to licence the vehicle. In addition the history of the vehicle will be taken into consideration when determining whether the vehicle should be licensed.

#### **Exterior bodywork and wheel trims**

The bodywork of the vehicle shall be in good condition and shall be as originally fitted by the manufacturer. Minor paint chipping, scuffmarks or very small dents may be

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accepted, provided that their extent does not impinge materially on the overall appearance of the vehicle. Wheel trims must be fitted to all road wheels where part of a manufacturer's original

### **Upholstery**

All upholstery shall be clean and in a well maintained condition. No tear, crack, hole or burn will be acceptable if greater than 25 mm in any dimension. Upholstery includes seats, headrests, armrests, carpets and other trim.

### **Fittings**

All fittings shall be properly maintained and in good working order. Fittings include clocks, interior lights, sun blinds, door surrounds, grab handles, other equipment provided for passenger comfort and any equipment in, on or forming part of the vehicle including wheelchair ramps and securing fittings where the vehicle is to be licensed to carry wheelchair bound passengers.

### **'No Smoking' signs**

In accordance with legislative requirements a 'No Smoking' sign(s) will be exhibited within the vehicle and such sign(s) will be of the approved type.

### **Roof and floor coverings**

Shall be clean and in good condition. No tear or other damage shall exceed 25 mm in length.

### **Number of passengers allowed (the term 'passenger' or "person" includes a child or young person)**

At the time of testing a vehicle, the number of passengers which may be carried, (up to a maximum of 8 persons), will be calculated as follows subject to there being one seat belt provided per passenger:

- a) where separate seats for each person are provided, one person for each seat;
- b) where continuous seats are fitted, one person for each complete length of 400mm measured along the front of each seat, and this criterion also applies where there are folding arms;
- c) where there is no separate seat for the driver, i.e. there is a continuous seat, for a right hand drive vehicle, the driver's seat shall comprise so much of the seat as extends from the right hand edge of the seat to a point 450 mm left of the point on the seat directly in front of the centre of the steering column.

### **Taximeters (and Fare Tables for Private Hire Vehicles)**

All Hackney Carriage vehicles licensed or to be licensed shall have a taximeter fitted. Private Hire vehicles, licensed or to be licensed, may have a taximeter fitted. ~~Any vehicle fitted with a meter shall be tested on the road by reference to a measured~~

~~distance to establish that the taximeter is accurate. In relation to Hackney Carriages the test shall be to establish that the meter does not produce a fare in excess of the maximums prescribed the current Hackney Carriage Fare Tariff approved by the Council. In relation to Private Hire vehicles the test shall be to establish that the meter does not produce a fare in excess of the operator's current fares. Meters will be sealed at the point of calibration.~~ Where a Private Hire Vehicle is fitted with a taximeter a table showing the current fares of the operator shall be displayed inside the vehicle in such a position that it is clearly visible to passengers. In all cases taximeters shall be fitted in such way that they are visible to passengers.

Taximeters fitted to Hackney Carriages (and Private Hire vehicles, if provided with one), must be EU approved or specifically approved by the Council.

### **Disabled person's facilities**

Where a vehicle is fitted with any facilities to assist disabled persons in entering or exiting the vehicle (i.e. swivel seats or similar or wheelchair facilities) such facilities shall be checked for proper operation. Wheelchair lifting equipment must comply with the Lifting Operations Lifting Equipment Regulations 1998 B.

### **Roof signs**

A Hackney Carriage must have a roof "TAXI" sign. Such wording shall be displayed conspicuously in either the front or the rear of the roof mounted display facing either the front or the rear. The sign may be in any position on the roof. The sign shall be illuminated and capable of being turned on and off (preferably via the meter but manual off/on is acceptable). No "TAXI" sign is allowed inside a vehicle. In addition to the word "TAXI" the sign may also contain the words "for Hire" and a taxi firm's telephone number and name. If the vehicle is available for hire the roof light must be illuminated.

A Private Hire vehicle shall not have any roof-mounted sign, or any similar sign inside the vehicle, or any other "thing" which may be mistaken/construed as a Hackney Carriage sign.

### **Doors**

A vehicle shall have four side opening doors (designed for the purpose of permitting persons access to/from the interior) - any lift-up tailgate shall not be included;

or

A vehicle shall have three side opening doors (designed for the purpose of permitting persons access to/from the interior) and two rear opening doors (designed for the purpose of permitting persons access to/from the interior)

### **Windows**

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

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### **Company advertising**

For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).

For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area to the rear of the centre of the front wheels and the rear light cluster.

Subject to the above a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail/social media address or web site, or advisory notices to do with smoking, but lettering height must be a minimum of 75mm and maximum of 150mm.

No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.

In the case of Private Hire vehicles company advertising is subject to the specific exclusion of the words "taxi" or "cab" the use of which is not permitted.

Advertising, not relating to a hackney carriage vehicle's proprietor or company, is allowed under certain circumstances and will have been approved by the Council in writing. The written approval must be carried in the vehicle. No such advertising is permitted on a private hire vehicle

### **Luggage space - vehicle boots (and spare wheel in LPG powered vehicles)**

The space provided in the vehicle for luggage stowing whether or not the vehicle has a separate luggage boot shall be clean and tidy with space available for luggage to be stowed.

If the vehicle is powered by Liquid Petroleum Gas and the LPG fuel tank has been installed in the boot space there shall remain free an amount of space for the stowage of a reasonable amount of luggage and any spare wheel displaced as a result of the tank installation must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.

Any vehicle adapted or constructed for the use of liquid petroleum gas must be examined to ensure such adaptation or construction complies with the guide lines as laid down by the L P Gas Association and the appropriate certificate(s) and window display is shown.

### **Driving position**

The vehicle must be right hand drive unless the vehicle is a 'stretched limousine'.

**Mechanical person lift**

If a mechanical person lift is fitted to the vehicle a current test certificate showing compliance with the Lifting Operations Lifting Equipment Regulations 1998 B must be produced at the time of the vehicle compliance test.

**Taximeters for Private hire vehicles**

A Private Hire vehicle may be fitted with a taximeter. If a taximeter is fitted it shall be of a type which is EU approved or specifically authorised by the Council.

**Roof signs**

The Authority requires that no Private Hire vehicle be fitted with a roof-mounted sign of any kind.

### **Appendix 3 - Assessing applicants and existing drivers for a Hackney Carriage/Private Hire Driver**

Assessing applicants and existing drivers for a Hackney Carriage Private Hire Vehicle driver licence in accordance with group 2 standards.

The following arrangements mean that those with good diabetic control and who have no significant complications can be treated as “exceptional cases” and are not therefore precluded from being licensed as HC/PHV drivers.

The criteria are:

- To have been taking insulin for at least 4 weeks
- Not to have suffered an episode of hypoglycaemia requiring the assistance of another person whilst driving in the last 12 months;
- To attend an examination by a hospital consultant specialising in the treatment of diabetes at intervals of not more than 12 months and to provide a report from such a consultant in support of the application which confirms a history of responsible diabetic control with a minimal risk of incapacity due to hypoglycaemia;
- To provide evidence of at least twice daily blood glucose monitoring at times when driving either a hackney carriage or PHV vehicle;
- To have no other condition which would render the driver a danger when driving a hackney carriage or PHV; and to sign an undertaking to comply with the directions of the doctor(s) treating the diabetes and to report immediately to the Licensing Authority any significant change in condition.

## **Appendix 4 - Drivers voluntary dress code**

In order to raise and maintain the profile of the licensed trade Sevenoaks District Council is committed to encouraging the professional image of the trade and it considers that drivers should conform to a minimum standard of dress, as set out below. Whilst the Authority does not wish to impose such standards by way of conditions to any licence it expects, however, that such standards will be maintained at all times.

### **Acceptable standards of dress**

- Shirts, blouses, T-shirts or sweat tops should cover the shoulders and be capable of being worn inside trousers or shorts.
- Shirts or blouses may be worn with a tie or open necked.
- Shorts of knee length or trousers / jeans may be worn.
- Footwear for all drivers shall fit around the heel of the foot.

### **Unacceptable standard of dress**

The following are deemed unacceptable:

- Clothing not kept in a clean condition, must be free from holes, rips or odours.
- Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- Sportswear (e.g. football/rugby kits, track suits) or beach wear etc.)
- Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- Drivers not having either the top or bottom half of their bodies suitably clothed (see above).

### Appendix 5 - Specifications relating to Hackney Carriage Vehicles

No vehicle shall be licensed as a hackney carriage unless it is fit for public service and complies with the specifications set out below.

#### Licences

All Vehicle Licences shall be valid for a standard term of one year (unless for administrative reasons a shorter period is appropriate).

#### Age

Subject to the exceptions below;

- The Authority will not license a vehicle, for the first time, if it ~~is more than 6 years old and/or~~ has travelled greater than 100,000 miles ~~and (other than stretched limousines and Wheelchair Accessible Vehicles) will have to meet or exceed the Euro 5 and Euro 6 emission standards~~ (apart from in exceptional circumstances at the discretion of an authorised officer).
- The Authority will not re-license a vehicle if it is more than 10 years old (15 years for wheelchair accessible vehicles, ~~hybrid, electric and LPG vehicles~~) - apart from in exceptional circumstances at the discretion of an authorised officer.

#### Exceptions

Subject to a vehicle being considered mechanically fit for a further year of service the following types of vehicle are exempt:

- Purpose built taxis
- Wheelchair accessible vehicles, ~~hybrid, electric and LPG vehicles~~ (these vehicles will be licensed until they are 15 years old but not older than 15 years old)
- Limousines, which must have a minimum engine capacity over 3,000 cc/Specialist Vehicles

#### Type limitations

The Authority will not license a vehicle unless it meets the following criteria:-

- a) The vehicle shall have four side opening doors (designed for the purpose of permitting persons access to/from the interior) - any lift-up tailgate shall not be included; or a vehicle shall have three side opening doors (designed for the purpose of permitting persons access to/from the interior) and two rear opening doors (designed for the purpose of permitting persons access to/from the interior). Any vehicle's suitability for licensing will also be determined by the positioning of its seating, fittings and fixtures for the ingress and egress of passengers and their safety.



- b) The vehicle is right-hand drive unless the vehicle is one known as a 'stretched limousine' licensed for private hire use and paragraphs (a), (c) and (d) of this part of the policy will be construed accordingly.
- c) The vehicle must have E.U Type Approval
- d) if (c) cannot be satisfied then a Department of Transport Certificate of Single Vehicle Approval must be produced.

The Authority will allow advertisements to be placed upon a vehicle subject to the following conditions:

- For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).
- For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area to the rear of the centre of the front wheels and the rear light cluster.
- Subject to the above, a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail/social media address or web site but lettering height must be a minimum of 75mm and maximum of 150mm.
- No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.
- In the case of Private Hire Vehicles advertising is subject to the specific exclusion of the words "taxi", "cab" or "hire" the use of which is not permitted.
- Advertising, not relating to the vehicle's proprietor or company, may, under certain circumstances, be allowed on a hackney carriage vehicle on submission of a written request and details of the advertisement to the Council. Each request will be considered entirely on its own merits and, if approved, the written authority must be carried in the vehicle. No such advertising is permitted on a private hire vehicle.

### **Licence plate content**

The external and internal licence plate issued by the Authority will include the following information;

- Licence No.
- Registration No.
- Vehicle make/Type.
- ~~Licence expiry date.~~
- No. of passengers.

### **Minimum number of passengers to be carried**

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No vehicle capable of carrying more than 8 passengers can be licensed by the Council.

In order to facilitate the licensing of a wide variety of vehicle types and to encourage more environmentally friendly vehicles the Council has not set a limit on the minimum number of seats but instead requires a minimum space standard per passenger as detailed in the basic specifications for vehicles.

### **Vehicle test standards**

The Authority will not license a vehicle unless the person examining it (for the Authority) has confirmed that it meets the standards specified and, at the same time, the vehicle has been certified roadworthy to MOT standard.

Vehicles of a class that are not subject to 'EU Type approval' and are being tested for the first time will be additionally tested to ensure tyres, weight limits and any other aspect of the vehicle are safe and mechanically sound as possible for the passenger. Costs of such testing must be paid by the person wishing to licence the vehicle. In addition, the history of the vehicle will be taken into consideration when determining whether the vehicle should be licensed.

A vehicle is required to be re-examined, when the licence has been in force for six months, to ensure that it continues to meet the standards referred to above.

### **Vehicles powered by Liquid Petroleum Gas (LPG)**

An applicant for a licence involving a vehicle which has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming that the LPG installation conforms with the Association's Code of Practice and is, therefore, considered safe.

If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage, and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.

### **Tinted windows (without prejudice to the Road Vehicles (Construction & Use) Regulations 1986)**

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

## Matters relating to Hackney Carriage vehicles only

### Accessibility

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 which 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.

Sevenoaks District Council is committed to promoting inclusive and accessible environments and ensuring a wide range of opportunities are available to residents with disabilities 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, Sevenoaks District 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. This Authority will therefore keep this section of the policy constantly under review.

Sevenoaks District Council is aware of the Government's proposals to implement the provisions of the Equality Act 2010 in relation to hackney carriages. The Government announced its proposals for taxis in 2003 and since that time has been consulting and gathering further information.

The Government is now considering how best to bring forward requirements for accessible taxis, and this includes evaluation of all options, both regulatory and non-regulatory approaches are being considered.

The ECMT-IRU recommendations for taxi vehicle accessibility are based on two design levels:

- Type One: Wheelchair Accessible Taxis: accessible vehicles capable of carrying the majority, but not all, passengers who travel in their wheelchair as well as people with other disabilities;
- Type Two: Standard Accessible Taxis: vehicles with features designed to make use by disabled people easier, but which would only be able to carry a wheelchair user who can transfer to a taxi seat.

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### **Restriction on numbers of Licensed Vehicles**

Although at the moment there is no restriction on how many hackney carriage vehicles can be licensed, Sevenoaks District Council will seek to address this matter when the need arises and may carry out a demand survey to seek clarification whether there is unmet demand for Hackney carriage vehicles within the whole district.

### **Re-allocation of expired Hackney Carriage Vehicle Plates**

If, when a hackney carriage licence expires, the vehicle is not re-licensed within twenty-eight days and the owner does not take steps to inform the Council of his/her intentions, then the plate will be re-allocated. A letter will be sent to the owner of the vehicle advising them that the licence has expired.

### **Taximeters**

The Authority requires every vehicle licensed as a Hackney Carriage to be fitted with a taximeter. The taximeter shall be of a type which is EU approved or specifically authorised by the Council.

The Authority requires all Hackney Carriage vehicles to be fitted with working roof-mounted signs. If the illuminated roof lights have red in them, they must be fitted so that the red light is only visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

## **Appendix 5A - Hackney carriage vehicle conditions**

### **Meanings**

In these conditions, unless otherwise indicated,

“the Council” means the Sevenoaks District Council; and

“the district” means the area of the Sevenoaks District Council

“proprietor” means a person who is the holder of a licence issued by the Council under section 37 of the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976

“vehicle” means the vehicle that is specified on that licence.

### **Fixing of vehicle plates**

The proprietor must ensure that the identification plate and fare chart, which have been supplied by the Council, are fixed and maintained in the positions specified and are kept in a clean and legible condition.

### **External Plate**

Under the rear registration number plate or, in exceptional circumstances, another position near that location subject to the Council's prior approval.

### **Internal Plate**

Inside the vehicle on the left hand side of the front windscreen and in plain view of the passengers but avoiding the windscreen wiper area.

### **Fare Chart**

In a conspicuous position inside the passenger compartment of the vehicle so that it can be read by passengers.

### **Roof signs**

The Authority requires all Hackney Carriage vehicles to be fitted with working roof-mounted signs. The proprietor must fix a sign on the roof of the vehicle of a design acceptable to the Council. The sign must have the word TAXI printed on it. It may also have printed upon it the words FOR HIRE and the name and/or telephone number of the proprietor's taxi firm. If the illuminated roof lights have red in them, they must be fitted so that the red light is only visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

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### **Advertising and other signs**

The proprietor must not permit any advertising on or in the vehicle which is not advertising their taxi firm unless authorised to do so by the Council in writing.

The proprietor must not permit any sign or mark other than those required or allowed in paragraphs 1 and 2 except with the express consent of the Council.

Advertisement of the proprietor's taxi firm must be in accordance with the following criteria:

- For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).
- For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area to the rear of the centre of the front wheels and the rear light cluster.
- Subject to (1) and (2) the above a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail address or Web site, or advisory notices to do with smoking, but lettering height must be a minimum of 75mm and maximum of 150mm.
- No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.

### **No smoking**

In accordance with legislative requirements a 'No Smoking' sign(s) will be exhibited within the vehicle and such sign(s) will be of the approved type.

