

01 November 2018 at 6.00 pm

Conference Room, Argyle Road, Sevenoaks

Despatched: 24.10.18



Licensing Committee

Membership:

Chairman, Cllr. Mrs. Morris; Vice-Chairman, Cllr. Clark
Cllrs. Abraham, Dr. Canet, Clack, Esler, Halford, Kelly, Lake, McArthur, Parkin,
Pett and Raikes

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. Minutes To agree the Minutes of the meeting of the Committee held on 9 June 2018, as a correct record.	(Pages 1 - 2)	
2. Declarations of interest Any interests not already registered		
3. Actions from the previous meeting		
4. Gambling Act 2005 - Statement of Principles of Gambling Policy	(Pages 3 - 68)	Sharon Bamborough Tel: 01732227325
5. Amendments to The Hackney Carriage and Private Hire Policy	(Pages 69 - 158)	Jessica Foley Tel: 01732227480
6. Local Government (Miscellaneous Provisions) Act 1976, Section 65 Request to Increase Hackney Carriage Maximum Fares	(Pages 159 - 170)	Jessica Foley Tel: 01732227480

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.

LICENSING COMMITTEE

Minutes of the meeting held on 9 July 2018 commencing at 6.00 pm

Present: Cllr. Mrs. Morris (Chairman)

Cllrs. Dr. Canet, Esler, Kelly, Parkin, Pett and Raikes

Apologies for absence were received from Cllrs. Abraham, Clack, Clark, Lake and McArthur.

3. Minutes

Resolved: That the Minutes of the meetings of the Licensing Committee held on 10 January 2018 and 15 May 2018, and the Licensing Hearings, held on 4 August 2017, 28 September 2017 postponed to 5 October 2017, 11 October 2017 10.30 a.m. and 11 October 2018 2.30 p.m., 6 April 2018 and 18 April 2018 as a correct record.

4. Declarations of interest

No additional declarations of interest were made.

5. Actions from the previous meeting

There were none.

6. Licensing Partnership Update Report 2018

The Head of the Licensing Partnership presented the annual update on the performance and activity of the Licensing Partnership.

In response to a question, it was advised that any debate on introducing pre-application advice charging would be a Cabinet decision with the report first being considered at the Legal & Democratic Advisory Committee.

Resolved: That the performance of the Partnership be noted, and the Head of the Licensing Partnership continue to provide an annual update on the Licensing Partnership activity to the Licensing Committee each municipal year.

Agenda Item 1

Licensing Committee - 9 July 2018

7. Hackney Carriage Licensing: Proposed Fare Charge Increase

Members considered a report which sought a direction from the Committee on options for reviewing the Council's current tariff of charges for Hackney Carriage Vehicles following a request from a number of licenced hackney carriage drivers who signed a petition.

Members considered whether there was any need to require for specific evidence in support of the request but did not view this as necessary.

Resolved: That the Licensing Service carry out a consultation with all Hackney carriage drivers to ascertain their views on any proposed increase.

8. Gambling Act 2005 - Statement of Principles of Gambling Policy

Members considered a report which sought direction from the Committee on options for reviewing the Council's Statement of Gambling Policy, which would expire on 30 January 2019. Members considered and debated the options outlined within the report.

Resolved: That a full review be undertaken to include the issues highlighted within the report with a formal public consultation undertaken and any proposed new Policy reported to the next meeting of the Committee in order to be adopted by Full Council in November.

THE MEETING WAS CONCLUDED AT 6.38 PM

CHAIRMAN

GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES OF GAMBLING POLICY

Licensing Committee - 1 November 2018

Report of	Chief Officer Environmental and Operational Services
Status	For decision
Also considered by	Council - 20 November 2018
Key Decision	No

Executive Summary: This report seeks a decision from the Committee on options for reviewing the Council's Statement of Gambling Policy, which expires on 30 January 2019. Following a consultation held between 20 August 2018 and 14 October 2018, the Committee is asked to assess the feedback received and decide upon any proposed amendments as set out in Appendix F, before recommendation to Council.

This report supports the Key Aim of a sustainable economy.

Portfolio Holder Cllr. Firth

Contact Officers Richard Wilson Ext. 7067

Sharon Bamborough Ext. 7325 / 07970 731616

Recommendation to Licensing Committee:

That, subject to the Committee's views on those further comments and recommendations in Appendix F to the report, it be recommended to Council that the revised Statement of Gambling Policy be adopted as from 31 January 2019

Recommendation to Council:

That, subject to the comments of the Licensing Committee, the revised Statement of Gambling Policy be adopted as from 31 January 2019

Reason for recommendation: The review of Gambling Policy must take place this year in order to be in place in time for 31 January 2019 as legally required.

Introduction and Background

- 1 The Gambling Act 2005 requires the Council, in its role as a licensing authority, to determine its Statement of Gambling Policy in respect of

Agenda Item 4

the exercise of its licensing functions every three years.

- 2 The Council's current Policy is in force until 30 January 2019, therefore a new Policy must be in place by 31 January 2019. Once in place this Policy must be kept under review.
- 3 In accordance with this requirement the Committee is invited to consider options for review of the Policy, to ensure a new or refreshed Statement of Gambling Policy is in place for the three-year period 31 January 2019 to 30 January 2022.
- 4 The draft Policy is attached at Appendix A.
- 5 The draft Policy was put out for consultation from 20 August 2018 to 14 October 2018. Feedback was received from:
 - The Gambling Commission (Appendix B)
 - Associated of British Bookmakers (ABB) represented by Gosschalks Solicitors (Appendix C)
 - Gamcare (Appendix D)
 - HMRC (Appendix E)
- 6 The parts of policy which attracted feedback have been summarised in a table at Appendix F together with comment/recommendation from Licensing. The last column in the table is for Members' use to easily record the decisions they make on whether to amend the policy further by accepting or rejecting the individual recommendations in respect of the feedback

Options for review or change

- 7 It is suggested that two options are available:
 - (i) To amend the draft further in line with recommendations and finalise the policy. It will then be referred to full council on 20 November 2018 for adoption to come into effect from 31 January 2019or
 - (ii) Having considered the feedback, the Committee may, however, wish to make further changes to policy (which may require further public consultation if substantial) and direct the Licensing Service to re-draft the policy in line with any such amendments.
- 8 It should be noted that if option two is followed it risks the policy not being in place by the statutory deadline if further public consultation is required.

Consultation on proposed Statement of Gambling Policy

- 9 Consultation was carried out by consulting responsible authorities, licence holders, organisations which carry out support work with problem gamblers, neighbouring authorities, and public consultation via our website and a press release. The consultation period opened 20 August 2018 and closed 14 October 2018. It was initially proposed to start consultation earlier but several queries needed to be resolved before consultation could start.

Timetable

- 8 The timetable in respect of the preparation and consultation for the proposed Policy is as follows:

20 August to 14 October 2018	Consultation period on a new draft Policy
1 November 2018	Licensing Committee is invited to consider feedback from the consultation exercise and refer the proposed Policy to next meeting of the Council
20 November 2018	The Council is invited to adopt the new Policy
7 January 2019	Licensing Committee to receive any feedback from Council / confirmation of adoption of new Policy

Key Implications

Financial

There are no specific financial implications resulting from the matters considered in this report, as the minimal cost of consultation and publication in respect of the proposed Council’s Statement of Gambling Policy will be met from the running costs of the Licensing Team and Licensing Partnership.

Legal Implications and Risk Assessment Statement.

The Council is obliged by the Gambling Act 2005 to review its Gambling Policy every three years. The commencement date of 30 January for the initial three year period and subsequent three year periods was set by the Gambling Act 2005. The Council has no discretion to alter the period for which its Gambling Policy is in force, although it can carry out further reviews within the set three year period.

Before the Council determines its new Policy it must consult with the statutory consultees.

Before any statement comes into effect the Council must publish the statement for a period of four weeks and a notice to that effect.

Agenda Item 4

Equality Assessment

Section 149(1) of the Equality Act 2010 requires that, in exercising its functions public sector bodies to have 'due regard' to the need to -

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act;
- Foster good relations between people who share a relevant 'protected characteristic' and those who do not;
- Advance equality of opportunity between people who share a relevant 'protected characteristic' and those who do not.

Assessing the potential impact on equality of proposed decision, changes to policies, procedures and practices is one of the key ways in which the Council can demonstrate that they have had 'due regard'. Assessing impact on equality should be tailored to, and be proportionate to, the decision(s) being made.

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.

Appendices

Appendix A - draft Statement of Principles of Gambling policy

Appendix B - feedback from Gambling Commission

Appendix C - Feedback from ABB

Appendix D - Feedback from Gamcare

Appendix E - Feedback from HMRC

Appendix F - Table summarising feedback with recommendations

Background Papers

[Gambling Act 2005](#)

Guidance to Local Authorities issued
by Gambling Commission -
September 2015

[Local Government Association
'councillor handbook on gambling
regulation' issued 2018](#)

Sevenoaks' Council's Statement of
Gambling Policy 31 January 2016 to
30 January 2019

Richard Wilson

Chief Officer Environmental and Operational Services

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Sevenoaks District Council

Gambling Act 2005
Statement of Licensing Principles
Gambling Policy
January 2019 - 2022

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1. The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Sevenoaks District Council as the Licensing Authority for the Sevenoaks District will aim to permit the use of premises for gambling as set out in section 153 of the Gambling Act 2005.

Principles to be applied - Section 153

(1) In exercising its functions a licensing authority will only permit the use of premises for gambling:

- a) in accordance with any relevant code of practice under section 24;
- b) in accordance with any relevant guidance issued by the Commission under section 25;
- c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b));
- d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)).

(2) In determining whether to grant a Premises Licence a licensing authority must not have regard to the expected demand for gambling premises that are the subject of the application.

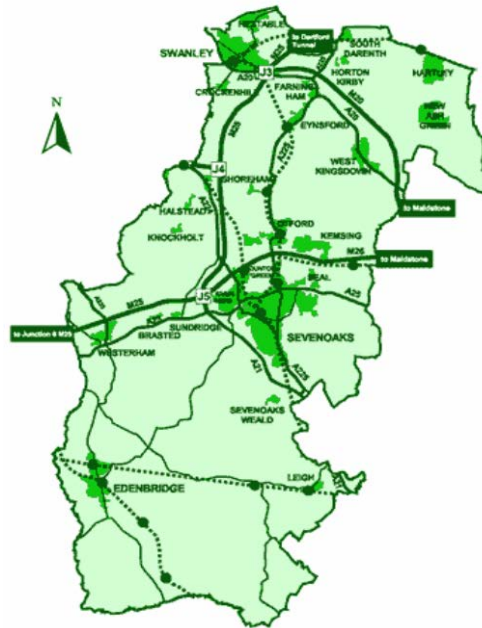
(3) Any objection to an application for a Premises Licence or request for a review of an existing licence should be based on the licensing objectives of the Gambling Act 2005. It should be noted that, unlike the Licensing Act 2003, the Gambling Act 2005 does not include as a specific licensing objective of prevention of public nuisance. There is however other relevant legislation which deals with public nuisance.

2. Introduction

Sevenoaks District Council is situated in the County of Kent. Kent contains 12 Borough and District Councils with 1 Unitary Authority.

The Sevenoaks District Council area covers 142 square miles and has an estimated population of 110,000. The area is mainly rural with 3 main towns comprising Sevenoaks, Swanley and Edenbridge.

The Sevenoaks District Council Area



Licensing authorities are required by the Gambling Act 2005 to publish a Gambling Policy statement setting out the principles that they propose to apply when exercising their functions. This statement may be reviewed from time to time but must be republished at least every three years.

In determining its policy the Licensing Authority must have regard to Gambling Commission guidance and give appropriate weight to the views of those who respond to its consultation.

The Authority will consult widely on the Gambling Policy statement before being finalised and published.

The Gambling Act requires that the following parties be consulted by Licensing Authorities:

- the chief officer of police for the authority's area;
- one or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area;
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

The persons consulted when preparing this Policy statement was deliberately wide. A list of those persons consulted is attached at appendix 4.

The consultation for the policy will take place between ~~19th June 2009~~ 20th August 2018 and ~~31st August 2009~~ 14th October 2018. The Authority has followed the Revised Code of Practice (April 2004) and the Cabinet Office Guidance on consultations by the public sector.

The full list of comments made and the consideration by the Authority of those will be available upon request to: The Licensing Team via email licensing@sevenoaks.gov.uk or by telephone 01732 227325.

