07 January 2020 at 7.00 pm

Conference Room, Argyle Road, Sevenoaks
Despatched: 20.12.19

Sevenoaks
DISTRICT COUNCIL

Licensing Committee

Membership:
Chairman, Cllr. Clack; Vice-Chairman, Cllr. Pett
Cllrs. Abraham, Dr. Canet, Carroll, Coleman, Esler, Hunter, Layland, Parkin and Raikes and vacancy

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 19 September 2019, and the Licensing Hearing held on 11 September 2019, as a correct record.	(Pages 1 - 6)	
2.	**Declarations of interest** Any interests not already registered		
3.	**Actions from the previous meeting**		
4.	**Licensing Act 2003 - Statement of Licensing Policy**	(Pages 7 - 60)	Michael Moss Tel: 01732227364
5.	**Sexual Establishments - Statement of Licensing Policy**	(Pages 61 - 106)	Michael Moss Tel: 01732227364
6.	**Statement of Hackney Carriage & Private Hire Policy**	(Pages 107 - 202)	Michael Moss Tel: 01732227364
7.	**Gambling Act 2005: Licence Fees from April 2020**	(Pages 203 - 208)	Michael Moss Tel: 01732227364
8.	**Sexual Entertainment Licensing Fees**	(Pages 209 - 214)	Michael Moss Tel: 01732227364
9.	**Hackney Carriage 'Table of Fares'**	(Pages 215 - 232)	Michael Moss Tel: 01732227364

10. **Work Plan** (Pages 233 - 234)

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 19 September 2019 commencing at 7.00 pm

Present: Cllr. Clack (Chairman)

Cllr. Pett (Vice Chairman)

Cllrs. Dr. Canet, Coleman, Esler, Hunter, Layland, Pett and Raikes

Apologies for absence were received from Cllrs. Carroll and Parkin

7. Minutes

Resolved: That the Minutes of the meeting of the Committee held on 20 June 2019, and the Licensing Hearings held on 31 May 2019 and 3 June 2019, be approved and signed by the Chairman as a correct record.

8. Declarations of interest

No additional declarations of interest were made.

9. Actions from the previous meeting

The number of applications received for each type of application alongside the percentages were tabled.

10. Police Welfare and Vulnerability Engagement (WAVE)

The Chairman welcomed Ian Graham, the Chief Licensing Officer for the Metropolitan Police to the Committee, who gave a presentation on the Police Welfare and Vulnerability Engagement (WAVE) which was to provide those working in the licensed industry with an awareness of vulnerability and their responsibilities towards people visiting their premises. The background of WAVE was explained to Members along with the 5 Key principles to prevent and reduce criminal offences taking place at licensed premises and to promote partnerships within the communities.

The Committee thanked Ian Graham for his attendance.

11. The Licensing Act 2003 - Statement of Licensing Policy

Members considered a report which sought the approval for an 8 week consultation on the amendments to the Council's Statement of Licensing Policy which would be in place for a five year period 1 April 2020 to 31 March 2025. The Council was

required to review the policy at least every five years. The consultation feedback and the draft amended policy would be reported to the next meeting.

The Senior Licensing Officer brought the Committee's attention to some additional changes, which included:

- an additional section 2.5 which was tabled;
- Film Exhibitions would be 3.14 in the policy; and
- Draft paragraph 16.5 would be removed.

The Chairman moved the recommendation within the report subject to the amendments discussed above and it was

> Resolved: The draft policy as set out as Appendix A be approved for public consultation.

12. Statement of Hackney Carriage and Private Hire Policy

The Committee considered a report which sought approval from the Committee to consult on the Council's existing 'Statement of Hackney Carriage and Private Hire Policy' which would be in place for a three year period 1 April 2020 to 31 March 2023. The consultation feedback and the draft amended policy would be reported to the next meeting.

In response to questions Members were advised that as newer vehicles were becoming more environmentally friendly the engine size was not as crucial as it used to be and therefore each case would be treated on its own merit. The Senior Licensing Officer undertook to look at the references to EU regulations and passports. The Senior Solicitor advised that as legislation allowed for the suspension of a Hackney Carriage and Private Hire License its removal from the policy would not be necessary even though most case law limited the circumstances where suspension would be suitable.

The Chairman moved the recommendation within the report subject to the comments discussed above and it was

> Resolved: The draft policy as set out as Appendix A be approved for public consultation.

13. Sex establishment policy 2020 - 2023

The Committee considered a report which sought approval from the Committee to consult on the Council's existing Sex Establishment Policy which would be in place for a three year period 1 April 2020 to 31 March 2023. The consultation feedback and the draft amended policy would be reported to the next meeting.

Members were advised that there would be a further addition of new paragraphs 1.10 and 1.11 which gave reference to Human Rights and the Equality Act which was tabled.

Resolved: The draft policy as set out as Appendix A be approved for public consultation.

14. Work Plan

Members noted that the draft policies following consultation would be brought to the January meeting as well as the draft fees.

THE MEETING WAS CONCLUDED AT 8.06 PM

CHAIRMAN

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LICENSING HEARING

Minutes of the meeting held on 11 September 2019 commencing at 10.30 am

Present: Cllrs. Carroll, Layland and Raikes

Also Present Applicant
Applicant's Representative
Democratic Services Officer
Senior Licensing Officer
Senior Solicitor
Cllr. McArthur

1. Appointment of Chairman

Resolved: That Cllr Raikes be appointed as Chairman of the meeting.

2. Declarations of interest

There were no additional declarations of interest.

3. Determination of Fit and Proper Following Complaint

The Chairman moved and it was

Resolved: That under section 100A (4) of the Local Government Act 1972, the public were excluded from the meeting when considering the report, on the grounds that likely disclosure of exempt information was involved as defined by Schedule 12A, paragraph 1 (information relating to any individual) and paragraph 2 (information which is likely to reveal the identity of an individual).

The Hearing gave consideration to a report by the Chief Officer Environmental & Operational Services giving details of a complaint received regarding the Licensee's conduct as detailed within the exempted report. The Licensee had appealed the decision of the Senior Licensing Officer to the Sub-Committee. The report requested that the Sub-Committee consider the evidence presented and decide whether the behaviour had been in a disorderly, abusive or threatening manner whilst operating as a licenced taxi in clear view of the public.

The Senior Licensing Officer introduced the report and gave background information to the Hearing.

The Licensee explained the series of events and responded to questions contained within the exempted report. The hearing heard further information from the Licensee's representative.

At 10.57 a.m. the Hearing Members withdrew to consider the issues raised accompanied by the Council's Legal Advisor and Clerk to the Hearing for the purpose of providing advice only.

At 11.24 a.m. the Hearing Members, Council's Legal Advisor and Clerk to the Hearing returned to the Council Chamber.

The Chairman informed the Hearing that the Sub-Committee had had regards to the exempted report and representations made by the Licensee, and the Council's Statement of Hackney Carriage and Private Hire Policy and took a particularly serious view of disorderly, abusive and threatening behaviour, especially in such a public setting. Whilst taking into account the circumstances and the previous decision of the Senior Licensing Officer, it was agreed that the appropriate sanction would instead be for penalty points to be awarded to the licence.

The Chairman moved that four penalty points be added to the Hackney Carriage Drivers Licence.

It was therefore

> Resolved: That four penalty points be added to the Hackney Carriage Drivers Licence.

THE MEETING WAS CONCLUDED AT 11.25 AM

CHAIRMAN

LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY

Licensing Committee – 7 January 2020

Report of	Chief Officer Planning & Regulatory Services
Status:	For approval
Also considered by:	Council – 25 February 2020
Key Decision:	No

Executive Summary:

The Council is required by law to publish a statement of licensing principles at least every five years under the Licensing Act 2003 and accompanying Guidance issued by the Home Office.

The purpose of the policy is to define how the Council's responsibilities under the Act are going to be exercised and administered by the Council acting as the Licensing Authority. Sevenoaks's existing Statement of Licensing Policy 2015-2020 runs until the end of March 2020 therefore a new Statement of Licensing Policy for the District is required from 1 April 2020.

This report supports the Key Aim of sustainable economy.

Portfolio Holder Cllr. Margot McArthur

Contact Officer Michael Moss, Ext. 7364

Recommendation to Licensing Committee To agree the 'Statement of Licensing Principles 2020-2025 (attached as **Appendix A** to this report) be recommended to the Council as revised Policy to come into effect from 1 April 2020.

Recommendation to Council
That the 'Statement of Licensing Principles 2020-2025' as revised Policy be adopted as from 1 April 2020.

Reason for recommendation: Under Section 5 of the Licensing Act 2003 the Licensing Authority must have a Statement of Licensing Policy. The last Policy was reviewed in 2015 and will expire on 31 March 2020.

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy which will be brought before the Committee in January 2020.

Introduction and background

1 The Licensing Act 2003 requires the Council, acting as the Licensing Authority (LA) under the Act, to determine and publish a Statement of Licensing Policy (SLP) at least once every five years. Sevenoaks current SLP runs from 01/04/2015 – 31/03/2020. A new SLP for the District is therefore required, to be published and applicable from 1 April 2020 onwards.

2 The Statement of Licensing Policy 2020-2025 can be reviewed and updated at any time during the life of the document. The Council keeps the SLP under constant review and, from time to time, may commission research to inform changes to policy.

3 The SLP sets out how licensed premises are likely to be permitted to operate and the document covers the following:

a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications and enforcement complaints;
b) How the Council will assess the suitability of licensed drivers, vehicles and Operators
c) The LA's approach to regulation & expected standards; and
d) The scheme of delegation.

4 The scheme of delegation for Licensing will be reviewed at a local level during the life of the new SLP and updated to reflect any resulting changes in line with the relevant legislative requirements.

5 The four licensing objectives under the Licensing Act 2003 are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm

6 Each objective has equal weight under the legislation.

7 The Licensing Authority must carry out its functions with a view to promoting the licensing objectives.

8 The SLP applies to new licence applications and applications to vary existing licences (e.g. where an increase in hours is requested). It also applies to existing licences that are brought to review (e.g. where public nuisance is being caused). The new document also confirms the expectations on existing licence holders, such as the requirement to pay annual fees and wider responsibilities such as those set out within the Immigration Act 2016.

9 The SLP, along with current national guidance issued by the Home

Secretary issued from time to time and the primary legislation as set out in the Licensing Act 2003 ('the Act'), forms the basis on which licensing decisions are made by the Council acting as the LA and how licensed premises are likely to be permitted to operate.

10 The purpose of the SLP is to outline the approach that Sevenoaks will take to implementing the Licensing Act 2003 locally and to provide guidance for applicants, residents and Responsible Authorities under the Act.

11 'Responsible Authorities' include Kent Police, Kent Fire & Rescue Service, the Council's Health & Safety, Planning and Environmental Protection Teams, Children's Safeguarding, Public Health and Trading Standards.

12 As at the beginning of December 2019, x premises licences are held within Sevenoaks District – this includes bars, pubs, clubs, off-licences, restaurants and private members' clubs.

13 Activities regulated under the Licensing Act 2003 include:

- The retail sale of alcohol;
- The supply of alcohol to members of private clubs;
- The supply of hot food/ or hot drinks between 11pm and 5am; and
- The provision of regulated entertainment to the public, or club members or with a view to profit, such as:
    - Film exhibitions;
    - Performance of plays;
    - Indoor sporting events;
    - Boxing or wrestling entertainment;
    - Playing of recorded music; and
    - Dance performances.

14 In terms of 'regulated entertainment' exceptions apply under the Act – e.g. for film exhibitions, no licence is required between 8am and 11pm, where the number of people in an audience is fewer than 500. However, venues serving alcohol alongside theatre performances would still need a licence.

15 The SLP document does not cover any activity that is outside the scope of the Licensing Act 2003. In addition, the document does not seek to set out operational activities or plans for all work planned or undertaken which relates to the Licensing Act 2003, nor to capture all the wider work being undertaken or planned around alcohol in the District.

16 The Planning and Licensing regimes operate in parallel, with separate legislation governing each policy. Planning considerations arte outside the scope of the SLP 2020-2025. In addition, the SLP gives guidance only

and each case is considered on a case by case basis under the applicable legislation.

Proposal and Reasons

17 The new draft SLP for the District has been prepared with reference to the current policy, legislative updates, benchmarking against other Borough's policies and the recent consultation. In addition, the format of the current SLP has been updated in order to make the new document easier to read and more accessible.

18 The final draft has been produced as a result of the following stages:

19 **Stage 1: Production of first draft:** The first draft of the new SLP was produced by undertaking a review of the policy document and benchmarked against our partnership authorities (e.g. Maidstone Borough Council and Tunbridge Wells Borough Council).

20 The outcomes from the above and key difference between the current SLP and the Draft were as follows:

21 **Format:** Changes were made to the structure and language to improve accessibility and understanding of the positions outlined in the draft document.

22 **Legislative updates:** Clarifications were added to address legislative or Section 182 Guidance changes. The SLP now states that all licensed premises are expected to familiarize themselves with and adhere to their responsibilities regarding the prevention of illegal working under the Immigration Act 2016 and all aspects of the Act.

23 **Suspensions:** Since April 2013 it has been possible to suspend licences when annual fees have not been paid. A clearer statement on the Policy for licensing fees and the actions taken if these are not paid when due is now in the SLP.

24 In addition, the updated draft indicates that applicants may seek the views of the Responsible Authorities before formally submitting an application, and that there may be a charge for this service.

25 **Deregulations 2015:** Information relating to the 2015 deregulations of the Licensing Act 2003 have been included under the 'Background' section of the policy, immediately following regulated entertainment.

26 **Pre-application advice:** The Council will be introducing the provision of pre-application advice for Licensing.

27 **Stage 2: Production of final draft:** Public Consultation on the draft SLP

took place over an 8 week period between 21 October 2019 and 13 December 2019. Where feedback, suggestions and comments were within scope of the Licensing Act 2003 and the SLP, these are presented in summary in **Appendix B**.

28 The Public Consultation consisted of a web page on Sevenoaks District Council's website which provided a full version of the draft SLP 2020-2025.

29 A notification email was sent to all Responsible Authorities, Sevenoaks District Council elected members, all premises and personal licences holder (issued by Sevenoaks District Council) and any applicant which has submitted a Temporary Event Notice (TEN) in 2019.

30 In addition the Council consulted with the following trade representatives:

- Institute of Acoustics
- Alcohol Concern
- British Beer & Pub Association
- Action on Smoking & Health
- National Pubwatch
- Magistrates Association
- Chartered Institute of Environmental Health
- Sevenoaks District Council's Safety Advisory Group

31 During the 8 week public consultation, 5 submission were received.

Conclusion

32 The Councils processes should be transparent and despite there being no legal obligation to adopt a Policy, it would ensure better control over a premises.

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 Licensing Policy will be met from the running costs of the Licensing Team and Licensing Partnership.

Legal Implications and Risk Assessment Statement.

The Council's Statement of Licensing Policy is an important factor when determining certain applications under the Licensing Act 2003. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications.

Ensuring that the Policy is up to date and covers relevant areas assist the Council is ensuring a consistency of approach.

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 –Statement of Licensing Policy – 2020-2025

Background Papers: Licensing Act 2003

Richard Morris
Chief Officer Planning & Regulatory Services

STATEMENT OF LICENSING POLICY
Licensing Act 2003

1 April 2020 until 31 March 2025

ALL applications will be considered on their merits, as well as against the relevant policy and statutory framework

Statement of Licensing Policy

Introduction

Sevenoaks District Council is a member of the Licensing Partnership, which includes the London Borough of Bexley, Maidstone Borough Council and Tunbridge Wells Borough Council; however, this policy relates to Sevenoaks District.

This is the Statement of Licensing Policy as determined by the Council in respect of its licensing functions, with regard to the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function.