### **Card payment facilities**

The proprietor shall ensure that passengers are able to make payment by debit card or credit card via a contactless card payment facility.

The proprietor shall ensure that all drivers of the vehicle are trained on how to use the card payment system and are aware that passengers must be able to make payment in this manner.

Where a fault in the card payment system is identified, the proprietor must notify the Council's Licensing Team and arrange repair/replacement within 2 working days.

### **Spoilage of the interior of the vehicle by passengers**

Where a passenger has spoiled the interior of the vehicle any dispute in this respect including any claim for damages shall be a matter between the proprietor and the passenger.

The above wording shall be reproduced in plainly visible lettering on the fare chart.

**Wheelchair signs**

Subject to the provisions of paragraph 2 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.

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### **Carriage of animals other than guide/hearing/assistance dogs**

The proprietor has discretion as to whether the vehicle is used to convey an animal other than a guide or hearing dog within the meaning of Section 173 of the Equality Act 2010. When a guide/hearing/assistance dog etc. is conveyed, no extra charge shall be made. Conveyance of a guide or hearing dog etc. may only be declined if the driver of the vehicle has been granted a statutory exemption on medical grounds.

### **Production of certain documents**

The proprietor must at any time by demand of an officer of the Council produce for inspection any or all of the following documents;

- A current, valid, certificate of motor insurance, or cover note valid for at least 28 days for the vehicle that provides insurance cover for it as a Hackney Carriage;
- A current, valid, MOT test certificate for the vehicle as required by S47 of the Road Traffic Act 1988;
- The current proprietor's Hackney Carriage Vehicle licence for the vehicle; and
- The vehicle's V5 Registration Document.

### **Motor insurance certificate**

The proprietor must at all times ensure that the vehicle is properly insured for use as a Hackney Carriage and a copy of the insurance certificate should be available inside the vehicle whilst it is licensed as a Hackney Carriage.

### **Damage to the vehicle**

The proprietor must, in the event of any damage to the vehicle materially affecting its safety, performance, appearance or comfort or convenience of passengers, report the occurrence to the Council's **Licensing Team** with 72 hours in accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976 and the vehicle must not be used for hire again without the approval of the Council's **Licensing Team**.

### **Taximeter**

The proprietor must ensure that the vehicle is fitted with an EU or Council approved taximeter and the taximeter:

- Is calibrated at all times with a tariff not higher than the current Hackney Carriage Fare Tariff approved by the Council.
- Is not tampered with in any way so as to effect the production of a fare that exceeds the maximum fare laid down by the current Hackney Carriage Fare Tariff approved by the Council.
- When its machinery is in action, records on its face, in figures clearly legible and free from ambiguity, the fare which the driver is entitled to demand and take for the hiring of the carriage.
- Has the word 'fare' printed on its face in plain letters so that the word clearly applies to the fare recorded thereon.



- Is positioned so that all letters and figures on its face are plainly visible to any passengers and for that purpose the letters and figures are suitably illuminated during any period of hiring.

### **Maximum fare**

When the vehicle is hired the proprietor must not in any circumstances require or cause to be charged a fare which is greater than that authorised by the Council's current Hackney Carriage Fare Tariff.

### **Drivers**

The proprietor must ensure that each person who drives the vehicle;

- holds a current and valid Hackney Carriage Drivers Licence issued by the Council.
- is acquainted with and understands their licence conditions and related statutory provisions.
- observes Council Byelaws and related statutory provisions.

### **Breakdowns etc.**

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

### **Lost property**

In relation to property which has been left, or may have been left, in the vehicle by passengers the proprietor must;

- search the vehicle daily to establish whether or not there is any such property;
- if any such property is found, notify the Council's **Licensing Team** within 72 hours and provide a description of the property;
- take reasonable steps to secure the return of the property to its owner.

### **Presentation of the vehicle for inspection**

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 Hackney Carriage without the Council's approval.

### **Disclosure of convictions/cautions**

The proprietor must notify the Council in writing of any convictions or cautions imposed on him/her whilst the licence is in force. Such notification must occur within 21 days of the imposition of a conviction/caution.

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### **Transfer of hackney carriage interest in the vehicle.**

If the proprietor, or part proprietor, transfers their Hackney Carriage interest in the vehicle to another person or persons the proprietor, or part proprietor, must notify the Council's **Licensing Team** within 14 days of the date of the transfer and specify the name and address of each person to whom the interest has been transferred. (The Council may, with reasonable cause, revoke, suspend or review the licence if it considers any transferee is not a suitable person to hold a Hackney Carriage Vehicle Licence).

A fee and change of ownership form must also be submitted to the Council's **Licensing Team** with a valid insurance document, V5 registration document and a current MOT test certificate whenever a vehicle is sold to another licensed driver.

### **Complaints by hirers**

The proprietor of the vehicle must ensure that, should any complaint be made regarding the vehicle or its driver, then sufficient information must be given to the complainant for that person to be able to identify the driver and/or the vehicle and the means of pursuing such complaint with the Council if necessary by giving the details of the Officer Licensing 'Taxis' their office address, name and telephone number.

### **Use of trailers**

The vehicle may tow a trailer only when one is required in order to convey a hirer's luggage. If a trailer is towed it shall;

- comply with the towing weights specified by the vehicles' manufacturer;
- provide secure and weatherproof stowage for the luggage; and
- have displayed, upon its rear, the vehicle's licence plate.

The vehicle is not permitted to have a trailer in tow whilst it is standing on a taxi rank.

### **Other matters**

The proprietor must ensure that;

- the vehicle is provided with sufficient means by which passengers may communicate with the driver and such means of communication are maintained.
- the vehicle is maintained in a clean, comfortable, safe, watertight, mechanically sound and roadworthy condition.
- at all times windows that are designed to open shall do so in accordance with manufacturer's specifications.
- at all times, the area designed for the stowage of luggage is kept clear and available for the purpose.

### **Tinted windows**

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

## Appendix 5B - Specifications relating to Private Hire Vehicles

### Licences

All Vehicle Licences shall be valid for a standard term of one year (unless for administrative reasons a shorter period is appropriate).

### Age

Subject to the exceptions below;

- The Authority will not license a vehicle, for the first time, if it ~~is more than 6 years old and/or~~ has travelled greater than 100,000 miles ~~and (other than stretched limousines and Wheelchair Accessible Vehicles) will have to meet or exceed the Euro 5 and Euro 6 emission standards~~ (apart from in exceptional circumstances at the discretion of an authorised officer).
- The Authority will not re-license a vehicle if it is more than 10 years old (15 years for wheelchair accessible vehicles, ~~hybrid, electric and LPG vehicles~~) - apart from in exceptional circumstances at the discretion of an authorised officer.

### Exceptions

Subject to a vehicle being considered mechanically fit for a further year of service the following types of vehicle are exempt:

- Purpose built taxis
- Wheelchair accessible vehicles, ~~hybrid, electric and LPG vehicles~~ (these vehicles will be licensed until they are 15 years old but not older than 15 years old)
- Limousines, which must have a minimum engine capacity over 3,000 cc/Specialist Vehicles.

### Type Limitations

The Authority will not license a vehicle unless it meets the following criteria:-

- a) The vehicle shall have four side opening doors (designed for the purpose of permitting persons access to/from the interior) - any lift-up tailgate shall not be included; or a vehicle shall have three side opening doors (designed for the purpose of permitting persons access to/from the interior) and two rear opening doors (designed for the purpose of permitting persons access to/from the interior). Any vehicle's suitability for licensing will also be determined by the positioning of its seating, fittings and fixtures for the ingress and egress of passengers and their safety.
- b) The vehicle is right-hand drive unless the vehicle is one known as a 'stretched limousine' licensed for private hire use and paragraphs (a), (c) and (d) of this part of the policy will be construed accordingly.

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- c) The vehicle must have E.U Type Approval
- d) If (c) cannot be satisfied then a Department of Transport Certificate of Single Vehicle Approval must be produced.

### **Environmental considerations**

~~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.~~

~~It is considered that efforts should be made, through the licensing policy, to improve, as far as possible, the efficiency of vehicles licensed in the District by, in particular, reducing the levels of CO<sub>2</sub> emitted from petrol vehicles and the equivalent from diesel. There is a movement towards the use of alternative fuels and in many areas LPG conversions to vehicles are perfectly acceptable and encouraged. This will, however, be dependent on supplies of such fuel being made readily available. It may also be the case that the installation of storage tanks into vehicles may affect the ability to carry luggage.~~

~~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.~~

~~In view of the above detail, unless more urgent measures are introduced by central government in the meantime, this Council will monitor any research published and Government guidelines with a view to specifying vehicle emissions standards and promoting cleaner vehicles.~~

### **Advertising**

The Authority will allow advertisements to be placed upon a vehicle subject to the following conditions:

- a) For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).
- b) For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of

such a vehicle it must be contained within the area to the rear of the centre of the front wheels and the rear light cluster.

- c) Subject to the above, a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail address or Web site, but lettering height must be a minimum of 75mm and maximum of 150mm.
- d) No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.
- e) In the case of Private Hire Vehicles advertising is subject to the specific exclusion of the words "taxi", "cab" or "hire" the use of which is not permitted.
- f) Advertising, not relating to the vehicle's proprietor or company, may, under certain circumstances, be allowed on a hackney carriage vehicle on submission of a written request and details of the advertisement to the Council. Each request will be considered entirely on its own merits and, if approved, the written authority must be carried in the vehicle. No such advertising is permitted on a private hire vehicle.

### **Licence Plate Content**

The external and internal licence plate issued by the Authority will include the following information;

- Licence No.
- Registration No.
- Vehicle make/Type.
- ~~Licence expiry date.~~
- No. of passengers.

### **Minimum number of passengers to be carried**

No vehicle capable of carrying more than 8 passengers can be licensed by the Council.

In order to facilitate the licensing of a wide variety of vehicle types and to encourage more environmentally friendly vehicles the Council has not set a limit on the minimum number of seats but instead requires a minimum space standard per passenger as detailed in the basic specifications for vehicles.

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### **Vehicle Test Standards**

The Authority will not license a vehicle unless the person examining it (for the Authority) has confirmed that it meets the standards specified in Appendix 1 and, at the same time, the vehicle has been certified roadworthy to MOT standard.

Vehicles of a class that are not subject to 'EU Type approval' and are being tested for the first time will be additionally tested to ensure tyres, weight limits and any other aspect of the vehicle are safe and mechanically sound as possible for the passenger. Costs of such testing must be paid by the person wishing to licence the vehicle. In addition, the history of the vehicle will be taken into consideration when determining whether the vehicle should be licensed.

A vehicle is required to be re-examined, when the licence has been in force for six months, to ensure that it continues to meet the standards referred to in (a) above.

### **Vehicles powered by Liquid Petroleum Gas (LPG)**

An applicant for a licence involving a vehicle which has been converted to run on LPG is required to produce, prior to a licence being issued, a certificate issued by a member of the LPG Association confirming that the LPG installation conforms with the Association's Code of Practice and is, therefore, considered safe.

If an LPG conversion involves installation of an LPG fuel tank in a vehicle's boot space (and possible relocation of the spare wheel) it shall be a requirement that an amount of space shall remain free for the stowage of a reasonable amount of luggage, and any spare wheel displaced as a result must be stowed in a location that does not impinge on the passenger carrying area of a vehicle. Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.

### **Tinted windows**

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

## **Appendix 5C: Private Hire Vehicle Conditions**

### **Meanings**

In these conditions, unless otherwise indicated,

“the Council” means the Sevenoaks District Council; and

“the district” means the area of the Sevenoaks District Council

“proprietor” means a person who is the holder of a licence issued by the Council under section 48 of the Local Government (Miscellaneous Provisions) Act 1976

“vehicle “ means the vehicle that is specified on that licence

Fixing of licence plates etc.

The proprietor must ensure that the following plates etc. have been supplied by the Council and is responsible for their fixing and maintenance in the positions specified and keeping them in a clean and legible condition.

### **External plate**

Under the rear registration number plate or, in exceptional circumstances, another position near that location subject to the Council's prior approval.

### **Internal plate**

Inside the vehicle on the left hand side of the front windscreen and in plain view of the passengers but avoiding the windscreen wiper area.

### **Fare chart**

In a conspicuous position inside the passenger compartment of the vehicle so that it can be read by passengers.

### **Advertising and other signs**

- a) the proprietor must not permit any advertising on or in the vehicle which is not advertising his/her taxi firm;
- b) the proprietor must not permit any sign or mark other than those required or allowed in paragraph 1 except with the express consent of the Council;
- c) advertisement of the proprietors taxi firm must be in accordance with the following criteria:
  - For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area between the centres of the wheels (wheel base).

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- For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it must be contained within the area to the rear of the centre of front the wheels and the rear light cluster.
- Subject to (i) and (ii) the above a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail/social media address or web site, or advisory notices to do with smoking, but lettering height must be a minimum of 75mm and maximum of 150mm.
- No graphics/art works or slogans or other displays of any kind are permitted except with the consent of the Council.

### **No smoking**

'No Smoking' signs will be fixed inside the vehicle in accordance with current legislative requirements.

### **Spoilage of the interior of the vehicle by passengers**

- a) Where a passenger has spoiled the interior of the vehicle any dispute in this respect including any claim for damages shall be a matter between the proprietor and the passenger.
- b) The wording in (a) above shall be reproduced in plainly visible lettering within the vehicle (on or next to the fare chart if fitted).

### **Wheelchair signs**

Subject to the provisions of paragraph 2 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.

### **Carriage of animals other than guide/hearing/assistance dogs**

The proprietor has discretion as to whether the vehicle is used to convey an animal other than a guide/hearing or assistance dog within the meaning of Section 173 of the Equality Act 2010. When a guide or hearing dog etc. is conveyed no extra charge shall be made. Conveyance of a guide/hearing or assistance dog etc. may only be declined if the driver of the vehicle has been granted a statutory exemption on medical grounds.

### **Production of certain documents**

The proprietor must at any time by demand of an officer of the Council produce for inspection any or all of the following documents;

- a) a current, valid, certificate of motor insurance or cover note valid for at least 28 days for the vehicle that provides insurance cover for it as a Private Hire Vehicle;
- b) a current, valid, MOT test certificate for the vehicle as required by S47 of the Road Traffic Act 1988;



- c) the current proprietor's Private Hire Vehicle licence for the vehicle; and
- d) the vehicle's V5 Registration Document.

### **Insurance certificate**

The proprietor must at all times ensure that the vehicle is properly insured for use as a Private Hire Vehicle and a copy of the insurance certificate should be available inside the vehicle whilst it is licensed as a Private Hire Vehicle.

### **Damage to vehicle**

The proprietor must, in the event of any damage to the vehicle materially affecting its safety, performance, appearance or comfort or convenience of passengers, report the occurrence to the Council's **Licensing Team** with 72 hours in accordance with Section 50(3) of the Local Government (Miscellaneous Provisions) Act 1976 and the vehicle must not be used for hire again without the approval of the Council.

### **Taximeter**

If a taximeter is fitted to the vehicle;

The proprietor must ensure that the taximeter is EU type approved or specifically authorised by the Council and the taximeter;

- is calibrated at all times to include the current fare tariff of the Operator;
- is not tampered with in any way so as to effect the production of a fare that exceeds the maximum fare laid down by the current fare tariff of the Operator;
- when its machinery is in action, records on its face, in figures clearly legible and free from ambiguity, the fare which the driver is entitled to demand and take for the hiring of the carriage;
- has the word ' fare' printed on its face in plain letters so that the word clearly applies to the fare recorded thereon;
- is positioned so that all letters and figures on its face are plainly visible to any passengers and for that purpose the letters and figures are suitably illuminated during any period of hiring.

### **Drivers**

The proprietor must ensure that each person who drives the vehicle;

- a) holds a current and valid Private Hire Driver's Licence issued by the Council;
- b) is acquainted with and understands their licence conditions and related statutory provisions;
- c) observes their licence conditions and related statutory provisions.

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### **Breakdowns etc.**

If, whilst hired, the vehicle breaks down or otherwise becomes unfit or unable to carry the hirer to his/her destination the proprietor must;

- secure, without delay, suitable alternative transport to carry the hirer to their destination unless the hirer voluntarily elects to wait until the vehicle is repaired or is otherwise able to continue the journey.
- report the occurrence to the Council's **Licensing Team** within 24 hours.

### **Lost property**

In relation to property which has been left, or may have been left, in the vehicle by passengers the proprietor must;

- search the vehicle daily to establish whether or not there is any such property.
- if any such property is found, notify the Council's **Licensing Team** within 72 hours and provide a description of the property.
- take reasonable steps to secure the return of the property to its owner.

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

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 Private Hire Vehicle without the Council's approval.