The policy is published on Sevenoaks District Council's website www.sevenoaks.gov.uk. ~~Copies have been placed in the public libraries within the area and is available in the Council's principal offices.~~

This policy statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3. Declaration

In producing the final licensing policy statement, this Licensing Authority declares that it will have had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted on the policy statement.

Appendices have been attached to this statement providing further information and guidance that is intended only to assist readers, and should not be interpreted as legal advice or as part of the Council's policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, the Guidance, or regulations issued under the Act.

4. Casinos

Proposal for a casino - This Licensing Authority did submit a proposal to the Independent Casinos Advisory Panel within the Sevenoaks District Council area. However, it was not successful.

No Casinos resolution – This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, and is aware that it has the power to do so. Should this Licensing Authority decide to pass such a resolution, it will update this policy statement with details of that resolution.

5. Functions

Function	Who deals with it
Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences	Licensing Authority
Issue Provisional Statements	Licensing Authority
Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits	Licensing Authority
Issue Club Machine Permits to Commercial Clubs	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres	Licensing Authority
Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines	Licensing Authority
Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines	Licensing Authority
Register small society lotteries below prescribed thresholds	Licensing Authority
Issue Prize Gaming Permits	Licensing Authority
Receive and endorse Temporary Use Notices	Licensing Authority
Receive Occasional Use Notices	Licensing Authority
Provide information to the Gambling Commission regarding details of licences issued (see section 8 on 'information exchange')	Licensing Authority
Maintain registers of the permits and licences that are issued under these functions	Licensing Authority

Gambling Commission Functions

Function	Who deals with it
Issue and renewal of Operating Licences	Gambling Commission
Review Operating Licences	Gambling Commission
Issue Personal Licences	Gambling Commission
Issue Codes of Practice	Gambling Commission

Issue Guidance to Licensing Authorities	Gambling Commission
Licence remote gambling through Operating Licences	Gambling Commission
Issue licences in relation to the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines	Gambling Commission
Deal with appeals against Commission decisions	Gambling Appeals Tribunal

The Licensing Authority is not involved in licensing remote gambling. This will fall to the Gambling Commission via operating licences.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

6. Operators

Gambling businesses are required to have an operator licence issued by the Gambling Commission before they can operate in Great Britain. Operator licences can be issued for up to ten different types of gambling activity and a separate licence is needed for both remote and non-remote gambling of the same types. An operator licence gives a general authorisation for a business to provide gambling facilities, but a business wishing to provide non-remote gambling facilities in a Licensing Authority area is required to apply for a premises licence that is specific to the particular premises.

Operators are required to comply with conditions attached to both their operator and individual premises licences. They are also required to adhere to the mandatory provisions in the Gambling Commission's Social Responsibility Code of Practice and take account of the provisions in the Ordinary Code of Practice (although these are not mandatory).

The Licence Conditions and Codes of Practice (LCCP) were updated in April 2015, and have introduced significant new responsibilities for operators in relation to their local premises. With effect from April 2016, all non-remote licensees that run gambling premises will be required to assess the local risks to the licensing objectives arising from each of their premises and have policies, procedures and control measures to mitigate them.

Licensees are required to take into account the Licensing Authority's statement of principles in developing their risk assessments.

7. Risk Assessments

Gambling operators are required to undertake a risk assessment for all their existing premises from 6th April 2016. In undertaking their risk assessments, they must take into account relevant matters identified in the Licensing Authority's Statement of Policy.

The Licensing Authority expects applicants for Premises Licences in its area to submit a risk assessment with their application when applying for a new or variation

to a premises licence or when changes in the local environment or the premises warrant a risk assessment to be conducted again.

The risk assessment should demonstrate the applicant has considered, as a minimum:

- local crime statistics;
- any problems in the area relating to gambling establishments such as anti-social behaviour or criminal damage;
- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
- whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
- the type of gambling product or facility offered;
- the layout of the premises;
- the external presentation of the premises;
- the location of nearby transport links and whether these are likely to be used by children or vulnerable persons;
- the customer profile of the premises;
- staffing levels;
- staff training, knowledge and experience;
- whether there is any indication of problems with young persons attempting to access adult gambling facilities in that type of gambling premises in the area.

The licensing Authority expects a copy of the risk assessment to be held at each premises so that it can be inspected by officials and staff alike.

Responsible Authorities

In exercising this licensing authority's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the Gambling Commission's Guidance for local authorities this authority designates the following for this purpose:

Children's and Families - KCC Social Service

The contact details of all the Responsible Bodies under the Gambling Act 2005 are listed at Appendix 3.

78. Interested parties

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

Section 158 of the Gambling Act 2005 says a person is an interested party if he/she;

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities or;
- c) represents persons who satisfy paragraph (a) or (b).

An interested party can make representations about licence applications or apply for a review of an existing licence.

Each application will be decided upon its merits. This Authority will not apply rigid rules to its decision-making. However, it will consider the following (Gambling Commission's Guidance to local authorities (paragraphs 6.24 and 6.25))

The Gambling Commission has emphasised that 'demand' cannot be a factor in determining applications.

Gambling Commission's Guidance states that moral objections to gambling are not a valid reason to reject applications for premises licences, as such objections do not relate to the licensing objectives (Guidance to Licensing Authorities Para 5.27). All objections must be based on the licensing objectives.

The Gambling Commission has recommended that the licensing authority state within its Gambling Policy Statement that interested parties may include trade associations, trade unions, and residents and tenants' associations (paragraph 6.25). However, this Authority will not generally view these bodies as interested parties unless they have a member who can be classed as such under the terms of the Gambling Act 2005. (i.e. lives sufficiently close to the premises and is likely to be affected by the application.)

Interested parties can be persons who are democratically elected, such as Councillors and MP's. No evidence of being asked to represent an interested person will be required provided the Councillor/MP represents the relevant ward. Likewise, parish councils may be considered to be interested parties. Apart from these exceptions this Authority will require written evidence that a person/body/advocate/relative) represents someone likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter of authorisation from one of these persons, requesting the representative to speak on their behalf will be sufficient.

Councillors who are on the Licensing Committee dealing with the licence application will not be able to make representations. If there are any doubts then please contact Mrs Claire Perry Assistant Licensing Manager via email at licensing@sevenoaks.gov.uk or by telephone 01732 227325.

89. Exchange of Information

Licensing Authorities are required to include in their Gambling Policy Statement the principles to be applied by the Authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this Licensing Authority will apply is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information and the provision that the Data Protection Act 1998 (DPA) or the General Data Protection Regulations (GDPR) will not be contravened. The Licensing Authority will have regard to any Guidance issued by the Gambling Commission on this matter as well as any regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

~~Any protocols established as regards information exchange with other bodies will be made available.~~

We recognise the need to share information with other agencies about our inspections and compliance activities. The Council has various policies relating to General Data Protection Regulations (GDPR), which will be considered when deciding what information to share and the process for doing so. Kent & Medway Information Sharing Agreement. The Council is also a signatory to the Kent & Medway Information Sharing Agreement, which allows the sharing of information between Agencies for the purpose of the preventions and detection of crime and for public protection.

Information can be accessed by data subjects via a number of routes including a Freedom of Information Request or a Subject Access Request.

109. Enforcement

This Licensing Authority will act in accordance with the relevant legislation and guidance from the Gambling Commission and adopt the principles of better regulation set out in the Regulators Compliance Code.

The purpose of this Licensing Authority's enforcement protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of both the Gambling Act 2005 and the Licensing Act 2003. A copy can be requested from Mrs. Claire Perry Assistant Licensing Manager via email at licensing@sevenoaks.gov.uk or by telephone 01732 227325.

In accordance with the Gambling Commission's Guidance for local authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as is possible.

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This Licensing Authority, as recommended by the Gambling Commission's Guidance, has adopted a risk-based inspection programme.

Licensing authorities are required by regulation under the Gambling Act 2005, to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This Licensing Authority's principles are that:

It will adopt the guidance for local authorities and it will endeavour to be:

- Proportionate:
 - regulators should only intervene when necessary;
 - remedies should be appropriate to the risk posed, and
 - costs identified and minimised.
- Accountable:
 - regulators must be able to justify decisions, and
 - be subject to public scrutiny.
- Consistent:
 - rules and standards must be joined up and implemented fairly;
- Transparent:
 - regulators should be open, and keep regulations simple and user friendly;
 - and
- Targeted:

regulation should be focused on the problem, and minimise side effects.

New premises, premises under new management, premises where complaints have been received or intelligence received relevant to the licensing objectives and premises or operators where compliance failings have been identified previously will attract a higher risk rating. Premises located in areas where there have been incidents of crime affecting or relating to gambling premises, or where the premises themselves have been the victims or involved in such crime, shall also attract a higher risk rating. The Council will conduct baselining assessments to assess initial risk ratings for gambling premises in its borough.

The Licensing Authority operates a partnership approach to dealing with enforcement matters concerning licensed premises. This may include working with the Police or any of the other responsible authorities under the Act, or working with colleagues from other Council departments or outside agencies.

The Licensing Authority needs to be satisfied premises are being run in accordance with the provisions of the Act, the licensing objectives, the Licence Conditions and Codes of Practice issued by the Gambling Commission and any conditions attached to the Premises Licence. To achieve this, the Licensing Authority will inspect premises, look at gambling facilities, gaming machines and policies and procedures, meet with licence holders and carry out general monitoring of areas as necessary.

Inspection and enforcement under the Act will be based on the principles of risk assessment, a graduated response and the targeting of problem premises. The frequency of inspections will be determined on risk-based criteria with high risk operations receiving more attention than premises carrying lower risk.

Premises found to be fully compliant will attract a lower risk rating. Those where breaches are detected will attract a higher risk rating.

The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with the Enforcement Policy.

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises.

The Gambling Commission will be the enforcement body for Operating and Personal Licences.

Concerns relating to manufacture, supply or repair of gaming machines, or concerns relating to on-line or remote gambling is part of the Commissions role.

11. Gambling Prevalence and Problem Gambling

Participation in gambling and rates of problem gambling published in April 2018 on the Gambling Commission website by NHS Digital showed that:

56% of people in England gambled in 2016

42% of people in England (excluding those who had only played National Lottery draws) gambled in 2016

0.7% of people in England identified as problem gamblers

1.2% of gamblers in England identified as problem gamblers

3.6% of people in England were at low or moderate risk of developing problems with their gambling

6.6% of gamblers in England are at low or moderate risk of developing problems with their gambling

Problem gambling can have a detrimental effect on personal finances as the attempt to chase losses becomes unmanageable. As well as spending wages, savings and spare cash, debts can also be a feature of problem gambling as a result of borrowings and loans to cover gambling losses. However, the effects of problem gambling can cost more than money.

Problem gamblers often say they feel isolated as a result of their solitary pursuits of chasing losses. There is a tendency to stay away from school, college or work in order to gamble. In addition, there is often a preoccupation with gambling, a lack of interest in maintaining relationships and a lack of motivation to engage in social activities.

There is often reluctance amongst gamblers to spend money on items of clothing or household goods as this expenditure is often seen as funds for gambling. There can also be an unwillingness to pay utility bills as money would rather be used for gambling purposes.

Problem gambling can be progressive in nature and problem gamblers can end up engaging in criminal activity to fund their gambling. This can lead to lifelong consequences with criminal convictions

<http://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Levels-of-participation-and-problem-gambling/Levels-of-problem-gambling-in-England.aspx>

http://www.gamcare.org.uk/sites/default/files/file_attach/GamCare%20Annual%20Statistics%202016-17%20FINAL.pdf

Appendix 1

Factors to be taken into account when considering applications for premises licences, permits and other permissions including matters that will be considered when determining whether to review a licence.

1. Permits

(i) **Unlicensed Family Entertainment Centre (FEC) gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

Where a premises does not hold a Premises Licence but wishes to provide gaming machines it may apply to the licensing authority for this permit.

The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

Sevenoaks District Council has considered and intends to require applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have full understanding of the maximum stakes and prizes.

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the “statement of principles” only applies to initial applications and not to renewals (paragraph 18(4)).

For initial applications, the licensing authority need not (but may) have regard to the licensing objectives but shall need to have regard to any Gambling Commission guidance.

The Gambling Commission’s Guidance for local authorities states: “In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities may want to give weight to child protection issues.

The Gambling Commission’s Guidance also states: “An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.