This Statement of Licensing Policy commences on the 1 April 2020 and continues for a five year period. During the five year period the Policy will be kept under review and the authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.
All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The 2003 Act requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

The aims of this Statement of Licensing Policy, in line with the four licensing objectives, are:

- to minimise nuisance and disturbance to the public through the licensing process;
- to help build a fair and prosperous society that properly balances the rights of people and their communities;
- to integrate its aims and objectives with other initiatives, policies plus strategies that will:

  - reduce crime and disorder;
  - encourage tourism;
  - encourage an early evening and night time economy which is viable, sustainable and socially responsible;
  - reduce alcohol misuse;
  - encourage employment;

  - encourage the self-sufficiency of local communities;
  - reduce the burden of unnecessary regulation on business;
  - encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.

The Council will endeavour to work with other Local Authorities to ensure that a consistent approach is taken in licensing matters, whilst respecting the differing needs of individual communities throughout the local authority area.

In the preparation of this Policy the Licensing Authority will have regard to the local strategies on crime prevention, planning, transport, culture, tourism and economic development to ensure proper coordination and integration of the aims and actions of these policies.

The Act is part of a wider government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol related harm. The Licensing Authority will continue to develop strategies with the Police and the other enforcement agencies, as appropriate for the management of the night-time economy. Central to this is the enforcement of the law relating to sales of alcohol to drunk and underage people and drunkenness or disorder on, or in the immediate vicinity of licensed premises.

This policy covers a wide variety of premises and activities carried on within them. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate. However, there will be zero tolerance of dealing in or using controlled drugs (as defined by the Misuse of Drugs Act 1971) on licensed premises.

1. Consultation

1.1 The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance with Section 5 of the Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licencing Objectives will be made with the approval of the Licensing Manager in order for the policy to remain legislatively current.

1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:

- the Chief Officer of Police for Kent
- the Fire and Rescue Authority for Kent
- one or more persons who appear to the authority to represent the interests of persons carrying on licensed businesses in the council 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 Act
- any other bodies the council deemed appropriate
- members of the public who requested to be consulted and have responded previously.

1.3 In accordance with the guidance the following persons have also been consulted on this revised statement:

- all ward members
- all parish councils

- all bordering local authorities
- Kent Police Licensing Team
- all responsible authorities under the Licensing Act 2003
- British Beer & Pub Association

2. Background

2.1 When administering licensing matters the council as the Licensing Authority will have regard to and promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

The four licensing objectives are the:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Public Safety
- Protection of Children from Harm

The Licensing Authority gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authority will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to the revised guidance issued under section 182 of the Act (revised), the Police Reform and Social Responsibility Act 2012 and the Live Music Act 2012.

2.4 The 2003 Act further requires the Licensing Authority to monitor, review and where appropriate, amend its Statement of Licensing Policy. Where significant changes or a review of this Policy is undertaken, the Licensing Authority will consult with those parties listed at paragraphs 1.2 and 1.3 above and others prior to amending the Policy and also in preparing each statement of Licensing Policy in the future. Minor amendments reflecting legislative changes will be undertaken by officers to maintain accuracy.

2.5 Sevenoaks District Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and amendments to licences for a number of activities detailed below. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices. The activities as defined by the Act include:

- Sale and/or supply of alcohol
- The provision of regulated entertainment which includes:
  - the performance of a play

- an exhibition of a film
- an indoor sporting event
- boxing or wrestling entertainment
- a performance of live music (subject to some exemptions)
- playing of recorded music
- performance of dance
- entertainment of a similar description to the above 3. (where they take place in the presence of an audience for the purpose of entertaining them)

- Provision of late night refreshment

2.6 It should be noted that following the introduction of the Live Music Act 2012, a licence is not required to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and
- the audience is no more than 500 people

2.7 You also don't need a licence:

- to put on unamplified live music at any place between the same hours; or
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people.

2.8 There are exemptions from the need for a licence for music entertainment, in defined circumstances as set out in Home Office guidance, including for:

- Places of public worship, village halls, church halls and other similar buildings
- Schools
- Hospital
- Local Authority premises
- Incidental music – music that is incidental to other activities that aren't classed as regulated entertainment.

2.9 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

2.10 The Policy will apply across a range of applications which include the following:

- New Premises Licences and Club Premises Certificates

- Variations to Premises Licences and Club Premises Certificates
- Provisional Statements for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of the mandatory condition, in respect of alcohol sales at village halls and community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

2.11 The Licensing Authority also regulates other activities at licensed premises which include sexual entertainment events and gambling

3. Licensing Authority general Policy considerations

3.1 The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including age and gender. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.

3.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.

3.3 The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with the wider benefits.

3.4 The Licensing Authority expects applicants to have advance researched and understood the relevant Law in relation to their application and their particular business plans as well as this Policy.

3.5 Pre application advice is available from licensing officers upon paid request. It is not for licensing officers to determine the business needs and capabilities of an applicant but provide advice in regards to completing the relevant paperwork and in relation to the licensing objectives.

3.6 ***Supermarkets and other 'off' licensed premises selling alcohol.*** The Licensing Authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout opening times. However where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.

3.7 All 'off 'licensed premises must comply with the Licensing Act 2003 Mandatory Conditions Order in relation to age related sales. The Licensing Authority also expects such premises to implement additional measures to prevent and deter proxy sales on behalf of under 18's.

3.8 Licensees should also carefully consider alcohol sales to customers who have or appear to have alcohol related health issues, and whether those customers already appear under the influence of alcohol when attempting to make purchases.

3.9 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption.

3.10 Where self-pay till points are made available in stores selling alcohol, provision must be included for alcohol sales to be identified and approved prior to completion of the purchase.

3.11 ***Designated Premises Supervisor (DPS) at alcohol licensed premises***. Whilst this role has a limited definition under the Licensing Act 2003, it is usual that this person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.

3.12 The Licensing Authority would prefer the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to ensure training is provided to staff in relation to alcohol sales.

3.13 Whilst not obligatory, the Licensing Authority believes it desirable that a DPS should have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.

3.14 **Film Exhibitions**. The licensing authority expects licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.

3.15 ***Live Music.*** It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authority does not see this as an opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses.

3.16 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.

3.17 ***Deregulated Entertainment.*** Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities.

3.18 ***Late Night Levy (LNL).*** Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the district. The Licensing Authority has considered the options around the imposition of a LNL and has no plans at the time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will very carefully use its discretion in relation to design and impact of a levy.

3.19 In advance of any decision to implement a LNL, this authority will enter into discussions with the Police to agree the allocation of the Police share of the levy to support the policing of the night time economy within this district.

3.20 ***Early Morning Alcohol Restriction Order (EMARO).*** The Licensing Authority has considered the options around the imposition of an early morning alcohol restriction order and has no plans at the time of developing this policy to consider an imposition of this Order. There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the district which is decreasing. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed and the matter referred to the Full Council for determination.

3.21 ***Licensing and planning permission.*** The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates.

3.22 ***Need for licensed premises and Cumulative Impact.*** 'Need' concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a 'market forces' matter and is not of concern to the Licensing Authority. 'Cumulative Impact' means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.

3.23 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses. The licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation.

3.24 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the district where there is a cumulative impact of licensed premises on any of the licensing objectives. If residents or a Responsible Authority (in particular the Police) provide relevant evidence through a representation in the future that support the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.

3.25 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

4. Responsible authorities and other persons

4.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and can also be found on the Sevenoaks District Council web-site at Responsible Authorities.

4.2 When dealing with applications for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons to comment both for and against applications for premises licences and club premises certificates and for reviews.

4.3 The Licensing Authority may only consider representations that are relevant. In that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance.

4.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.

4.5 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.

4.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.

4.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:

- who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious of frivolous
- whether the representation raises a 'relevant' issue
- whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.

4.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.

4.9 The Health Authority is now included on the list of Responsible Authorities. It is acknowledged that they may be useful in providing evidence of alcohol related health harms that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions and sickness that relate to specific licensed premises.

4.10 ***The Licensing Authority as a Responsible Authority***. The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.

4..11 The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware that impacts negatively on the promotion of the licensing objectives and residents, and other third parties are unwilling or unable to either request a review or make a representation.

5. Exchange of information

5.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003 and the Data Protection Act 2018 in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

5.2 **Responsibilities under the Immigration Act 2016 and the Modern Slavery Act 2015**. The Authority has responsibilities that relate to the prevention of immigration crime, specifically the prevention of illegal working in licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.

5.3 In addition, we expect all licensed premises to familiarise themselves with and adhere to their responsibilities around the prevention of Illegal working under the Immigration Act 2016 and all aspects of the Act.

6. Human Rights and Equal Opportunities

6.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.

6.2 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous then is necessary in a democratic society.

6.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

6.4 The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

7. Compliance and enforcement

7.1 There are a range of other offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.

7.2 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulatory Compliance Code and it has also adopted the Kent and Medway Enforcement Protocol.

7.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.

7.4 The authority acknowledges that where annual fee payments for premises licences and club premises certificates are not made it must notify the holder in writing and specify the date on which the suspension takes effect, this date must be at least 2

working days after the day the authority gives the notice to suspend, the licence or certificate and may inform the Police Authority of the suspension.

7.5 Annual fees and suspension of licences or certificates for non-payment. The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses or club premises certificate where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.

7.6 Where a licence or certificate is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.

7.7 Each case will be determined on its individual merits and depending upon the circumstances and where appropriate in accordance with the Licensing Act, the Licensing Authority may decide not to suspend a licence or certificate or carry out enforcement pending payment of the overdue fee.

7.8 If an operator does not wish to carry on the activities that require the premises licence or certificate anymore it is important the licence or certificate is surrendered to prevent maintenance fees being accrued.

8. New Premises Licence

8.1 This Licensing Authority is aware that in making decisions about applications for licences it will have regard to:

- Licensing Act 2003
- The Statement of Licensing Policy made under section 5 of the Licensing Act 2003
- Statutory Guidance issued under section 182 of the Licensing Act 2003, and that decisions made are reasonably consistent with the four licensing objectives.
- that any decisions made that depart from guidance or policy only do so for reasons set out in the decision.

8.2 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional clarity on a request from delegated officer of the authority.

8.3 Officers will routinely check that the Public Notices are exhibited at the premises and the Public Notices are published in newspapers in accordance with the regulations.

8.4 Officers will usually notify ward councillors to whose ward the application relates, and the parish council for the relevant parish.

8.5 Where there are no representations in relation to an application for a Premises Licence or a Club Premises Certificate, the licence or certificate is automatically deemed granted after 28 day consultation period under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert that into enforceable licence conditions.

8.6 Where relevant representations are received the application will be referred to the Licensing Sub-committee for determination at hearing, unless all parties, following mediation, agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 16 of this policy will apply.

9. Variation to Licences

9.1 From time to time licensees may wish to change the nature of the business and vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as minor changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example; the provision of additional activities, increasing capacities or longer and later trading hours. However where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.

9.2 The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 8 above.

9.3 Where applications are made for minor variations Licensing officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed creates a significant impact on any of the Licensing Objectives the application will be rejected and the applicant advised to seek a standard variation in accordance with section 34 of the Act.

9.4 Where minor impact or no impact is considered officers will consult with the relevant (if any) responsible authorities.

10. Variations to specify a new Designated Premises Supervisor (DPS)

10.1 The Licensing Authority strongly recommends the nominated DPS on a licence be involved in, and supervise the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authority would expect the licensee to replace that person as soon as is reasonably practicable to maintain adequate control of the premises.

10.2 Where a DPS notifies the Licensing Authority that he or she has resigned, the licensing officers will enter into immediate discussion with the licensee in relation to the mandatory conditions concerning the sale of alcohol, and provide appropriate advice to prevent unauthorised alcohol sales.

10.3 All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the licensee's behalf.

10.4 Where there are no representations the default position is to grant the variation.

10.5 Following the guidance issued under Section 182 of the Licensing Act 2003 with respect to representations in relation to crime & disorder. The Licensing Authority will add the appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that are subject to representations will be referred for a hearing at which point the Sub Committee may approve or reject the application, if it considers it appropriate for the promotion of the crime prevention objective to do so.

11. Transfer of Premises Licence/ Club Premises Certificate

11.1 Before a licence transfer can be administered, the Licensing Authority expects consent to have been obtained from the previous premises licence holder. If this is not possible the applicant will be expected to demonstrate that he or she has taken all reasonable steps to secure consent to transfer the licence.

11.2 It is acknowledged that in some cases holders of either a licence or certificate leave the premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a licensee cannot be contacted to give approval, a licence/ certificate will be transferred in accordance with the requirements of the Act.

11.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process, unless it is agreed by the applicant and Police as unnecessary.

12. Provisional statement for premises

12.1 A provisional statement may be applied for where a proposed licensed premises has yet to be built or altered for the purpose of becoming a licensed premises. This option allows potential applicants advance notice of whether a premises licence is likely to be granted on completion of its construction or conversion.

12.2 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and other parties may make representations and there are rights of appeal.

12.3 The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow 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.

12.4 In addition, this authority may refuse the premises licence application (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by way of representations at the provisional statement stage,
- which, in this authority's opinion, reflect a change in the operator's circumstances, or
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and this authority will discuss any concerns with the applicant before making a decision.
- where the application is for a licence in the same form as the provisional statement and the work described in the schedule of works has been satisfactorily completed.
- where the relevant person could have made the same or substantially the same representations about the provisional statement application but failed to do so without reasonable excuse, and there has been no material change in circumstances of the premises or area in the vicinity of the premises since the provisional statement.

13. Club Premises Certificate

13.1 The Licensing Authority acknowledges the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.

13.2 Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.

13.3 In order to apply for a club premises certificate the Licensing Authority must be satisfied that the club is a bona fide club and satisfies the legal conditions set out in the Act.

13.4 Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.

13.5 The fundamental principles for premises licence applications set out at section 8 of this Policy will apply to applications for club premises certificates subject to exemptions in respect of the DPS and the requirement for evidence of the club's status.

13.6 Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice, or by ensuring compliance with the club rules to allow the public to enjoy the clubs facilities and activities without jeopardising the validity of the club premises certificate.

13.7 The Licensing Authority expects 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice from the Licensing Authority prior to providing such activities for non-members to prevent any unauthorised activities.

13.8 Where the Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Licensing Authority obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.

13.9 Suspension of Club Premises Certificates may also occur under section 92A of the LA2003.

14. Review of a Premises Licence or Club Premises Certificate

14.1 The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.

14.2 The Act allows a licence to be **reviewed** where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.

14.3 Although this Licensing Authority is also a Responsible Authority and entitled to bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).

14.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.

14.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with the Guidance issued by the Home office
- relevant to the non-promotion of the licensing objectives.

14.6 The request for the review will also be subject to the consideration by the licensing officer as to whether the request is frivolous, vexatious, or repetitious.

14.7 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits and allow the benefit of doubt where appropriate.

14.8 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve issues arising. The Council would be happy to assist in these meetings being chaired by a member of their team but all parties may choose to have a different third party as a mediation chairperson.

14.9 All representations received in support of or against a review application will be considered by the licensing officers as to whether such representations are relevant to the application.

14.10 All reviews save, where agreed by all parties as unnecessary, will lead to a hearing before a Sub-Committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.

14.11 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that the revocation of the licence will be considered.

15. Application to remove the mandatory requirement for a DPS.

15.1 The Licensing Authority acknowledges the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.

15.2 The Act allows Management Committees at Community Premises to take over the responsibility of the alcohol sales by applying to the Licensing Authority to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authority will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the mandatory condition requiring all alcohol sales to be authorised by a personal licence holder.

15.3 Before considering an application the Licensing Authority will need to be satisfied that a premises meets the definition of a community premises. Enquiries will be made as to the regular use of the premises and whether its main use is 'community' based. Where there is a regular 'commercial' or 'non-community based' use or a membership requirement to use the premises, it is unlikely that such a premises would meet the definition of a community premises, and permission to remove the requirement for a DPS is likely to be refused.

15.4 In general it is expected that premises that form part of a church hall or chapel hall or are a village or community hall would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.

15.5 The licensing officers will consider, on a case by case basis, all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the sale and/or supply of alcohol from the premises.