### **Disclosure of convictions or cautions**

The proprietor must notify the Council's **Licensing Team** in writing of any convictions or cautions imposed on them whilst the licence is in force. Such notification must occur within 21 days of the imposition of a conviction/caution.

### **Transfer of private hire interest in the vehicle**

If the proprietor, or part proprietor, transfers his/her Private Hire interest in the vehicle to another person or persons the proprietor, or part proprietor, must notify the Council's **Licensing Team** within 14 days of the date of the transfer and specify the name and address of each person to whom the interest has been transferred. (The Council may, with reasonable cause, revoke, suspend or review the licence if it considers any transferee is not a suitable person to hold a Private Hire Vehicle Licence).

### **Complaints by hirers**

The proprietor of the vehicle must ensure that, should any complaint be made regarding the vehicle or its driver, then sufficient information must be given to the complainant for that person to be able to identify the driver and/or the vehicle and the means of pursuing such complaint with the Council, if necessary, by giving also the details of the Officer licensing private hire vehicles, their office address, name and telephone number.

### **Use of trailers**

The vehicle may tow a trailer only when one is required in order to convey a hirer's luggage. If a trailer is towed it shall;

- comply with the towing weights specified by the vehicle's manufacturer;
- provide secure and weatherproof stowage for the luggage; and
- have displayed, upon its rear, the vehicle's licence plate.

### **Other matters**

The proprietor must ensure that;

- the vehicle is provided with sufficient means by which passengers may communicate with the driver and such means of communication are maintained;
- the vehicle is maintained in a clean, comfortable, safe, watertight, mechanically sound and roadworthy condition;
- at all times windows that are designed to open shall do so in accordance with manufacturers specifications;
- at all times, the area designed for the stowage of luggage is kept clear and available for the purpose.

### **Tinted windows**

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

### Appendix 6

#### Private Hire driver conditions

In these conditions, unless otherwise indicated,

“the Council” means the Sevenoaks District Council; and

“the district” means the area of the Sevenoaks District Council

“driver of a private hire vehicle “ means a person who has been granted a licence by the Council under section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

A driver of a private hire vehicle shall:

- not wilfully or negligently cause or suffer the licence plate of the vehicle to be concealed from public view while the vehicle is licensed; and
- not cause or permit the vehicle to be used, whilst licensed, with any such plate so defaced that any figure or material particular is illegible.

The driver of a private hire vehicle provided with a taximeter shall:

- when not hired, keep the machinery of the taximeter inactive so that no fare is recorded on the face of the taximeter;
- before beginning a journey for which a fare is charged bring the machinery of the taximeter into action and keep the machinery of the taximeter in action until the termination of the hiring; and
- cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half-an-hour after sunset and half-an-hour before sunrise, and also at any other time at the request of the hirer.

A driver of a private hire vehicle shall not tamper with or permit any person to tamper with any taximeter with which the vehicle is provided, with the fittings thereof, or with the seals affixed thereto.

Where a vehicle is equipped with a taximeter and where such taximeter is to be used to record the fare for a hiring, the driver shall -

- ensure, during the continuance of such hiring, that the dial of the taximeter is not concealed in any manner or by any means and that such dial is distinctly and plainly visible and legible to any person hiring or being conveyed in the vehicle;
- cause the dial of the taximeter to be kept properly illuminated throughout the hiring;
- report immediately to the Council and to the Operator any failure of the taximeter;
- not wilfully or negligently cause or suffer the table of the Operator’s fares to be inverted or detached or altered or the letters or figures on such table to be in

any manner or by any means concealed at any time.

The driver of a private hire vehicle shall behave in a civil 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. A driver of a private hire vehicle who has agreed 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 carriage at such appointed time and place.
2. A driver of a private hire vehicle shall not convey or permit to be conveyed in such vehicle any greater number of persons than the number of persons specified on the licence plate affixed to the vehicle.
3. If a badge has been provided by the Council and delivered to the driver of a private hire vehicle he shall, when working as such and when hired, wear that badge in such position and manner as to be plainly visible.
4. The driver of a private hire vehicle so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the vehicle:
  - convey a reasonable quantity of luggage;
  - afford reasonable assistance in loading and unloading; and
  - afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

The driver of a private hire vehicle shall be entitled to demand and take for the hire of the vehicle only;

- such fare as may be shown on the face of any taximeter provided in the vehicle (where the fare for the hiring is charged by reference to the Operator's table of fares) save for any extra charges authorised by the Operator which it may not be possible to record on the face of the taximeter; or
- such other fare as may have been agreed with the hirer prior to the commencement of the hiring

The driver of a private hire vehicle bearing a table of the Operator's fares shall not wilfully or negligently cause or suffer the letters or figures in that table to be concealed or rendered illegible at any time while the vehicle is licensed.

1. The driver of a private hire vehicle shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.

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2. The driver of a private hire vehicle shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:
  - carry it as soon as possible and in any event within 48 hours if not sooner claimed by or on behalf of its owner, to the office of the Council and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
  - be entitled to receive from any person to whom the property shall be re-delivered an amount equal to ten pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than twenty five pounds.

Private Hire Driver must comply at all times with the current legislation relating to no smoking in the vehicle whether it is used for the conveyance of the public or not.

### **Informative**

If you accept bookings for the private hire vehicle, which you are driving, direct from a hirer you must ensure that you have a Private Hire Operator's Licence, as it is unlawful for you to accept bookings without such licence.

## Appendix 7

### Private Hire operator conditions

In these conditions, unless otherwise indicated

"the Council" means the "Sevenoaks District Council",

"the Operator" means the holder of a licence and

"Licence" means a licence granted by the Council under section 55 of the Local Government (Miscellaneous Provisions) Act 1976 to operate private hire vehicles.

### Record keeping

The operator shall keep (in a non-erasable form) comprehensive records as follows:

#### A. Drivers

The Operator must keep up to date records of the names and addresses of all licensed drivers who are used and shall notify the Council;

- when any new driver begins service,
- when any driver's service ceases; and
- of any change of address of any driver in service,
- if they become aware that any driver is suffering from any illness, disability or condition which may affect the driver's ability to safely carry out their duties.

#### B. Vehicles

- of all vehicles operated and the dates and times during which they are operated;
- the maintenance history of each vehicle, including details of all repairs carried out;

#### C. Bookings

All bookings made for private hire vehicles shall be recorded the same calendar day and kept for 6 months. The record of each booking must include;

- the source from which the booking came and the time it was received
- pick-up point and the time the journey commenced;
- destination point and the time the journey ended;
- the vehicle used;
- the driver employed;
- by whom the entry was made in the record
- the fare quoted (if quoted) at the time of booking
- the fare actually charged

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- the reason(s) why the fare actually charged was different if it was different
- any other relevant information.

### D. Staff

A register of all staff that will take bookings or dispatch vehicles under the authority of the Private Hire Operator will be kept.

The Private Hire Operator will evidence they have had sight of a Basic DBS check on all individuals listed on that register and ensure that Basic DBS checks are undertaken on any individuals added to the register.

The Private Hire Operator will evidence comparable protections are applied by other companies to which they outsource booking and dispatch functions

The Private Hire Operator must provide to the Licensing Authority their Policy on employing ex-offenders in roles that would be on the staff register.

### **Disclosure of convictions**

The operator shall immediately disclose to the Council in writing details of any convictions imposed on them during the currency of this licence.

### **Taximeters**

Where a taximeter is used to record the fare for hiring, the Operator shall ensure that a table showing his/her current fare scale is displayed inside the vehicle in a position so that it is plainly and easily visible to any person being conveyed in the vehicle and that the table is kept in clean and legible condition.

### **Advertisement of business**

The operator must not use in any advertisement of his/her business the words "Hackney Carriage", "Taxi" or "Cab" if licensed Hackney Carriages cannot be supplied.

### **Surrender of licence**

If at any time during the period of the licence the operator for any reason does not wish to retain the licence (which is not transferable) or if at any time during the period of the licence it is suspended or revoked he must immediately surrender and return the licence to the Council.

### **Notification of accidents**

If any vehicle (licensed by the Council) which is used by the Operator is involved in an accident the Operator must notify the Council's **Licensing Team** within 72 hours.

### **Running of a business**

The Operator shall:



- provide a prompt, reliable and efficient service to the public at all reasonable times and in particular ensure that the premises to which the public have access for the purpose of making bookings or waiting for cars etc. are kept clean and provided with adequate seating facilities;
- ensure that the use of the premises which is used for the running of his/her business has no detrimental effect on the neighbourhood.
- notify the Council within 21 days of any change of business address or change of company or trading name.

### **Public Service Vehicles**

Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than 8 passenger seats are required or to accommodate luggage, the booker should be informed that a Public Service Vehicle (PSV) is necessary, and that a PSV licensed driver will be used who is subject to different checks and not required to have an enhanced DBS check.

### **Public liability insurance**

If the 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 those premises.

### **Driver – Medical fitness**

The Operator must not knowingly permit a driver to drive a licensed vehicle if they are aware that the person is suffering from any illness, disability or condition which may affect their ability to safely carry out their duties.

### **Vehicle with tinted windows**

All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations.

### **Informative**

The Operator shall be aware that a booking accepted by telephone, or otherwise verbally, is a lawful agreement and he/she may be liable for breach of contract if a booking is not honoured. The accurate recording of booking details is a means of protecting yourself if such circumstances arise.

## Appendix 8

### Hackney Carriage Byelaws

Made under section 68 of the Town Police Clauses Act 1847, and section 171 of the Public Health Act 1875, by the District Council of Sevenoaks with respect to hackney carriages in the District of Sevenoaks.

#### Interpretation

1. Throughout these byelaws “the Council” means the District Council of Sevenoaks and “the district” means the District of Sevenoaks.

#### Provisions regulating the manner in which the number of each hackney carriage, corresponding with the number of its licence, shall be displayed

2. The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.

A proprietor or driver of a hackney carriage shall:

- not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
- not cause or permit the carriage to stand or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

#### Provisions regulating how hackney carriages are to be furnished or provided

3. The proprietor of a hackney carriage shall:
  - provide sufficient means by which any person in the carriage may communicate with the driver;
  - cause the roof or covering to be kept water-tight;
  - provide any necessary windows and means of opening and closing not less than one window on each side;
  - cause the seats to be properly cushioned or covered;
  - cause the floor to be provided with a proper carpet, mat or other suitable covering;
  - cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
  - provide means for securing luggage if the hackney carriage is so constructed as to carry luggage;
  - provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.

4. The proprietor of a hackney carriage shall cause the same to be provided with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say:
  - a) the taximeter shall be fitted with a key, flag 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;
  - b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
  - c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance and time in pursuance of the tariff fixed by the Council;
  - d) the word "FARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
  - e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage, and for that purpose the letters and figures shall be capable of being suitably illuminated during any period of hiring; and
  - f) the taximeter and all the fittings thereof shall be so affixed to the carriage 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.

**Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments, and determining whether such drivers shall wear any and what badges**

5. The driver of a hackney carriage provided with a taximeter shall: -
  - a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
  - b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring; and
  - c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is between half an hour after sunset and half an hour before sunrise, and also at any other time at the request of the hirer.

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6. A proprietor or driver of a carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
7. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:
  - a) proceed with reasonable speed to one of the stands appointed by the Council;
  - b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
  - c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction; and
  - d) from time to time, when any other carriage immediately in front is driven off or moved forward, cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward.
8. At no time is smoking permitted in any Hackney Carriage or Private Hire Vehicle.
9. A proprietor or driver of a hackney carriage, when standing or plying for hire shall not make use of the services of any other person for the purpose of importuning any person to hire such carriage.
10. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
11. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any person hiring or seeking to hire the carriage:
  - a) convey a reasonable quantity of luggage;
  - b) afford reasonable assistance in loading and unloading; and

- c) afford reasonable assistance in removing it to or from the entrance of any building, station or place at which he may take up or set down such person.

**Provisions fixing the rates or fares to be paid for hackney carriages within the District, and securing the due publication of such fares.**

- 15. The proprietor or driver of a hackney carriage shall be entitled to demand and take for the hire of the carriage the rate or fare prescribed by the Council, the rate or fare being calculated by distance and time unless the hirer expresses at the commencement of the hiring his desire to engage by time.

Provided always that, where a hackney carriage furnished with a taximeter shall be hired by distance and time, the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for any extra charges authorised by the Council which it may not be possible to record on the face of the taximeter.

- 16. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by Council resolution to be exhibited inside the carriage, in clearly distinguishable letters and figures.  
  
(b) The proprietor or driver of a hackney carriage bearing a statement of fares in accordance with this byelaw shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

**Provisions securing the safe custody and redelivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof**

- 17. The proprietor or driver of a hackney carriage shall, immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the carriage for any property which may have been accidentally left therein.
- 18. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:
  - a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the office of the Council, and leave it in the custody of the officer in charge on his giving a receipt for it; and
  - b) be entitled to receive from any person to whom the property shall be redelivered an amount equal to ten pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever is the greater) but not more than twenty five pounds.

**Penalties**

- 19. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding Level 2 on the Standard Scale and in

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the case of a continuing offence to a further fine not exceeding two pounds for each day during which the offence continues after conviction therefore.

### **Repeal of byelaws**

The byelaws relating to hackney carriages referred to in the following schedule are hereby repealed.

## Appendix 9

### Penalty points system - list of offences/breach of licence conditions

#### Town Police Clauses Act 1847

Section	Offence	Penalty points
40	Giving false information on application for HC proprietor's licence.	12
44	Failure to notify change of address of HC proprietor.	2
45	Plying for hire without HC proprietor's licence.	8-12
47	Driving a HC without HC driver's licence.	8-12
47	Lending or parting with HC driver's licence.	4
47	HC proprietor employing unlicensed driver.	12
48	Failure by HC proprietor to hold HC driver's licence for person driving the vehicle.	6
48	Failure by HC proprietor to produce HC driver's licence.	3
52	Failure to display HC plate.	4
53	Refusal to take a fare without reasonable excuse	6-12
54	Charging more than the agreed fare.	6-12
55	Obtaining more than the legal fare. (Failure to refund)	6-12
56	Travelling less than the lawful distance for an agreed fare.	6-12
57	Failure to wait after a deposit to wait has been paid.	6-12
58	Charging more than the legal fare.	12
59	Carrying other person than the hirer without consent of hirer	8
60	Driving HC without proprietor's consent.	6-12
60	Allowing another to drive HC without proprietor's consent.	6-12
62	Driver leaving HC unattended.	2
64	HC driver obstructing other HC's.	3

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### Local Government (Miscellaneous Provision) Act 1976

Section	Offence	Points
46(1)(a)	Using an unlicensed private hire vehicle	12
46(1)(b)	Driving a private hire vehicle without a private hire drivers" licence	12
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver	8-12
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence	8-12
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle.	12
46(1)(e)	Operating a private hire vehicle when the driver is not licensed as a private hire operator.	8-12
48(6)	Failure to display a private hire vehicle plate	4
49	Failure to notify the transfer of a HC proprietor's licence.	3
50 (1)	Failure to present a HC for inspection, as required.	6-12
50 (2)	Failure to inform the Authority where the HC is stored.	3
50 (3)	Failure to report an accident to the Authority within 72hours.	6
50 (4)	Failure to produce the HC proprietor's licence and insurance cert	4
53 (3)	Failure to produce HC driver's licence.	3-4
54(2)	Failure to wear a private hire driver's badge	3-4
56(2)	Failure of a private hire operator to keep proper records of all bookings, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6
56(3)	Failure of a private hire operator to keep records of all private hire vehicles, or failure to produce them on request of an Authorised Officer of the Council or a Police Officer	6
56(4)	Failure of a private hire operator to produce his licence on request	4
57	Making a false statement or withholding information to obtain a HC driver's licence.	12



Section	Offence	Points
58 (2)	Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence.	6
61 (2)	Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	6
64	Permitting any vehicle other than a HC to wait on a HC stand.	6
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement.	6-12
67	Charging more than the meter fare when HC used as PH vehicle.	6-12
69	Unnecessarily prolonging a journey.	6-12
71	Interfering with a taximeter with intent to mislead.	12
73(1)(a)	Obstruction of an authorised Officer or Constable.	12
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable.	6-12
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable.	6-12

### Equality Act 2010

Section	Offence	Points
165	Failure of a driver of a designated hackney carriage to comply with duties relating to passengers in wheelchairs, or another person who wishes to be accompanied by a disabled person who is in a wheelchair	12
165	Failure of a driver of a designated private hire vehicle to comply with duties relating to passengers in wheelchairs, or another person who wishes to be accompanied by a disabled person who is in a wheelchair	12
168	Refusal to carry a guide, hearing, or other assistance dog in a hackney carriage without a valid certificate of exemption	12
168	Charging an additional cost for the carrying of an assistance dog in a hackney carriage	12
170	Refusal to carry a guide, hearing, or other assistance dog in a private hire vehicle without a valid certificate of exemption	12
170	Charging an additional cost for the carrying of an assistance dog in a private hire vehicle	12