Statement of Principles: This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

(ii) (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act 2005 (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act 2005 has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which will satisfy this authority that there will be no access may include the adult machines being in sight of the bar or in the sight of staff that will monitor that the machines are not being used by those under 18 years old. Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

(iii) Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))

Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to

request from the applicant, Sevenoaks District Council will want to give weight to child protection issues and will ask the applicant to set out the types of gaming that he or she is intending to offer. The applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

- What staff should do if they suspect that truant children are on the premises;
- How staff should deal with unsupervised young children on the premises;
- How staff should deal with children causing perceived problems on or around the premises;
- Safeguarding awareness training; and
- An enhanced criminal record check for staff or equivalent criminal records check for the applicant and also the person who has the day to day control of the premises;

The applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations; and
- that the gaming offered is within the law.

In making its decision on an application for this permit the licensing authority need not (but may) have regard to the licensing objectives and shall have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 that the permit holder must comply with but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize) or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

(iv) Club Gaming and Club Machines Permits

Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D).

The Gambling Commission's Guidance for local authorities states: "Members Clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, it must be permanent in nature, not established to make a commercial profit and must be controlled by its members equally unless the gaming is permitted by separate regulations. The Secretary of State has made such regulations and these cover bridge and whist clubs. A Members' Club must be permanent in nature and established and conducted for the benefit of its members and not a commercial enterprise. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations." (25.5)

The Licensing Authority is aware that it may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Gambling Commission or the police.

The Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit. In order to do this, it may require proof of additional information from the operator such as:

- Is the primary activity of the club something other than gaming?
- Are the club's profits retained solely for the benefit of the club's members?
- Are there 25 or more members?
- Are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
- Do members participate in the activities of the club via the internet?
- Do guest arrangements link each guest to a member?
- Is the 48 hour rule being applied for membership and being granted admission being adhered to?
- Are there annual club accounts available for more than one year?
- How is the club advertised and listed in directories and on the internet?
- Are children permitted in the club?
- Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
- Is there a list of Committee members and evidence of their election by the club members?

When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:

- Who makes commercial decisions on behalf of the club?
- Are the aims of the club set out in the constitution?
- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.

- Is the club permanently established? (Clubs cannot be temporary).
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long term club membership benefits?

Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- How many nights a week gaming is provided;
- How much revenue is derived from gambling activity versus other activity;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits

There is also a **'fast-track' procedure** available under the Act for premises that hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12, paragraph 10). As the Gambling Commission's Guidance for local authorities' states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that no child uses a category B3A, B4 or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

2. Premises Licences

(i) Decision making - general:

Premises Licences will be subject to the requirements set-out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

Any conditions attached to licences by the Licensing Authority will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- are reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in a non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance [and licence conditions and codes of practice](#).

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons less than 18 years of age.

These conditions will apply to premises including buildings where multiple premises licences are applicable.

The licensing authority is aware that tracks may be subject to one or more than one premises licence provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

There are also conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- conditions in relation to stakes, fees, winning or prizes.

(ii) "Premises":

Premises is defined in the Act as "any place". It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Guidance for local authorities' states, it "will always be a question of fact in the circumstances". The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

Sevenoaks District Council will have regard to the Gambling Commission's guidance on the division of premises and access between premises.

This licensing authority takes particular note of the Guidance for local authorities which states that in considering applications for multiple licences for a building (split premises) or those for a specific part of the building to be licensed, licensing authorities should be aware that:

- the third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling but also that they are not permitted to be in close proximity to gambling. Therefore premises

should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating; and

- entrances and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

(iii) Location:

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(iv) Planning:

Planning and licensing are different regulatory systems and will be dealt with separately. The Gambling Commission's Guidance states: "When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control, building and other regulations and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building."

(v) Duplication:

As stated in section nine on Enforcement, as per the Gambling Commission's Guidance for local authorities this licensing authority will seek to avoid duplication with other regulatory regimes so far as possible.

(vi) Door Supervisors:

The Gambling Commission's Guidance advises local authorities that licensing authorities may require persons operating premises in which gambling takes place to take measures such as the supervision of entrances; segregation of gambling from non-gambling areas frequented by children (assuming such non-gambling areas are compatible with requirements of the Act); and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

Any person employed to fulfil a condition on a premises licence that requires door supervision should hold a relevant licence issued by the Security Industry Authority (SIA).

It is to be noted that door supervisors at licensed casino or bingo premises are exempt from the requirements of the Private Security Industry Act 2001. Where an authority imposes door supervision requirements on such licences, the personnel will not need licensing under the 2001 Act.

This licensing authority therefore has specific requirements for door supervisors working at casinos or bingo premises, where there are multiple licensable activities and/or the Police Licensing Officer has concerns about the licensing objectives being undermined.

Where the premises is licensed under the Licensing Act 2003 door supervisors will be required to hold a relevant licence issued by the Security Industry Authority (SIA).

(vii) Split Premises

The Gambling Commission's Guidance states that a building can, in principle, be divided into more than one premises and be subject to more than one Premises Licence provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. An example is given of units within a shopping mall, where each unit is separate self-contained premises contained within one building. It is also possible for licensed premises to be located next to each other.

The Gambling Commission state they do 'not consider that areas of a building that are artificially separated, for example by ropes or moveable partitions, can properly be regarded as separate premises'.

Whether different parts of a building can be reasonably regarded as different premises will depend on the circumstances of the individual building and how any division is proposed. To agree to accept applications to grant or vary a licence for a building which has been divided, the Licensing Authority will need to be satisfied the premises are genuinely separate premises, and not an artificially created additional part of single premises.

In considering whether different areas of a building are genuinely separate premises the Licensing Authority will take into account factors which will include:

- whether there are separate registrations for business rates in place for each premises;
- whether separate sets of staff work in the individual premises;
- whether there is a separate cash desk/reception for each of the premises;
- whether each premises has its own postal address;
- whether the premises are owned or operated by the same person;
- whether each of the premises can be accessed from a street or public passageway;
- whether the premises can only be accessed from any other gambling premises.

When considering proposals to divide a building into separate premises, the Licensing Authority will also need to be satisfied that the form of separation between the premises is appropriate.

The separation between one premises and another must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another.

It may be acceptable for staff working in adjacent premises to have access through barriers between premises. The applicant must demonstrate that in providing staff access there are suitable control measures in place that will ensure the safety and security of staff and will prevent the public from using the same access point to enter the other premises.

The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions relating to access between premises.

The Guidance at paragraph 7.22 states “There is no definition of ‘direct access’ in the Act or Regulations, but Licensing Authorities may consider that there should be an area separating the premises concerned (for example a street or café), which the public go to for purposes other than gambling, for there to be shown to be no direct access.”

It is the Licensing Authority’s opinion that any area which separates licensed premises, and from which those premises can be accessed, must be genuinely separate premises which are habitually and actually used by members of the public other than those using the licensed premises.

The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are separated by an area created artificially within a building principally for members of the public attending the licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or cashpoint machines.

Where the Licensing Authority is satisfied that a building can be divided into separate premises it will expect applicants to ensure that:

- the premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part;
- the premises are not configured so children are likely to enter an adult only area to join a parent gambling in that adult only area,
- entrances and exits from parts of a building covered by one or more Premises Licences are separate and identifiable so the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit;
- customers should be able to participate in the activity named on the Premises Licence.

This is not an exhaustive list and the Licensing Authority will consider other aspects based on the merits of the application.

(viii) Access to Premises

The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out access provisions for each type of licensed gambling premises. The broad principle is there can be no direct access from one licensed gambling premises to another, except between premises which allow those aged under-18 to enter and with the further exception that licensed betting premises may be accessed via other licensed betting premises.

'Direct access' is not defined, but the Licensing Authority will consider there should be an area such as a street or café to which the public attend for purposes other than gambling for there to be no direct access.

<u>Type of Premises</u>	<u>Access Provisions</u>
<u>Casino</u>	<ul style="list-style-type: none"> • <u>The principal access to the premises must be from a 'street';</u> • <u>No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;</u> • <u>No customer must be able to access a casino directly from any other premises which holds a gambling premises licence.</u>
<u>Adult Gaming Centre</u>	<ul style="list-style-type: none"> • <u>No customer must be able to access the premises directly from any other licensed gambling premises.</u>
<u>Betting Shop</u>	<ul style="list-style-type: none"> • <u>Access must be from a 'street' or from other premises with a betting licence;</u> • <u>No direct access is permitted from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be any entrance to a betting shop from a shop of any kind unless that shop is in itself a licensed betting premises.</u>
<u>Track</u>	<ul style="list-style-type: none"> • <u>No customer must be able to access the premises directly from a casino or Adult Gaming Centre.</u>
<u>Bingo Premises</u>	<ul style="list-style-type: none"> • <u>No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other</u>

	<u>than a track.</u>
<u>Family Entertainment Centre</u>	<ul style="list-style-type: none"> • <u>No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.</u>

(vixi) Licensing objectives:

This licensing authority has considered the Gambling Commission’s Guidance to local authorities in respect of the licensing objectives.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime:

Ensuring that gambling is conducted in a fair and open way:

Protecting children and other vulnerable persons from being harmed or exploited by gambling:

(xviii) Reviews:

Interested parties or responsible authorities can make requests for a review of a premises licence; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the following matters:

- it is in accordance with any relevant code of practice issued by the Gambling Commission;
- it is in accordance with any relevant guidance issued by the Gambling Commission;
- it is reasonably consistent with the licensing objectives; and
- it is in accordance with the authority’s statement of licensing policy.

Consideration will be given as to whether the request is frivolous, vexatious, or will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate.

(ixi) Provisional Statements:

This licensing authority notes the Gambling Commission’s Guidance for the Gambling Commission which states that:

- “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence.” and that
- “Requiring the building to be complete ensures that the authority can inspect it fully”.

In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which is in the authority's opinion reflect a change in the operator's circumstances.

(xii) Adult Gaming Centres (AGC):

This licensing authority particularly notes the Gambling Commission's Guidance which states: "No-one under the age of 18 years of age is permitted to enter an AGC. Licensing authorities will wish to have particular regard to the location of an entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre or airport."

Because gaming machines provides opportunities for solitary play and immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Authority in considering Premises Licences for AGC's will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds are not attracted to, or gain access to, the premises.

The licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

(xii) (Licensed) Family Entertainment Centres (FECs):

Family Entertainment Centres are wholly or mainly used for having gaming machines available for use.

This licensing authority will, as per the Gambling Commission's Guidance refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

As gaming machines are a form of gambling which is attractive to children and licensed FEC's will contain both Category D machines on which they are allowed to play, and Category C machines on which they are not. Since gaming machines provide opportunities for solitary play and for immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Authority, in considering applications for FEC Premises Licences, will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

The licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Measures/training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

(xii) Tracks:

This licensing authority is aware that the Gambling Commission may provide specific guidance as regards tracks. We shall have regard to this Guidance in the discharge of our functions.

(xiii) Casinos:

This Licensing Authority will have regard to the Gambling Commission's guidance.

(xiv) Bingo:

This Licensing Authority will have regard to the Gambling Commission's guidance.

The Licensing Authority expects that where children are permitted in bingo premises, any Category B or C machines are located in an area which is separated from the rest of the premises by barriers or in a separate room, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV.

To avoid a situation where a premises holds a bingo Premises Licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo is regularly played in any premises for which a Premises Licence is issued and that the premises presentation is clearly that of a bingo premises and readily identifiable as such to any customer using the premises.

(xvii) Temporary Use Notices:

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site (see Gambling Commission's Guidance for Local Authorities).

(xviii) Occasional Use Notices:

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

(xviii) Small Society Lotteries

The Council will adopt a risk-based approach towards our compliance responsibilities for small society lotteries. We consider the following list, although not exclusive, could affect the risk status of the operator:

- Submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- Submission of incomplete or incorrect returns
- Breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event as either an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- By, or on behalf of, a charity or for charitable purposes
- To enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact us on 01892 550 034 or email licensing@tunbridgewells.gov.uk to seek further clarification.

(xx) Travelling Fairs:

It will fall to this licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

(i) (xix) Betting Premises

This policy applies to applications for off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop.

The Licensing Authority must be satisfied that the primary use of the premises is to operate as betting premises. The applicant will be expected to demonstrate they are offering sufficient facilities for betting or otherwise should not make gaming machines available on the premises.

In determining applications for betting premises, the Licensing Authority shall consider the following:

- proof of age schemes
- CCTV
- entry control system
- staff numbers
- staff training
- counter layout
- supervision of entrances/ machine areas
- machine privacy screens
- notices/ signage
- opening hours
- provision of responsible gambling information

This list is not exhaustive, and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

Betting machines made available at betting premises that accept bets on live events such as horse racing (SSBT's or self-service betting terminals) are not gaming machines and therefore do not count towards the total number of gaming machines that may be permitted at betting premises. However, where a machine is made available to take bets on 'virtual' races (e.g. results/images generated by a computer to resemble a real race or event), that IS a gaming machine and counts towards the maximum permitted number of gaming machines, and is subject to the relevant statutory limits on stakes and prizes.