15.6 Committees that make an application will be expected to have members who are aware of the law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

16. Hearings

16.1 Any application that has resulted in the submission of relevant representations from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.

16.2 A Sub-Committee will consist of three suitably trained members of the Licensing Committee. No members will serve on a Sub-Committee involving an application for a licence or certificate within their own ward. The Sub-Committee will be advised on the legislation by a representative of the Council's Legal Services Team. That representative will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.

16.3 This Policy will play a key role in achieving consistency in decision making.

16.4 Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve issues before attending the licensing hearing and to achieve an outcome satisfactory to all parties.

16.5 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.

16.6 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.

16.7 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.

17. Licence Conditions

17.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises

and its activities and the impact of those activities. Those conditions will be deemed appropriate and proportionate in order to promote the licensing objectives at that premises.

17.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and 2014 (and any subsequent Mandatory Conditions that are introduced). The Mandatory conditions apply irrespective of whether they are printed on the certificate or licence.

17.3 Applicants will be expected to include appropriate steps within their operating schedule which will be interpreted in accordance with the applicants intentions and then converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be achievable, enforceable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.

17.4 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.

17.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be expected to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable, enforceable and reasonable conditions for new and variation applications.

17.6 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions.

17.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises and the areas around the premises which are within the licensee's control.

17.8 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

TO PROMOTE THE PREVENTION OF CRIME AND DISORDER.

17.9 Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the District.

17.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the

licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises. These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction of drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage "vertical drinking"
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

17.11 In busier premises the Licensing Authority would expect to see a short (say 30 minutes) 'wind down' or 'drinking up' period allowed for after the cessation time of entertainment and alcohol sales as this is effective in reducing noise and exuberance of customers before leaving the premises.

17.12 Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of the Security Industry Agency approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area. Applicants will be expected to seek advice from the Police and the Licensing Authority will follow the guidance issued under Section 182 as amended with regards to representations made by the Policy in respects to crime and disorder.

17.13 Where appropriate, applicants for licences in the Town Centre areas, providing mainly alcohol, music and dancing would be expected to include a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

17.14 The use of CCTV for most premises is unlikely to be appropriate or required. Applicants should consider the proposed use of the premises and whether CCTV would be appropriate. By way of example, a late night venue, with regulated entertainment and SIA registered door staff being present, might be the type of premises where CCTV would be appropriate. If in doubt, Applicants are encouraged to seek the advice and recommendations of the Police and if CCTV is to be provided, it should be to a quality and standard approved by the Police for evidence purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

17.15 In any application the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to the objectives.

TO PROMOTE PUBLIC SAFETY

17.16 The applicant will be expected to show that the physical safety of persons attending the premises will be protected and will offer relevant steps in the operating schedule to promote this.

17.17 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

17.18 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

17.19 It is expected that an operating schedule will indicate occupancy limits for the following types of licensed premises:

- High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the prime activity is the sale of alcohol
- Nightclubs
- Cinemas
- Theatres
- Other premises where regulated entertainment is likely to attract a large number of people.

TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE

17.20 The applicant will be expected to detail steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

17.21 The following list is an example of the types of matters the applicant should take into account when considering what steps (if any) are required in order to prevent public nuisance. This is not exhaustive:

- Proximity of local residents to the premises
- Licensable activities proposed and customer base
- Hours and nature of operation
- Risk and Prevention of noise leakage from the premises from equipment customers and machinery
- Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park
- Availability of public transport to and from the premises
- Noise from use of the garden/outside space including smoking shelters
- Delivery and collection times and locations
- Impact of external security or general lighting on residents
- History of management of and complaints about the premises
- Applicant's previous success in preventing Public Nuisance

- Outcomes of discussions with the relevant Responsible Authorities
- Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- Collection of litter arising from the premises

17.22 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

17.23 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

TO PROMOTE THE PROTECTION OF CHILDREN FROM HARM

17.24 Applicants will be expected to detail steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (unless specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

17.25 Steps to prevent children from harm must be included where:

- There is entertainment or services of an adult nature provided.
- There have been previous convictions for under age sales of alcohol.
- There is a known association with drug taking or dealing.
- There is a significant element of gambling on the premises.
- There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

17.26 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.

17.27 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

18. Personal Licences

18.1 Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authority acknowledges the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.

18.2 The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed on Schedule 4 of the Licensing Act 2003.

18.3 Where a representation is received from the Police the Licensing Authority acknowledges that it has discretion whether or not to grant the licence.

18.4 Where a representation is received from the Police the Licensing Authority must hold a hearing unless the Police and the authority agree that it is unnecessary. The application must be rejected if it is considered appropriate for the promotion of the crime prevention objective and granted in any other case.

18.5 The Police must give a notice of objection to the Licensing Authority within the statutory 14 day consultation period. The Licensing Authority accepts that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.

18.6 The Licensing Authority requires all personal licence holders to advise it each time there is a change of their name or address. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated and an amended licence will be issued within 20 working days of a notification of change.

18.7 The Licensing Authority anticipates that the Magistrates and Crown Courts will take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a personal licence and to notify the Licensing Authority of any action taken in respect of a personal licence.

18.8 The Licensing Authority requires personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty.

19. Temporary Event Notices (TEN)

19.1 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.

19.2 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have advised those residents and businesses and considered any potential impacts and how they may be mitigated.

19.3 There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year (i.e. Jan – Dec). There is also a numerical limitation on the number of TENs that may be served in respect of individual premises or place.

19.4 **Standard TEN**. A standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. The fee is payable only to the Licensing Authority. Applicants are encouraged to serve TENs at least 28 days before the proposed events to allow greater time for an event to be planned.

19.5 Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.

19.6 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-Committee. The Sub-Committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing premises licence) or reject a TEN by serving a counter notice.

19.7 **Late TEN**. A late TEN may be served between 9 and 5 working days before a proposed event commences. The same limitations apply to the day the notice was served and the day of the event. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.

19.8 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENs outside the permitted statutory deadlines.

19.9 Where valid representations are received from the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.

19.10 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.

19.11 There are restrictions on the numbers of each type of TEN that can be submitted.

19.12 It should be noted that if a TEN has been processed and is no longer required the fee will not be refunded as the Licensing Authority has already carried out its obligations.

20. Other relevant matters

20.1 **Adult entertainment.** The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.

20.2 The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will

be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original application specified that such adult entertainment was proposed to be provided.

20.3 **Gaming machines in licensed premises - Automatic entitlement.** There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption **on** the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.

20.4 This 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 (under the GA2005);
- gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
- the premises are mainly used for gaming; or
- an offence under the GA2005 has been committed on the premises.

20.5 **Gaming Machine Permit** – If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.

20.6 In determining such matters, consideration will be given to the need to protect children from harm and to the need to protect vulnerable persons from harm or being exploited by gambling. The applicant will be required to satisfy the authority that there will be sufficient measures to ensure that minors do not have access to the adult only gaming machines.

20.7 Measures to satisfy the authority relate to restricting access to age restricted machines and adult machines being in sight of the bar, or in sight of staff who will monitor that the machines are not being used by minors. Notices and signage should also be displayed to this effect. Applicants may consider the provision of information leaflets and helpline numbers for organisations such as GamCare to demonstrate their responsibility in the protection of vulnerable persons and compliance with Codes of Practice issued by the Gambling Commission.

20.8 **Gambling in alcohol 'On' licensed premises.** Exempt gaming is equal chance gaming that is generally permissible in any club or alcohol licensed premises. Equal chance gaming includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker. Such gaming should be ancillary to the purposes of the premises.

21. Information

21.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the Sevenoaks District Council Website or by contacting the licensing Partnership Administration team by email licensing@sevenoaks.gov.uk, or by telephone on 01732 227004.

Appendix A

Contact details of Local Authority Licensing Department

Sharon Bamborough
Licensing Partnership Manager
Email: sharon.bamborough@sevenoaks.gov.uk

Jessica Foley
Senior Licensing Officer
Email: jessica.foley@sevenoaks.gov.uk

Michael Moss
Licensing Officer
Email: michael.moss@sevenoaks.gov.uk

Licensing Partnership
Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP
Email: licensing@sevenoaks.gov.uk
Telephone: 01732 227004

See the Sevenoaks District Council Website for details of the Town and Parish Councils within the District. Details of your local Councillors may also be obtained from the website.

Information on licensing applications being processed is available on the licensing pages of Sevenoaks District Council's website.

Appendix B

Responsible authorities

West Kent Fire Safety Office
424 Vale Road
Tonbridge
Kent TN9 1SW
Email: tonbridge.firesafety@kent.fire-uk.org
Tel: 01732 369429

Police Licensing and Drugs Officer
Licensing Coordinator
Community Safety Unit
Tonbridge and Malling Borough Council
Gibson Drive
Kings Hill
West Malling. ME19 4LZ
Email: west.division.licensing@kent.pnn.police.uk

Trading Standards
Kent County Council
1st Floor, Invicta House
County Hall
Maidstone
Kent. ME14 1XX
Tel: 03000 412000
TSwest@kent.gov.uk

Kent Child Protection Committee
Children's and Families
KCC Social Service
The Willows
Hilda May Avenue
Swanley
Kent BR8 7BT
kscb@kent.gov.uk

Local Planning Authority
Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP
Tel: 01732 227200
DCSouth@sevenoaks.gov.uk

Public Health Kent
Kent Public Health Department
Room 3.45, Sessions House,
County Hall, County Road
Maidstone, Kent
ME14 1XQ
Tel: 0300 333 6379
Gillian.Montgomery@kent.gov.uk

Environmental Protection
Environmental Health Partnership
Civic Centre
Home Gardens
Dartford
Kent. DA1 1DR
Tel:: 01322 343231
Email: eh.support@dartford.gov.uk

Health and Safety
Environmental Health Partnership
Civic Centre
Home Gardens
Dartford
Kent. DA1 1DR
Tel: 01322 343231
Email: eh.support@dartford.gov.uk

Appendix C

References to guides of best practice

Revised guidance issued under section 182 of Licensing Act 2003.

Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics.

Good Practice Guide: Licensing published jointly by the Justices' Clerks' Society and the Magistrates' Association (April 1999).

Code of Practice and Guidance Notes on Noise Control for Concerts and Outdoor Events.

The National Alcohol Harm Reduction Strategy Toolkit.

The Point of Sale Promotions published by BBPA

Public Places Charter

National Pubwatch

Appendix D

Contact details and useful addresses (e.g. Chamber of Trade, BBPA, BII, SIA etc.)

Sevenoaks and District Chamber of Commerce
54 High Street
Sevenoaks,
Kent. TN13 1YD
Tel: 01732 455188

Swanley & District Chamber of Commerce
Imperial House
46 High Street
Swanley
Kent. BR8 8BQ

Edenbridge Chamber of Commerce
c/o 53 High Street
Edenbridge,
Kent.
TN8 5AL

Disclosure and Barring Service (DBS)
Customer services
10 Greycoat Place
Westminster
London SW1P 1SB
Information line: 0300 0200 190
Email: customerservices@dbs.gov.uk

British Beer & Pub Association
Ground Floor
Brewers' Hall
Aldermanbury Square
London
EC2V 7HR
Tel: 020 7627 9191
contact@beerandpub.com
Press Office: 020 7627 9199

British Institute of Inn keeping (BII)
Infor House
1 Lakeside Road
Farnborough
GU14 6XP
Tel: 01276 684 449
Email: reception@bii.org

SIA
PO Box 74957
London. E14 1UG

Appendix E

Recommended delegation of functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	If no objection made
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	If no objection made
Applications for interim authorities		If a police objection	If no objection made
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Determination of a police or an environmental health officer objection to a temporary event notice		All cases	

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for a minor variation			All cases
Determination on review of Premises Licence following closure order;		All cases	

Appendix F

Sevenoaks District Council Film Classification Policy 2019

Purpose

1. The Licensing Authority (subsequently referred to as the Council) is responsible for authorising the public exhibition of films.

2. Sections 20 & 74 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the Licence/Certificate must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given by the British Board of Film Classification (the BBFC) or by the Council itself.

3. The purpose of this Policy is to set out the formal procedure for the Council to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions, or request to reclassify films.

4. Where a premise seeks or intends to exhibit film(s) that venue must be covered by a Premises Licence, Club Premises Certificate, or Temporary Event Notice under the Licensing Act 2003. There are some limited exemptions to the 2003 Act for community venues showing films without a 'view to profit', where the admission of children is subject to the recommendations of the BBFC or the Council itself.

5. The definition of 'children' is any person under the age of 18 years.

6. Under the Licensing Act 2003, the definition of the 'exhibition of a film' is the exhibition of moving pictures.

7. In summary, the public exhibition of all films on licensed premises must either by classified by the BBFC or authorised by the Council under the powers of the Licensing Act 2003.

8. The Council when authorising film(s) shall at all times take into account the Guidance issued under s.182 of the Licensing Act 2003 (as amended).

9. The Council may be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) in two different circumstances:

(a) A distributor of a film may appeal against the decision of the BBFC and request that the Council re-classifies/authorises the film for local screening (with recommendations on age restrictions); and

(b) An independent party may request that the Council reclassifies/authorises the film for local screening (with recommendations on age restrictions).

10. In addition, the Council may be requested to authorise the showing of an unclassified film(s). This normally occurs in the following cases:

- A film festival covering a specific period of time;
- A one off screening of a film; or

- A trailer for a film.

Exemptions

11. The provision of the exhibition of a film(s) is exempt from regulation by the Licensing Act 2003 if either:

(a) It consists of or forms part of an exhibit put on show for any purpose of a museum or art gallery (the Licensing Act 2003 does not define a museum or art gallery so the ordinary meaning of the term is taken).

(b) Its sole or main purpose is to:

- Demonstrate any product;
- Advertise any goods or services (excluding the advertising or films); or
- Provide information, education or instruction.

(c) The film is shown on a 'not-for-profit' basis held in a community premises between the hours of 8am and 11pm on any day provided that the audience does not exceed 500

- Obtains consent to the screening from a person who is responsible for the premises; and
- Ensures that each screening abides by age classification ratings.

Policy

12. In accordance with the s.182 Statutory Guidance issued to Licensing Authorities, the Council shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the Licensing Objectives.

13. Under the Licensing Act 2003, the Council must carry out its function with a view to promoting the Licensing Objectives;

(a) The prevention of crime and disorder
(b) Public safety
(c) Prevention of public nuisance
(d) Protection of children from harm

14. In terms of film exhibitions and festivals, the most relevant licensing objective is the protection of children from harm.

Protection of Children from Harm

15. Paragraph 2.41 of the Statutory Guidance issued to Authorities states:
The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as

exposure to strong language and sexual content and expletives (for example, in the context of exposure to certain films or adult entertainment).

Principles in Determining Film Classifications

16. The BBFC classifies films in accordance with its published Guidelines, which are based on extensive research into public opinion and professional advice. S.182 of the Guidance recommends that:

    Licensing Authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

17. The Council considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendations(s) on the restriction of access of children to the film(s). It should be noted however that the Council is not obliged to follow these guidelines.

18. Where a licensed premise seeks to exhibit a film that has not been classified by the BBFC then it will be responsibility of the Council to authorise that film. As such, the procedures outlined later in this document will be followed.

19. The Council recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. Material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959, the Copy Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

20. Applicants must ensure that all material that are the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

21. Any authorisations for the exhibition of film(s) issued by the Council shall only apply when the film(s) is exhibited within the District of Sevenoaks and does not affect the authorisation or recommendations in any other council area.

22. Once authorised by the Council, a film will be authorised for a particular showing or festival only subject to the recommendations imposed by the Council (unless further application for re-classification is made). Details of the authorisation including any recommendations shall be available from the Council's Licensing Service.

23. Films designed to be part of a film festival within the District, will be exempt from the payment of a classification fee, for up to five films per calendar year.

24. The issue of any authorisation by the Council is strictly limited to the authorisation within the District of Sevenoaks and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.