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### Transport Act 1980

Section	Offence	Points
64(2)(a)	Driving a vehicle with a sign above its roof which consists or includes the word "taxi" or "cab" whether alone or part of another word	10
64(2)(b)	Causes or permits a vehicle to have a sign above its roof which consists of or includes the word "taxi" or "cab" whether alone or part of another word	10

### Policy: Private Hire Driver's Licence Conditions

Offence	Points
Not being respectably dressed and clean & tidy in appearance	2
Failure to wear a badge.	4-6
Failure to behave in a civil, polite and orderly manner.	3
Failure to ensure the safety of passengers.	4
Concealing or defacing a licence plate.	4
Failure to attend on time for pre-arranged booking without sufficient cause.	3
Conveying a greater number of passengers than permitted.	6
Failure to give assistance with passenger's luggage.	3
Soliciting for hire or accepting a fare that is not pre-booked.	6 -12
Operating a vehicle that is not clean and tidy	2-6
Driving without the consent of the proprietor.	5- 6
Drinking or eating in the vehicle without permission of passenger.	2-3
Causing excessive noise from any radio or sound-reproducing instrument, which annoys anyone in or outside the vehicle.	2
Operating the horn as a means of signalling that the vehicle has arrived.	3

Offence	Points
Allowing the vehicle to stand in such a position as to suggest that it is plying for hire, or using a hackney carriage stand.	6
Using a non-hands free mobile phone whilst driving	8
Failure to provide medical certificate or note notifying a medical condition	6-12
Failure to provide a receipt when requested.	2
Failure to operate the meter from commencement of the journey and charging more than the fixed charge for hire of Hackney Carriages.	4-12
Failing to notify changes within 14 days.	3
Failure to produce a copy of the licence.	4
Failure to notify within 7 days of starting or terminating employment, the name and address of the proprietor and the date when the employment either started or ended.	3
Failure to show the private hire driver's licence to the proprietor at the beginning of an employment.	2
Failure to surrender a driver's licence, badge or plate on cessation of employment.	6
Failing to notify of change of address of any amendment to the details of a licence within 14 days	3
Failing to disclose convictions within 7 days.	8 -12
Failure to search vehicle daily or failure to take found property to the Council Offices within 72 hours of finding it.	3
Failure to report an accident within 72 hours	3
Carrying an animal other than one with passenger.	2
Carrying an animal not safely restrained.	3
Failure to carry assistance dog without an exemption certificate.	5-6
Failure to comply with wheelchair carriage requirements.	5-6

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### Policy: Vehicle Specifications & Conditions of Licence

Offence	Points
Operating a vehicle which does not comply with the Councils Vehicle Specification where such offence is not otherwise specified below	2 - 6
Operating a vehicle, which is not maintained in a sound and roadworthy condition.	6
Operating a vehicle, which is not maintained in a clean and safe condition inside and out.	3
Modifying a vehicle without the consent of the Council	4
Failure to display or maintain external licence plates which indicate the maximum number of passengers who may be conveyed.	4
Hackney vehicle signage not in accordance with council requirements.	4
Affixing or displaying on a private hire vehicle any roof sign.	6
Displaying on a private hire vehicle any sign or notice which consists of or includes the word TAXI or CAB or FOR HIRE	4
Displaying a sign or advertisement that does not comply with Council requirements or is not authorised by the Council.	3
Taximeter which does not comply with the Council's Vehicle Specification.	5
Trailer which does not comply the Council's Vehicle Specification	3
Operating a vehicle which does not comply with the Council's policy requirements	6
Operating a vehicle, which does not comply the Council's Vehicle Specification in respect of window tint.	4
No insurance or inappropriate insurance for the vehicle.	12
Failing to notify vehicle change or transfer within 14 days.	3
Failing to make the vehicle licence available for inspection.	3
Allowing a vehicle to be used for hire by a person who does not hold a current private hire or hackney driver's licence	8
Failure to properly report an accident to the Authority.	3
Permitting the vehicle to be used for any illegal or immoral purposes.	12

Offence	Points
Failure to arrange repair or replacement of card payment facilities within 2 working days : 2 points for each day without card payment facilities after initial 2 working days	2

**Policy: Breach of Conditions attached to Operator's Licence**

Offence	Points
Failure to provide a prompt, efficient and reliable service at all reasonable times.	3
Failure to ensure that office staff employed by operator act in a civil and orderly manner at all times.	3
Failure to ensure that a vehicle attends punctually at the appointed time and place unless prevented by some sufficient cause.	4
Failure to keep the premises clean, adequately heated, ventilated, lit, and in accordance with the requirements of licence conditions.	3
Failure to properly keep or produce records of private hire bookings, vehicles, drivers or other documents required to be kept or produced. (see LGMP s56(2) & (3) above)	6
Failure to act properly upon the receipt of a complaint or to notify immediately the Licensing Officer.	4
Failure to notify the Council of any changes, including change of address from where the business operates within 14 days.	3
Failure to disclose in writing within 7 days details of any conviction or police caution imposed on him to the licensing section.	12
Failure to ensure that an appropriate certificate of motor insurance covers every vehicle operated by him under the licence.	6
Failure to obtain appropriate public liability insurance for the premises or to produce the same.	4
Failure to ensure that every driver has a private hire licence and badge.	4

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Offence	Points
Failure to keep a copy of the conditions at the premises or to make the same available for inspection by passengers.	4
Failure to make the Operator's licence available for inspection.  (see LGMP s56 (4) above.	6

**Appendix 10**

**POLICY IN RESPECT OF REQUESTS FOR INFORMATION, DISCLOSURE  
OF INFORMATION, AND USE OF INFORMATION AS A RESULT OF AN  
ENTRY ON NR3**



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### Introduction

Licensing Authorities are required to satisfy themselves that those holding a Hackney Carriage and Private Hire Vehicle (PHV) drivers licences are 'fit & proper' to do so. This is done firstly during the determination of an application for a licence, and then at any time during the period of holding a licence.

The process of assessing whether an applicant or licensee is 'fit & proper' may vary between authorities but there is widespread consensus on the need to increase consistency and set national standards for the fit and proper test at a suitably high level. This would help prevent individuals who have had a licence revoked by one authority from simply going to another area and securing a licence – assuming the second authority was aware of the earlier revocation.

Currently if drivers do not disclose information about a previous revocation, refusal **or suspension** of a licence, there is often no way for a licensing authority to find this information out. This means that vital intelligence about an applicants' past behaviour is being missed and an individual might be able to obtain a new licence in another area, despite having their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriage and PHVs, and left licensing authorities open to criticism for something that is currently very difficult for them to control.

In response to this issue this council has subscribed to the national register of hackney carriage and PHV driver licence refusals, revocations **and suspensions** the National Register of Refusals, Revocations **and Suspensions** or NR3. The register will allow licensing authorities to record details of where a hackney carriage or PHV driver's licence has been refused, revoked **or suspended**, and allow licensing authorities to check new applicants against the register. This should help to prevent people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure. For the avoidance of doubt, the NR3 does not extend to vehicle or operator licensing decisions.

### 1 Policy

In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals, Revocations **and Suspensions**; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

### 2 Overarching principles

This policy covers the use that this authority will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations, Refusals **and Suspensions** (NR3). The NR3 contains information relating to any refusal to grant,



revocation **and suspension** of a taxi drivers' licence<sup>1</sup>. 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, revoked **or suspended** in the past.

This authority has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked **or suspended**, 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, this authority 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>2</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 further 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<sup>3</sup>. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the

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<sup>1</sup> Throughout this policy reference is made to 'taxi drivers' licence.' This generic term covers a hackney carriage drivers' licence, a private hire drivers' licence and a combined/dual licence.

<sup>2</sup> The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

<sup>3</sup> Any appeal by way of a case must be lodged within 21 days of the decision of either the Magistrates Court or the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

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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 states (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 authority's general policy on the secure retention of personal data which is available at [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk) to 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 which is available at [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk)

### 3 Making a request for further information regarding an entry in NR3

When an application is made to this authority for the grant of a new, or renewal of, a taxi drivers' licence this authority will check the NR3.

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

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- The results of the search; and
- 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 this authority 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 this authority's data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at **Appendix 1** of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

#### 1. Responding to a request for further information regarding an entry on NR3

When this authority 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. a combined register of licences granted) and will be retained for the retention period of 25 years.

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

This authority has conducted a Data Protection Impact Assessment. This has considered 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 the period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority 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. 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 this authority (the 1<sup>st</sup> authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

We will disclose information relating to a revocation, **suspension** or refusal to grant a drivers' licence in accordance with the timescales contained within this authority's Hackney Carriage and Private Hire Licensing Policy (Relevance of Convictions and Cautions). Where the reason for **suspension**, refusal to grant or revocation relates to a conviction which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for **suspension**, refusal to grant or revocation relates to a conviction which is outside 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.

Lawful basis for processing : It is necessary for the Council to process the personal data contained in the records in the exercise of official authority. To this end the lawful basis relied upon is 'Public Task'.

The public functions and powers in respect of applications for hackney Carriage Licensing are set out in law. In the light of government guidance the Council could not reasonable perform the task or exercise the powers in a less intrusive way.

Any information about convictions will be shared in accordance with this policy under part 2 of schedule 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.

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The officer will record what action was taken and why. This authority 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:

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

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.

### **4 Using any information obtained as a result of a request to another authority**

When this authority receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications.

This authority will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority will make in relation to the application.

**APPENDIX 1**

Information Disclosure Form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3)

Name of licensing authority requesting information <i>(For completion by requestor authority)</i>	
Requestor authority reference number	
Name of licensing authority from which information is sought	
Name of individual in respect of whom the information is sought	
Decision in respect of which the request is made: a) Refusal b) Revocation c) <b>Suspension</b>	
Other details for this record:  Address:  Driving Licence Number National Insurance Number (NI) Reference Number	

**DECLARATION BY REQUESTING AUTHORITY:**

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi/private hire vehicle licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

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The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and private hire vehicles, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request can be accessed at [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk)

Signed:

Name:

Position:

Date:

(For completion by providing authority)

Further information to support decision recorded on NR3 in respect of the above named individual

Declaration by providing authority

The authority hereby confirms that it has concluded a data protection impact assessment.

It also confirms that the information above is accurate and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals, Revocations **and Suspension** was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above-named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a tax/private hire drivers' licence the above named individual has been made aware

to the fact that this information will be shared, in accordance with all relevant data and privacy requirements.

Signed:

Name:

Position:

Date:

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**APPENDIX B**

Meeting with Senior Licensing Officers and the Trade 02/11/2023

Susan Lindsey welcomed everyone to the meeting and explained that the changes to the Policy that are currently out for consultation are proposals and it is important for everyone to respond to the consultation with their views and comments. This is the only way for the Licensing Committee to hear your views and for them to make an informed decision.

Susan said that if anyone feels they would struggle to write in to the consultation, they can call her and she can type up what they want to say. She would then email it to them to check and they could email it back to be included in the consultation responses.

Robert Clarke explained the reason for the meeting was that the trade had concerns regarding the proposed policy changes. Concerns were mainly, Signal problems for card readers, Loss of earnings for the percentage card readers would take, Inability to make bank transfers and Penalty Points for not replacing a card machine within 2 working days.

A member of the trade thanked Susan for the offer to write for them. They explained that they have been a driver for many years and know that Ide Hill, Hever and some other places have very bad or no signal.

They explained that sometimes teenagers, late at night, usually at the weekend have cards and try to pay but there is no money on the card. They call parents who don't answer and the drivers have to let the fare go. It can be very time consuming.

Some of the drivers say it sounds bad if they ask for payment in advance of the journey when the customer does have money on the card to pay.

It was asked if just on the rank at the station, couldn't it have a sign to say 'Cash only' because of the issues with signal and people who do runners etc. Pre booked is fine as they can pay in advance or be invoiced.

It was said that if the machine breaks, it can take a while to be fixed and sometimes the cash machines stop working. Why would we issue points if it is out of their control.

Susan explained that if the driver communicates with the team, they would not issue penalty points. If the driver tells the licensing officers that they need 5 days for the machine to be fixed or a new one to be delivered, no points would be issued as long as they communicate, and the team know about it. If the Licensing Officers carry out a vehicle inspection at the rank or anywhere and there is no card machine and the team haven't been told why, that's when points would be issued. It is the vehicle proprietor who is responsible for making sure their vehicle has a card machine in it.

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Susan replied to some comments that some customers only have google pay or apple pay on their mobile phones. They do not have a card to take money out at a cash machine. It is a public safety issue that customers, sometimes vulnerable/young are being left on the rank. The Licensing Officers have received lots of complaints.

The proposal is to have card machines in addition to taking cash. The proposal; is not to get rid of cash.

It was said that if the driver knows they are going to a 'no signal' area, like Ide Hill, the drivers will know how much it would usually cost so they can explain to the customer that they would need to take the money in advance. If they have over paid, the driver can refund or organise a credit and if they have under paid, take the customers number to call and take any additional fare.

One driver explained that they took a customer to an area where they had no signal and had to drive a long way back to a cash point. This loses them time, fuel and money.

Susan explained that it is an offence if a customer does not have the funds for the fare but on these occasions it seems that they do have the funds for the fare, the drivers may not have the facility to take it.

There are machines on the market that work offline. They keep the card details then process the payment when you get back into an area with signal. One of the companies that do these is called 'Square'. Drivers could tell the customers that they are having to take the payment offline as there is no signal so could they provide a contact number should the transaction fail.

The Licensing team have received lots of complaints and even ice cream vans take card payments for much smaller amounts of money. Customers will end up calling for a Private Hire vehicle to come and collect them instead.

It was explained that drivers cannot charge more than the fare chart and cannot have a minimum charge on card machines.

A member of the trade explained that some customers get very rude and say 'no signal is your problem, not mine.'

Susan said that you must never get angry with customers, just explain that you need to take their contact details etc.

It was also said that it may be a good idea to have CCTV in vehicles for the drivers protection.

If customers run off or get violent, Police must be called. They may follow up or it may be classed as a civil matter.

One driver explained that they called Police because a customer punched them in the face and ran off without paying. The Police told him to just carry on with the next job.

It was asked if the complaints were from Sevenoaks customers and how many.

Susan read out a number of the complaints. They are emails so she would not know where they are from, other than they were mainly at Sevenoaks train station.

Susan explained that she does understand both sides but there is a whole income stream that drivers are not tapping into if they do not take card payments.

A member of the trade explained that drivers rely on tips as well as fares and card payments stop tips. If a fare is £9.50, customers usually give £10. etc. Also the card machine companies might start taking a higher percentage in the future.

It was discussed that some card machines have optional tip buttons that could be pre set and used. Drivers cannot charge more than the fare charts but if a customer wants to pay more, they can. It would be a tip. Also, card machine companies are in competition with each other, if they put their prices up too much, drivers would go to someone else for a card machine.

Susan summarised that it seems to be the 'no signal areas' that is the main problem so drivers should look into the machines that work offline.

A member of the trade said that since the pandemic, 60% of drivers have card machines but many have stopped using them. When you have no signal, the machine has a time limit and if you don't get into an area with signal in time, it loses the information or you get into an area with signal and the payment declines.

Customers won't give their details, card numbers, ID or wifi passwords to drivers.

Since the pandemic there are far less customers. Used to be every 30 minutes, now you wait sometimes 3 to 4 hours.

Companies like British Gas want direct debit payments or they charge £5 more if you don't set this up. Why can't drivers choose how they take payment?

Susan explained again how important it is for everyone to respond to the consultation. Make suggestions if you have any. If you feel 2 working days to get a machine fixed isn't long enough, tell them that and suggest 5 working days or 10 working days. It is really important to respond or the Committee won't know your thoughts.

A member of the trade said that the proposal doesn't appear to take into consideration the increasing costs to the drivers. Also the fact that some drivers that do not have Sevenoaks station permits from Apcoa, do not have the means to earn on the rank.

The proposal to increase the cost to drivers should be in line with increasing the tariff.

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Susan explained that the trade can request to increase the tariff at any time but out of 350 areas in the UK, Sevenoaks is 13<sup>th</sup> highest already and much more expensive than all of its neighbouring authorities. Susan listed these and their position on the league table.

The majority of drivers in attendance said that they will respond to Robert Clarke and he will feed it back to Susan.