Section 181 of the Gambling Act 2005 permits the Licensing Authority to restrict the number of SSBT's, their nature and the circumstances in which they may be made available by attaching a relevant condition to a Premises Licence for a betting office. When considering whether to do so, the Licensing Authority will consider, among other things, the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.

The Licensing Authority when considering the number, nature and circumstances of self-service betting terminals an operator wants to offer will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines.

Where an SSBT includes functionality to be marketed or presented in languages other than English, the Licensing Authority will seek to ensure the operator has considered the ordinary code provision set by the Gambling Commission about making the following information also available in the relevant languages:

- information on how to gamble responsibly and access the help referred to in the Gambling Commission's Licence Conditions and Codes of Practice;
- the player's guide to any game, bet or lottery under the provisions of the Gambling Commission's Licence Conditions and Codes of Practice;
- the summary of the contractual terms on which gambling is offered, which is a condition of the licence holder's Operating Licence issued by the Gambling Commission.

Help with gambling related problems:

A list of organisations where people may seek help will be available on the licensing website.

Responsible Authorities:

Further information about the Gambling Act 2005 and the Council's licensing policy can be obtained from:

Licensing Team

Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Tel: 01732 227325

Fax: 01732 742339

e-mail: licensing@sevenoaks.gov.uk

Website: www.sevenoaks.gov.uk

Local Planning Authority

Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Tel: 01732 227200

Fax: 01732 451332

Chief Police Officer – (West Kent Police)

Kent County Constabulary
West Kent Area Commander
Police Station
1 Pembury Road
Tonbridge
Kent TN9 2HS

Tel: 01732 771055

Fire Safety - District Manager

Keith Burns
Kent Fire & Rescue Service
West Kent Fire Safety Office
424 Vale Road
Tonbridge
Kent TN9 1SW

Tel: 01732 369429

Information can also be obtained from:

Gambling Commission

Victoria Square House
Victoria Square
Birmingham B2 4BP

Tel: 0121 230 6666

Fax 0121 230 6720

e-mail: info@gamblingcommission.gov.uk

Website:

www.gamblingcommission.gov.uk

Environmental Protection

Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Tel: 01732 2272000

Fax: 01732 742339

e-mail:

environmentalprotection@sevenoaks.gov.uk

Health and Safety

Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Tel: 01732 227000

Fax: 01732 742339

Kent Child Protection Committee

Children's and Families
KCC Social Service
The Willows
Hilda May Avenue
Swanley
Kent BR8 7BT

Website: www.kcpc.org.uk

HM Revenue & Customs

~~National Registration Unit~~

~~Portcullis House~~

~~21 India Street~~

~~Glasgow~~

~~G4 2PZ~~

~~HM Revenue and Customs~~

~~Excise Processing Teams~~

~~Gambling Duties~~

~~BX9 1GL~~

Tel: 0845 302 1431

Website: www.hmrc.gov.uk

List detailing who this authority consulted with:

List of Consultees

Sevenoaks District Council website

District Councillors

Councillor's Members Room

Parish and Town Councils

Licensees/their agents of gambling premises

- Neighbouring Authorities
- Bodies designated under section 157 of the Act as 'Responsible Authorities'
- Town Centre Forums, Partnerships and Managers
- Person/ bodies representative of local residents
- Person/ bodies representative of gambling businesses
- Representatives of persons or business who hold premises licences
- Organisations working with people who are problem gamblers
- Representatives of health care organisations
- Representatives of voluntary and community organisations working with children and young people

~~Swanley Library~~

~~Sevenoaks Library~~

~~Edenbridge Library~~

~~Westerham Public Library~~

~~Otford Public Library~~

~~West Kingsdown Library~~

~~Hartley Public Library~~

~~Seal Public Library~~

~~New Ash Green Public Library~~

~~Kemsing Public Library~~

~~St. John's Public Library, Sevenoaks~~

~~Riverhead Public Library~~

~~West Kent Area Commander, West Kent Police~~

~~North Kent Area Commander, North Kent Police~~

~~Area Youth & Community Officer, KCC Youth & Community,~~

~~Local Services Team Leader, KCC Education & Libraries~~

~~Chief Executive, West Kent Housing Association,~~

~~Regional Housing Manager, MOAT Housing Society~~

~~Locality Manager, South West Kent Primary Care Trust~~

~~Director of Public Health, Dartford, Gravesham and Swanley Primary Care Trust~~

~~Licensing Co-ordinator, Kent Police, Strategic Crime Reduction Department~~

~~Director, West Kent Council of Voluntary Services~~

~~Tunbridge Wells and Sevenoaks YOT, Kent Youth Offending Team~~

~~Berwin Leighton Paisner Solicitors~~

~~Hammonds Solicitors~~

~~Knocker & Foskett Solicitors~~

~~Copy in reception~~

~~Sevenoaks and District Chamber of Commerce~~

~~Licensed premises in the Sevenoaks Area~~

~~Swanley Chamber of Commerce~~

~~Edenbridge Chamber of Commerce~~

~~Licensing Manager, Tonbridge & Malling Borough Council~~

~~Head of Environmental Health and Licensing, Tunbridge Wells Borough Council~~

~~Environmental Health Manager, Gravesham Borough Council~~

List detailing who this authority consulted with**Appendix 4**

~~Enforcement and Regulatory Services Manager, Dartford Borough Council~~
~~Licensing Manager, Tandridge District Council~~
~~Bromley Licensing Manager, London Borough of Bromley~~
~~Head of Environmental Health, London Borough of Bexley~~
~~Safety & Licensing Team, Mid Sussex District Council~~
~~The Gambling Commission~~
~~West Kent Licensing Officer~~
~~Planning Department~~
~~Fire Safety District Manager, Kent Fire & Rescue Service~~
~~Community and Planning Services Director, Sevenoaks District Council~~
~~Environmental Health Manager, Sevenoaks District Council~~
~~Ladbrokes Betting & Gaming Limited~~
~~Enterprise Inns Plc~~
~~JD Wetherspoon Plc~~
~~Sencio Community Leisure~~
~~Respondents to the last Gambling Policy Statement~~
~~The British Beer & Pub Association~~
~~Association of British Bookmakers~~
~~Head of Community Development Manager, Sevenoaks District Council~~
~~District Manager, Children & Families, KCC Social Services~~
~~Kent County Council, Trading Standards~~
~~Gambling Policy Team, HM Customs & Excise~~
~~Corals, Sevenoaks, Westerham, Swanley & Edenbridge~~
~~Done Brothers T/A Betfred~~
~~Coral Racing Limited, Head Office~~
~~Betfred, Sevenoaks and Swanley~~
~~Greene King Brewing and Retailing Ltd.~~
~~Head of Operational and Environmental Services~~
~~Community and Planning Services Director~~
~~Harvey & Son (Lewes) Ltd.~~
~~Mitchells & Butlers plc~~
~~Barracuda Pubs & Bars Company Ltd~~
~~Punch Taverns~~
~~Shepherd Neame Ltd.~~

This list is not definitive. Residents associations will be sent copies on request.

Summary of machine provisions by premises

Premises type	Machine category							
	A	B1	B2	B3	B3A	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)						
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)						
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead						
Betting premises and tracks occupied by pool betting		Maximum of 4 machines categories B2 to D						
Bingo premises				Maximum of 8 machines in category B3 or B4			No limit on category C or D machines	
Adult gaming centre				Maximum of 4 machines in category B3 or B4			No limit on category C or D machines	
Family entertainment centre (with premises licence)							No limit on category C or D machines	
Family entertainment centre (with permit)								No limit on category D machines
Clubs or miners' welfare institute (with permits)				Maximum of 3 machines in categories B3A or B4 to D*				
Qualifying alcohol-licensed premises							1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with gaming machine permit)							Number of category C D machines as specified on permit	
Travelling fair								No limit on category D machines
	A	B1	B2	B3	B3A	B4	C	D

It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

Summary of licensing authority delegations permitted under the Gambling Act 2005

Matter to be dealt with	Full Council	Sub-Committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting (where appropriate)			X
Application for Premises licences		Where representations have been received and not withdrawn	Where representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where representations received/ representations have been withdrawn
Application for a transfer for a licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Summary of Maximum stake and Maximum prize by category of gaming machine.

Category of machine	Maximum stake	Maximum prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	£1	£70
D (Money-prize machine)	10p	£5 cash
D (Crane Grab Machines)	£1	£50
D (Non-money prize machine (other than Crane Grab Machine))	30p when non-monetary prize	£8 non-monetary prize
D (For coin pushers and penny fall machines)	10p	£15 (£8 maximum in cash)

From: Jane Blade [mailto:jblade@gamblingcommission.gov.uk]
Sent: 10 September 2018 08:25
To: Sharon Bamborough
Subject: RE: Sevenoaks Gambling consultation

Dear Sharon

I have read this document and have a few comments for you to consider. This is not a representation, so no need to record it as such!

1. Page 15 – You should specify here that a uFEC Permit is only where the applicant wishes to make Cat D gaming machines available (i.e. machines that may be played by children). It is not for any other type of gaming machine.
2. Page 17 – The considerations for Prize Gaming Permits should also apply to uFEC permits, as these are premises which primarily cater to children and which are not regulated by the GC, only via a permit from the LA
3. Page 20 – Machine locations (i.e. the need for the machine area to be separate) only applies to Licensed FEC's and Bingo premises. This consideration does not apply to AGC or Betting premises, which are only for adults anyway. This should be clarified.
4. Page 22 – Premises do not have to be complete before a Premises Licence can be granted.

The GLA states:

Consideration of planning permission and building regulations

7.58 In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence. **This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.** [Part 11](#) of this guidance gives more information about provisional statements.

7.59 As the Court has held in a 2008 case¹⁹, **operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits.** Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

5. Page 28 and Page 29 – the term “self-barring” should be replaced by “self-exclusion”, which is the correct term
6. Page 34 – Under the list of Responsible Authorities, reference is made to the Health and Safety team. It may be that they are an RA as this is the way the LA is structured, however if not the list of RA’s for gambling is here: <http://www.legislation.gov.uk/ukpga/2005/19/section/157> and this should refer to what we would call the Pollution team in the old days!

I hope this helps.

Best wishes



Jane Blade
Compliance Manager

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

Telephone: 0121 230 6603
www.gamblingcommission.gov.uk

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Think of the environment before printing out this message

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BY EMAIL ONLY
Licensing Department
Sevenoaks District Council

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / MJM / 097505.00005
#GS2214019
Your ref:
Date: 10 October 2018

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take with regard, to the requirements for local area risk assessments.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these would be detrimental to the gambling licensing regime. The ABB also believes it is important that

the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as "*breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator.*"

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

Local area risk assessments

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

Best practice

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

Concerns around increases in the regulatory burden on operators

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Employing additional licence conditions

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent

with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called “Think 21”. This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

Considerations specific to the Draft Gambling Act 2005 Statement of Licensing Principles January 2019 – 2022

Paragraph 1(1) should be amended to properly state the requirements of Section 153. This paragraph as drafted misstates the requirements of S153 and excludes the “aim to permit” principle which should be included.

Paragraph 6 refers to an update of the LCCP in April 2015. Whilst its correct that the LCCP was updated in April 2015, the most recent version of this document is January 2018 which had effect from 4th April 2018. Accordingly this reference should be amended.

Paragraph 2 (i) in Appendix 2 explains the Licensing Authority’s approach to the imposition of conditions on premises licences. This section would be assisted by a clear statement that all Gambling Act 2005 premises licences are subject to mandatory and default conditions and that these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. This section should also state that additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case that requires that the mandatory and default conditions be supplemented by additional conditions.

Paragraph 2(iii) is headed “Location” and contains a sentence that should be removed. This sentence refers to the potential for a policy with regard to areas where gambling premises should not be located. This sentence should be removed as any such policy is likely to be unlawful and is certainly contrary to the overriding principle that the Licensing Authority will “aim to permit” the use of the premises for gambling. The paragraph should simply state that applications may be made and they will be determined upon their own merits.

Paragraph (xix) “Betting Premises” in Appendix 2 should also be re-drafted. The second paragraph refers to the “primary use” of premises to operate this betting premises. Following recent

guidance and change to the SR Code Provisions, there is no need for an investigation with regard to the use of the various facilities provided at betting premises. The simply requirement is found within SR Code Provision 9 and is that gaming machines may be made available for use in licensed betting premises only where there are substantive facilities for non-remote betting provided.