25. The Council will consider each authorisation on its own merit and may impose additional and more specific recommendations where it deems necessary in order to comply with the Protection of Children from Harm Licensing Objective.

26. Where the Council authorises unclassified material to be shown the Council will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

27. The Council shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.

28. A fee of £45 is payable per hour, even if the film duration is 15 minutes, you will be required to pay for the full hour and part thereof.

29. Where the Council has determined to refuse authorisation of a film(s) clear and concise reasons shall be given.

Procedures for approval of films already classified by BBFC

30. Applications for authorisation of films classified by the BBFC shall be referred to and determined by the Licensing Officer on behalf of the Council. Applications should be applied for online via the Council's website www.sevenoaks.gov.uk

31. All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made to view the film in an alternative format as authorised by the Licensing Officer or arrangements made for a suitable venue to view the films. This will allow the officer time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions that the Officer may impose. In any event, all requests should be submitted on the Council's application form a minimum of 28 days before the proposed screening.

32. Where an individual or organisation not connected with the film(s) requests re-classification of a BBFC classified film, they are not expected to provide a copy of the film(s). The Officer will then make suitable arrangements to view the film. It is also accepted that in these circumstances, it may not be possible to give 28 days' notice before the proposed screening.

33. All requests must be accompanied with reasons for the request. Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally shown only in cinemas for a relatively short period.

34. The Licensing Officer will then view the entire film and assess it against the BBFC guidelines and the s.182 Guidance and shall issue a Notice of Determination of the authorisation within five workings days from the date of viewing. The Officer will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).

35. Requests must be relevant to the protection of children from harm licensing objective and not frivolous, vexatious or repetitive. Requests may also be relevant to the prevention of crime and disorder licensing objective but only in relation to the contravention of the current interpretation of the Obscene Publications Act 1959 or any other relevant legislation.

36. Where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.

37. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.

38. In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Officer shall have regard to the s.182 Guidance, for example:

- Persons Under the Age of (insert appropriate age) cannot be Admitted to any Part of the programme: and
- Persons Under the Age Of (insert appropriate age) can only be admitted to the Programme If Accompanied by an Adult.

Procedures for approval of films not classified by the BBFC or Sevenoaks District Council

39. Applications for authorisation will in the first instance be considered by officers under delegate powers. Any request to authorise an unclassified film may however be referred to the Licensing Committee for determination.

40. Applications should be submitted on the Council's application form a minimum of 28 days before the proposed screening.

41. An application for authorisation should include the following information:

(a) The filmmaker;
(b) Such recommendation as may have been made by the filmmaker upon age limit for the intended audience for exhibition of the film;

(c) Any existing classification issued by an existing classification body, whether within or outside the UK;
(d) A synopsis identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film. Where an applicant seeks an authorisation allowing exhibition of the film to persons 18 years and over only, a detailed synopsis will not be required;
(e) If known, a legitimate and legal internet site where the film or a portion of the film is available to view without charge;
(f) The language spoken in the film and whether there are subtitles in English;
(g) Any proposals on age restrictions for viewing the film that the applicant intends to impose; and
(h) Details of how age restrictions will be enforced.

42. All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible then arrangements will be made to view the film in an alternative format as authorised by the Licensing Officer or arrangements made for a suitable venue to view the films. The cost to be borne by the applicant. This will allow the Officer time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions that the Officer may impose.

In any event, all requests should be submitted on the Council's application form a minimum of 28 days before the proposed screening.

43. If the film contains dialogue is in a language other than English, an interpreter, approved by the Council may be required for the classification, the cost to be borne by the applicant.

44. The Licensing Officer, whilst viewing the film(s) will have regard to BBFC Guidelines and the s.182 Guidance issued to Licensing Authorities and shall issue a Notice of Determination of the application within five working days from the date of the viewing.

45. When considering all such requests the Licensing Officer will pay particular attention to the Protection of Children from Harm Licensing Objective.

46. Where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.

47. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.

48. In these circumstances, the licence holder will be required to display in a conspicuous position a Notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Officer shall have regard to the S.182 Guidance, for example:

- Persons Under the Age of (insert appropriate age) Cannot Be Admitted To Any Part of the Programme; and
- Persons Under the Age Of (insert appropriate age) Can Only Be Admitted To The Programme If Accompanied By An Adult.

49. In order to ensure the promotion of the Protection of Children from Harm and Prevention of Crime and Disorder Licensing Objectives, the Licensing Officer will formally advise the licence holder and applicant of any recommendations(s) on the restriction on the age of access for children to the film(s). This may also include any relevant notice required to be displayed by the licence holder inside and outside the premises. The licensed premise hosting the exhibition of film will be expected to comply with these recommendations.

50. The Council recognises the principal that adults should be free to choose their own entertainment and will not normally override this principle, as such; requests shall not normally be refused. However, in all cases the Council will expect the applicant to follow the BBFC's Guidelines for 18 and R18 restricted films.

Licensing Act Mandatory Conditions

51. Where a Premises Licence authorises the exhibition of films, the licence must include the following mandatory conditions in accordance with Section 20 of the Licensing Act 2003:

1) Where a Premises Licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2) Where a film classification body is specified in the licence, unless paragraph 3 (b) applies, admission of children must be restricted in accordance with any recommendation by that body.

3) Where:

(a) The film classification body is not specified in the Licence; or
(b) The relevant licensing authority has notified the holder of the Licence or the Club that holds the Certificate that this subsection applies to the film in question;

admission of children must be restricted in accordance with any recommendation made by the licensing authority.

4) In this section "children" means persons aged under 18 and "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

52. Where a Club Premises Certificate authorises the exhibition of films the Certificate must include the following mandatory conditions in accordance with Section 74 of the Licensing Act 2003

1) Where a Club Premises Certificate authorises the exhibition of films, the certificate must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2) Where a film classification body is specified in the licence, unless paragraph 3 (b) applies, admission of children must be restricted in accordance with any recommendation by that body.

3) Where:

(c) The film classification body is not specified in the Certificate; or
(d) The relevant licensing authority has notified the club which holds the Certificate that this subsection applies to the film in question;
admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.
4) In this section "children" means persons aged under 18 and "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

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Email Response 01

THE CHAPEL Hairdressers: Wed 23/10/2019 14:36

We as a hair salon offer our guests a complimentary glass of wine or small beer during hair appointments and feel it is an unfair charge for our business.

Given on average we supply approx. 10 glasses of wine per week and perhaps 1 beer for no extra charge to the customer. By far the majority of our guests opt for coffee, herbal tea, tea, water or fruit juice.

The salons are also only open 9 am-6 pm aside late opening on Wednesdays / Thursdays 8 pm.

Therefore we believe Hair Salons should be deregulated from the current Premises Licence requirement.

We hope this will be given consideration during the policy review?

Response

Unfortunately the requirement you have to hold a Premises Licence for the sale/supply of alcohol is a matter of law and not a Local Authority decision/ Policy, therefore we would be unable to make any changes that would exempt you from this requirement.

Action taken

None taken

Email Response 02

Licensing Consultant Chapter Three Consulting: Wed 23/10/2019 17:38

At this time, C3C have no comments on the new policy.

Response

None

Action taken

None taken

Email Response 03

Cllr. George Pender: Sun 27/10/2019 20:42

In my view there is too much CCTV in pubs within the district. In fact, it is rare to find a licensed pub or similar that doesn't have CCTV. This is sad as it impinges on the privacy of customers and employees and, in the vast majority of cases, there is no crime reduction as a result of the CCTV. I would like to see a CCTV requirement become a rarity, very much the exception and not the rule. Currently, the Police's de facto policy seems to be to ask for CCTV for purely precautionary reasons, prospective licensees have a rational view that their path to a license will be easier and more certain (and more likely to be granted under delegated powers) if they offer to put in CCTV as part of the operating schedule. Once CCTV is in the operating schedule it is often (or even usually?) then included as requirement of the license.

I offer, as an example of this, the situation with the new micro-pub in New Ash Green, "The Vault". The licensee priority was, understandably, to get up and running with a valid license as soon as they could. They offered to put in CCTV as part of their operating schedule, and also the police requested CCTV as a condition, even though this is the kind of pub where it is absolutely not required, it is very far from the kind of place where any kind or crime or antisocial behaviour is present, let alone the very limited subset of crime that would be curtailed by CCTV.

I am happy to suggest a form of words for a policy which would lead to much less CCTV (or, at least, much lower propensity to require CCTV as a licensing condition). A key measure could be to insist that no license granted under delegated powers would be allowed to require CCTV as a licensing condition, this would naturally reduce the number of licenses which require cameras.

I am happy to have further discussions on licensing policy with respect to CCTV.

Response

Thank you for your comments Cllr Pender - these will be directed to the Licensing Committee when the comments of the consultation are presented in January 2020.

Action taken

None taken

Email Response 04

Senior Policy Advisor Security Industry Authority: Mon 11/11/2019 09:36

The SIA has no comments to make on the proposed Policy. However, please feel free to contact us if you feel that we can be of assistance with the development of this Policy or in any other matter.

Response

None

Action taken

None taken

Email Response 05

Planning Administration Sevenoaks Town Council
planningassistant@sevenoakstown.gov.uk: Thu 28/11/2019 11:09

Sevenoaks Town Council considered the District Council's Draft Statement of Licensing Policy (1 April 2020 until 31 March 2025) at Planning Committee on 18th November 2019.

Councillors welcomed the opportunity to view the revised document, noting that it was much improved and that it demonstrated greater transparency than previously.

Sevenoaks Town Council wishes to congratulate the District Council accordingly.

Response

None

Action taken

None taken

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SEXUAL ESTABLISHMENT - STATEMENT OF LICENSING POLICY

Licensing Committee – 7 January 2020

Report of	Chief Officer Planning & Regulatory Services
Status:	For approval
Also Considered by	Council – 25 February 2020
Key Decision:	No

Executive Summary:

This report presents an amended 'Sex Establishment Statement of Licensing Policy' following an 8 week consultation. The purpose of the policy is to define how the Council will exercise and administer applications for Sex Shops, Sex Cinemas and Sexual Entertainment Venues submitted under Local Government (Miscellaneous Provisions) Act 1982 (as amended The Policing and Crime Act 2009).

This report supports the Key Aim of sustainable economy.

Portfolio Holder: Cllr. Margot McArthur

Contact Officer: Michael Moss, Ext. 7364

Recommendation to Licensing Committee To agree the 'Sexual Establishments Statement of Licensing Policy 2020-2023' (attached as **Appendix A** to this report) be recommended to the Council as a revised Policy to come into effect from 1 April 2020.

Recommendation to Council
That the Sexual Establishments Statement of Licensing Policy 2020-2023 as revised Policy be adopted as from 1 April 2020.

Reason for recommendation:

It is best practice for a Licensing Authority to have a Sexual Establishment Policy. The last Policy was reviewed in 2013 and has no expiry date.

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy.

A proposed policy includes a new section called 'European Convention on Human

Rights' and additional information has been provided on immigration and rights to work under 'The Application Process'.

Introduction and background

1 Local Government (Miscellaneous Provisions) Act 1982 puts a duty on the Council, acting as the Licensing Authority (LA), to determine whether a premises is suitability for the activities proposed.

2 There is no legal requirement for the Council to have a 'Sex Establishment Policy (SEP).

3 The purpose of the policy is to outline the approach that Sevenoaks will take when dealing with applications made under the Local Government (Miscellaneous Provisions) Act 1982; the document covers the following:

a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications and enforcement complaints;
b) How the Council will assess the suitability of the premises
c) The LA's approach to regulation & expected standards; and

4 The existing SEP was approved in 2013.

5 The SEP 2020-2023 can be reviewed and updated at any time during the life of the document. The Council keeps the SEP under constant review to ensure services and expectations are transparent and promote public safety.

6 The new SEP 2020-2023 for the District is proposed to commence from 1 April 2020. The SEP 2020-2023 document does not cover any activity that is outside the scope of The Local Government (Miscellaneous Provisions) Act 1982 (for example, licensable activities regulated under the Licensing Act 2003).

7 There are currently no Sexual Entertainment premises within the District.

Proposal and Reasons

8 The Policing and Crime Act 2009 is not prescriptive about how local authorities should consult with local people

9 The new draft SEP 2020-2023 for the District has retained its Kent wide template with an amendment to include 'European Convention on Human Rights'. In addition, the format of the current SEP has been updated in order to make the new document easier to read and more accessible.

10 The final draft was produced as a result of the following stages:

11 **Stage 1: Production of first draft:** The first draft of the new SEP was produced by undertaking a review of the policy document and benchmarked against our partnership authorities (e.g. Maidstone Borough Council and Tunbridge Wells Borough Council).

12 The outcomes from the above and key difference between the current SEP and the Draft were as follows:

13 **Equalities:** When determining applications for licences under this policy the Licensing Authority will give consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) which entitles every person to the peaceful enjoyment of their possessions and Article 10 (freedom of expression).

14 The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.

15 Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right of freedom of expression to participate in the activities of sex shops, sex cinemas and sexual entertainment venues is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

16 **Immigration:** The SEP now states that all licensed premises are expected to familiarize themselves with and adhere to their responsibilities regarding the prevention of illegal working under the Immigration Act 2016 and all aspects of the Act.

17 **Stage 2: Production of final draft:** Public Consultation on the draft SEP took place over an 8 week period between 21 October 2019 and 13 December 2019.

18 The Public Consultation consisted of a web page on Sevenoaks District Council's website which provided a full version of the draft SEP 2020-2025.

19 A notification email was sent to all Responsible Authorities under the Licensing Act 2003, Sevenoaks District Council's Elected Members and the business owners of Eureka (who may make an application under this Act in the future).

20 During the 8 week public consultation, there were no representations received.

Conclusion

21 The Councils processes should be transparent and despite there being no legal obligation to adopt a Policy, it would ensure better control over applications made for Sexual Entertainment premises.

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 Sexual Establishment Statement of Licensing Policy – 2020- 2023 will be met from the running costs of the Licensing Team and Licensing Partnership.

Legal Implications and Risk Assessment Statement.

The Council's Statement of Licensing Policy is an important factor when determining certain applications under the Licensing Act 2003. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications.

Ensuring that the Policy is up to date and covers relevant areas assist the Council is ensuring a consistency of approach.

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 –Sexual Establishment Statement of Licensing Policy – 2020-2023
Background Papers:	Local Government (Miscellaneous Provisions) Act 1982

Richard Morris
Chief Officer Planning & Regulatory Services

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Sexual Establishments Statement of Licensing Policy 2020 to 2023

1. Overview

1.1 The Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009) provides that a local authority may, by resolution, adopt schedule 3 of that Act.

1.2 Sevenoaks District Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the amendment under Section 27 of the Policing and Crime Act 2009.

1.3 The adoption of schedule 3 as amended will enable the licensing authority, within its area, to discharge its function in relation to the following:

- sexual entertainment venues (providing relevant entertainment)
- sex shops
- sex cinemas

1.4 Schedule 7 to the Policing and Crime Act 2009 amends the Licensing Act 2003 to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982) do not also require a premises licence, club premises certificate or temporary event notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the Licensing Act 2003. However, if the premises also carries on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment) then this is not a provision of relevant entertainment and they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the Licensing Act 2003 for those other activities, subject to any exceptions contained in that Act.

1.5 In practice this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.

1.6 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the Licensing Act 2003. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance nor will providing entertainment facilities for the purposes of the provisions of relevant entertainment be regulated entertainment under the Licensing Act 2003.

1.7 If a local authority has not made a resolution to adopt the provisions introduced by section 27, Policing and Crime Act 2009 within one year of the Act coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make

such a resolution. The purpose of this duty is to ensure that local authorities consider the views of local people whether, for whatever reason, they have not adopted the provisions. This duty should be seen to be an extension to existing general duties on local authorities to consult and involve local people when exercising their functions.

1.8 The Licensing Authority have also taken into consideration the provisions of Section 17 Crime and Disorder Act 1998 that requires responsible authorities to consider crime and disorder (including antisocial behaviour and other behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances in the exercise of all their duties, activities and decision-making. This means that in all policies, strategies and service delivery there is a need to consider the likely impact on crime and disorder.