**APPENDIX C**

Response 1

Thank you for giving us the opportunity to comment on the mandatory card payments. As from my experience it is very difficult to get a phone signal in most places and the customers get aggressive when waiting too long for the signal. Also it would decrease our earnings as we need to pay a bank charge for card payments and we will not receive tips. Another issue, which has happened to a few colleagues of mine, is when paid by card the customer would later tell their bank that they didn't make this transaction resulting in the bank pulling the money back. Some card companies would also fine us for this. Please rethink these decisions after hearing our situation.

Response 2

Thank you for your email in relation to mandatory card payments  
There is no reason why PHV'S and Hackney Carriages should not have credit card payment facilities unless of course the drivers who do not agree with this do not declare their earnings correctly  
I endorse this proposal

Response 3

I am writing this email as an expression of my opinion and feedback on the proposed amendments to the current Hackney Carriage and Private Hire Licensing Policy. I have read and considered the proposed amendments and as a Hackney Carriage Driver I believe that there will occurring issues if it is set to receive only card payments. One of the big issue is the network problem we have in the area Sevenoaks that is well known to many of us. This will create problems for the customer to pay and also can cause customers to respond to not paying as this will be a problem that is not their fault. This may lead to customers being rude on payment and also may result to us as drivers not receiving our fare. Additionally due to the network problem this will create loss of time when trying to deal with payment that could be a problem to us as drivers as well as the customers. The end result will again be not receiving our fare if we could not sort out the network problem as this is something uncontrollable. Secondly there will be a loss to my income as a driver. I will be having to pay the card company a payment for using the card machine which I believe will have an impact on my income. I kindly request for this not to be made mandatory due to the problems stated. Cash payments is most efficient for us as drivers as we can take payment without any hassle. Also this creates less occurring problems for the customer too  
I hope the committee take into consideration my thoughts and opinions on this.

Response 4

Thank you for the meeting, regarding mandatory payment I do not fill nessesary for mandatory payments and I do object to penalty points been imposed on the driver, the reason is because if I can not obtain signal from my readar, it puts me at desavantage because I lose particular fare.

Response 5

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I am writing to object to the possible implementation of making it mandatory for taxi drivers to accept card payments. I accept card payments, but believe it should be entirely at my discretion. There are some mitigating factors at play here. Firstly, not everyone may have a modern smartphone. Secondly, not everyone will have a bank account, particularly if they have been made bankrupt. Thirdly, councils up and down the country are phasing out card payments for parking machines, of which I am sure Sevenoaks will be one. You will be aware that this is because of the mobile phone providers phasing out the 3g signal, the minimum requirement to make such payments. I have had several occasions whereby a card payment only just went through due to weak signal. When 3g disappears, unless the 4g infrastructure is in place in such areas, taking card payments will be impossible unless it is taken upfront. I would hope the council would allow this. The phasing out of 3g is due to be completed by the end of 2025. I therefore believe the council should hold fire on this mandate until at least then, so that it can fully assess the impact the loss of 3g is having within the district, which already has an abundance of signal blackspots as it is.

### Response 6

I have a card payment meter ,my only concerns are when I have no signal ,I'm with Vodafone, so it means I don't get paid sometimes .Also if people are not carrying cash as a back up ,which they don't often now ,if their card is declined ,it makes payment again extremely difficult. I do prefer card payments and it is my main payment method, I just wish it always worked

### Response 7

I hope this email finds you well. I am writing to express my serious concern regarding an ongoing issue with card payments that has been adversely affecting my business. Unfortunately, despite my attempts to address the matter, it seems to persist. Several customers have reported that their card payments are not being accepted, and they have expressed their reluctance to pay as a result. To make matters worse, they deflect responsibility by attributing the problem to poor reception and often place the blame on our taxi drivers. Despite assurances to pay in cash the next day, many have failed to follow through, leading to a significant loss of revenue. This situation is not only impacting my finances but also affecting my colleagues in the taxi industry . The customers' aggressive behaviour during these incidents adds another layer of difficulty in resolving the matter amicably. I kindly request your immediate attention and assistance in rectifying this issue. It is crucial for the success and reputation of my business that we find a prompt resolution to the problems associated with card payments.

I appreciate your understanding and cooperation in this matter. Please let me know if you require any additional information or if there's a specific process I should follow to ensure the swift resolution of this matter. Thank you for your prompt attention to this pressing issue.

### Response 8

Reasons of disagreement

1. About 40% Sevenoaks areas has no good mobile internet connection.(for Vodafone I used) example: Hillside rd, part of Quakers hall lane, part of Mount Harry rd, part of Britton's lane, part of Marlborough crescent, Crown point, The Batts Otford, Rowdow Otford, Shoreham place, Darenth golf course, Mount vineyard Many Roads in Kemsing, Seal chart, Ightham, Ivy hatch, Underiver, Weald, Sundridge, Idehill, Hever, Edenbridge, Westerham and many more areas.

2. It's costing me extra money last 6 months alone I paid £298 for card processing fees.
3. Some customers took advantage of card payments as a loophole E.g they said will pay by card but when card payment declined then they said my card is fine your card machine has problems.
4. When I told customers they can see the price on the meter but I have to take payment in advance as I may have internet deficiency end of the journey also I explain that if I take more than meter fare then I will give it back most of the customers are ok with that but some do unnecessary urges with us.
5. I lost few fares when I was unable to take payment then gave my bank details and request them to pay via bank transfer but still today they don't pay.

### Response 9

I strongly object to mandatory card payment due to following incident

1. I took a female passenger to chiddingstone there was no signal she said to me that's not my problem and just got out of the car. When I called her she said she will call the police if I don't stop harassing her. That point I've left the location
  2. Ide Hill , some parts of westerham, crown point, Leigh these areas don't have any signal.
  3. There's a cash machine within the station
- I hope you can take these into consideration  
I do have take card payments

### Response 10

I am writing in regards to your recent decision to make card payments mandatory in Taxis. Overall, the decision is a reasonable one and will benefit many, however as we are based in Sevenoaks this may arise as an issue due to ongoing matters.

I have 2 card payment machines in my Taxi due to the signal issues in the area. The card machines are on separate networks but I still have connection issues. Some customers before entering the taxi ask us if we have a card payment machine, we then state yes, but it depends on the signal in the area they are going to. Some customers say they have good signal in their area, however upon arriving at their destination, the signal is poor so we are unable to take payment. If we ask for them to use their own Wi-Fi they decline, get aggressive and get argumentative. Some customers say they will pay in advance but this is not always possible as we do not always know the fare price til after the journey. So, there is more likely chances of fare discrepancies which is not good for us as these ruins our reputation and rapport with our customers. Some customers say they are regular users and they know the money they owe, but upon dropping them off there is a massive difference to what amount the customer has stated.

We always notify them before travelling if the card machine does not work, we recommend that they pay in cash. In most cases we have no choice but to drop the customer off at their destination and them not paying the fare of the journey due to the card payment issues. We are losing out on an income and having our time wasted.

The signal problem areas are : Seal Hollow Road, Seal, Seal Chart, Stone Street, Godden Green, Underriver, Blackwell Lane, Park Lane, Ivy Hatch, Ightham, Riverhead – in some places, Brittain's Lane and the off roads – in some places, Polhill, Knockholt, Sundridge, Brasted, Brasted Chart, Westerham, Toys Hill, Ide Hill, Bore Place.

This is just to name a few as there are many more areas around Sevenoaks with signal issues. It feels like some of these customers do this purposely to provoke us, as they are aware of the signal issue beforehand. They use this to their advantage and get out of paying for the

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fare, so they can put the blame on us and walk away. When this is not the case at all and we are being wrongfully misled and used.

Before the pandemic the taxi business was a lot busier and there were more customers to be using the rank at different hours of the day. Ever since the pandemic the taxi business has not been the same. Sometimes we are waiting on the rank for a few hours for customers when in the past we would usually have dropped off a few customers in this time. However, now the peak busy time only lasts for an hour.

It is during this peak hour when it is really busy and if you can manage to do few journeys within this time a reasonable income can be made. Sometimes this is not possible due to the signal issues in the area, when dropping off a customer and taking their card payments sometimes takes 10 minutes or longer. It is deflating for us as taxi drivers having to deal with unhappy customers due to the signal issue which is not our fault. By the time we make our way back to the rank there is hardly many customers. So we lose out on valued time and money which is heavily affecting our income.

There are several other reasons but I am hoping the statements I have written about are valid enough for you to change your decision.

### Response 11

Firstly many thanks for the Meeting, I am sure that you are now fully aware of all the drivers opinions and concerns.

The drivers would like to make sure that all the matters that were discussed will be addressed to the Licensing Committee. I would like to express that I personally desire a compromise.

The position is very difficult to resolve.

On the one hand, I feel that you are perfectly correct in what you have stated. The position that you are in means that you must adhere to the wishes of the general public. I can well understand this and appreciate your honesty. I have enclosed the attachment indicating the details of the meeting.

I must admit that I had not anticipated the drivers reactions to various individual concerns.

Having said that I think that they have been very honest and sincere in their views.

The main problems that we have are making sure that we do not isolate ourselves.

I am aware that passengers are experiencing a very difficult time. The cost of living crisis will get worse, they need to ensure that they can pay by either card or cash. However the concerns of the Drivers at the meeting were not necessarily whether they should have credit card facilities.

All the drivers that I have spoken have card facilities. The question concerns making it Mandatory. This then is the main concern. I feel the drivers need assurances that they will not be intimidated by suspension of their licence.

There is a case for a compromise, I would suggest that as stated at the meeting the drivers would be given more time to report the failure of a reader.

As regards the Mandatory requirements of taking card payments. I feel that if a driver is aware that he or she cannot get a signal, and therefore is unable to make a transaction. Then they should take the payment before the journey.

I have a strong feeling that once this consultation has gone through the drivers will adapt to overcome any difficulties.

Once again thank you for the time you have allowed for the Meeting.

### Response 12

I would like to express my views regarding the proposed introduction of making card readers mandatory for Taxi drivers. All though I do have a card and find it easier for me to engage



with my customers. Having said that there are issues with dead spots that can be a problem at times. There is one other matter I would like to mention and that is the Sevenoaks station taxi rank that is sometimes regarded as the Sevenoaks taxi rank. That is incorrect the Sevenoaks taxi ranks are at Bus station in the town.

We have to renew our permits every year with the cost increasing every year. As the station rank is on private land that belongs to national rail, hence the reason we have to have a permit.

### Response 13

Good afternoon I'd like to explain why it should be down to our own discretion to take card these are several reasons

1. We are sole traders
2. there is not a government law to say how we get paid
- 3 you don't legally have to have a bank account
- 4 not all areas have reception to take payment and I won't give out bank details to do a bank transfer
5. as said I'm a sole trader and only work from the train station and pay South Eastern to work there so if anyone says how we can take our money is them
- 6 I'd like to say I do take card payment but on a minimum fare job it's not worth it with our charges over the year they add up to quite a lot if you're prepared to cover our charges as a council I'm all for it

### Response 14

I know you want to make card payment mandatory in present times. I have had a few issues where there is no signal and payments don't go through so customers take the account details to make a bank transfer but no funds come through after they leave the car. Also some customers say they will pay when they get to their address but don't make a payment instead they try to create a fight or start an argument with me. There are times when we ask for upfront payment as there's no signal in certain areas but they disagree and when they reach their destination they don't make a payment. If you could kindly take these into account before making a decision as it will be a big issue with customers and getting payments off them in the future which will be a waste of time working and a loss to drivers if they can't get the payment.

### Response 15

I am writing as response to card payments first of all I do accept card payments but I am a sole trader not a huge supermarket like tesco each payment is 1.7% out of my profits on top of the huge running costs we have already also there is no requirement by law to have a bank account which you need to accept card payments card payments were brought in for covid and covid is now basically finished also if you get a minimum fare of 4.20 if paid for by card you don't even get the minimum fare. 1.7 % doesn't sound much as the council would say but 25000 at 1.7 is nearly five hundred pounds enough to pay for some of the council fees but not all some drivers do charge a minimum fare for card payments usually 8 pounds to me that seems the way to go that gives the public a choice card or cash there are 2 cash machines at the station also sometimes you can't get a signal and I'm not prepared to give my personal bank details to the public also as a bit of a non related thing to card payments is that our minimum fare doesn't go up every year with inflation like everything else does including council fees only when the council feels like it increasing it

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### Response 16

I have been Hackney and private hire driver in Sevenoaks for over decade and half . I can say and most of the drivers are having issues taking card payment in and round Sevenoaks due to network problems. If we don't have network on phone the payment device won't work. Most or all drivers do inform customers cash or card 9 out of 10 customers would prefer cash payment , so only one percentage of customers whom like to pay card becomes they don't like to withdraw either they are drunk or something, how will they use card payment in car when drunk or can't fully function. What about senior citizen are we going to forget about them because small group of customers like to pay by card. Sevenoaks and surrounding area people/ customers older generation would pay cash we have to make sure they get the same care like everyone else. I would say that it's a choice for customers to go with their choice. We must care for every customers the same and not choose whom get special care.

I rather lose card payment job then not get paid when at the destination due to network issues.

I would wait for the next job on the rank , life is going to be very difficult if we going to mandatory Card payment. Choice is good , forcing drivers to accept card is our human rights. I had few problems getting card payment from customers due to network issues and personal safety. The customer wouldn't let me use there WiFi to take payment they said it's personal information security so what do I then . I have to come to rank with out payment. If I stayed at rank I would have got cash payment job or card payment if they was network.

- network connection issues
- transaction fee whom will pay
- if mandatory all the residents in Sevenoaks and surrounding area should get a vote!
- Drivers should get a vote
- we vote for our government then we should be able to vote .
- we should not give our personal information away to any customers, unless you have regular contact and company will pay etc. safely for security reasons personal data should not given to anyone and no PayPal etc all is personal safety. There is lots of scams going on out there .

I am not saying card payment is wrong all I am saying is that we and customers can choose how to make payments and fee and should be minimum payment on card.

Thank you for taking time to arrange the meeting on 2nd Nov 2023. It was our pleasure and honour that we were able to meet and share our concerns regarding card payment and penalty points. I would like to request that if the point system do come active could you allow at least 14 working days for any replacement of the card payment machine . As long as the driver has informed the licensing officer the issues. Thanking you. Ps it would be nice NOT to bring the such thing to action. Drivers must inform there's probable with card reader.

### Response 17

Reference your proposal regarding taxi and private hire vehicles.

Generally I think most of the proposals outlined are all ready implemented and working.

New proposals regarding zero net carbon footprint by 2030.

In view of the prime minister's announcement last week regarding the dropping of his intentions to change the date of the ban of selling new petrol and diesel vehicles from 2030 to 2035, could you consider changing your intentions to do likewise to your zero carbon

footprint plans, thus giving yourself time get the infrastructure in place to achieve it.

Regarding credit cards.

I'd like to refer you to my previous email sent to you where I explained the difficulties using credit card machines in and around Sevenoaks, but to save you time going through what must be a mountain of emails, I'll try and outline the main points and the downside and difficulties of accepting credit cards.

The problem we drivers are up against, is that the majority of residence in Sevenoaks either work, or know someone who works, in London and the coverage is so much better, they don't seem to grasp the fact that there are black/dead areas around Sevenoaks.

Although some merchant services allow you to, and are capable of, taking credit card transactions without Internet coverage, as you mentioned, the hoops that need to be jumped through include, amongst others, asking the card holder for ID that matches the name of the card and phoning the card processor for a validation code, all this takes time, for both the driver and the passenger, and after all the "hoop jumping" the driver still runs the risk of the card being declined "for security reasons".

This again comes to signal coverage, if the driver doesn't have internet coverage there's every probability that he won't have any or very poor phone coverage.

On top of all that checking there's still the question of the card being cancelled or reported missing/lost/stolen by the card holder.

I know internet coverage in and around Sevenoaks is beyond your control, but the internet coverage is very hit and miss, going from very good to non-existent.

In the past it's been suggested that the driver could leave his name and bank details with the customer, to pay the money when they get home using their home Internet.

This has several problems

- 1: the honesty of the customer to do so.
- 2: the risk of identity fraud
- 3: the driver being OK handing out his bank details, when all banks are constantly sending messages to their customers with internet banking not to disclose any bank/security details, even with bank employees, (would you be happy to tell a complete stranger, who you might never see again, your name and bank details? )

Internet black spots include, Godden Green, parts of Seal, parts of Bessels Green, a part of Sevenoaks Station forecourt, anywhere south of St Julians Rd, Underiver, Sundridge going into Brasted, in fact anywhere outside the main Sevenoaks area. If you try to connect to the internet anywhere south or southwest of Sevenoaks it's impossible, likewise going to West Kingsdown or Shoreham and Eynsford.

Realistically the only area drivers stand any chance of getting internet coverage is in, or extremely close, to Sevenoaks.

You suggested trying, in an earlier email, to get the transaction completed by bank transfer or PayPal, both of which require internet connectivity. Which comes back to the problems of no signal.