Conclusion

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,

GOSSCHALKS

From: Catherine Sweet [mailto:catherine.sweet@gamcare.org.uk]
Sent: 31 August 2018 09:53
To: Licensing
Cc: Sharon Bamborough
Subject: RE: Sevenoaks Gambling consultation

Hello,

Thank you for your email, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the [Gambling Commission](#).

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from [GamCare Certified operators](#). GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact mike.kenward@gamcare.org.uk

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,
Catherine

Catherine Sweet
Head of Marketing and Communications
T: 020 7801 7028
E: catherine.sweet@gamcare.org.uk



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From: NRUBetting&Gaming@hmrc.gsi.gov.uk [mailto:NRUBetting&Gaming@hmrc.gsi.gov.uk]
Sent: 31 August 2018 10:06
To: Sharon Bamborough
Subject: RE: Sevenoaks Gambling consultation

Dear Colleague

As one of the responsible authorities quoted in your appendices can I ask you to amend our contact telephone number to 0300 322 7072 Option 7.

Our email address remain the same, NRUBetting&Gaming@hmrc.gsi.gov.uk

Kind Regards

Janet (Marron)
Excise Processing Team
HM Revenue & Customs
BX9 1GL
United Kingdom
0300 322 77072 Option 7

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POLICY SECTION	COMMENT /FEEDBACK	COMMENT/ RECOMMENDATION	DECISION against recommendation:
<p>PAGE 15: (extract)</p> <p>It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.</p> <p>It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.</p> <p>PAGE 15: (iii) Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))</p> <p>Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, Sevenoaks District Council will want to give weight to child protection issues and will ask the applicant to set out the types of gaming that he or she is intending to offer.</p>	<p>GENERAL COMMENTS FROM GAMBLING COMMISSION:</p> <p>1. Page 15 – You should specify here that a uFEC Permit is only where the applicant wishes to make Cat D gaming machines available (i.e. machines that may be played by children). It is not for any other type of gaming machine.</p> <p>2. Page 17 (typo – should read 15) – The considerations for Prize Gaming Permits should also apply to uFEC permits, as these are premises which primarily cater to children and which are not regulated by the GC, only via a permit from the LA</p>	<p>1. We are happy to add this following wording to the section. Recommend to add in: ‘ An uFEC Permit is only where the applicant wishes to make Cat D gaming machines available (i.e. machines that may be played by children). It is not for any other type of gaming machine’ At the end of this section</p> <p>2. Recommend: amend the relevant section on page 15/16 to make clear that the considerations for Prize Gaming Permits should also apply to uFEC permits, as these are premises which primarily cater to children and which are not regulated by the GC, only via a permit from the LA</p>	<p>Page 15: ACCEPT / REJECT</p> <p>Page 15/16 ACCEPT / REJECT</p>

<p>PAGE 20: This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:</p> <ul style="list-style-type: none"> • all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance; • only adults are admitted to the area where these machines are located; • access to the area where the machines are located is supervised; • the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and • at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons less than 18 years of age. <p>These conditions will apply to premises including buildings where multiple premises licences are applicable.</p> <p>PAGE 22: It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to “the premises” are</p>	<p>3. Page 20 – Machine locations (i.e. the need for the machine area to be separate) only applies to Licensed FEC’s and Bingo premises. This consideration does not apply to AGC or Betting premises, which are only for adults anyway. This should be clarified.</p> <p>4. Page 22 – Premises do not have to be complete before a Premises Licence can be granted. The GLA states: Consideration of planning permission and building regulations <i>7.58 In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One</i></p>	<p>3. We are amend to make this clearer Recommend: amend wording to make clear that this does not apply to AGC or betting premises</p> <p>4. We are happy to amend the wording to match the wording provided by the Gambling Commission Recommend : incorporate wording in italics (previous column)and remove sections</p>	<p>Page 20 ACCEPT / REJECT</p> <p>Page 22 ACCEPT / REJECT</p>
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<p>to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.</p>	<p><i>example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them. Part 11 of this guidance gives more information about provisional statements.</i></p> <p><i>7.59 As the Court has held in a 2008 case¹⁹, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, licensing authorities must decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.</i></p>	<p>which contradict this guidance</p>	
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<p>PAGE 27 & 28 : REFERERNCES TO 'SELF BARRING'</p> <p>Page 34: Health and Safety Sevenoaks District Council Council Offices (etc.)</p>	<p>5. Page 28 and Page 29 (typo – should read 27 & 28) – the term “self-barring” should be replaced by “self-exclusion”, which is the correct term</p> <p>6. Page 34 – Under the list of Responsible Authorities, reference is made to the Health and Safety team. It may be that they are an RA as this is the way the LA is structured, however if not the list of RA’s for gambling is here: http://www.legislation.gov.uk/ukpga/2005/19/section/157 and this should refer to what we would call the Pollution team in the old days!</p>	<p>5. We are happy to take this suggestion and replace the wording Recommend: replace the terms ‘self barring’ with ‘self exclusion’</p> <p>6 Noted, but no change necessary as this is part of Environmental Health Recommend: no change to this section</p>	<p>Page 28/29 ACCEPT / REJECT</p> <p>Page 34: accept / reject</p>
<p>PARA 1: Sevenoaks District Council as the Licensing Authority for the Sevenoaks District will aim to permit the use of premises for gambling as set out in section 153 of the Gambling Act 2005.</p>	<p>GOSSCHALKS: Paragraph 1(1) should be amended to properly state the requirements of Section 153. This paragraph as drafted misstates the requirements of S153 and excludes the “aim to permit” principle which should be included.</p>	<p>Disagree with feedback – section clearly includes reference to ‘aim to permit’ principle Recommendation: leave as proposed (in existing policy)</p>	<p>(page 3) Para 1: ACCEPT / REJECT</p>
<p>Extract from Para 6: The Licence Conditions and Codes of Practice (LCCP) were updated in April 2015, and have introduced significant new responsibilities for operators</p>	<p>GOSSCHALKS: Paragraph 6 refers to an update of the LCCP in April 2015. Whilst it’s correct that the LCCP was updated in April 2015, the most recent version of this document is January 2018 which had effect from 4th April 2018. Accordingly this reference should be amended.</p>	<p>Happy to update this reference to the most recent LCCP Recommendation: amend to update from ‘April 2015’ to ‘with effect from 4th April 2018’</p>	<p>(Page 7) Para 6: ACCEPT / REJECT</p>
<p>APP.2, 2(i) extract: Any conditions attached to licences by the Licensing Authority will be proportionate and will be:</p> <ul style="list-style-type: none"> relevant to the need to make the proposed building suitable as a 	<p>GOSSCHALKS: Paragraph 2 (i) in Appendix 2 explains the Licensing Authority’s approach to the imposition of conditions on premises licences. This section would be assisted by a clear statement that all Gambling Act 2005 premises licences are</p>	<p>Disagree – we consider the section is fine as drafted (it is in existing policy) Recommend: leave as is</p>	<p>(page 19) ACCEPT / REJECT</p>

<p>gambling facility;</p> <ul style="list-style-type: none"> • directly related to the premises and the type of licence applied for; • fairly and reasonably related to the scale and type of premises; and • are reasonable in all other respects. <p>Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively</p>	<p>subject to mandatory and default conditions and that these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. This section should also state that additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case that requires that the mandatory and default conditions be supplemented by additional conditions.</p>		
<p>(iii) Location: This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission’s Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located,</p>	<p>GOSSCHALKS: Paragraph 2(iii) is headed “Location” and contains a sentence that should be removed. This sentence refers to the potential for a policy with regard to areas where gambling premises should not be located. This sentence should be removed as any such policy is likely to be unlawful and is certainly contrary to the overriding principle that the Licensing Authority will “aim to permit” the use of the premises for gambling. The paragraph should simply state that applications may be made and they will be determined upon their</p>	<p>As we have no designated areas where gambling premises would not be permitted, nor any evidence to support such an approach, we are happy to remove this wording (highlighted in yellow in first column) Recommend: Amend wording to remove all wording highlighted in yellow (column 1)</p>	<p>Page 21: ACCEPT / REJECT</p>

<p>this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.</p>	<p>own merits.</p>		
<p>This policy applies to applications for off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop.</p> <p><i>The Licensing Authority must be satisfied that the primary use of the premises is to operate as betting premises. The applicant will be expected to demonstrate they are offering sufficient facilities for betting or otherwise should not make gaming machines available on the premises.</i></p>	<p>GOSSCHALKS:</p> <p>Paragraph (xix) “Betting Premises” in Appendix 2 should also be re-drafted. The second paragraph refers to the “primary use” of premises to operate this betting premises. Following recent guidance and change to the SR Code Provisions, there is no need for an investigation with regard to the use of the various facilities provided at betting premises. The simply requirement is found within SR Code Provision 9 and is that gaming machines may be made available for use in licensed betting premises only where there are substantive facilities for non-remote betting provided.</p>	<p>Have sought wording from Gambling commission. Recommend that the para in italics in column one is replaced with the following: <i>Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non-remote betting, provided in reliance on this licence, available in the premises.</i></p>	<p>(Page 30) Accept / reject</p>
	<p>Feedback from Gamcare: We would suggest that the Local Licensing Authority primarily consider applications from <u>GamCare Certified operators</u>. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator’s player protection measures and social responsibility standards, policy and practice</p>	<p>We do not consider this would be lawful and recommend that this is not added to the policy</p>	<p>Recommendation: Accept / reject</p>
<p>HM Revenue & Customs</p>	<p>Feedback from HMRC As one of the responsible authorities quoted in your</p>	<p>We are happy to update the</p>	

<p>HM Revenue and Customs Excise Processing Teams Gambling Duties BX9 1GL Tel: 0845 302 1431</p>	<p>appendices can I ask you to amend our contact telephone number to 0300 322 7072 Option 7.</p> <p>Our email address remain the same, NRUBetting&Gaming@hmrc.gsi.gov.uk</p>	<p>telephone number (and email address)</p> <p>Recommend make the necessary update to HMRC contact details</p>	<p>(page 33)</p> <p>ACCEPT / REJECT</p>
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AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

Licensing Committee - 1 November 2018

Report of Chief Officer, Environmental and Operational Services

Status For Decision

Key Decision No

Executive Summary: This report seeks to get permission from The Licensing Committee to allow a 6 week consultation on amendments to the Hackney Carriage and Private Hire Licensing Policy which came into effect 21 July 2016. This authority is required to regularly review its Taxi Licensing Policy.

Once the consultation has concluded the draft amended policy along with results and feedback from the 6 week consultation will return to the Licensing Committee on 7 January 2019

Portfolio Holder Cllr. Anna Firth

Contact Officer Jessica Foley, Ext. 7480

Recommendation to Licensing Committee: That

- a) the draft amended Hackney Carriage and Private Hire Policy for public consultation be approved; and
- b) the practice of the Licensing Authority paying for the annual medical tests for drivers aged over 65 to cease with effect from 31 March 2019.

Reason for recommendation: To enable the Council to make decisions for Hackney Carriage and Private Hire licensing in accordance with the interpretation of the legislation.

Introduction and Background

- 1 Sevenoaks District Council has responsibility for licensing Hackney Carriage and Private Hire vehicles, drivers and operators within the District of Sevenoaks. The existing policy was published in July 2016 and may be revised from time to time in keeping with the legislation.
- 2 The policy will remain in existence for a period of five years, during which time it shall be kept under review and revised as appropriate or after any significant legislative change.

Agenda Item 5

- 3 The changes to the policy proposed are set out in a table attached to this report as Appendix A.

Proposed Amendments

Payment of Yearly Medicals

- 4 Although not in the policy, current practice is that SDC pay for these yearly medicals and the driver only pays for the renewal medical every 3 years.
- 5 Sevenoaks has approximately 80 drivers over 65 years of age. We are charged (at present) £40 per certificate for the annual medicals for over 65s via a contract with a local surgery. The current contractor has indicated this cost is likely to increase if and when we re-tender the contract (currently extended to March 2019). If the other amendment to allow GPs to carry out the tests (instead of a contracted surgery) then we could face charges of nearer £100 per test (research has provide this data).
- 6 It is proposed that this practice is stopped and that with effect from 1 April 2019, the Licensing Authority will cease subsidising this requirement and the over 65 drivers will have to pay for their own medical certificates. This would bring us in line with our Licensing Partners in Maidstone and Tunbridge Wells Borough Councils. We believe that this should be a legitimate business expense that drivers should be able to claim back through their business accounts. (this will need clarification)

DVLA Mandates

- 7 *Appendix A, row B.* The policy states, 'Drivers will be required to sign a mandate form to allow the Licensing Authority to carry out the check with the DVLA.' The DVLA are changing their procedures and processes so the amendment is to delete the sentence.
- 8 *Appendix A, row C.* Hackney Carriage and/or Private Hire Driver Licence - New and Renewal applications. The policy states, 'DVLA mandate completed and signed by the applicant.' The amendment is to replace that with, 'Authorisation from driver that DVLA check can be carried out by The Licensing Team.'
- 9 *Appendix A, row E.* As above, DVLA processes are changing so the amendment is just to change the word 'Mandate' to 'check'.