1.9 The Licensing Authority is also aware that, at the time of formulating this policy, there is no evidence of any crime or disorder directly attributable to the operation of such establishments in the Sevenoaks area.

1.10 This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement which is in compliance with:

a) The Regulator's Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede progress by the regulations we set out and, particularly, to consider the impact of regulations on small businesses; and

b) The Provisions of Services Regulations 2009 to ensure requirements are:
   i) Non-discriminatory
   ii) justified by an overriding reason relating to the public interest
   iii) proportionate to that public interest objective
   iv) clear and unambiguous
   v) objective
   vi) made public in advance
   vii) transparent and accessible

1.11 The Human Rights Act 1998 – The European Convention on Human Rights makes it unlawful for a public authority to act in a way that is incompatible with a Convention Right. The Council will take particular notice of the following relevant provisions of the European Convention on Human Rights:

- Article 6 – that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 – that everyone has the right to respect for their home and private life;
- Article 1 of the first protocol – that every person is entitled to the peaceful enjoyment of his or her possessions, including, for example, a licence.

In accordance with paragraph 4.21 of the Home Office guidance on Sexual Entertainment Venues, the Council will respect the need for its decisions to be necessary and proportionate for the prevention of disorder and crime, for the protection of health and morals, for the

Protection of the rights and freedoms of others, and, in the case of Article 1 of the First Protocol, that its decisions can be justified in the general interest.

The Equality Act 2010 brings together over 116 separate pieces of legislation into one single Act. Combined, they make up a new Act that provides a legal framework to protect the rights of individuals and advance equality of opportunity for all.

The Act simplifies, strengthens and harmonises the current legislation to provide Britain with a new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. The nine main pieces of legislation that have been merged are:

- The Equal Pay Act 1970
- The Sex Discrimination Act 1975
- The Race Relations Act 1976
- The Disability Discrimination Act 1995
- The Employment Equality (Religion or Belief) Regulations 2003
- The Employment Equality (Sexual Orientation) Regulations 2003
- The Employment Equality (Age) Regulations 2006
- The Equality Act 2006, Part 2
- The Equality Act (Sexual Orientation) Regulations 2007

1.12 In certain instances we may conclude that a provision in the policy is either not relevant or is outweighed by other provisions. We will ensure that any decision to depart from the policy will be properly reasoned, based on material evidence and documented; giving clear and compelling reasons for doing so.

1.13 The Council sees the licensing process as an integral part of its approach to achieving its strategic and corporate objectives. The following three core values will guide and define our policies for the District and the local area:

- Excellence: Outstanding services to all of our residents and customers.
- Value for Money: The highest quality for the best price.
- Innovation: Finding even better ways to deliver the services you need.

These three Core Values develop the vision with the resulting five themes:

1. Environment
2. Economy
3. Housing
4. Safest Places
5. Health

2. Policy

2.1 The purpose of this policy is to:

- Set out the expectations of the local authority in meeting the requirements of the legislation
- Provide guidance on the process for making an application and the process the Council will follow in considering and determining an application.
- Assist any persons making representations in respect of an application to make properly directed and evidenced representations.

2.2 Notwithstanding this policy, each application will be assessed on its individual merit and granted or refused purely on that merit. Whilst this policy will set out the broad scope of expectations, it should not be seen as restricting or predetermining the outcome of any application or representation in respect of the licensing of any premises.

3. Functions

3.1 Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.

3.2 This authority delegates its functions to those who sit on its Licensing Committee, or a sub-committee appointed for the purpose, with the exception of a renewal of a licence where no objections are received, which will be delegated to officers as set out in the Council's constitution.

4. Consultations

4.1 The Policing and Crime Act 2009 is not prescriptive about how local authorities should consult with local people in order to comply with this duty. The Council has extensive experience of engaging with local people and will utilise that knowledge to ensure that any consultation exercise carried out under this duty will be fair and meaningful. The Council will seek to make any relevant information available to local people in order to inform them of the legislation, criteria and outcomes of the consultation.

4.2 For the purpose of this duty 'local people' are defined as anyone who lives or works in the local authority area.

4.3 The council will seek to consult with all those consulted on the Licensing Act 2003. A full list of those consulted is attached at Appendix C.

5. Definitions

5.1 For the purposes of this policy the following definitions will apply:

5.2 **Sex Shop**

Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating

a) sex articles; or
b) other things intended for use in connection with, or for the purpose of stimulating or encouraging:

   i) sexual activity; or
   ii) acts of force or restraint which are associated with sexual activity.

No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

5.3 **Sex Article**

Anything made for use in connection with, or for the purpose of stimulating or encouraging—

a) sexual activity; or
b) acts of force or restraint which are associated with sexual activity; and anything to which sub-paragraph below applies.

This sub-paragraph applies

a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and

b) to any recording of vision or sound, which

   i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or

   ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

5.4. **Sex Cinema**

Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which

a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage

   i) sexual activity; or

   ii) acts of force or restraint which are associated with sexual activity; or

b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.

No premises shall be treated as a sex cinema by reason only

a) if they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of Section 136 of that Act), of their use in accordance with that authorisation.

b) of their use for an exhibition to which Section 6 of that Act (certain noncommercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

5.5. **Sexual Entertainment Venue:**

Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Exemptions from being a Sexual Entertainment Venue

The following are not sexual entertainment venues for the purposes of this policy:

a) sex cinemas and sex shops;

b) premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so provided at that time

i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;

ii) no such occasion has lasted for more than 24 hours; and

iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in subparagraph (i));

a) premises specified or described in an order made by the relevant national authority.

5.6. **Relevant entertainment:**

Any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

Home Office Guidance states relevant entertainment would therefore apply to the following forms of entertainment, as they are commonly understood:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

However this list is not exhaustive and local authorities will judge each case on its merits. Decisions will be based on the content of the entertainment provided and not the name given to it.

5.7 **Nudity**

Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

5.8 **Spontaneous Entertainment**

Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser might be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or implied.

5.9 **The 'Organiser'**

Any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer to someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.

The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

6. Planning

6.1 The Licensing Authority will not normally undertake action where another, more appropriate, regime exists to resolve matters. Failure to obtain planning permission is not a ground for refusal of the grant of an application under the Local Government (Miscellaneous Provisions) Act 1982 and such a failure to obtain planning permission will normally be dealt with as part of the normal planning process.

6.2 Operators and persons making representations should be aware that in many cases there would be a need to obtain planning permission before a premises may be used for the purposes relevant to this policy. The Licensing Authority will not normally consider planning matters such as 'need' in determining a licence application as this is more appropriately dealt with by planning legislation.

6.3 Applicants are advised to seek independent advice in relation to both planning and licensing prior to making any application under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

7. European Convention on Human Rights

7.1 The Local Authority fully supports the European Convention on Human Rights. When determining applications for licences under this policy the Licensing Authority will give consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) which entitles every person to the peaceful enjoyment of their possessions and Article 10 (freedom of expression).

7.2 The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.

7.3 Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right of freedom of expression to participate in the activities of sex shops, sex cinemas and sexual entertainment venues is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

8. The Application Process

8.1 Applications for licences for sex shops, sex cinemas and sex entertainment venues must be made on the prescribed form and accompanied by the requisite fee.

8.2 A site plan of radius of ¼ of a mile (scale 1:500) clearly outlining the locality in which the proposed sexual entertainment venue will be situated. The plan should clearly identify the proposed sexual entertainment venue marking the site/premises boundary with a red line and define other types of businesses and residential properties around the site as listed at 12.11.

8.3 A plan of the premises (scale 1:100) showing the part(s) of the premises that it is proposed to licence as a sexual entertainment venue. All areas requiring to be licensed

should be outlined in red on the plan. If a part of the premises is within a licensed premises under the Licensing Act 2003 which will have a dual purpose then the plan should show the site where facilities for the public are shared such as toilets and bar.

8.4 The plan of the premises must show the position of all CCTV cameras and shall be with the approval of Kent Police and in accordance with the CCTV code of practice.

8.5 Plans may be considered in other scales with prior agreement with the Licensing Authority.

8.6 The council will not usually determine an application for the grant of a licence, unless, the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the premises.

8.7 The council has a responsibility to prevent immigration crime, specifically the prevention of illegal working on licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.

8.8 In addition, we expect all licensed premises to familiarise themselves with and adhere to their responsibilities around the prevention of Illegal working under the Immigration Act 2016 and all aspects of the Act.

9. Notices

9.1 Applicants for a sexual establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than seven days after the date the application is made.

9.2 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 days beginning with the date the application was made.

9.3 All notices should be in the form prescribed by the appropriate authority as detailed in Appendix B and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.

9.4 The applicant is required to submit a copy of any application to the Chief Officer of Police for the area within seven days of submitting the original application to the local authority. The requirement does not apply in the case of electronic applications as it is the duty of the local authority to send a copy to the police.

10. Objections

10.1 Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12, of Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 for refusing a licence. Objections should not be based on moral grounds/values and local authorities cannot consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

10.2 When considering an application for the grant, renewal or transfer of a licence the Licensing Authority will have regard to any observations submitted to it by the Chief Officer of Police and any objections that they have received from anyone else, (including statutory agencies such as Kent Fire and Rescue Service, UK Border Agency, The Local Safeguarding Children's Board) within 28 days of the application.

10.3 Where the Licensing Authority receives notice of any objection the authority will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority will not without the consent of the person making the objection reveal their name or address to the applicant.

11. Hearings

11.1 Under paragraph 10(19) of Schedule 3, before refusing an application, renewal or application to transfer a licence all applicants will be given the opportunity to appear before and be heard by the Licensing Committee or Sub-Committee that is responsible for determining the application.

11.2 Whilst Schedule 3 does not make explicit provision for objectors to be heard, this Council believes it is right to offer an oral hearing to objectors. This does however remain within their discretionary powers. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

11.3 Persons making written objections will also be informed of the date and time of the licensing sub-committee hearing where they will be invited to address the committee and ask questions relating to the application.

11.4 All objectors and applicants are reminded that they can if they wish be legally represented at their own expense at the hearing. Alternatively, they may, if they wish ask a Councillor to represent them.

11.5 In determining an application the Licensing Committee (or Sub-Committee) will consider the applicant's presentation, the Council's authorised officer report, police observations and objections.

11.6 All parties may use witnesses and supporting documentation however, copies of documents and details of witnesses must be submitted to the Licensing Committee (or Sub-Committee) for consideration prior to the hearing and in special circumstances with approval of all parties at the hearing.

11.7 The Licensing Committee (or Sub-Committee) will consider all the evidence presented to it during the hearing and members may ask questions of officers, applicants and objectors. After the evidence has been presented, all parties will be asked to leave to allow for the Licensing Committee (or Sub-Committee) to come to a decision on the application.

11.8 When a decision is reached the Licensing Committee (or Sub-Committee) will inform the applicant and relevant parties of their decision and the reasons for coming to that particular decision.

11.9 The decision of the Licensing Committee (or Sub-Committee) will be confirmed, in writing, to the applicant within seven working days of the meeting at which the application was considered giving reasons for the decision.

12. Refusal of a Licence

12.1 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence **must not** be granted:

a) to a person under the age of 18;

b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;

c) to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or

d) to a body corporate which is not incorporated in an EEA State; or

e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

12.2 A licence may be refused where:

a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than

the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;

d) that the grant or renewal of the licence would be inappropriate, having regard

i) to the character of the relevant locality; or

ii) to the use to which any premises in the vicinity are put; or

iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

12.3 A decision to refuse a licence must be relevant to one or more of the above grounds.

12.4 In making any determination to refuse an application, renewal or transfer, the local authority will give consideration to:

a. Suitability of the applicant

In determining the suitability or otherwise of an applicant the local authority will consider any previous convictions and in particular those that have been imposed in respect of offences involving violence, dishonesty, drugs, offences of a sexual nature or a breach of the requirements of the legislation covering the type of establishment in respect of which the application is made.

Any other reasonable cause, arising from:

- previous knowledge and experience of the applicant
- any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area
- any report about the applicant and management of the premises received from objectors

b. Business carried out on behalf of a person who would be refused

The local authority takes a serious view of any application that seeks to subvert the underlying principles of the Act. Where it is considered that the applicant is effectively operating the business on behalf of a person who would, for whatever reason, be refused or disqualified from the grant of a licence due to the mandatory or discretionary grounds for refusal there will be a presumption towards refusal unless overwhelming reasons are accepted for the contrary decision to be made.

c. The application exceeds the limit set on the number of the specific type of sex establishments generally or of a specific type in an area

d. Appropriateness having regard to character of locality, use of premises in the vicinity or layout, character or condition of premises

The local authority may refuse applications on grounds related to an assessment of the relevant locality. A licence can be refused if either, at the time the application is determined the number of sex establishments or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality the use to which any premises in the vicinity are put or the layout, character or condition of the premises.

12.5 Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 does not define 'relevant locality' further than to say that:

- In relation to premises, it is the locality where they are situated
- In relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

12.6 Once the Council has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality. The Council may consider a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

12.7 Case law has indicated however that in defining the relevant locality the local authority should not seek to specify wide areas.

12.8 Although a ward area could be considered as a relevant locality it is determined that certain wards are substantial in size and would cover a wide area. It could also raise a problem with borders of other wards where there could be a cluster of sex establishments.

12.9 The Licensing Authority has determined not to set specific relevant localities in respect of each type of sex establishment, instead judging each application it receives on its own individual merits and the character of the locality at the time of the decision.

In determining the relevant locality each case will be decided on its merit having consideration to the individual circumstances of the application.

12.10 In licensing of sex entertainment venues the Licensing Authority will consider the impact of such premises and their operation on the character of an area. This would include but not be limited to:

- The type of location (residential, commercial, industrial)

- The likely effects of any increased footfall or vehicular traffic
- Any advertising or displays of an erotic or pseudo-erotic nature
- Localities where the cumulative impact of the venue, taken with other licensed premises or commercial interests, is likely to have an adverse effect on crime and disorder and public nuisance
- Any evidence of complaints about noise and/or disturbance caused by the premises
- The levels of crime and disorder in the area.

12.11 The Local Authority would consider use of other premises in the vicinity which would include but not be limited to:

- Establishments whose patrons are likely to be adversely affected by the operation of the premises
- The proximity of residential premises, including any sheltered housing and accommodation for vulnerable people
- The proximity of educational establishments to the premises
- The proximity of places of worship to the premises
- Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises
- The proximity to shopping centres
- The proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
- The proximity to conservation areas, historic buildings and tourist attractions
- The proximity of other sex establishments

12.12 When considering an application for the grant, renewal, variation or transfer of a licence the Council will also take into account the layout, character or condition of the premises including but not limited to the following

- The type of activity to which the application relates
- The duration of the proposed licence
- The days and hours of operation of the activity.
- Suitability of management systems to take into account the safety of its performers, customers and staff.

12.13 Visibility to passers-by on retail thoroughfares or pedestrian routes. In more sensitive locations applicants should consider whether it would be appropriate to locate such premises at basement level or locate entrances away from retail thoroughfares or busy pedestrian routes.

13. Waivers

13.1 The amendments to Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 allow for the Licensing Authority to waive the need for a sex entertainment venue licence under certain circumstances.

13.2 An applicant can apply for a waiver either as part of the application for a licence or separately. The Local Authority can grant a waiver if they consider that to require a

licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days' notice.

13.3 The Licensing Authority will consider applications for such waiving of the need for licences on an individual basis. However, it is felt that unless clear and unambiguous evidence can be produced to support such a waiving of licence, the default position will be that a licence will be required.

14. Conditions

14.1 The Local Government (Miscellaneous Provisions) Act 1982 allows the Licensing Authority to attach both standard and specific conditions to a licence. The Licensing Authority has set out standard conditions (APPENDIX A) in respect of each type of licensed premises for which conditions may be taken and provided a pool of conditions. However, this list is not exhaustive and is merely to give an indication of what may be considered necessary for any individual licence.