Although, I agree having credit card facility's would benefit drivers and customers, because of the problems with lack of coverage, as outlined above, I would like to register my strong objection to a proposal where the taking of credit cards is linked or connected to the drivers Hackney Licence, at least until the coverage is improved

I've discovered that there's nothing in law that states that businesses have to accept credit cards, it's done as a courtesy to the customer, and also as you state, security of cash, but ultimately it's a decision of the business.

I understand that you are trying to implement the same conditions onto Maidstone and

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Tonbridge drivers also, as seen on BBC News.

That makes me wonder if your going to implement the same condition on driver's in Bexley, who I believe you also control?

It also begs the question, are you going to implement the same condition on other licensed businesses that require a license issued by yourselves (pubs, off licences, scrap collectors spring to mind)?

I believe that with some pub's it's a condition of the brewery that state the liecensee takes credit cards, but I'm led to believe that's only in the tiedtrade pubs, not the free trade.

It also, rightly or wrongly, seems that you're doing it to appease the taxi customers, that have complained to the council, who have taken umbridge with being told that a business (taxi driver) doesn't want to accept credit cards in payment for goods (a journey).

Yes I do take credit cards, but, it's my choice to do so, not a requirement of being able to do my work.

To me, it almost seems it's a step towards "big brother" taking control, although I'm sure your going to say differently.

Once again I would like to state that I'm strongly against the taking of credit cards as a condition of my taxi license, and I might be wrong, I'm sure you'll say I am, but is what your trying to do actually legal?

You are already aware of my thoughts on card readers being made mandatory and the lack of Internet reception around the Sevenoaks District and I would like my thoughts passed onto the committee for consideration.

With reference to comments made by yourself at the meeting Thursday.

You stated that there are card readers on the market that can take off-line transactions.

I've contacted the card reader firm that I use (square), yes they have a card reader that can take off-line payments.

It requires the purchase of a new, larger, more expensive card reader, in excess of £170 pounds, (it looks larger than those used in shops), which presents the problem of safe storage so it doesn't get damaged and stop working, as it's likely to get knocked about being in the car, if it needs replacing I'm told it can take up to a week or more, thus putting me back to square one, they also state that it requires a strong Internet signal (which might present more Internet signal problems).

The data is stored on the reader for a maximum of 24 hours only, if I am not back in an area that I can re-connect to the Internet, for any reason in that time, then the transaction will not be completed and I will loose the cash as the transaction will be deleted from the reader, with no means for the card company to reinstate the transaction as it will be deleted from their system (and I don't get paid).

Also having receive further information from Square, they state that in Off- Line mode the only "tap and go" payments that can be taken are by Apple Pay or Google Pay, all other payments must be made by "Chip and Pin", which relies on the customer entering the correct pin number, if they remember it, (with no Internet, how can it be checked?). Again relying on the customer's honesty.

Yes I can ask to connect to the customers home Internet, but not everybody will allow a stranger to access their Internet, for security reasons.

Also I've no way of knowing if the card has been declined at the time I take the payment on the card reader (if its been declined I've got to return to the drop-off point and waste time and expensive fuel trying to find the customer).

Yes I can return to the address that I believe the customer lives, but if for any reason they, or their family, deny any knowledge of the transaction, I don't get paid.

If I take the correct phone number from the customer and phone them, they can, and some do, block my number (and I don't get paid).

It also means that I've got to go several miles out of my way to see if I'm going to get paid In cash, (if I know the exact address the customer went into) some people don't have cash indoors to pay someone knocking on their door asking for money, that is owed, to pay a taxi fare.

Also using expensive fuel and loosing more time and money not being on the rank plying for hire.

As for the customer being asked for proof of identify, that will work with some people, but, in my opinion, the driver might be told "I'm not showing you proof of my identity, don't you trust me, bog off" (yes people do that), and that is time consuming, thus loosing more money. You suggested giving our bank details to the customer to do a bank transfer from their home, that relies on the honesty of the customer and whether they can be bothered or not ( if they don't do so, I don't get paid, yes It does happen and is very frustrating).

I'm constantly getting emails from my bank saying " DON'T DIVULGE YOUR BANK DETAILS TO STRANGERS for security reasons.

As a result of the facts, as I see them, all the mandatory carrying of card readers and the forcing of drivers to take contactless payments will do, is make It harder for the taxi driver to earn a living with the problems connected with blank spots if they cant connect to the Internet, as mentioned above and in previous emails, and maybe having problems with their card reader, always having the thought at the back of their minds "will I be able to get paid when I go into a black spot".

Yes If a driver knows he's going to a black spot, he can ask for payment before leaving the rank, but, some customers expect to be able to pay, and the driver to be able to take, card payments at the end of the journey, and don't tell the driver they want to pay with a card for payment until the end of the journey, not knowing about the black spots that surround Sevenoaks. (I find these people usually come from an area that has very good Internet coverage)

It's different for company drivers as when they go into black spots the can normally still contact their base and do the transaction that way.

You also stated that you've received, thirteen I believe, complaints from customers about drivers not taking credit card payments, but you also stated that you didn't know if they were Sevenoaks residents or not (It shouldn't make any difference).

Two emails you read out, both stated that they asked seven drivers "do you take credit cards" and were told "no".

It seems strange to me that they both asked the same amount of drivers that question (same person sending that email?)

By the same token, you don't know if they were being truthful with their complaint (maybe exaggerating or inventing)

Also you don't know out of those thirteen, how many may have duplicated their complaint (It maybe one person sending them all using different email addresses, yes people can be that petty).

Statistically, IF all the complaints are genuine, you don't say over what period of time you received them, thirteen complaints out of thousands of satisfied customers, many with card payments, isn't a bad statistic (In any industry you will always get someone who's going to complain, It's just their nature).

Also on the subject of vulnerable persons, I would like to think that a GENUINE vulnerable person wouldn't have any problems.

In the past I've personally taken them to their destination, without taking any payment, just

## Agenda Item 7

to make sure they got home safely.

In a previous email I asked the question, is the unfair mandatory taking of credit cards by drivers just a way to appease Sevenoaks residents, make it easier for you and your team, but putting more pressure on taxi drivers with more rules, to carry on doing the job they sometimes enjoy.

It also seems to me that any Off-Line payments taken are a gamble as to if the driver will get paid, surely this is unacceptable as by implementing that condition on drivers you, as a council, are not taking into account driver's earnings, or his/her mental well being.

I personally would rather loose the job, and the money associated with it, than travel to a black spot and end up not getting paid, thus loosing maybe a lower charge fare, but, at the same time, not using the time and expensive fuel going to the black spot (that's a double loss).

I hope this goes someway towards the rejection of the proposal for drivers to accept the mandatory taking of credit card payments and it will not get implemented.

I've contacted my credit card terminal provider (square), and they have confirmed that Off-Line payments from Apple Pay and Google Pay are the ONLY phone payments that can be taken, but can't be checked to see if they will be declined until the reader re-connects to the Internet.

Samsung Pay, Pay Pal and any other phone payments can't be processed.

Regarding Off-Line card payments, yes they can be taken, but as there is no Internet connection there is no way to confirm if the customer has funds in their account to pay me.

When paying by card the customer has to insert the card into the reader and enter a PIN Code to authorise payment, that can't be checked to see if it's the correct number or not until the card reader is connected back to the Internet, the chap I spoke to admitted that, yes, there are instances where people deliberately entered the wrong information to avoid payment, and that it was up to the retailer to recover the lost monies (the driver might feel it's to much trouble to chase after cash that they maybe won't get and not worth the aggravation, and just right it off and give up).

If your proposal goes through, it will put pressure on the driver to contact the customer to get reimbursed, and take him/her away from earning money from genuine fare paying customers. Thus loosing even more money, and getting disheartened with the job in the process

The Licensing Team  
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Our ref: 4278914

12<sup>th</sup> November 2023

Dear Sir / Madam

### **Response to consultation on proposed changes to taxi policy and licensing fees**

1. We are an organisation focussed on assisting couriers, hackney and private hire drivers (“drivers”) in enforcing their employment rights, particularly where employment status is misclassified as self-employed. We write in response to your recent consultation on proposed changes to the taxi policy of Sevenoaks District Council (“the Council”).

### **Formalisation in policy of the introduction of the Equo Safeguarding training for all new and existing drivers**

2. We support the introduction of Equo Safeguarding training for new drivers. However, it is unclear whether the proposal to introduce the Equo safeguarding training to existing drivers involves a requirement for existing drivers to complete and/or pay a fee for the training on a single occasion, or upon each licence renewal (“repeat training”). If repeat training is proposed, we oppose the proposal on the basis that it is excessive and onerous on drivers.
3. Safeguarding training raises awareness of the exploitation of vulnerable individuals and steps to be taken to combat it. Our cursory investigations appears to reveal, in our opinion, widespread exploitation and unlawful treatment of drivers by private hire vehicle operators, in some cases, local authorities, and in one case, a train operator with an appointed taxi rank at its train station. For example, in our opinion, it appears that private hire vehicle operators (“operators”) routinely unlawfully misclassify the employment status of drivers (by treating them as self-employed rather than workers). Also, in our opinion, it appears that the taxi permit system operated by SE Trains Limited (“SETL”) at

Sevenoaks Railway Station (“Sevenoaks Station”) is, and has been operating unlawfully. We intend to engage with the Council further on this issue as part of our investigations. However, at this stage, we invite the Council to, prior to or as part of the introduction of the proposed safeguarding training requirement for all drivers, to introduce and enforce a requirement for operators, and train operators with appointed taxi ranks at their stations, to complete and comply with training concerning the lawful treatment of drivers and lawful operation of appointed taxi ranks.

**Formalisation in policy of the new HMRC rules for taxi and private hire drivers and operators**

4. The proposed policy concerning the new HMRC rules for taxi and private hire drivers appears to presume self-employed status for drivers. Following the judgments in Uber BV and others v Aslam and others [2021] UKSC 5 (“Uber v Aslam”), United Trade Action Group Limited v Transport for London and Transopco UK Limited [2022] EWCA Civ 1026 (“UTAG v TFL”) and Uber Britannia Limited v Sefton Metropolitan Borough Council, Bolt Services UK Limited, The App Drivers and Couriers Union, Veezu Holdings Limited and D.E.L.T.A Merseyside Limited [2023] EWHC 1975 (KB) (“Uber v Sefton”), we submit that, where a driver is engaged with an operator, the starting point should be a presumption that drivers are employed by the operator. In Uber v Aslam, the Supreme Court held that the claimants (Uber drivers) were workers within the meaning of applicable employment legislation. In UTAG v TFL and Uber v Sefton, the High Court declared that operators licensed pursuant to the Private Hire Vehicles (London) Act 1998 and the Local Government (Miscellaneous Provisions) Act 1976 respectively, must engage with customers as principle to transportation contracts. On this basis, it is not possible for operators to lawfully treat their drivers as self-employed. We invite the Council to mandate and include in the new policy, a licensing condition requiring operators to treat their drivers as workers or employees, and for operators to provide the Council with evidence of the same; whether the evidence is in the form of documented confirmation of the registration of workers/employees with HMRC, or otherwise.

**Formalisation in policy of online right to work checks**

5. We are concerned that the proposed formalisation in policy of online right to work checks is focussed solely on driver applications, and appears to omit equivalent requirements on operator licence applications. As operators are obligated to employ drivers and usually engage multiple drivers, it appears appropriate for any formalisation in the policy to primarily focus on operators. We request that the Council includes in the policy, a requirement for private hire operators to: (a) treat their drivers as workers or employees by engaging them in employment contracts; (b) complete necessary online right to work checks in the process of employing drivers.

**Formalisation in policy of the inclusion of driver ‘suspensions’ as well as refused and revoked drivers through the NAFN (NR3) central database**

6. We are concerned that the proposed formalisation in policy of the inclusion of driver suspensions as well as refused and revoked drivers through the NAFN (NR3) central



database focusses solely on driver refusals, revocations and suspensions, and appears to omit any and all equivalent policy provisions or focus on refusals, revocations and suspensions of operators. We are further concerned that the proposed policy contains no equivalent provisions or focus on refusals, revocations or suspensions of taxi ranks appointed on private land. The unlawful and/or abusive conduct of operators and the owners of private land upon which taxi ranks are appointed, can, contrary to section 2 of the Competition Act 1998, cause severe unlawful prevention, restriction and/or distortion of competition in the district's hackney carriage and private hire vehicle market. We invite the Council to include in the policy appropriate equivalent provisions in relation to: (a) operator revocations, suspensions or judicial determinations that an operator violated employment and/or revenue law; (b) private land owners where taxi ranks appointed on their land is refused, revoked and suspended by reason of the rank operating unlawfully, unfairly or abusively.

**Inclusion in policy of a process whereby authorisations be given for continued work where all documentation for a licence has been submitted, assessed and validated but not yet processed**

7. We welcome this proposal.

**Inclusion in policy that all new licensed vehicles (other than stretched limousines and wheelchair accessible vehicles) must meet or exceed Euro 5 and Euro 6 emission standards**

8. We welcome the proposal to to include in the policy provisions that all new licensed vehicles, excluding stretched limousines and wheelchair accessible vehicles, must meet and exceed Euro 5 and Euro 6 emissions standards. However, we invite the Council to: (a) increase the taxi fare tariff rates ("taxi fare tariffs") to reflect the higher costs of purchasing and maintaining such vehicles. The purchase cost of such vehicles has increased significantly due to recent expansion of the Ultra Low Emission Zone by Transport for London. Also, the standard of such vehicles are closer to the standards of London hackney carriage vehicles which attract higher fare tariff rates; and (b) reduce the vehicle licence application fee for new and renewed wheelchair accessible hackney carriage vehicle licences. The higher cost of acquiring and maintaining wheelchair accessible vehicles, coupled with relatively low taxi fare tariffs may be a barrier to drivers acquiring wheelchair accessible vehicles. There appears to be a shortage of wheelchair accessible vehicles in the district. Information received from SETL reveals that 1 of 83 hackney carriage vehicle permit holders at Sevenoaks Station in 2022 had a wheelchair accessible vehicle. The number taxi permit holders with wheelchair accessible vehicles does not appear to have improved in 2023. We respectfully submit that the lack of adequate wheelchair accessible vehicles in the district may, contrary to the Equality Act 2010 potentially constitute indirect discrimination based on disability.

**Hybrid, electric and LPG vehicles to be licensed for up to 15 years**

9. We welcome the proposal to include in the policy provisions that hybrid, electric and LPG vehicles are to be licensed for up to 15 years. However, we invite the Council to increase

the current taxi fare tariffs, and reduce application fees for new and renewed hackney carriage vehicle licences for hybrid, electric and LPG vehicles to reflect the: (a) higher cost of purchasing and maintaining such vehicles. The purchase cost of such vehicles has increased markedly due to the recent expansion of the Ultra Low Emission Zone by Transport for London. Also, the standard of such vehicles is close to the standard of London hackney carriage vehicles which are subject to higher fare tariffs; and (b) increased electric charging, fuel and hire and reward motor insurance costs since the Council's last review of the taxi fare tariffs.

### **To remove the six year maximum age of a vehicle when first presented for licensing**

10. We welcome this proposal.

### **Formalisation in policy of the responsibilities placed upon drivers under the Equalities Act 2010**

11. We are concerned that the proposed formalisation in policy of the responsibilities placed upon drivers under the Equality Act 2010 ("the EA 2010") focusses solely on the responsibilities placed on drivers under the EA 2010, but appears to omit any mention or focus on the equivalent responsibilities placed on other relevant stakeholders under the EA 2010 (such as vehicle and train operators). Based on our cursory investigations, in our opinion, it appears that SETL is operating the taxi permit system at the appointed taxi rank at Sevenoaks Station in breach of the EA 2010 (amongst other alleged legal violations). We intend to communicate with the Council further on this issue in due course as our investigation progresses.

12. The reach of stakeholders such as vehicle and train operators extends far beyond that of drivers. For vehicle and train stakeholders typically engage multiple drivers and passengers. Resultantly, we submit that it is appropriate to place primary focus on regulating and enforcing the other stakeholders compliance with their duties and responsibilities under the EA 2010 (and other laws). Further, we submit that it is appropriate to place primary focus on the other stakeholders requirement to comply with the law generally, including employment and competition law. In addition to contraventions of employment law, our cursory investigations appear to reveal that some stakeholders may be conducting business in contravention of the Competition Act 1998. If our cursory findings are correct, the stakeholders continued unlawful trading under the Competition Act 1998 and otherwise, may be unlawfully preventing, restricting and/or distorting the taxi and private hire market in Sevenoaks district, and having a detrimental effect on drivers and the general public within the district. We intend to communicate with the Council further on these issues in due course.