Medical Fitness

- 10 *Appendix A, row D.* Our current policy states that applicants must use the Council's appointed medical centre. The amendment is to require applicants to obtain the same medical standard but by a GP. This will give the applicant more freedom to get a medical. There is less chance of the applicant facing a waiting list and if the medical is carried out by the applicants own GP then the GP will have knowledge of their full medical history.

Operator's Address

- 11 *Appendix A, row F.* It is currently not specified in the policy that the address must be within the District of Sevenoaks. The amendment is to add in the wording suggested in the table with 'grandfather rights' included for any Operators already licensed that are outside of the district.

Amendments to the Policy

- 12 *Appendix A, row G.* The policy currently states 'All changes to the Policy are made by the Licensing Committee only.' However, this does not reflect the current legal position. Therefore it is proposed to amend it to say that 'All changes to the Policy are currently put to the Licensing Committee and then considered by Full Council.'

Vehicle Test Standards

- 13 *Appendix A, row H.* The Policy currently states 'SDC will not licence any vehicle that is classed as a Category C insurance write off.' The amendment is to change Category C to Category S as the terminology has now changed.

Legislative Changes

- 14 *Appendix A, row I.* The Policy currently sets out the penalty points that would be issued for failing to comply with the Disability Discrimination Act 1995. The proposed amendment is to ensure that the Policy reflects current legislation, namely the Equality Act 2010, concerning discrimination offences against disabled people.

Fees

- 15 *Appendix A, row J.* The Policy currently states 'A holder of a Hackney Carriage Driver's licence is able to drive a Private Hire vehicle. However, a holder of a Private Hire Driver's licence **may not** drive a Hackney Carriage vehicle.' The proposed amendment is to delete this paragraph as it is untrue. A Hackney Carriage Driver must also have a Private Hire Driver badge and certificate if they wish to drive a Private Hire Vehicle.

DSA (Driving Standards Agency)

- 16 *Appendix A, row K.* The Policy mentions the DSA (Driving Standards Agency) in a number of places. They no longer carry out driving standards tests for Taxi drivers and therefore we have a different approved provider. There may be more providers added to that so the proposed amendment is to change any part of the policy that states DSA to Driving Standards test or Council approved provider.

Other Options Considered and/or Rejected

The council could choose to retain its current policy without changes but to do so could make the application process harder for applicants and current drivers regarding the medical centre. Compliance and enforcement as to

Agenda Item 5

Private Hire Operators addresses difficult and the wording within our policy, incorrect. Therefore keeping the existing policy without these amendments is not a course of action that is recommended.

Key Implications

Financial

Officers may incur additional costs and increased difficulties in enforcement should they need to visit Operators outside the district. Failure to ensure the Policy is compliant with current DVLA or insurance practices may mean that Officers spend more time defending a challengeable decision. Paying for yearly medicals for those aged 65 and over currently costs the council over £3000 per annum.

Legal Implications and Risk Assessment Statement.

Should parts of the industry believe the authority's Taxi Licensing Policy is not sound it would be open to them to undertake judicial review proceedings.

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 fall in line with the legislation and do not pose a risk to issues surrounding equality.

Conclusions

The current policy without changes could make the application process harder for applicants and current drivers regarding the medical centre. Compliance and enforcement as to Private Hire Operators addresses could be difficult due to distance and the wording within our policy could be incorrect. The changes recommended are to improve and correct our policy as well as change best practice to benefit the council.

The options available are to:-

1. agree all the amendments as detailed above, to be put out to consultation for 6 weeks;
2. agree to some of the amendments for consultation but leave others out; or
3. reject the suggested amendments to the policy being put out to consultation and leave the Hackney Carriage and Private Hire Policy as it is.

Appendices

Appendix A - Table to show draft changes to the policy

Appendix B - Draft Policy Document

Background Papers

[Sevenoaks District Council Hackney Carriage and Private Hire Policy](#)

Richard Wilson

Chief Officer Environmental & Operational Services

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	Changes to section in policy	2015 policy	Draft policy
A	Over 65 Year olds having yearly medicals	Not in the policy but SDC have paid for these yearly medicals	Stop this practice and the driver pays for themselves.
B	1. Introduction DVLA Mandates	“Drivers will be required to sign a mandate form to allow the Licensing Authority to carry out the check with the DVLA.”	This sentence shall be deleted as the way in which DVLA checks are carried out is changing and may change again in the future. The policy will retain the statement, “DVLA checks of all drivers’ licences at first application and at renewal.”
C	3. Hackney Carriage and/or Private Hire Driver Licence - New and Renewal applications	“DVLA mandate completed and signed by the applicant.”	“Authorisation from driver that DVLA check can be carried out by The Licensing Team.”
D	3.4 Medical Fitness	“All applicants will be required to obtain a Group 2 medical standards certificate signed by Sevenoaks District Council’s appointed surgery.”	“All applicants will be required to obtain a Group 2 medical standards certificate signed by a GP.”
E	3.6 Renewal of Licences	“At each renewal a current correct driving licence, DBS enhanced check, Medical and DVLA Mandate will be required.”	“At each renewal a current correct driving licence, DBS enhanced check, Medical and DVLA check will be required.”
F	5.8 Address from which an Operator may operate	Current Policy does not specify that an Operator must have an address in the district.	“The Council will not grant a licence to an operator whose premises are located outside the district of Sevenoaks. This

			<p>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.</p> <p>“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.”</p>
G	11. Amendments to the Policy	“All changes to the Policy are made by the Licensing Committee only.”	“All changes to the Policy are currently put to the Licensing Committee and then considered by Full Council.”
H	Appendix 2 - Vehicle Test Standards	“SDC will not licence any vehicle that is classed as a Category C insurance write off.”	“SDC will not licence any vehicle that is classed as a Category S insurance write off.”
I	Legislative Changes	Disability Discrimination Act 1995.	All references will be amended to the Equality Act 2010.
J	3.1 Fees	A holder of a Hackney Carriage Driver’s licence is able to drive a Private Hire vehicle. However, a holder of a Private Hire Driver’s licence may not	This paragraph shall be deleted to ensure consistency with legislative framework.

		drive a Hackney Carriage vehicle.	
K	DSA - Driving Standards Agency	DSA centre or Council approved alternative.	All references will be amended to Driving Standards test or Council approved provider.

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DRAFT STATEMENT OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY

DRAFT



DRAFT

Effective from **DATE**

The Role of Licensing: Policy Justification

The aim of local authority licensing of Taxi and Private Hire Vehicle (PHV) trades is to protect the public. Sevenoaks District Council is also aware that the public should have reasonable access to taxi and PHV services because of the part they play in local transport provision. Licensing requirements which are unduly stringent will tend unreasonably to restrict the supply of taxi and PHV services, by putting up the cost of operation or otherwise restricting entry to the trade. Sevenoaks District Council recognises that too restrictive an approach can work against the public interest – and can, indeed, have safety implications.

For example, it is clearly important that somebody using a taxi or PHV to go home alone late at night should be confident that the driver is “fit and proper” and that the vehicle is safe. However, on the other hand if the supply of taxis 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 taxi or PHV to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.

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

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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:

- That all licensed drivers/proprietors and operators are “fit and proper” persons to ensure the highest levels of public safety and good practice.
- That all licensed vehicles are roadworthy and fit for use.
- To encourage the use of environmentally friendly vehicles.
- 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, 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 from April 2016. Until the new fees are set three year licences will be available.
- Annual licensing of vehicles, with routine inspections by council officers. Checks of documentation such as insurance certificates and strict mechanical testing;
- 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, development and monitoring of the Council’s Licensing staff.
- Provision of information to the private hire and hackney trades and members of the public through press releases and publications, the Council 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

The Department for Transport has national responsibility for hackney carriage and private hire legislation in England and Wales. Following widespread consultation, the Department has produced Best Practice Guidance 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. This Guidance has been taken into consideration in preparing this policy. Also regard has 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 currently includes Maidstone Borough Council, Sevenoaks District Council and Tunbridge Wells Borough 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 taxi and private hire operators
- ▶ Sevenoaks District Councillors
- ▶ Town and Parish Councils
- ▶ Neighbouring Authorities
- ▶ Community Safety Unit

- ▶ Access Group
- ▶ Local businesses and residents
- ▶ The National Private Hire Association
- ▶ The National Taxi Association
- ▶ Members of the Public through the Council Website
- ▶ Public Health Kent
- ▶ Chamber of Commerce
- ▶ Kent Police
- ▶ Kent County Council Traffic & Road Safety
- ▶ Kent County Council (School Contracts)
- ▶ Citizens Advice Bureau
- ▶ Age UK

The Policy and associated documentation are available for inspection on the Council's website and a hard copy can be viewed at Sevenoaks District Council Offices, Argyle Road, Sevenoaks, Kent TN13 1HG.

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

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

2.4 Online Forms

Sevenoaks District Council has introduced online forms to facilitate applications. The authority is committed to keeping the cost of providing the licensing service down and online forms assist with this aim.

All new applications that are made online will require an applicant to meet with an officer to complete the application process.

We are happy to accept scanned accompanying documents or photograph images with online applications. However, if the submitted images do not match with the electronic images that are held by the authority, this authority reserves 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 Statement of Policy about Relevant Convictions before considering whether to apply for a Hackney Carriage or Private Hire Vehicle driver's licence.

Application forms must be completed in full. Any incomplete forms will be returned to the applicant as invalid.

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

- Correct application form provided by the Council, completed in its entirety and signed by the applicant.
- The appropriate fee. The current fees are available online <http://www.sevenoaks.gov.uk/services/business/licence-and-permits/Taxis-and-Private-Hire>
- The applicant's original DVLA driving licence. Applicants must have held a full DVLA or EU licence for at least 1 year. (para.3.2) for a new application
- A completed medical certificate (para.3.4)
- Driving Standard Agency practical taxi test and wheelchair test (where applicable)
- Evidence of passing Sevenoaks District Council's knowledge test/alternative suitability and knowledge test for all new hackney carriage drivers
- One recently taken, colour, passport sized photograph of the applicant (no sunglasses and no hats, unless they are worn for religious reasons).

- Authorisation from driver that DVLA check can be carried out by The Licensing Team.
- 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 (para.3.5). This must include a check for with adults and child workforce.
- 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) (para.3.5)
- For those 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. 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 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 that they have the right to work in the UK
- Two items confirming the applicants address
- Documentary proof of their National Insurance number.

3.1 Fee

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 Department 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 and a new DBS application will be required.

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 by 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 Agency's practical taxi test or Kent County Council transport test, should this be introduced. Existing drivers may also be required to undertake this test where serious concerns are raised about the standard of their driving.

All new applications for a driver's licence will be required to successfully undertake a Driving Standards practical taxi test from the Council approved provider without exception.

Drivers of a wheelchair accessible vehicle must have undertaken the enhanced Driving standards 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.

Driver assessments can be taken by your councils approved Driving Standards test provider(details of which will be available on the website).

A first time Hackney carriage driver applicant must demonstrate by means of a test, an acceptable knowledge of places, road and routes within the Council's area. The Licensing Authority may also require the applicant to demonstrate knowledge of the Hackney Carriage byelaws, rules that apply to all drivers on the highway and conditions for the 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;
- . 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/PH drivers.

All applicants will be required to obtain a Group 2 medical standards certificate signed by a GP.

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 his/her 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, to be assessed in accordance with the Council's statement of policy about relevant convictions. This must include a check for with adults and child workforce.

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

Existing drivers will be required to submit an Enhanced Certificate, which includes whether an applicant is barred from working with children or adults, every 3 years at renewal unless they are signed up to the online service which will enable the Licensing Department to check directly with the DBS. The licence holder will be responsible for paying the relevant fee. All applicants are strongly advised to sign up to the DBS online checking service as the cost every 3 years is less, the certificate is portable and may be taken to another Licensing Authority and applications for the renewal of their taxi driver's licence may be made more easily online without the need to make an appointment to see a Licensing Officer.