14.2 The standard conditions will be placed on the particular type of establishment and others may be applied only where a perceived necessity exists and in a manner that is both proportionate and reasonable to promote a safe and well managed premises. Each case will be dealt with on its individual merit.

14.3 Whilst conditions may be prescribed on any matter it is likely that the following considerations will attract the attachment of conditions:

- Hours of opening and closing
- Visibility of the interior of the premises
- Displays of advertisements
- Any change to the type of premises
- Minimum distance between audience and performers
- The control of access to changing room facilities
- The control of private viewings.

14.4 The authority may specify other conditions specific to individual premises dependant on the type of activity undertaken. Such condition may not be listed in the pool of conditions.

15. Duration of Licences

15.1 Licences for sex establishments will be granted for up to one year.

16. Appeals

16.1 The Local Government (Miscellaneous Provisions) Act 1982, paragraph 27 permits appeals against the decision of the Council in relation to sexual entertainment venues. Appeals will be heard in the first instance by the Magistrates Court. An appeal must be

made within 21 days of the decision of the Licensing Committee (Sub-Committee) to the Magistrates Court.

16.2 An appeal can be made in the following circumstances:-

- Refusal of an application for grant, renewal or transfer of a licence
- Refusal of an application to vary terms, conditions or restrictions on or subject to which any licence is held
- A grievance relating to any term, condition or restriction on or subject to which a licence is held
- Revocation of a licence

16.3 There is no right of appeal for objectors.

16.4 There is no right of appeal against refusal on the ground that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.

16.5 A person wishing to appeal against the council decision is strongly advised to seek assistance from a solicitor.

Appendix A

STANDARD TERMS, CONDITIONS & RESTRICTIONS RELATING TO SEX ESTABLISHMENTS

These regulations apply to the licences for sex establishments granted, renewed or transferred by the Council under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Definitions

In these regulations, save where the context otherwise requires, the following expressions shall have the following meanings:-

i) "Sex Establishments", "Sex Cinema", "Sex Shop", "Sex Article", "Sexual Entertainment Venues" and "relevant entertainment and nudity" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) 1982 as amended.

ii) "Premises" means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of building, which is subject of a licence for a sex establishment granted under the Third Schedule.

iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.

iv) "Approved" means approved by the Council in writing.

v) "The Council" means Sevenoaks District Council.

vi) "Film" shall have the meaning ascribed to it in the Films Act 1985

General

The following terms, conditions and restrictions are applicable to sex establishment licences. In the event of a conflict between these and any special conditions contained in a licence relating to a sex establishment the special condition shall apply.

The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any other enactment by law or regulation other than the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982 as amended.

Sex Shops

Times of Opening

Condition 1

Except with the previous consent of the Council the premises shall not open to the public before 9.00am and shall not be kept open after 6.00pm

Except with the previous consent of the Council, the sex establishment shall not open on Sundays or any other Bank Holidays or any Public Holidays.

A notice displaying the times when the premises are open or closed shall be displayed on the entrance to the premises in a form and manner approved by the Council.

Conduct and Management of Premises

Condition 2

Where the Licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager, are to be furnished within 14 days of a request in writing from the Council.

Condition 3

The Licensee or some responsible person nominated by him in writing for the purpose of managing a sex establishment in his absence and who's details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Condition 4

The holder of the licence shall keep exhibited in a suitable place within the shop premises, so that it can be easily seen by premises users, a copy of the licence and any conditions and regulations made and they shall be readily available for inspection by any of the following officers:-

a) Duly authorised officer of Sevenoaks District Council
b) Police Officer, and
c) Officer of the Fire Authority

Condition 5

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 6

The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.

Condition 7

The Licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.

Condition 8

No person under the age of 18 shall be permitted entry to the premises or be employed in the business of sex establishments.

Condition 9

The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

Condition 10

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

Condition 11

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

Condition 12

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating their name and that they are an employee.

Condition 13

No refreshment of any kind shall be provided nor any consumed on the licensed premises other than for any bona fide staff in a part of the premises not open to the public.

Use of the Premises

Condition 14

The sex shop shall be conducted primarily for the purpose of the sale of goods for retail and change of use of any portion of the premises from that licensed by the Council, shall not be made until the consent of the Council has been obtained thereto.

Condition 15

No change from a sex cinema or sexual entertainment venue to a sex shop or from a sex shop to a sex cinema or sexual entertainment venue shall be effected without the consent of the Council and neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be sold, hired, exchanged, loaned or demonstrated in a sex cinema or sexual entertainment venue.

Goods available in sex establishments

Condition 16

All sex articles and other things displayed for sale, hire, exchange or loan within the sex shop, shall be clearly marked to be shown to the persons who are inside the sex shop, the respective charge being charged.

Condition 17

All printed matter for sale, hire, exchange or loan shall be available for inspection prior to purchase, and a notice to this effect is to be prominently displayed within the sex establishment.

Condition 18

No film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film so certified.

a) The screen of any equipment used should be no more than 12 inches and placed in such a position so as not to be visible to the public outside the premises.

b) The screen shall be placed in such a position approved by the Council.

c) Only clips for advertising purposes shall be shown and no individual clip shall be shown for longer than three minutes.

d) No film will be shown in its entirety.

e) Films will not be shown at the customer's request.

f) All trailers shown are to be approved by the British Board of Film Classification

g) A warning notice will be placed on the screen stating "For staff use only" or "No customers allowed to operate".

External Appearances

Condition 19

No advertisement, words, letters, model, sign, placard, board, notice, device, representation, drawing, writing or any other matter or thing (whether illuminated or not) shall be exhibited so as to be visible from the outside of the premises except:- (i) Any notice of a size and in the form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence by a Council.

Such display, advertisement, word, letters, model, sign, placard, notice, device, representation, drawing, writing or any matter or thing must have been approved by the Council.

Condition 20

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

Suggested notice 'PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES'

Condition 21

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Condition 22

(a) The windows of the licensed premises fronting the pavement shall not be as obscured other than with the consent of the Council, but shall have suspended behind them, in a position and attitude approved by the Council, such opaque blinds or screen or such other arrangements as approved by the Council.

(b) This condition shall not be construed as lessening any obligation of the Licensee under Licence Condition 21.

(c) Any such special precautions as may be necessary shall be taken to maintain the screening of the shop window during any cleaning process.

State, Condition and Layout of the Premises

Condition 23

The premises shall be maintained in good repair and condition throughout, including the front fascia of the shop and entrance to the satisfaction of the Council.

Condition 24

Lighting in all parts of the premises shall be to a level approved by the Council and shall be in operation continuously during the hours when the sex establishment is open to the public.

Condition 25

The number, size and position of all doors or openings provided for the purpose of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-

(i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word “Exit” or “Fire Exit”.

(ii) Doors and openings that lead to parts of the premises to which the public are not permitted to have access, shall have notices placed over them marked “Private – no access to the public”.

(iii) Save in the case of emergency no access shall be permitted through the premises adjoining or adjacent.

Condition 26

The external door/doors to the sex establishment shall be fitted with a device to provide for their automatic closure and such device shall be maintained in good working order.

Condition 27

No alterations or additions either internal or external, whether permanent or temporary to the structure, lighting or layout of the premises, shall be made except with the prior approval of the Council.

Condition 28

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Safety

Condition 29

The Licensee shall take all reasonable precautions for the safety of the public and employees.

Condition 31

Sevenoaks District Council reserves the right after grant, renewal or transfer of this licence at any time to dispense with or modify or relax any of these terms, conditions and restrictions and to make such additional terms, conditions and restrictions as they may deem requisite to meet the circumstances of any particular case.

Condition 32

The licence may be revoked by Sevenoaks District Council if at any time the holder is convicted of any offence of using the licensed premises, or other premises for which a similar licence has been granted other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Sex Cinemas

Film Categories

Condition 1

The categories U, PG, 12, 15, 18 and restricted 18 have the following effect:

- U—Universal - suitable for all
- PG — Parental Guidance — some scenes may be unsuitable for young children
- 12 — Passed only for persons of 12 years and over
- 15 — Passed only for persons of 15 years and over
- 18 — Passed only for persons of 18 years and over
- Restricted 18 - Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

Unclassified Films

Condition 2

The licensee must notify the Council in writing no later than twenty-eight days prior to exhibiting any other film that has not been classified as specified in the film categories. Such a film may only be exhibited if the Council gives written consent prior to the event and must comply in accordance with the terms of any such consent given.

Restricted Films

Condition 3

Films restricted 18 (R18) may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

Persons Under 18

Condition 4

No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME

Condition 5

No persons under 18 years of age shall be employed in any capacity at the premises in an area operating as sex cinema club.

Advertising

Condition 6

No advertisement displayed at the premises where a film is to be exhibited shall depict any scene or incident from a film that has been classified by the British Board of Film Classification, Board of Film Censors or approved for exhibition by the Licensing Authority.

Condition 7

The licensee shall display in a conspicuous position, to the satisfaction of the Council at each entrance to the premises, during the whole time the public are admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

Condition 8

When the programme includes a film restricted R18, the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

CINEMA CLUB — MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME.

Condition 9

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers-by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Restricted 18

Condition 10

A register of all members and all visitors' books of their guests shall be available for immediate inspection by an authorised officer of the Council during any performance or at any other reasonable time.

Condition 11

Tickets shall in no circumstances be sold to persons other than to members.

Membership

Condition 12

The club rules must be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.

Condition 13

Membership shall be open to persons of both sexes of not less than 18 years of age

Condition 14

Applications for membership, including both name and address, shall be in writing, signed by the applicant and if deemed necessary such applicant shall provide satisfactory references and proof of age.

Condition 15

No persons shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the management of the club.

Condition 16

New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.

Condition 17

An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the management may refuse to renew any membership without assigning reason for such refusal.

Condition 18

Members shall be entitled on any day to bring no more than one guest to accompany the member, and the name of the guest shall be entered in the visitors book and counter signed by the member.

Condition 19

Tickets shall be sold only to members on the production of a membership card, and members shall if required sign and acknowledgement for the ticket or tickets issued.

Condition 20

Membership cards shall be personal to the member and carry a photograph of the holder.

Condition 21

Neither membership tickets nor guest tickets shall be transferable.

Condition 22

Guest may be asked for proof of identity, or of age, or of any particulars of any guest shall be produced by any member of guest if demanded by the management.

Condition 23

Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Sale of Sex Articles

Condition 24

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

Display of Tariff and Charges

Condition 25

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Conduct and Management of Premises

Condition 26

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which they are responsible for its conduct.

Condition 27

A notice showing the name of the person responsible for the management of the sex cinema on that day to be prominently displayed within the sex cinema throughout the period during which they are responsible for its conduct.

Condition 28

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

Condition 29

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

Condition 30

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating their name and that they are an employee.

Condition 31

The Licensee or some responsible person nominated by them in writing for the purpose of managing a sex establishment in their absence and who's details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Condition 32

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Internal access to cinema

Condition 33

Windows and openings within the premises where films are shown should have blinds of a type and size that covers windows and openings which render the interior of the cinema where films are being shown invisible to passers-by and/or other areas within the building that are open to the public for other activities.

Condition 34

The licensee shall ensure that no noise shall emanate from the cinema that can be heard from within another area of the building or from outside.

Security

Condition 35

A member of staff is to remain in the vicinity of the entrance to the cinema to prevent under 18's or non-members from illegal entry.

Use of Premises

Condition 36

No change from a sex shop or sexual entertainment venue to a sex cinema or from a sex cinema to a sex shop or sexual entertainment venue shall be effected without the consent of the Council.

Safety

Condition 37

The Licensee shall take all reasonable precautions for the safety of the public and employees.

Sexual Entertainment Venue

Times of Opening

Condition 1

The premises shall not open unless otherwise permitted:

[TIMES WILL BE SPECIFIED FOR EACH LICENCE]

Conduct and Management of Premises

Condition 2

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 3

The licensee or the responsible person shall maintain a daily register to be kept on the premises and produced to an authorised officer on request. The register to be completed each day within 30 minutes of the Sex Entertainment Venue opening for business and will record the name and contact details of any person who is to be responsible for managing the Sex Entertainment Venue in the absence of the licensee and details of all staff employed at the premises including performers.

Condition 4

A notice showing the name of the person responsible for the management of the sex entertainment venue on that day to be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 5

Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change.

Condition 6

The licensee shall ensure that no part of the building or its boundary is used by prostitutes (Male or Female) for the purposes of soliciting or any other immoral purposes. Neither the licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.

Condition 7

The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those that have been approved by the Council.

Condition 8

Licensee shall maintain good order on the premises and in particular shall ensure that no

- lewd conduct
- indecent behavior
- unlawful possession and/or supply of controlled drugs
- conduct likely to cause a breach of the peace on the premises
- offers of any sexual or indecent service for reward
- any acts of violence against person or property and/or the attempt or threat of such acts

takes place on the premises or in its immediate vicinity

Condition 9

A management operation manual detailing all aspects of procedure when the premises is operating relevant entertainment shall be produced and approved by the Licensing Authority. This document shall be on going and under constant review.

Condition 10

All members of staff (except performers) shall be easily identifiable. If required by the Council or Kent Police in writing, the licensee shall ensure that during the hours the premises are open for relevant entertainment staff will wear a badge of a type/format approved by the Council indicating their name and that they are an employee or person working in the premises.

Age Restriction

Condition 11

No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.

Condition 12

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES (Example of Notice)

Advertising

Condition 13

No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises without approval by the Council.

Condition 14

The licence holder shall not display outside the premises, or on any advertising material, photographs or other images that indicate and suggest striptease or similar dancing takes place on the premises and which may be offensive.

Condition 15

The premises should not advertise by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

External and Internal access to an area holding relevant entertainment

Condition 16

The entrances to the premises shall be of a material or covered with a material that will render the interior of the premises invisible to passers-by.

Condition 17

Windows and openings within the premises other than entrances will have curtains / blinds of a type and size that covers windows and openings which render the interior of the premises where relevant entertainment is taking place invisible to passers-by and/or other areas within the building that are open to the public for other activities.

Condition 18

Windows will remain closed whilst the premises or part of that premises is being used for relevant entertainment.

Layout of the premises

Condition 19

No fastening of any description shall be fitted upon any booth or cubicle within the premises.

Condition 20

All dance booths or cubicles are to be equipped with a panic alarm for safety.

Condition 21

Any changes to layout of the premises must be informed to the Licensing Authority in writing submitting plans. Alteration must not take place without prior written consent by the Licensing Authority

Condition 22

The licensee shall ensure that noise from the premises or vibration that is transmitted through the structure of the premises does not give rise to a nuisance to the occupiers of premises in the vicinity of the venue.

Condition 23

The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

Condition 24

Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked 'private' and remain closed other than for the purposes of the ingress and egress of management, staff and performers.

Entertainers/Performers

Condition 25

An appropriate room shall be set aside to provide a changing and rest area for entertainers. Arrangements shall be made to ensure that there is restricted public access to this room which shall be maintained at all times whilst the licensable activities are taking place and until such time as all performers using the dressing room have finished.

Condition 26

At all times during the performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience.

Condition 27

On leaving the premises performers, who wish to be, shall be escorted by a staff member to their vehicle or other safe location.

Condition 28

Performers shall be aged not less than 18 years old.

Condition 29

Only the performers shall provide the entertainment, no audience participation shall be permitted.

Condition 30

No performance shall include a sex act with any other performer, persons in the audience or with the use of any object or animal.

Condition 31

In the event of the relevant entertainment being performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment and the details shall be specified in a clearly visible notice in each area designed for private relevant entertainment.

Condition 32

Any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals shall not exhibit in the entranceway or in an area of the premises open to the public that is not a designated area for relevant entertainment.

Condition 33

All performers shall be aware of the management operation that will include a written policy on the conduct of performers.

Condition 34

Photography or videoing of performances should not be allowed.

Condition 35

There shall be routine checking of employment records and evidence that all prospective staff and performers have the right to work in the UK.