### **Mandating the use of card payment machines (as an addition to taking cash payments) in Hackney Carriage Vehicles by way of adding a condition to each licence**

13. We object to the proposed mandating of card payment machines. In light of the generally increased business costs incurred by drivers, such as those set out above, coupled with the 'cost of living crisis'; in the absence of an increase to the district's taxi tariff rates, we

respectfully submit that it is inappropriate and detrimental to drivers to require them to incur the additional cost of acquiring and maintaining card payment machines. Notwithstanding this, it is our understanding that only a minority of drivers currently do not use card payment machines, so the proposed mandating of the use of card machines may be disproportionate.

14. Notwithstanding the above, legitimate, necessary and justified reasons exist as to why drivers may object to the use of card machines or demand payment in cash at any given time. Mandating drivers to use card payment machines may place some drivers in a precarious position and jeopardise the continued operation of their business (where they are genuinely self-employed). By way of non-exhaustive examples: (a) the earnings of some drivers, such as those operating independently in Swanley, may be so low that they cannot afford to lose the sum of transaction fees deducted by card payment machine providers from paid fares. The annual sum of card payment transaction fees may be considerable to low earning drivers, and may be an expense which renders them unable to continue trading; (b) there may be instances where drivers require immediate access to funds in order to continue trading immediately, such as an immediate need to refuel their vehicle or pay an insurance bill. As card payments may take days to be deposited into drivers' bank accounts, some drivers may be unable to continue working and operate their vehicles due to running out of fuel in their vehicle, or their insurance policies being cancelled due to non-payment; (c) the district and surrounding areas have patchy and unreliable mobile network signal coverage. There may be instances where drivers will have prior knowledge of a lack of mobile network connectivity at specific locations (less experienced drivers may struggle with this issue to a greater degree), but there may be instances where the lack of network connectivity is unknown until the driver arrives at the destination. On this basis, we feel it is appropriate for the Council to encourage passengers to always carry cash when using taxis as a backup payment method.
15. The proposal may place drivers continued business trading in a vulnerable position by increasing the risk to drivers incurring loss from unrecoverable fares. Customers are not obligated to provide personal details (such as names, addresses, telephone numbers, and email addresses) needed to pursue unpaid fares criminally or civilly. Thus drivers are in no position to demand or enforce a demand for the same. This leaves drivers in a precarious position where they may be vulnerable to further mistreatment, exploitation and low and lost earnings.
16. Dealing with issues related to unsuccessful card transactions arising due to a lack of network connectivity of otherwise, is likely to increase the time taken for drivers to complete jobs, and reduce drivers' earning potential and capacity. For example, assuming that passengers consent to the disclosure of their personal details required to pursue the completion of card transactions (whether by way of legal enforcement, deferred or delayed payment, or otherwise), assuming that passengers voluntarily provide correct personal details, the acquisition of the personal data and/or deferred processing of card payments is likely to consume valuable time for drivers. Furthermore, attempts to process card payments and/or obtain personal data needed to pursue the completion of card transactions in advance of the commencement of journeys (where the

destination is known to lack mobile network connectivity for example) is generally impractical for it is likely to significantly slow the movement of taxis on ranks, increase taxi congestion on the ranks or streets, delay journeys of other passengers waiting for taxis on ranks, and/or delay and obstruct other road users where taxis are hailed from the street.

17. The Council's proposed directive on acceptable payment methods and/or the removal of drivers' discretion in selecting their preferred payment method at any given time may potentially add weight to a proposition that drivers may be employed by the Council. Drivers already lack an essential feature of independent business, namely, the ability to set their own public hire fare rates. The removal of another essential feature of independent business, namely, the ability to exercise discretion and choice as to accepted payment methods; may increase the Council's control of drivers' trading operations to an extent whereby the drivers' employment status may potentially stray beyond self-employed to an employed relationship.

### **Proposal to increase and introduce new licensing fees**

18. In the absence of an increase in the Council's taxi fare tariff rates, we object to any increase or introduction of new licensing fees.

### **Summary of our further requested policy amendments**

19. Having had regard to the Statutory Taxi & Private Hire Vehicle Standards, we request that the Council makes the following amendments to its policy and practice.

#### Increased and adjusted taxi fare tariff

20. The current taxi fare tariff may be inadequate based on the level of public trade secured by hackney carriage vehicle drivers on the district's streets and ranks. We request that the Council completes an immediate and urgent review into fare tariffs. Transport for London ("TfL") increased London taxi fare tariff rates in 2023, and proposes a further imminent increase following a further review.<sup>1</sup> TfL identified factors justifying increased fare tariffs. The identified factors apply equally to Sevenoaks licensed hackney carriage vehicle drivers and proprietors. The wider employed society attracts premium pay rates for work completed during '*unsociable hours*', namely, during nights, evenings, weekends and bank holidays. We invite the Council to adopt the approach taken by TfL by: (a) increasing the standard daytime tariff rate; (b) adjusting the night tariff to commence from 10:00pm at the latest; (c) introducing an intermediate evening tariff to commence from 8pm at the latest and to end upon the commencement of the night tariff; (d) introducing a weekend tariff set at the intermediate tariff rate and applies throughout daytime until the night tariff commences (from 10:00pm at the latest); and (e) increasing the tariff rates for shorter and longer journeys.
21. Hackney carriage vehicle drivers must be paid fairly and generate sufficient profit to remain in business. However, drivers must also generate sufficient profit to account for annual leave and sick days. For health and safety reasons, the wider society employed

1 Accessed at: <https://haveyoursay.tfl.gov.uk/taxi-fares-review-2023> on 12 November 2023.

in England & Wales is entitled to 28 days holiday annually (pro rata); is protected from working in excess of 48 hours weekly; is entitled to 2 consecutive rest days weekly; and typically works 8-10 hour shifts when working full-time. Equally, for health and safety reasons, we submit that it is necessary for drivers to benefit from the same standards enjoyed by the wider employed society. This is only achievable if drivers can fairly and comfortably generate sufficient business profits in typical daily shift worked. Currently, it appears that some drivers may be operating at a loss, working excessive hours and earning below the national minimum wage after the deduction of their business expenses. Our cursory investigations appears to reveal that drivers operating in Swanley are experiencing dire low earnings, and are susceptible to exploitation by operators and local authorities, as set out below. Swanley drivers appear to be further adversely affected by Uber operating in Swanley (allegedly unlawfully) and distorting the market by undercutting the local competition.

22. Drivers' economic difficulties are compounded further by: (a) operators typically charging drivers 20% commission fees on completed fares supplied to drivers by operators. In many cases, the operators appear to already be depriving drivers of further income by violating their employment rights (such as failing to pay drivers holiday pay and at least the national minimum wage after deducting business expenses); (b) SETL charging Sevenoaks Station taxi rank permit holders £573.00 annually (in 2023) whilst allegedly operating the permit system unlawfully, abusively and unfairly; and (c) the Council's annual vehicle licensing and MOT fees being disproportionately higher than the equivalent fees payable to TfL despite TfL operating higher taxi fare tariff, and a disproportionately greater number of taxi ranks (including those located at train stations). It is also arguable that TfL's hackney carriage vehicle drivers have greater opportunities to secure public hire jobs and incur less 'dead milage' between jobs. TfL charges £66.00 for annual hackney carriage vehicle licence applications, and £44.00 for 6 monthly hackney carriage vehicle MOT tests. A total annual vehicle licensing cost of £154.00. By contrast, the Council charges £325.00 for annual hackney carriage vehicle licence applications and £54.85 for 6 monthly hackney carriage vehicle MOT tests. A total annual vehicle licensing cost of £434.70. The annual vehicle licensing cost payable to the Council is 2.82 times higher than that charged by TfL. The Council has 7 listed taxi ranks in the district (we are unable to locate the taxi rank listed at The Green, Westerham, so there may actually be 6 operational ranks in the district), 5 of which are accessible by all of the Council's licensed hackney carriage vehicle drivers ("hackney carriage drivers"). However, the largest and most lucrative rank in the district (Sevenoaks Station rank) is accessible to a perpetual, exclusive group of licensed hackney carriage drivers only, and currently only upon payment of a fee of £573.00 for a permit. Taking Sevenoaks Station permit taken into account, the total annual licensing cost to access the ranks in the district is £1,007.70. This is 6.54 times higher than the equivalent fees payable by London taxi drivers. By contrast, TfL has 714 ranks which are accessible to licensed hackney drivers free of additional charges. TfL has 102 times more ranks in its boundaries based on the 7 listed ranks in Sevenoaks District. TfL has 142.8 times more ranks based on the 5 ranks accessible to all licensed drivers in Sevenoaks District. We respectfully submit that the vehicle licensing fees payable by the Council's licensed hackney drivers is disproportionately high in comparison those payable to TfL; despite TfL providing a far greater number of universally accessible ranks, higher fare tariffs



providing drivers with greater earning capacity, and there generally being more custom available within TfL's boundaries.

23. The higher purchase and maintenance costs of 8 seater hackney carriage vehicles may cause economic difficulties for proprietors. It appears that the vast majority of their secured fares are based on the 4 seater tariff. As such, they may benefit from 5 to 8 seater fares only on rare occasion. Drivers of 5 to 8 seater vehicles may be at an economic disadvantage based on the current fare tariffs.
24. We request that the taxi tariff fare rates for shorter journeys be increased. From our observations, drivers may experience considerable intervals between securing fare paying passenger on some of the district's taxi ranks. For example, we have observed intervals of over 3 hours before a single passenger requests a taxi from the rank at Swanley Railway Station ("Swanley Station"). This is problematic and unsustainable for instance, where several drivers are waiting on the rank. It appears that the drivers operating from Swanley Station have no access to permits for the rank at Sevenoaks Station, the main taxi trading port in the district. Having potentially waited hours to secure a fare the Swanley Station rank, the eventual fare may only be a short distance job. In such circumstances, drivers could possibly earn less than £5.00 in 3 hours. For their business to remain viable and to cover living expenses, it seems that drivers need to earn around £30.00 an hour. This is consistent with Council's current waiting time charge on the standard daytime fare tariff. Although drivers may secure longer distance fares after the interval between jobs, the possibility remains that they may complete a series of short distance jobs after the intervals. In this example, drivers need to complete around 6 short distance jobs hourly in order to cover their business and living costs within a reasonable timescale (an 8 hour shift for example). This target appears to be unrealistic, particularly on ranks such as that at Swanley Station, where drivers typically have no access to the more lucrative rank at Sevenoaks Station. The lack of trade faced by Swanley drivers is principally due to Uber absorbing local trade in circumstances where Uber may be operating unlawfully based on its calculation of drivers' working time, contrary to *Uber v Aslam*.

### Mandating operators to engage drivers in employment contracts.

25. We request the introduction of an enforced policy mandating operators to engage with drivers in employment contracts as a condition of licence. We request that the licences of operators who fail to engage their drivers in employment contracts are revoked or not issued upon application, and such operators are treated as a not fit and proper person for the purposes of the Local Government (Miscellaneous Provisions) Act 1976. A growing body of case law declared private hire drivers as workers for the purposes of employment law having previously been misclassified as self-employed. In such cases, drivers have employment rights such as entitlement to receive holiday pay and at least the national minimum wage (after the deduction of their business expenses). Additionally, as set out above, in *UTAG v TFL* and *Uber v Sefton*, the High Court determined that, in order to operate lawfully, private hire operators licensed under the Private Hire Vehicles (London) Act 1998 and the Local Government (Miscellaneous Provisions) Act 1976 respectively, are required to engage with customers as principal to the contracts. Accordingly, it is not lawful or feasible for operators to purport to treat

drivers as self-employed. In accordance with UTAG v TFL and Uber v Sefton, in order to operate lawfully, operators are effectively required to engage drivers in employment contracts.

26. We request that an enforced policy mandating operators and hackney carriage drivers to engage drivers and personal assistants in employment contracts for each transportation contract entered into with local authorities (such a school run contracts). To our knowledge, the contractual terms of school run contracts issued by authorities such as Kent County Council, require operators and hackney carriage drivers to employ their drivers and personal assistants engaged in the performance of awarded contracts. However, this requirement does not appear to be enforced by some local authorities. Resultantly, operators and hackney carriage drivers may be incentivised to engage drivers and personal assistants on a bogus self-employed basis, whereby drivers unlawfully bear the transportation costs incurred in performing the contract (such as vehicle acquisition an depreciation, maintenance, fuel, insurance, and cleaning), and personal assistants are denied employment rights such as entitlement to holiday pay and the national minimum wage. Such costs should properly be borne by operators and hackney carriage drivers whom are obligated to employ their drivers (or they must deduct such expenses against drivers' earnings when calculating whether the driver earned the national minimum wage in their hours worked). As operators do not bear the true operational costs of performing the contracts, they are able to tender for local authority transportation contracts at artificial and unsustainable low prices. Resultantly, some operators and hackney carriage drivers secure local authority transportation contracts by unlawfully undercutting law abiding operators and hackney carriage drivers. The unlawful conduct of such operators and hackney carriage drivers, and the failure to regulate and eliminate this unlawful conduct may, contrary to the Competition Act 1998, constitute unlawful prevention, restriction and/or distortion of the taxi and private hire market in the district. It appears that it may potentially contravene other laws also.
27. We request the introduction of a policy whereby, every 6 months, operators are required to declare the names and badge numbers of all their drivers; and provide determinative evidence of the operators' employment of drivers and compliance with employment and revenue law.
28. Unlawfully trading operators distort the taxi and private hire market by the offering artificially low fares, partly resulting from their failure to charge VAT on fares. As operators are required to engage in contracts with customers in principle (in accordance with UTAG v TFL and Uber v Sefton), it follows that operators with an annual turnover over £85,000 are required to charge and pay VAT on their income. We request the introduction of a policy enforcing the requirement for such operators to charge pay VAT on customer fares.
29. The large number of hackney carriage drivers engaged by private hire operators in the district may be indicative of an inadequate amount of public hire trade available on the Council's streets and ranks. The fact that private hire operators attract a considerable amount of trade in the district, and are able to supply work to hackney carriage drivers (at a cost in commission fees of 20% of fare prices), may be indicative of the distortion of competition in the taxi and private hire market by operators that trade unlawfully. For

example, by violating drivers' employments rights and unlawfully shifting the operators' vehicle operating costs onto drivers. Resultantly, law violating operators are able to offer artificially and unsustainably lower fare prices which independent, lawfully trading hackney carriage drivers are unable to compete with. Further, such operators degrade the working conditions and welfare of drivers who may often be receiving payment below the minimum wage after their expenses are deducted, contrary to employment law. Commission fees (typically 20% of fares) charged to drivers by law violating operators further compounds drivers' struggles associated with low pay.

30. Drivers' low pay poses a health and safety risk to drivers and the public. For drivers may be compelled to work excessive hours to cover their business and living costs. Also, drivers may be compelled to work, for example, 6 to 7 days weekly and be unable to take adequate time off for rest, holidays or sickness without incurring financial debt. Resultantly, the health and safety risk to drivers and the public is increased due to, for example, drivers working when exhausted, fatigued or sick.

Introduction of requirement for operators to pass safeguarding and exploitation of drivers assessment

31. We request that the Council introduces and enforces a policy requiring operators to pass a safeguarding and exploitation of drivers assessment. This includes training into and enforcement of: (a) lawful engagement with drivers under employment and revenue law, (including national minimum wage, holiday pay and maximum working time duties, obligations and responsibilities); and (b) conducting business in compliance with competition law.

Removal and relocation of the taxi stand at Sevenoaks Railway Station to public land

32. We request that the Council retracts the appointment of the taxi stand at Sevenoaks Railway Station ("Sevenoaks Station") and relocates it to nearby public land. The taxi stand at Sevenoaks Station ("the rank") is the largest in the district in terms of taxi capacity, passenger footfall, and lucrativeness. As such, the rank is of critical importance to the district's licensed hackney carriage drivers.
33. In our opinion, the rank and associated taxi permit system appears to be operating and/or administered unlawfully, unfairly, and subject to abuse by SE Trains Limited ("SETL") and some private hire operators. On the whole, hackney carriage drivers are adversely affected by what appears to be, in our cursory opinion, unlawful conduct and abuses on the part of SETL and some private hire operators. We have identified a number of issues with the rank's arrangements which we are currently unable to set out in detail. However, we are currently investigating the full scope issues and concerns with the rank, and we intend to raise them with the Council appropriately as our investigation progresses. As a brief non-exhaustive example of an issue, SETL appears to be operating a 'closed shop' in relation to the issuing of permits, whereby SETL has imposed a cap on the maximum number of permits issuable annually; restricted the submission of permit applications to 1 out of 12 months of the year only; and the permits of existing permit holders are renewed before any new applicant or new recipient is granted a permit. The net result appears to be that new permit applicants and potential



recipients are unable to obtain permits. Also, new and existing hackney carriage vehicle and driver licensees and applicants must wait up to 11 months to apply for a permit, and eventually, their permit applications are very highly likely to be refused. Due to the critical importance of the rank, existing permit holders are unlikely to forego renewing their permits. Drivers granted Sevenoaks Station taxi permits trade at a considerable economic advantage to drivers who are refused permits, or otherwise have no access to the rank.