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 2). 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.

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 a the licence has been renewed and a new licence has been issued.

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 correct driving licence, DBS enhanced check, Medical and DVLA check will be required.

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 Drivers 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.

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 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 CO₂ 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.

To help consider the environmental impact, any petrol electric vehicle with an engine size under 1400cc will be considered to be licensed on a case by case basis. Sevenoaks District Council suggests that, in order to promote a greener environment, any vehicle that promotes cleaner fuel emissions may be entitled to pay a reduced fee at the time of having the vehicle tested by Sevenoaks District Council's appointed workshop.

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.

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 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 Wheelchair Accessible Vehicles

From 1st September 2016 all additional hackney carriage vehicles requiring a new plate, must be wheelchair accessible. That is those that require the issue of a new Hackney Carriage plate number. (This does not apply to replacement vehicles, change of ownership of vehicles or vehicles that are replacing damaged vehicles) and from 1st January 2018 all vehicles that reach the end of their life with respect to being eligible for licensing as a licensed vehicle (i.e. 10 years since the date of its first registration)

must be replaced by a wheelchair accessible vehicle. (This does not apply to change of ownership of vehicles or vehicles that are replacing damaged vehicles or a total loss.)

Wheelchair accessible vehicles may be either rear or side loading.

4.6 Applications

All applications submitted for the initial grant of a licence are advised to apply **at least 10 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:

- 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 - para.4.2) 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

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 at <http://www.sevenoaks.gov.uk/services/business/licence-and-permits/Taxis-and-Private-Hire>

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.

The Council considers vehicle insurance to be a high priority and, therefore, requires all proprietors to provide evidence of continuous insurance cover throughout the period of the licence. Failure to provide evidence of insurance will result in the vehicle licence being suspended.

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.

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 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.

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

The Authority will not license a hackney carriage vehicle if any window of it contains glass which has been treated so that less than 50% of light is transmitted through it. The area within the vehicle where there is no seating and is used for luggage only may have tinted glass as per manufacturing but must not be 'blacked out'.

Private hire vehicles with any tinted window of less than 50% transmission of light must not be used for the carriage of children and young persons who are, or will be, travelling without a parent or independent adult supervision.

The only exception is that where a child or young person is to be carried as a passenger unaccompanied by an adult then it will be for the proprietor of the vehicle, and/or the operator, to satisfy themselves that such a journey in a vehicle with tinted windows is with the knowledge and consent of that child or young person's parent or guardian and the details of such knowledge and consent, whether verbal or written, will form part of the Operator's records required to be kept by licence condition.

It is good practice to always advise a person making a booking for a private hire vehicle of the vehicle type and description, including whether it has tinted windows - without prejudice to the Road Vehicles (Construction & Use) Regulations 1986.

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.

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.
- The appropriate fee. The current fees are available online <http://www.sevenoaks.gov.uk/services/business/licence-and-permits/Taxis-and-Private-Hire>

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 operators' 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 Drivers 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.

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. (The issue of 5 year licences will not commence until April 2016. Three year licenses will continue to be issued until then).

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.

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's have 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 his/her employer or operator. However the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
- 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 he/she deems 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 10 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 put to the Licensing Committee and then considered by Full Council.

DRAFT

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 he/she is 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 227004 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.

In the absence of a judicially approved definition of "fit and proper", the Council use the test of:

Would the Officer charged with the ability to grant a licence allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter, or any other person for whom they care, to get into a licensed vehicle with the applicant alone?

The wording of this test originates from Mr J T H Button BA, Solicitor, MIL, MClarb, a well known and respected solicitor widely acknowledged as an authority in licensing legislation, particularly that of hackney carriages and private hire.

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:

Honest 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 over-riding 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 co-operation 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..).

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 dependant of 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 of 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.

Drunkenness

Separate consideration will be given to convictions for drunkenness whilst in charge of a vehicle as opposed to drunkenness 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. 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

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;
- gross indecency;
- possession of child pornography;
- buggery; or
- 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.

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 he 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.

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 – 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 - 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.

Internal Drivers Badge - 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 Plate or Chart - 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 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. 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 designed to open shall operate in accordance with manufacturer's specification.

The Authority will not license a hackney carriage vehicle if any window of it contains glass which has been treated so that less than 50% of light is transmitted through it. The area within the vehicle where there is no seating and is used for luggage only may have tinted glass as per manufacturing but must not be 'blacked out'.

Private hire vehicles with any tinted window of less than 50% transmission of light must not be used for the carriage of children and young persons who are, or will be, travelling without a parent or independent adult supervision. The only exception is that where a child or young person is to be carried as a passenger unaccompanied by an adult then it will be for the proprietor of the vehicle, and/or the operator, to satisfy themselves that such a journey in a vehicle with tinted windows is with the knowledge and consent of that child or young person's parent or guardian and the details of such knowledge and consent, whether verbal or written, will form part of the Operator's Records required to be kept by licence condition. It is good practice to always advise a person making a booking for a private hire vehicle of the vehicle type and description, including whether it has tinted windows. (Without prejudice to the Road Vehicles (Construction & Use) Regulations 1986).

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 and rips.
- 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.
- The Authority will not re-license a vehicle if it is more than 10 years old (15 years for wheelchair accessible vehicles).

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 (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;

- a. Licence No.
- b. Registration No.
- c. Vehicle make/Type.
- d. Licence expiry date.
- e. 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.

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 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)

The Authority will not license a hackney carriage vehicle if any window of it contains glass which has been treated so that less than 50% of light is transmitted through it, unless it was first licensed prior to 1 November 2005.

Private hire vehicles with any tinted window of less than 50% transmission of light must not be used for the carriage of children and young persons who are, or will be, travelling without a parent or independent adult supervision. The only exception is that where a child or young person is to be carried as a passenger unaccompanied by an adult then it will be for the proprietor of the vehicle, and/or the operator, to satisfy themselves that such a journey in a vehicle with tinted windows is with the knowledge and consent of that child or young person's parent or guardian and the details of such knowledge and consent, whether verbal or written, will form part of the Operator's Records required to be kept by licence condition. It is good practice to always advise a person making a booking for a private hire vehicle of the vehicle type and description, including whether it has tinted windows.

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.

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 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.

Plate etc.	Position
External Licence Plate	Under the rear registration number plate or, in exceptional circumstances, another position near that location subject to the Council's prior approval.
Internal Licence 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 With Plate Number	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 visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

Advertising and other signs

The proprietor must not permit any advertising on or in the vehicle which is not advertising his/her 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:

1. 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).
2. 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.
3. 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 address or Web site, or advisory notices to do with smoking, but lettering height must be a minimum of 75mm and maximum of 150mm.
4. 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.

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 wording in (a) above shall be reproduced in plainly visible lettering on the fare chart.

Wheelchair signs

Subject to the provisions of paragraph 4 above the proprietor may affix a sign on the outside of the vehicle indicating that it is able to convey passengers in wheelchairs provided the vehicle has been manufactured or properly adapted for that purpose.

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 V.5 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 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

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 his/her 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 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 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.

Transfer of hackney carriage interest in the vehicle.

If the proprietor, or part proprietor, transfers his/her Hackney Carriage interest in the vehicle to another person or persons the proprietor, or part proprietor, must notify the Council 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 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' his/her 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.
- that, at all times, the area designed for the stowage of luggage is kept clear and available for the purpose.

Tinted windows

The Hackney Carriage, once it has been licensed, is not permitted to have any treatment to its windscreen or windows which would cause the light transmission through the glass to be less than 50%.

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.
- The Authority will not re-license a vehicle if it is more than 10 years old (15 years for wheelchair accessible vehicles).

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 (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.

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 CO₂ 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.

To help consider the environmental impact, any petrol electric vehicle with an engine size under 1400cc will be considered to be licensed on a case by case basis. Sevenoaks District Council suggests that, in order to promote a greener environment, any vehicle that promotes cleaner fuel emissions may be entitled to pay a reduced fee at the time of having the vehicle tested by Sevenoaks District Council's appointed workshop.

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.

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

(f) 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.

(g) 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;

- a. Licence No.
- b. Registration No.
- c. Vehicle make/Type.
- d. Licence expiry date.
- e. 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.

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

Private hire vehicles with any tinted window of less than 50% transmission of light must not be used for the carriage of children and young persons who are, or will be, travelling without a parent or independent adult supervision. The only exception is that where a child or young person is to be carried as a passenger unaccompanied by an adult then it will be for the proprietor of the vehicle, and/or the operator, to satisfy themselves that such a journey in a vehicle with tinted windows is with the knowledge and consent of that child or young person's parent or guardian and the details of such knowledge and consent, whether verbal or written, will form part of the Operator's Records required to be kept by licence condition. It is good practice to always advise a person making a booking for a private hire vehicle of the vehicle type and description, including whether it has tinted windows. (Without prejudice to the Road Vehicles (Construction & Use) Regulations 1986)

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.

Plate etc.	Position
External Licence Plate	Under the rear registration number plate or, in exceptional circumstances, another position near that location subject to the Council's prior approval.
Internal Licence 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 and Plate Number when meter fitted	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

1. 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).
2. 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.
3. 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.
4. 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 V.5 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 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 Drivers 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.

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 his/her 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 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 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 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.

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 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, his/her 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;

- that, at all times, the area designed for the stowage of luggage is kept clear and available for the purpose.

Tinted windows

Private hire vehicles with any tinted window of less than 50% transmission of light must not be used for the carriage of children and young persons who are, or will be, travelling without a parent or independent adult supervision. The only exception is that where a child or young person is to be carried as a passenger unaccompanied by an adult then it will be for the proprietor of the vehicle, and/or the operator, to satisfy themselves that such a journey in a vehicle with tinted windows is with the knowledge and consent of that child or young person's parent or guardian and the details of such knowledge and consent, whether verbal or written, will form part of the Operator's Records required to be kept by licence condition. It is good practice to always advise a person making a booking for a private hire vehicle of the vehicle type and description, including whether it has tinted windows. (Without prejudice to the Road Vehicles (Construction & Use) Regulations 1986).

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.

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.

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.

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.

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.

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.

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 he/she becomes aware that any driver is suffering from any illness, disability or condition which may affect the driver's ability to safely carry out his/her 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
- the reason(s) why the fare actually charged was different if it was different
- any other relevant information.

Disclosure of convictions

The operator shall immediately disclose to the Council in writing details of any convictions imposed on him 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 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 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 he/she is 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

If a Private Hire Vehicle with tinted windows which have less than 50% light transmission through any of them is used for the carriage of children or young persons without adult supervision then it is the responsibility of the Operator to ensure that, when the booking for the vehicle is taken, the person accepting the booking has sought the knowledge and consent of the child or young persons parent or guardian for the journey and such knowledge and consent whether verbal or written is recorded in the Operator's 'Record of Journeys' as required by these licence conditions.

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.
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 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.

SCHEDULE

Date of Byelaws	By Whom Made	Date of Confirmation	By Whom Confirmed
17th December 1964	Sevenoaks Urban District Council	5th April 1965	An Assistant Under Secretary of State

GIVEN under the COMMON SEAL OF THE DISTRICT COUNCIL OF SEVENOAKS this 7th day of October 2004

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
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
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
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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

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

These points are dependant on adopting proposed conditions as per appendices

Private Hire Driver's Licence Conditions - Appendix 9

Section	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
	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 not 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

Vehicle Specifications & Conditions of Licence – Appendix 5D

Section	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	3

	inside and out.	
	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

PRIVATE HIRE OPERATORS

Local Government (Miscellaneous Provisions) Act 1976

Section	Offence	Points
56 (2)	Failing to keep proper records of all bookings or failing to produce them. (also breach of conditions see below)	6
56 (3)	Failure to keep records of PH vehicles or failing to produce them. (also breach of conditions see below)	6
56 (4)	Failing to produce PH Operator' licence on request. (also breach of conditions see below)	4
46(1)(e)	Operating a PH vehicle when the driver is not licensed as a PH driver.	12
46(1)(e)	Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle.	12
73(1)(c)	Failure to give information or assistance to an authorised officer or constable.	5

Breach of Conditions attached to Operator's Licence - Appendix 7

	Failure to provide a prompt, efficient and reliable service at all reasonable	3
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	times.	
	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
	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

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, SECTION 65
REQUEST TO INCREASE HACKNEY CARRIAGE MAXIMUM FARES**

Licensing Committee - 1 November 2018

Report of Chief Officer Environmental and Operational Services

Status For Decision

Key Decision No

Executive Summary: The purpose of this report is to consider a request from the hackney carriage trade to increase the maximum chargeable fares payable by the travelling public for hackney carriage journeys.