Condition 36

Performers should not be permitted to arrange contacts or liaisons, exchange telephone numbers or other means of making contact while on the premises.

Staffing

Condition 37

During any lap dancing performance, or private dance, performers may not:

- Touch customers in any way
- Performer must not be within 30cms (12") from any part of a patron
- Climb onto furniture provided for patrons
- Simulate sex acts
- Use sex articles

Sale of Goods

Condition 38

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Entertainment Venue.

Display of Tariff and Charges

Condition 39

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Condition 40

Where a charge is to be made for the company of a hostess or other companion this shall be identified on the tariff of charges to the satisfaction of the Council.

Condition 41
No order shall be accepted unless the customer has been provided with a copy of the said tariff and has been given sufficient time and opportunity to read it.

Condition 42
No charge shall be made to the customer for any drink provided for the hostess or companion unless that customer has specifically ordered it having first been made aware of the cost.

Use of Premises

Condition 43

No change from a sex shop or sex cinema to a sexual entertainment venue cinema or from a sex entertainment venue to a sex shop or sex cinema shall be effected without the consent of the Council.

Pool of Possible Additional Conditions

Age Restriction

Condition A

All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or proof of age card carrying a 'PASS' logo.

Security

Condition B
Door supervisors, registered in accordance with the Security Industry Authority (SIA) shall be on duty at all times when relevant entertainment is taking place.

Condition C

An adequate number of door supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one door supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.

Condition D

CCTV to be installed to a standard agreed by police to cover all public areas, including all access and egress points in accordance with CCTV Code of Practice. Maintained and serviced on a regular basis and records to be kept. The system will have an incorporated recording facility and recordings to be stored for one calendar month. The CCTV system will be fully operational throughout the hours that the premises are open for licensable activity. Access of the recordings will be made available at any reasonable time to Police and Local Authority officers upon request. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident in a format that can be taken away to be viewed.

Entertainers/Performers

Condition E

Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement.

Condition F

There shall be no physical contact between customers and the dancers at any time except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.

Staffing

Condition G

All staff employed to work at any premises licensed as a sex establishment shall be required to provide an enhanced criminal records bureau disclosure to the Licensing Authority in which the premises is located.

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STATEMENT OF HACKNEY CARRIAGE & PRIVATE HIRE POLICY

Licensing Committee – 7 January 2020

Report of	Chief Officer Planning & Regulatory Services
Also considered by:	Council – 25 February 2020
Status:	For approval
Key Decision:	No

Executive Summary:

This report presents an amended 'Statement of Hackney Carriage and Private Hire Policy' following an 8 week consultation. The purpose of the policy is to define how the Council will exercise and administer applications submitted under Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

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

This report supports the Key Aim of sustainable economy.

Portfolio Holder: Cllr. Margot McArthur

Contact Officer: Michael Moss, Ext. 7364

Recommendation to Licensing Committee To agree that the 'Statement of Hackney Carriage and Private Hire Policy 2020-2023' (attached as **Appendix A** to this report) be recommended to the Council as a revised Policy to come into effect from 1 April 2020.

Recommendation to Council
That the Statement of Hackney Carriage and Private Hire Policy 2020-2023 as revised Policy be adopted as from 1 April 2020.

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

It is important for the Licensing Department to obtain the views of interested parties on the proposed Policy and use these views to formulate any changes to the existing Policy. There have been a number of minor changes to the policy which is outlined in the contents of this report.

Introduction and background

1 The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 put a duty on the Council, acting as the Licensing Authority (LA), to determine the suitability of licensed drivers, vehicles and Operators, with a view to public safety.

2 There is no legal requirement for the Council to have a 'Statement of Hackney Carriage and Private Hire Policy (SHCPHP).

3 The purpose of the policy is to outline the approach that Sevenoaks will take when dealing with applications made under The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976; the document covers the following:

a) How the Licensing Authority (LA) will use its regulatory powers in relation to applications and enforcement complaints;
b) How the Council will assess the suitability of licensed drivers, vehicles and Operators
c) The LA's approach to regulation & expected standards; and
d) The scheme of delegation.

4 The last revision of the SHCPHP took place in February 2019.

5 The SHCPHP 2020-2023 can be reviewed and updated at any time during the life of the document. The Council keeps the SHCPHP under constant review to support the trade and continually improve of public safety.

6 The new SHCPHP 2020-2023 for the District is proposed to commence from 1 April 2020.

7 As of the start of December 2019 there were 342 Driver Licences, 278 Vehicle Licences and 42 Private Hire Operator Licences held within the Sevenoaks District, this includes both Hackney Carriage and Private Hire drivers.

8 The SHCPHP 2020-2023 document does not cover any activity that is outside the scope of The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

Proposal and Reasons

9 The new draft SHCPHP 2020-2023 for the District has been prepared with reference to the current policy, legislative updates, benchmarking against other Borough's policies and the recent consultation. In

addition, the format of the current SLP has been updated in order to make the new document easier to read and more accessible.

10 The final draft has been produced as a result of the following stages:

11 **Stage 1: Production of first draft:** The first draft of the new SHCPHP was produced by undertaking a review of the policy document and benchmarking against our partnership authorities (e.g. Maidstone Borough Council and Tunbridge Wells Borough Council).

12 The outcomes from the above and key difference between the current SHCPHP and the Draft were as follows:

13 **Dual Drivers Licence:** Section 3 of the Policy which relates to Driver's Licence has been amended to include a new licence type: Dual. A Dual licence can only be obtained by a Hackney Carriage driver and will allow the driver to drive both Hackney Carriage and Private Hire vehicles without having to change or buy additional badges.

14 **Clarification on Executive Vehicles:** Section 4 of the Policy which relates to Vehicle Licences now includes a section under 4.7 which specifically relates to the expectation of the Council when considering plate exemptions for Private Hire vehicles.

15 **Immigration:** Clarifications were added to address legislative or Section 182 Guidance changes. The SLP now states that all licensed premises are expected to familiarize themselves with and adhere to their responsibilities regarding the prevention of illegal working under the Immigration Act 2016 and all aspects of the Act.

16 **Reference to engine sizes:** Any reference to engine sizes have been removed from the Policy.

17 **Tinted Windows:** The previous requirement for tinted windows has been removed as this was overly burdensome and costly to the trade. The sections relating to tinted windows now state "All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations. Additional wording was added during the consultation following a response from the Council's appointed garage.

18 **Amendments to Penalty Points:** A requirement of Officers to deal with penalty points within a specific timeframe (10 working days) was unrealistic. The issue of penalty points requires thorough investigation and it can take up to 2 weeks to obtain CCTV footage; this restriction has been removed to ensure complaints and penalties can be dealt with fairly.

19 **Declaration of cautions:** The convictions section of the Policy has been amended to include cautions.

20 **Human Rights:** Section 2 of the Policy which relates to Policy and procedures now includes a section under 2.2 called 'European Convention on Human Rights'.

21 **Amendments to VOSA write-off categories:** Any old VOSA categories have been replaced with the new write-off categories.

22 **Stage 2: Production of final draft:** Public Consultation on the draft SHCPHP took place over an 8 week period between 21 October 2019 and 13 December 2019. Where feedback, suggestions and comments were within scope of the Licensing Act 2003 and the SLP, these are presented in summary in **Appendix B**.

23 The Public Consultation consisted of a web page on Sevenoaks District Council's website which provided a full version of the draft SLP 2020-2025.

24 A notification email was sent to all Kent Police, all Sevenoaks District Council's licensed drivers, vehicle licence holders, PH Operators.

25 During the 8 week public consultation, 6 submission were received.

Conclusion

26 The Councils processes should be transparent and despite there being no legal obligation to adopt a Policy, it would ensure better control over a premises.

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 Hackney Carriage and Private Hire Policy will be met from the running costs of the Licensing Team and Licensing Partnership.

Legal Implications and Risk Assessment Statement.

The Council's Statement of Licensing Policy is an important factor when determining certain applications under the Licensing Act 2003. If the Policy is silent on a matter then the Council will have less opportunity to guide and control applications.

Ensuring that the Policy is up to date and covers relevant areas assist the

Council is ensuring a consistency of approach.

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 – Taxi Policy Appendix B - Taxi Policy Responses
Background Papers:	Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions Act 1976)

Richard Morris
Chief Officer Planning & Regulatory Services

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HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

1 April 2020 – 31 March 2023

Sevenoaks
DISTRICT COUNCIL

Effective from 1 April 2020

The Role of Licensing: Policy Justification

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

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

For example, it is important that a member of the public using a HC or PHV to travel alone late at night, can be confident the driver is "fit and proper" and the vehicle is safe. However, on the other hand if the supply of HC or PHVs has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on streets late at night for a HC or PHV to become available.

Sevenoaks
DISTRICT COUNCIL

Introduction

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

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

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

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

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

Review of Policy and Procedures

2.1 Legislation

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

Sevenoaks DISTRICT COUNCIL

- 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 European Convention on Human Rights

The Local Authority fully supports the European Convention on Human Rights. When determining applications for licences under this policy the Licensing Authority will give consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) which entitles every person to the peaceful enjoyment of their possessions and Article 10 (freedom of expression).

The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.

Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right of freedom of expression to participate in the activities of sex shops, sex cinemas and sexual entertainment venues is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

2.3 Taxi and Private Hire Licensing: Best Practice Guidance March 2010

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire legislation in England and Wales. Following widespread consultation, the DFT has produced Best Practice Guidance 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. Regard has also been given to the Licensing Partnership and this has been seen as an opportunity to have some consistency across the three authorities. The Licensing Partnership includes Maidstone Borough Council, Sevenoaks District Council and Tunbridge Wells Borough Council. This policy relates to Sevenoaks District Council.

2.4 Consultation

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

- Representatives of Sevenoaks licensed hackney & private hire drivers
- Representatives and trade groups of Sevenoaks taxi proprietors and private hire vehicle licence holders.
- Representatives of the District's Operators
- All District Councillors
- Town and Parish Councils
- Neighbouring Authorities
- Community Safety Unit
- Access Group
- Local businesses and residents
- The National Private Hire Association
- The National Taxi Association
- Members of the Public through the Council's Website
- Public Health Kent
- Chamber of Commerce
- Kent Police
- Kent County Council Traffic & Road Safety
- Kent County Council (School Contracts)
- Citizens Advice Bureau
- Age Concern

2.5 Implementation

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

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

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

2.6 Online Forms

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

All **new** applications that are made online will require an applicant to meet with an officer to complete the application process, unless the applicant is registered with the Disclosure and Barring Service update service; at this meeting **all original documents are required to be presented.**

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

3. Hackney Carriage/ Private Hire or Dual Driver's Licence – New and Renewal applications

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

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

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

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

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

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

- Application form provided by the Council, complete in its entirety and signed by the applicant.
- The appropriate fee. The current fees are available from the licensing department or our website.
- The applicant's original DVLA driving licence. Applicants must have held a full DVLA or EU licence for at least 1 year for a new application.
- A completed medical certificate
- Driving Standards Assessment practical taxi test and wheelchair test for all new hackney carriage/ private hire drivers, delivered by an external company; details available on our website
- Evidence of passing the Council's knowledge test (new applicants only);
- One recent, colour, passport sized photograph of the applicant (no sunglasses or hats. Hats may only be worn for religious beliefs while showing full facial features.)

- Applicants must obtain and submit to the Council the 8 digit driving licence 'Check Code' from the DVLA. The 'Check Code' is only valid for 21 days from the date of issue.
- Application for a Disclosure and Barring Service Enhanced Check completed by the applicant with accompanying identification or a current valid disclosure certificate completed within 1 month and obtained via an approved body which will allow an update service check to be performed. This must include a check for 'adults and child workforce'.
- For all applicants who have lived in the United Kingdom for less than 5 years continuously, a certificate of good conduct from the appropriate embassy is required (new applications only).
- For those applicants not holding an EU passport, evidence will need to be provided of the applicant's right to work in the United Kingdom, which will include a relevant VISA or letter from the appropriate Embassy/Authority. The Licensing Authority may also contact the Home Office to carry out immigration checks when it is appropriate to do so.
- All applicants must provide **original** documentary evidence confirming their right to live and work in the UK. Any licence granted to drivers whose leave to remain in the UK is time limited will only be valid for the period which they are entitled to work in the UK. In order for the licence to be extended, drivers must produce further evidence to prove they have the right to work in the UK.
- Two items confirming the applicant's address.
- Documentary proof of the applicants National Insurance number.

3.1 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 Officers can advise individual applicants who have queries in relation to this issue and any such information is strictly confidential.

Any outstanding application older than 12 months will be destroyed. Should the applicant wish to pursue the application after 12 months a new application will need to be submitted with a fee together with a new Disclosure and Barring Service (DBS) and medical certificate.

3.2 Driving Standards

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

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

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

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

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

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

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

3.3 Age

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

3.4 Medical Fitness

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

- they carry members of the public who have expectations of a safe journey;
- they are on the road for longer hours than most drivers; and
- they may have to assist disabled passengers and handle luggage.

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

All applicants will be required to obtain a Group 2 medical standards certificate signed by their GP (or a Doctor listed under the British Medical Association (BMA), with full medical history supplied by your GP, may be used instead).

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

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

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

3.5 Criminal Record

Prior to consideration of any application, the Council will obtain from the applicant a Disclosure & Barring Service (DBS) 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 working with adults and children.

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

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 over every 3 years will be 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 as 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 driving licence must be in force, a renewal application must include a completed application form, fee, DBS enhanced check, Medical and a generated DVLA check code will be required (and provided on the application form).

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 or Dual Drivers 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.

A licensed Hackney Carriage driver will be permitted to change to a Dual Drivers Licence, without the need for any additional tests or driving standard test. 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. In cases where a Drivers Licence has been revoked, a referral may be made by the Licensing Partnership, to the Council's Safeguarding group, to ensure the revoked driver is protected from the vulnerable position they find themselves in.

3.9 Driver's Dress Code

Sevenoaks District Council is committed to encouraging the professional image of the hackney carriage and private hire trade, and considers that drivers of licensed vehicles are vocational drivers.

Therefore, the Council considers that drivers should conform to a minimum standard of dress, as set out in Appendix 4, in order to raise and maintain the profile of the licensed trade. The Authority does not impose such standards by way of conditions to any licence. However, it is expected that such standards will be maintained at all times.

3.10 Right of appeal

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

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 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.

Hackney Carriages licensed by this Licensing Authority are permitted to ply for hire anywhere within the Sevenoaks District. Plying for hire means a licensed HC vehicle may make their availability known to the public, but illuminating their roof sign. A HC can be hailed in the street by a member of the public and can also use appointed ranks.

Private Hire licensed by this Licensing Authority are only permitted to undertake bookings/fares made by a Private Hire Operator licensed by Sevenoaks District Council.

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 CO_2 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.

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 only visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

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

4.4 Numbers Limit

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

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

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

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

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

4.5 Wheelchair Accessible Vehicles

All 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, vehicles that are replacing damaged vehicles and ultra-low-emission vehicles (ULEV) that is vehicles that emit less than 75g/km of CO_2).

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 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) 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 Executive vehicles

The Council recognised there are occasions when the requirement to display an external identification plate may have the opposite effect in terms of customer safety and could

have commercial implications for the operating business, which may deter some corporate customers from using the service.

It is not intended that all Private Hire vehicles should be exempt from the Council requirement to display an external plate. Exemption from displaying an external plate may be in respects of individual vehicles only and applications for exempting a fleet of vehicles will not be permitted. Each application will be assessed on its own merit and each vehicle will be inspected by an authorised Council Officer to ensure it is suitable for executive exemption.

Applicants are required to show evidence that the vehicle is a prestige or top of the range vehicle, as represented by the manufacturer. Relevant consideration as to whether a vehicle is an executive hire car include but not limited to, cost, reputation, specification, appearance, perception and superior comfort levels.

The vehicle will be pristine condition with no visible defects, dents or blemishes to the external body work or internal trim and seating.