Council conducted investigation into the operation of the rank at Sevenoaks Station, irrespective of whether the rank is removed and/or relocated

34. We request that the Council conducts an immediate investigation into the operation and administration of the rank at Sevenoaks Station irrespective of whether or not the rank is removed and/or relocated. We request that the investigation includes the obtaining of data from hackney carriage vehicle proprietors and drivers into their individual permit applications submitted, granted or refused since the commencement of the taxi permit system. We suspect that the results may reveal an unlawful, abusive and unfair state of affairs, which we submit, should be treated by the Council as wholly unacceptable and remedied appropriately.
35. If the Sevenoaks Station rank is not removed and relocated to public land, we request the:
- (a) immediate removal of the cap on applications imposed by SETR. So far, our investigation has revealed that the cap is the result of irrational decision making and in our opinion, appears at the least to be contrary to the EA 2010 and the Competition Act 1998. We intend to raise this issue with the Council in greater detail as our investigation progresses.
  - (b) immediate removal of the existing restriction on the submission of taxi permit applications between 1st July to 31st July only each year. The restriction appears to be the result of unlawfully irrational decision making, and in our opinion, appears to be contrary to the EA 2010 and the Competition Act 1998. We intend to raise this issue with the council in greater detail as our investigation progresses.
  - (c) mandating of SETL (or the current operator at any given time) to: (i) operate any taxi permit system lawfully (including adhering to duties and responsibilities imposed by the EA 2010 and Competition Act 1998; (ii) retain personal data concerning taxi permit applications and issue of taxi permits for at least 6 years; and (iii) ensure that no caps are applied to the number of taxi permits issuable.
  - (d) introduction of reduced licensing application and renewal fees for driver and vehicle licences where the driver and/or vehicle proprietor has no taxi permit for Sevenoaks Station.

## Data gathering in relation to Sevenoaks Station permit applications and issue

36. We request the introduction of an annual requirement for hackney carriage vehicle proprietors (and/or drivers) to confirm whether they applied for a taxi rank permit in the preceding years and the current year, and whether or not they were granted or refused a permit in preceding years and the current year. Our ongoing investigation has revealed that SETL purports to delete taxi permit data annually. We submit that this is unacceptable and may potentially be unlawful under data protection laws. In our opinion, it certainly leaves the administration of the taxi permit system open to abuse, and obstructs the ability to hold SETL accountable for its acts and omissions in relation to the administration of the permit system.

## Introduction of policy to review of taxi tariffs every 6 months.

37. We request the introduction of a policy whereby taxi tariffs are reviewed every 6 months. The current cost of living crisis demonstrates how quickly the economic position can deteriorate. A lack of sufficient remedial regulatory measures may jeopardise the business, health and wellbeing of hackney carriage vehicle proprietors and drivers.

## Introduction of provisions for the revocation and suspension of vehicle operator licences

38. We request the introduction of a policy providing for the revocation and suspension of operator licences where operators breach the law, including employment and competition law.

## Introduction of a policy to exercise joint authorisation from TfL (other licensing authorities)

39. We request that the Council enters into an agreement with TfL whereby TfL authorises the Council's officers to jointly enforce compliance with TfL's regulatory policies which require licensees to adhere to the law. Under the sought joint authorisation agreement with TfL, we request that the Council takes action against TfL's licensees found to be in contravention of TfL's policies whilst operating within the Council's boundaries. Unlawful operations should include failures to comply with employment, revenue and competition law. In *Uber v Aslam*, the Supreme Court declared that Uber's drivers are workers, and their working time for the purposes of relevant employment legislation begins when they log onto Uber's app, and ends when they log off the app. However, in our opinion, Uber appears to be operating in defiance of the court's judgment by treating drivers' working time as only the periods when they are carrying fare paying passengers. If so, it appears that Uber is not bearing its true operating costs and it able undercut the competition by offering low fares which law abiding operators and hackney carriage drivers are unable to compete with. Uber is currently specifically targeting the transportation market in Swanley and placing Swanley hackney carriage drivers under severe economic pressure.<sup>2</sup> The proposed joint authorisation agreement would enable the Council to preclude unlawful players, such as Uber appears to be, from operating in the district by assisting TfL in its regulatory enforcement duties.

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2 Please refer to file: "*Uber.pdf*" attached.

Appointment of additional ranks

40. We request that further taxi stands are appointed on public land in the district. This will increase visibility of the hackney carriage vehicle trade and drivers. We submit that it is of public benefit for a taxi stand to be of reasonable walking distance from their location. For in the event, for example, that private hire bookings are delayed or cancelled, passengers would have the added option of walking to the nearest taxi stand to secure taxi transportation. We submit that with sufficient publicisation of new taxi stands, the public and drivers may be encouraged to use the new stands.
41. Additional taxi stands may reduce the operating costs and increase the income of hackney carriage drivers. For, upon completing journeys, drivers may wait at the nearest taxi stand rather than incurring 'dead mileage' by returning to the primary source of fares, such as Sevenoaks Station, Swanley Station and Asda Superstore in Swanley. The current situation poses a risk to the local population who are not located in close proximity to the 7 listed taxi stands within the district. There may effectively be only 5 taxi stands in the district which are available to all licensed taxi drivers. For, we are unable to locate the listed stand at The Green, Westerham. Also, the largest and most lucrative stand in the district, namely the stand at Sevenoaks Station, is inaccessible to a large portion of the Council's licensed hackney carriage drivers. Further, it appears to be perpetually accessible to an exclusive group of drivers only, currently upon drivers making payment of £573.00 annually.
42. We request, with the consent of land owners, that further taxi stands are appointed on private land within the district, such as at Otford, Bat and Ball, Shoreham, and Eynsford Railway Stations, Tesco Superstore in Riverhead, Sainsbury's Superstore in Otford, Aldi Superstore in Otford, and Lidl Superstore in Sevenoaks.

Introduction of annual driver wellbeing and welfare checks

43. We request that the Council introduce a policy for it to complete annual wellbeing and welfare checks on its licensed drivers. In addition to the request for data gathering about Sevenoaks Station taxi permits applications, granting and refusals above, we request that the Council annually gathers and assesses data in relation to drivers concerning: (a) the average number of hours worked weekly; (b) the average number of days worked weekly; (c) whether they were able to generate sufficient profit to enable them to take annual leave and/or days off work for sickness; (d) the number of days taken off work for holiday and sickness respectively; (e) whether on average they take 2 consecutive days off work weekly; (f) whether they work evenings, nights and/or weekends; (g) whether, after the deduction of business expenses, they earned the national minimum wage or above on average; (h) whether they are in receipt of Universal Credit or other state benefits; (i) and whether they pay into a pension scheme.

Yours faithfully,

The logo for Shareb, featuring the word 'shareb' in a lowercase, handwritten-style font.

**Shareb Affiliates**

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Uber

 Log in

Sign up



• Enter pick-up location



▪ Enter destination

[Home](#) > [Trip](#) > [Taxi](#) > [Cities](#) > Swanley

## Looking for Swanley taxis?

In some cities across the UK, riders can request Local Cab directly from the Uber app. Until that's possible in Swanley too, consider booking a trip with UberX instead. Get a quote, book a trip right from the app, then head to your destination with your driver.

[Book a trip in Swanley](#)



## The convenient alternative to Swanley taxis

The on-demand alternative to Swanley taxis is here. With the Uber app, riders and private-hire drivers connect 24/7. Convenience is prioritised every step of the way, starting with booking a trip.

All it takes is a few taps to get started. Download the mobile app, enter your pick-up and drop-off addresses, then select **UberX** to confirm your trip in Swanley.



### 24/7 availability

From early mornings to late nights and everything in between, you can book a trip with UberX. Request a trip to Swanley Railway Station (SAY) and elsewhere at a moment's notice to connect with a driver near you.

1/3

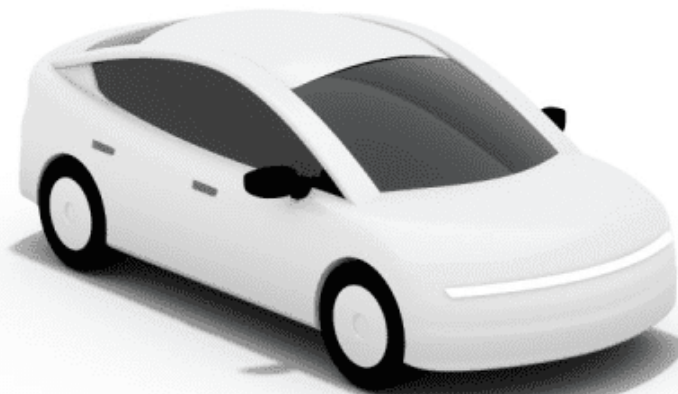


## Download the Uber app to book a taxi or private-hire vehicle near you

Get Uber on the App store

Get Uber on Google Play

## Looking for taxis near you? Consider these trip options



### 4-seaters

Comfortable vehicles for up to 4 riders

## **Local rates in Swanley for UberX**

Budget ahead for your trip in Swanley by viewing common rates for trips booked on UberX.

On average, a 17-minute trip in Swanley costs £16.

[Request a trip](#)



## Services for all your trip needs

### Airport transfers

Enjoy efficient airport transfers in Swanley by booking a trip with the Uber app. You'll ride with a licenced private-hire driver, whether you're headed to or from London Biggin Hill Airport or another airport. Exchange crowded shuttles for a comfortable trip with Uber today.

### Swanley and beyond

The ability to book a trip to your dream destination is at your fingertips. All it takes is requesting a trip with the Uber app. You can explore the heart of Swanley or embark on a trip to Parham to explore new sights to see.

### Business travel

Skip lengthy commutes and parking hassles by managing your travel needs with UberX. Everything from booking to paying for your trip is completed right in the app. All you have to do is enjoy the trip. Consider this on-demand option when you need to head to the office, an event or another destination in a timely manner.

## Frequently asked questions

Can I book a taxi in Swanley with Uber?



Currently, you can't book a taxi in Swanley with Uber, but you can book UberX. This affordable trip option comes with in-app safety tools, on-demand requesting and upfront pricing.

## Agenda Item 7

**How many passengers can ride together with Uber in comparison to taxis in Swanley?** ^

With the Uber app, you can explore trip options that have passenger limits ranging between 4 and 6 people. The maximum number of passengers allowed in a taxi in your area varies by vehicle and jurisdiction.

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**How late can I request a trip with Uber in comparison to taxi rides in Swanley?** ^

With Uber, you can request a trip 24/7 in Swanley. The hours of operation for taxis in Swanley vary by jurisdiction and taxi operator.

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**Taxis in Swanley typically take credit cards. Can I pay for my trip with Uber with a credit card?** ^

Yes. You can add a credit card as a payment option in your Uber account to pay for your trip in Swanley.

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**Similarly to taxis in Swanley, can I tip my driver using the Uber app?** ^

Yes, you can tip drivers in Swanley with the Uber app. You can provide a tip with the app or give cash directly to your driver.

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**Can I change my destination after booking a trip with Uber in Swanley?** ^

Yes, you can change your destination after booking your trip with Uber in Swanley. You can also change your destination while you are travelling.

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## What taxi apps work in Swanley?

Various taxi apps work in Swanley. When using the Uber app to book your trip, you can enjoy upfront pricing, in-app safety features and on-demand requesting for every trip.

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## How much does UberX cost in comparison to a taxi near me in Swanley?

The cost of your trip with UberX depends on several factors. You can use the [price estimator tool](#) to get a quote before booking your trip. Please reach out to your local taxi company to confirm their rates.

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## What do I do if I forget an item in the vehicle I booked with Uber in Swanley?

You can use the Uber app to contact the driver regarding the lost item. To get started, visit the Uber app and go to the Account section. Tap on **Trips**, then select the trip on which you forgot the item. Next, tap **Find Lost Item** and follow the in-app instructions. Alternatively you can reach out via the [Help Centre](#).

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## Can I request a wheelchair-accessible taxi near me?

Yes, we recommend considering a trip with [Uber WAV](#), our forward-facing wheelchair-accessible option.

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Visit Help Centre

Download Uber Modern Slavery Act Transparency Statement

Download Uber Eats Modern Slavery Act Transparency Statement

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**APPENDIX D**

Officer comments on Shareb response to SDC Taxi Policy consultation

1. Noted
2. Noted support of the Equo Safeguarding training : this training is a 'one-off' requirement for existing drivers.
3. We note the concerns raised and that it is intended that further information will be brought to us in due course. However, we consider that elements of the issues raised should primarily be referred to others, including Southeastern Railways and the operators. We do not consider that the issues raised focus on the key responsibilities of the Licensing Authorities, which relate to ensuring the protection of the public and the provision of a safe, accessible and affordable service for them.
4. We would not intend to duplicate employment legislation within the conditions, particularly noting our response to paragraph 3. However, we note the concern raised and **will try to clarify that there may be a distinction** in status.
5. The Local Authority carry out right to work checks on al licensed drivers. It is not, therefore, necessary for licensed Operators to undertake this checks.
6. The current national register (commissioned by the LGA) allows Councils to record details of HC or PH driver refusals, revocations, suspensions or refusals to renew licenses. This has not currently been expanded to include Operators.
7. Noted
8. (a) The Local Authority will consider and consult on any proposed increase to the taxi fare tariff rates submitted by the trade.  
  
(b) Vehicle licence application fees are based on the Authority's costs for the processing and enforcement of such licences. The setting of fees under this regime should remain cost neutral in budgetary terms, and to reduce the costs of certain types of vehicle would incur an increase to others. All new Hackney Carriage vehicles licensed with Sevenoaks **MUST** be wheelchair accessible and, to date, no communication from disability groups or the general public has been received that there is a shortage.
9. See 8(a) and 8(b)
10. Noted
11. See 3
12. See 3. However, please note that it is not the statutory role of the Licensing Authority to investigate the concerns raised relating to employment and competition law.

## Agenda Item 7

13. Noted : although further expansion on 'minority of drivers currently not using card payment machines' and how this information was derived would be appreciated.
14. Noted
15. Noted
16. Noted
17. Noted : although comment that card payment facilities are being considered as an additional facility to cash.
18. The main fee structure for 24/25 applications remains the same.
19. Noted : The Licensing Committee are requested to consider whether to instruct Officers to contact the trade with a view to them agreeing an increase in the current tariff. The tariff was last increased in May 2022. For information : according to the Private Hire Taxi Monthly league table, and out of 344 Councils in the UK for a 2 mile fare, Sevenoaks District Council are 13<sup>th</sup> highest.
20. Noted
21. Noted
22. Noted
23. Noted
24. See 19
25. Please see our response to paragraph 3. Any specific concerns and court or tribunal findings which reflect on whether a licence holder or applicant is a fit and proper person may be brought to our attention for consideration.
26. Please see our response to paragraphs 3, 12 and 25.
27. Please see our response to paragraphs 3, 12 and 25.
28. Please see our response to paragraphs 3, 12 and 25.
29. Please see our response to paragraphs 3, 12 and 25.
30. Please see our response to paragraphs 3, 12 and 25.
31. Please see our response to paragraph 3
32. Noted
33. Please see our response to paragraph 3
34. The Council has a responsibility to keep its taxi stands under review and shall do so. This would include considering its service to customers.
35. Noted. However, please note our response to paragraph 3 and that the siting of any taxi stand on private land is subject to the consent of the owner.
36. It does not appear that this request relates primarily to our function as a Licensing Authority, but relates to possible investigation of concerns, as noted in our response to paragraph 3. It may be appropriate for you to seek independent legal advice on such matters.



37. Noted : To review taxi tariffs every 6 months will be costly : an expense which will be offset in fee structure for HCs, thus increasing the annual fees paid. Unsure this will be cost effective for the trade.
38. All matters which may relate to whether an applicant or licence holder is a fit and proper person may be considered by the Licensing Authority. The nature of potential breaches of the law is broad and the Licensing Authority currently proposes that any such matter be dealt with on its individual merits.
39. TfL licence vehicles under different legislation to all other Authorities outside London. It is considered that each individual licensing Authority be expert on their own policy and conditioning restrictions as well as covering the cost of its own service through local fee setting. Joint working relationships with neighbouring Authorities is considered important in ensuring protection of the public.
40. Noted
41. Noted : The stand at The Green, Westerham has been removed.
42. Noted
43. Please see our response to paragraph 3.

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**Licensing Committee Work Plan 2023/24**

**12 March 2024**

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