After receiving the request for an increase from a Hackney Carriage Driver, all the Hackney Carriage drivers, licensed by this Licensing Authority, were balloted on the option in addition to an option of no change to the current fares.

Portfolio Holder Cllr. Anna Firth

Contact Officer Jessica Foley, Ext. 7480

Recommendation to Licensing Committee:

That the Committee determine this application for an increase in the maximum hackney carriage fare tariffs and, if an amendment is approved, that

- a) the Chief Officer Environmental and Operational Services be authorised to publicise the proposed fare increase; and
- b) if no unresolved objections are received, the proposed fares take effect on 1 January 2019.

Reason for recommendation: The setting of fares is a statutory duty placed upon the Council and it is the Council's responsibility to strike a balance between setting a fare that is acceptable to the customer and to the taxi driver.

Introduction and Background

- 1 The Council exercises a discretionary power to set the maximum fares for Hackney Carriages within the District. The Council has no power to control the fares charged by private hire vehicle operators.
- 2 Please note that the fare set will be the maximum fare that can be charged and Hackney carriage drivers have the right to charge a lower amount should they wish to do so.

Agenda Item 6

- 3 The current fare tariffs which have been in operation since 1 May 2015 are displayed in the table below along with the proposed fare increase:

Please note we are changing the measurements of distance from metres to miles and yards.

Tariff	Current fare	Proposal
(A) Distance - First 1,158 metres	£3.80	£4.60 for the first mile (1760 yards) (1609.34 metres for comparison).
(A2) Each additional 152 metres (0.0944484 mile) 166.229 yards	21p	22p per (166.229 yards) (152 metres for comparison). (Around an additional 10p per mile)
(B) Waiting time (standard rate) for each period of 1 minute	40p	45p
(C) Waiting time (with indicated extra charges applied as below)		
For each period of 1 minute		
(ii)	55p	65p
(iii)	55p	65p
(iv)	70p	90p
(D) Extra charges		
(i) Additional Passengers (For each person in excess of four persons)	25% of prescribed fare	Keep the same
(ii) For hiring begun between 23:00 and 07:00 hours (except all bank & public holidays)	£2.00 per fare	Keep the same
(iii) For hiring on bank & public holidays (other than Christmas & New Year holidays)	£2.20 per fare	Keep the same
(iv) For hiring on Christmas & New Year holidays (commencing 18:00 hours Christmas Eve to 18:00 hours 27 th December and 18:00	100% of prescribed fare	Keep the same

hours New Year's Eve until 06:00 hours 2 nd January)		
(v) For carriage of pets (other than dogs for registered disabled people)	£3.30 per fare	Keep the same

Responses to the consultation

- 4 A total of 250 letters were sent to all the Hackney carriage drivers. 85 responses were received in total. To the question 'Do you want a fare increase?' 78 answered 'Yes' and 7 answered 'No'.
- 5 10 were in favour of the proposed fare increase in its entirety, 5 voted to leave the fares as they currently are. 2 said 'No' to an increase, yet suggested small changes and 68 said 'Yes' to an increase but commented on some changes.
- 6 Please see the table below for a breakdown of results per question.

Tariff	Voted Yes, agree with proposal	Voted No, disagree with proposal
A	35	50
A2	37	48
B	80	5
C	80	5
D(i)	84	1
D(ii)	84	1
D(iii)	84	1
D(iv)	84	1
D(v)	59	26

- 7 Some alternatives were put forward for some of the Tariffs. Please see table attached to this report as Appendix A.
- 8 Some feedback from the trade was also received which is attached to this report as Appendix B.

Key Implications

Financial

The change in fare tariff agreed by the Committee will be formally advertised on Sevenoaks District Council's website and in a local newspaper.

Agenda Item 6

Legal Implications and Risk Assessment Statement.

The Council is following the appropriate process for determining applications for increases in the maximum fares chargeable by hackney carriage proprietors. Any changes to the fare tariffs must be publicised for 14 days.

No risk management issues have been identified.

Equality Assessment

Hackney Carriage vehicles are an important part of the public transport service. The Council, having decided to exercise its discretion to set the maximum fares that can be charged must balance the need of ensuring access to the service and its profitability.

Conclusions

The purpose of this report is to consider a request from the hackney carriage trade to increase the maximum chargeable fares payable by the travelling public for hackney carriage journeys.

The options available are to:-

1. agree the proposed increase as detailed above;
2. agree to an increase but change the amounts using information received from the trade consultation detailed in appendix A and Drafted in Appendix C
3. reject the proposal for a Maximum Fare increase and leave the Fare Tariffs as they are.

Appendices

Appendix A - Table to show alternative proposals.

Appendix B - Feedback and written comments from some of the trade.

Appendix C - Draft Fare Chart using most popular results

Background Papers

[Sevenoaks District Council Hackney Carriage and Private Hire Policy.](#)

Richard Wilson

Chief Officer Environmental & Operational Services

Tariff	Current fare	Proposal	Alternatives put forward	Number of responders for this alternative
(A) Distance - First 1,158 metres	£3.80	£4.60 for the first mile (1760 yards) (1609.34 metres for comparison).	£4.20 for the first 7/10 of a mile (1126.541 metres/1232 yards)	42
			£4.00 For the first 1100 metres	1
			£4.00 For the first 1158 metres	1
(A2) Each additional 152 metres (0.0944484 mile) 166.229 yards	21p	22p per (166.229 yards) (152 metres for comparison).	22p per 1/10 mile (160.934 metres/176 yards)	42
(B) Waiting time (standard rate) for each period of 1 minute	40p	45p	No alternatives suggested	
(C) Waiting time (with indicated extra charges applied as below) For each period of 1 minute				
(ii)				
(iii)	55p	65p	No alternatives suggested	
(iv)	55p	65p	No alternatives suggested	
	70p	90p	No alternatives suggested	
(D) Extra charges				
(i) Additional Passengers (For each person in excess of four persons)	25% of prescribed fare	Keep the same	No alternatives suggested	
(ii) For hiring begun between 23:00 and 07:00 hours (except all bank & public holidays)	£2.00 per fare	Keep the same	No alternatives suggested	
(iii) For hiring on bank & public holidays (other than Christmas & New Year holidays)	£2.20 per fare	Keep the same	No alternatives suggested	
(iv) For hiring on Christmas & New Year holidays (commencing 18:00 hours Christmas Eve to 18:00 hours 27 th December and 18:00 hours New Year's Eve until 06:00 hours 2 nd January)	100% of prescribed fare	Keep the same	No alternatives suggested	
(v) For carriage of pets (other than dogs for registered disabled people)	£3.30 per fare	Keep the same	£5.00 per fare	1
			Free	1
			£4.00 per fare	23

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SEVENOAKS TAXI FARES

After speaking with many taxi drivers I can confirm that the Proposal 1 is quite unacceptable for the following reasons.

1. The taxi drivers requested a rise in fares. The proposal of £4.60 for the first mile is NOT a rise. Under the existing tariff the fare is already £4.60 for a mile. The current fare of £3.80 is for the first 1158 metres (approximately six tenths of a mile). The full mile goes £4.60, the exact distance from the front of the station taxi rank to the gates of Sevenoaks School opposite The Royal Oak. I have also performed two tests coming to work of the Shoreham road by setting the trip on the speedometer to zero, starting the metre and then immediately stopping it, so that it reads distance only with no waiting time. On both occasions when the trip read exactly one mile the meter read £4.60.
There is a small gain for going say half a mile, but I feel that charging £4.60 for half a mile is excessive. It is also unusual not to get a tip for this distance and frequently £5 is given.
2. The overnight jump of the flag fare from £3.80 to £4.60 would be unacceptable to most regular customers who will find other means to get home, such as getting picked up by car. This means fewer regular customers and less income for the drivers.
3. It has been nine or ten years since it was a full mile before the meter increased the fare. The regular customers know at what part of their journey the meter starts to increase and returning to a full mile before the meter changes is a retrograde step.
4. I suggest the best option for an increase is to keep the present fare structure, increase the flag fare to £4.00 and reduce the distance that this covers from 1158 metres to 1150 metres. This will have the least visual impact of the customers, the reduction in distance being lost in waiting time at traffic lights or traffic delays. It will also increase the earnings of the driver income for a mile journey by 40 to 60 pence, which Proposal 1 does not. The suggested increase in the proposal for waiting time and each additional 152 metres is acceptable, as are the extra charges.

Dear Jessica,

I will be handing the proposal form into the reception for your attention.

My only question on the fare proposal is the question of the flag fare.

This is the fare that the customer will see when they hire the taxi.

In the past we have always reduced the distance and set the flag fare accordingly.

I am not aware of what the other drivers have proposed however I firmly believe that if you set a flag fare of £4.60 then most people will not be very happy the reason obviously is that the ordinary customer will see this as a rise of 80 pence.

However we know that the metre is set for a distance of 1158 metres at £3.80.

This means that at the moment if you travel one mile the fare will be £4.40.

The increase is therefore with the fare at 1760 yards per mile is £4.60.

The problem is the customer will suddenly see it as a huge increase in the fare.

My personal view is that the flag fare should start at £4.0.0.

Then increase it as 22p per tenth this would then be £4.0.0 for 1158 metres or 1266.4 yards.

The distance of a mile would be calculated as the difference between 1609 minus 1158

= 451 metres which would make it at 60 pence for a total of 451 metres.

£4.60 per mile. The customer would not question the flag fare being set at £4.0.0.

My other concern is why the fare chart is calculated to work in metres and not yards.

most people understand yards but not metres.

There has to be clear clarification on what a customer is paying and how the fare is worked out.

I would urge the Licensing committee to wait until the next meeting with the drivers before any proposal is presented to the committee in November 2018.

The result of the proposal and the drivers views can be then discussed at the meeting.

I think the only reason they are saying this is because they don't want to get to the front of the station rank and take people to the town for £3.80. This would mean a 21% increase on trips of 0.7 miles or less, which we would be massively against and I think is completely unreasonable.

I think the best thing would be to keep the same distance for the starting fare but start at £4.00, which would represent an increase of 5%, which would be in line with rail fares. I think the increase from 21p to 22p would be fair, although is there a way to make this exactly per tenth of a mile rather than the strange distance that it currently shows?

I think everything should be kept the same as it already is other than that, I don't think waiting time needs to be increased.

Thanks

It would benefit me more if instead of a start charge of £4.60 (which is rather high) it would be better for the fare to increase once starting the journey at about 40 metres etc.

I am happy with £3.80 thank you

Although we could do with a rise to compensate for increased costs, I believe that in the present climate, an increase would be counter productive and possibly drive more of our customers towards using Uber. What we need is a clamp down on Uber cabs to stop them parking on station ranks and picking up un booked fares. Preserve the status Quo and keep fares the same as they are now.

**HACKNEY CARRIAGE
PLATE NUMBER**

**HACKNEY CARRIAGE
PERMITTED MAXIMUM
FARES**

as from 1st January 2019



(a) DISTANCE	POUNDS	PENCE
Charge for the first 1232 yards (7/10 mile) or part thereof	4	20
Then for each additional 176 yards approx (1/10 mile)	0	22
 (b) WAITING TIME STANDARD RATE		
for each period of 1 minute		45
 (c) WAITING TIME WITH INDICATED EXTRA CHARGES APPLIED AS BELOW		
For each period of 1 minute		
(ii)		65
(iii)		65
(iv)		90
 (d) EXTRA CHARGES		
(i) Additional Passengers For each person in excess of four persons		25% of prescribed fare
(ii) For hiring begun between 11pm and 7am (except all Bank & Public holidays)		£2.00 per fare
(iii) For hiring on Public & Bank Holidays (other than Christmas & New Year holidays)		£2.20 per fare
(iv) For hiring on Christmas & New Year Holidays (commencing 6pm on Christmas Eve to 6 am 27 December and 6 pm New Year's Eve to 6 am 2 January)		100% of prescribed fare
(v) For carriage of pets (other than dogs for registered disabled people)		£3.30
 (e) SPOILAGE		
Any claim for damage causing spoilage to the interior of the vehicle <u>MUST</u> be a matter between the proprietor of the vehicle and the passenger.		

**ANY COMPLAINT REGARDING A DRIVER OR VEHICLE PLEASE CONTACT
THE LICENSING OFFICER: 01732 227004
PLEASE QUOTE THE VEHICLE PLATE AND / OR REGISTRATION NUMBER**

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