The type of work undertaken is 'executive' in nature. This means the vehicle is used specifically to provide transport under written contract to a company or person, or by the types of clients who, for security or personal safety reasons, would not want the vehicle to be identifiable.

Applications may only be made by a person holding a Private Hire Operators Licence issued by Sevenoaks District Council.

Sevenoaks District Council is entitled to recover cost relating to the administration of applications for an exemption notice. The fee to accompany an application for an exemption Notice will form part of the Hackney Carriage and Private Hire published fees and non-refundable.

Irrespective of when an exemption notice is granted, the exemption notice will expire on the same day as the expiration of the vehicle's current Private Hire Vehicle Licence, unless its otherwise surrendered or revoked. Exemption Notices may be renewed annually, subject to the vehicle continuing to be suitable for purpose.

4.8 Licence Fee

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

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

4.9 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.

4.10 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 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 monthly) by the due date.

4.11 Re-allocation of Expired Hackney Carriage Vehicle Plates

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

4.12 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.

4.13 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.

4.14 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.

4.15 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.

4.16 Tinted windows

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

No tinted film will be permitted on any licensed vehicle or any new vehicle being presented for licensing. No licensed vehicle is permitted to have blacked out windows other than limousines; any vehicles with tinted windows with less 25% or less transparency, will be considered as blacked out windows.

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 on our website.

5.1 Criminal Records Checks

Private Hire Vehicle operators are not exceptions to the Rehabilitation of Offenders Act 1974. However, private hire operators that are not licensed drivers, cannot be required to produce an enhanced DBS disclosure. A Basic Disclosure from the DBS or Scottish Disclosure, or a certificate of good conduct from the relevant embassy for overseas applicants, is however, considered appropriate in promoting the objective of public safety.

Before an application for a private hire operator's licence will be considered, the applicant must provide a current (less than one months old) Basic DBS or Scottish

Disclosure of Criminal Convictions (issued specifically for Sevenoaks District Council), or a Certificate of Good Conduct from the relevant embassy in the case of an overseas applicant. Applicants that hold a current Driver's Licence with the Council will be exempt from this requirement.

Prior to consideration of any new application, overseas applicants who have lived in the United Kingdom for a continuous period of less than five years are required to provide a certificate of good conduct from their previous country or countries of residence (within the previous five years) in addition to a Basic Disclosure Certificate. A certificate of good conduct authenticated by the relevant embassy will satisfy this requirement.

5.2 Record Keeping

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

5.3 Licence Duration

The Department of Transport considers that annual licence renewal is not necessary or appropriate for private hire operators. They recommend, as good practice, that a licence period of five years would be reasonable.

The Council will, therefore, issue a successful applicant for a Private Hire Operator's Licence with a five-year licence from the date of grant; subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances.

5.4 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.

5.5 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.

5.6 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.

5.7 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.

5.8 Gaming Machines

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

6. Penalty Points Scheme

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

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

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

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

- The Council's Taxi Licensing and Enforcement Policy will be fully considered by an authorised officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
- Where it is decided that the use of the penalty points system is appropriate, the points are issued in accordance with the appendix. If the appendix allows a range of points for a particular incident, the authorised officer will determine the appropriate number of points proportionate to the offence.
- Penalty points will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place, the matter will be referred in the first instance to the Licensing Manager for consideration regarding further action. The Licensee may be required to appear before the Licensing Committee.
- The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to their employer or operator. However the Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
- Points issued to either a proprietor or driver will be confirmed in writing within ten working days from the discovery of the contravention.
- When issued, the penalty points will remain "live" for a period of one year from the date they are imposed so that only points accumulated in a rolling twelve month period will be taken into account.

- There is no financial penalty associated with the system and the licensee may continue to work. However, the licensee may be asked to attend either a meeting with the Licensing Manager or attend a hearing of the Licensing Committee if 12 penalty points are imposed on an individual licence in any one 12 month period, where appropriate action will be taken in accordance with this policy.
- Where a driver, proprietor or operator attains more than 12 penalty points, disciplinary options available to the Licensing Committee will include suspension or revocation of the driver's licence, where appropriate.
- If it is felt that the matter does not warrant suspension or revocation of the licence, the period for which the points are to remain "live" may be extended or a written warning may be issued to the driver as to his future conduct.
- Periods of suspension of a licence will be dependent on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.
- A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances they deem necessary.
- Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the Magistrates Court against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.
- The penalty points system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
- The penalty points system outlined in Appendix 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 agreed by the Licensing Committee and then considered by Full Council.

Appendix 1 - Statement of policy about relevant convictions

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

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

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

Honesty and trustworthiness

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

Professionalism

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

Good and safe driving ability

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

Protecting the Public

The overriding consideration for the Council in its determination of applications is the promotion of the licensing objectives detailed within this policy, in particular the protection of public safety.

History

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

Driving Offences

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

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

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

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

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

Major traffic offences

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

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

If the applicant has been convicted of more than one major traffic offence then a licence application will normally be refused until the applicant has completed a period of at least five years free from conviction. Where the combination of offences are considered to be

of increased risk to the public, a period longer than five years may be substituted by the Council dependent on the extent of the risk to the public.

"Totting Up" under section 35 of the Road Traffic Offenders Act 1988

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

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

Motor Insurance Offences

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

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

Failure to Declare Motoring Offences

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

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

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

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

Not in Charge of a Motor Vehicle

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

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

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

Drug Offences

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

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

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

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

Sexual or Indecency Offences

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 they could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.

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

Cautions

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

Summary

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

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

The Council consider that there are, however, certain offences that are so serious in nature or frequency that an applicant should be precluded from obtaining or retaining a licence. The Council's over-riding policy objective is to safeguard the safety of the general public by ensuring that all licensed drivers are safe, competent, and are able to maintain their vehicles to an acceptable standard.

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

Existing Licence Holders

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

Principles of the Rehabilitation of Offenders Act 1974 ("the 1974 Act")
Under the 1974 Act, criminal convictions can become spent after a certain period of time, and once spent, for many purposes, can be disregarded completely. The possibility of rehabilitation, and the length of time before the rehabilitation occurs, depends on the sentence imposed and not the offence committed. Where a person is sentenced to imprisonment for a period exceeding thirty months, the convictions can never be spent.

Despite the above general principles, the Act does not apply to applicants for hackney carriage and private hire driver's licences. This is because the driving of these vehicles is listed as a "regulated occupation" in relation to which questions may be asked as to the suitability of individuals to be granted a licence.

Although the 1974 Act does not prevent any judicial authority, including the Council acting as the licensing authority, from taking spent convictions into account, such convictions are only admissible in so far as they are relevant to the issue as to whether the applicant is a "fit and proper" person to hold a licence.

Appendix 2 - Vehicle Test Standards

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

Licence Plates - currently licensed vehicles

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

External Plate

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

Internal Plate

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

Fare Chart

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

Insurance

A valid copy of the insurance certificate 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 fitments 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.

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.

Roof Signs

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

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

Doors

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

or

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

Windows

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

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 must be produced at the time of the vehicle compliance test.

Taximeters for Private hire vehicles

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

Roof Signs

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

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

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

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

The criteria are:

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

Appendix 4 - Drivers voluntary dress code.

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

Acceptable Standards of Dress

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

Unacceptable Standard of Dress

The following are deemed unacceptable:

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

Sevenoaks
DISTRICT COUNCIL

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;

- Licence No.
- Registration No.
- Vehicle make/Type.

- Licence expiry date.
- No. of passengers.

Minimum Number of Passengers to be carried

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

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

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)

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

No tinted film will be permitted on any licensed vehicle or any new vehicle being presented for licensing. No licensed vehicle is permitted to have blacked out windows other than limousines; any vehicles with tinted windows with less 25% or less transparency, will be considered as blacked out 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 only visible from the rear. If the vehicle is available for hire the roof light must be illuminated.

Appendix 5A - Hackney carriage vehicle conditions

Meanings

In these conditions, unless otherwise indicated,

“the Council” means the Sevenoaks District Council; and

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

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

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

Fixing of vehicle plates

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

External Plate

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

Internal Plate

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

Fare Chart

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

Roof signs

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

Advertising and other signs

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

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

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

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

No smoking

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

Spoilage of the interior of the vehicle by passengers

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

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

Wheelchair signs

Subject to the provisions of paragraph 2 above the proprietor may affix a sign on the outside of the vehicle indicating that it is able to convey passengers in wheelchairs provided the vehicle has been manufactured or properly adapted for that purpose.

Carriage of animals other than guide/hearing/assistance dogs

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

Production of certain documents

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

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

Motor insurance certificate

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

Damage to the vehicle

The proprietor must, in the event of any damage to the vehicle materially affecting its safety, performance, appearance or comfort or convenience of passengers, report the occurrence to the Council 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 their destination, (unless the hirer voluntarily elects to wait until the vehicle is repaired or is otherwise able to continue the journey) and report the occurrence to the Council 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 their 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' their office address, name and telephone number.

Use of trailers

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

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

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

Other matters

The proprietor must ensure that;

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

Tinted windows

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

No tinted film will be permitted on any licensed vehicle or any new vehicle being presented for licensing. No licensed vehicle is permitted to have blacked out windows other than limousines; any vehicles with tinted windows with less 25% or less transparency, will be considered as blacked out windows.

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.

Advertising

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

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

b) For transit and people carrier type vehicles all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of

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

c) Subject to the above, a proprietor may have simple lettering and numbers on a vehicle in order to display a company name, address, telephone/fax number, E-mail address or Web site, but lettering height must be a minimum of 75mm and maximum of 150mm.

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

e) In the case of Private Hire Vehicles advertising is subject to the specific exclusion of the words "taxi", "cab" or "hire" the use of which is not permitted.

f) Advertising, not relating to the vehicle's proprietor or company, may, under certain circumstances, be allowed on a hackney carriage vehicle on submission of a written request and details of the advertisement to the Council. Each request will be considered entirely on its own merits and, if approved, the written authority must be carried in the vehicle. No such advertising is permitted on a private hire vehicle.

Licence Plate Content

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

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

Minimum Number of Passengers to be carried

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

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

Vehicle Test Standards

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

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

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

Vehicles Powered by Liquid Petroleum Gas (LPG)

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

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

Tinted windows

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

Appendix 5C: Private Hire Vehicle Conditions

MEANINGS

In these conditions, unless otherwise indicated,

"the Council" means the Sevenoaks District Council; and

"the district" means the area of the Sevenoaks District Council

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

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

Fixing of licence plates etc.

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

External Plate

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

Internal Plate

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

Fare Chart

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

Advertising and other signs

a) the proprietor must not permit any advertising on or in the vehicle which is not advertising his/her taxi firm;

b) the proprietor must not permit any sign or mark other than those required or allowed in paragraph 1 except with the express consent of the Council;

c) advertisement of the proprietors taxi firm must be in accordance with the following criteria

- For saloons and estate cars all advertising/graphics etc. must be confined to the side, rear or bonnet. Where advertising appears on the side of such a vehicle it

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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 front the wheels and the rear light cluster.

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

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

No smoking

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

Spoilage of the interior of the vehicle by passengers

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

b) The wording in (a) above shall be reproduced in plainly visible lettering within the vehicle (on or next to the fare chart if fitted).

Wheelchair signs

Subject to the provisions of paragraph 2 the proprietor may affix a sign on the outside of the vehicle indicating that it is able to convey passengers in wheelchairs provided the vehicle has been manufactured or properly adapted for that purpose.

Carriage of animals

The proprietor has discretion as to whether the vehicle is used to convey an animal but has a legal duty under the Equalities Act 2010 to carry, free of charge, any assistance dog, as failure to do so is a criminal offence.

Any complaints for non-compliance of the above, shall be investigated in a timely manner with a view to pursing a conviction. 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 by the Licensing Authority.

A medical exemption will only be attainable on medical grounds. The licensee or applicant will need to provide medical evidence that the carriage of such animals would have a detrimental impact on their own health.

Production of certain documents

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

a) a current, valid, certificate of motor insurance or cover note valid for at least 28 days for the vehicle that provides insurance cover for it as a Private Hire Vehicle;

b) a current, valid, MOT test certificate for the vehicle as required by S47 of the Road Traffic Act 1988;

c) the current proprietor's Private Hire Vehicle licence for the vehicle; and

d) the vehicle's V5 Registration Document.

Insurance certificate

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

Damage to vehicle

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

Taximeter

If a taximeter is fitted to the vehicle;

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

- is calibrated at all times to include the current fare tariff of the Operator;
- is not tampered with in any way so as to effect the production of a fare that exceeds the maximum fare laid down by the current fare tariff of the Operator;
- when its machinery is in action, records on its face, in figures clearly legible and free from ambiguity, the fare which the driver is entitled to demand and take for the hiring of the carriage;

- has the word ' fare' printed on its face in plain letters so that the word clearly applies to the fare recorded thereon;
- is positioned so that all letters and figures on its face are plainly visible to any passengers and for that purpose the letters and figures are suitably illuminated during any period of hiring.

Drivers

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

a) holds a current and valid Private Hire Driver's Licence issued by the Council;

b) is acquainted with and understands their licence conditions and related statutory provisions;

c) observes their licence conditions and related statutory provisions.

Breakdowns etc.

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

- secure, without delay, suitable alternative transport to carry the hirer to their destination unless the hirer voluntarily elects to wait until the vehicle is repaired or is otherwise able to continue the journey.
- report the occurrence to the Council 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 them whilst the licence is in force. Such notification must occur within 21 days of the imposition of a conviction/caution.

Transfer of private hire interest in the vehicle

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

Complaints by hirers

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

Use of trailers

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

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

Other matters

The proprietor must ensure that;

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

Tinted windows

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

Appendix 6

Private Hire Driver Conditions

In these conditions, unless otherwise indicated,

"the Council" means the Sevenoaks District Council; and

"the district" means the area of the Sevenoaks District Council

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

A driver of a private hire vehicle shall: -

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

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

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

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

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

- ensure, during the continuance of such hiring, that the dial of the taximeter is not concealed in any manner or by any means and that such dial is distinctly and plainly visible and legible to any person hiring or being conveyed in the vehicle;
- cause the dial of the taximeter to be kept properly illuminated throughout the hiring;

- report immediately to the Council and to the Operator any failure of the taximeter;
- not wilfully or negligently cause or suffer the table of the Operator's fares to be inverted or detached or altered or the letters or figures on such table to be in any manner or by any means concealed at any time.

The driver of a private hire vehicle shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

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 even within 48 hours if not sooner claimed by or on behalf of its owner, to the office of the Council and leave it in the custody of the officer in charge of the office on his giving a receipt for it; and
- be entitled to receive from any person to whom the property shall be re-delivered an amount equal to ten pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of the Council, whichever be the greater) but not more than twenty five pounds.

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

Informative

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

Appendix 7

Private Hire operator Conditions

In these conditions, unless otherwise indicated

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

"the Operator" means the holder of a licence and

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

Record keeping

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

A. Drivers

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

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

B. Vehicles

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

C. Bookings

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

- the source from which the booking came and the time it was received
- pick-up point and the time the journey commenced;
- destination point and the time the journey ended;

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- 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 them during the currency of this licence.

Taximeters

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

Advertisement of business

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

Surrender of licence

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

Notification of accidents

If any vehicle (licensed by the Council) which is used by the Operator is involved in an accident the Operator must notify the Council 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 they are aware that the person is suffering from any illness, disability or condition which may affect their ability to safely carry out their duties.

Vehicle with tinted windows

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

Informative

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

Appendix 8

Hackney Carriage Byelaws

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

INTERPRETATION

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

PROVISIONS REGULATING THE MANNER IN WHICH THE NUMBER OF EACH HACKNEY CARRIAGE, CORRESPONDING WITH THE NUMBER OF ITS LICENCE, SHALL BE DISPLAYED.

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

A proprietor or driver of a hackney carriage shall: -

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

PROVISIONS REGULATING HOW HACKNEY CARRIAGES ARE TO BE FURNISHED OR PROVIDED.

3. The proprietor of a hackney carriage shall: -

- provide sufficient means by which any person in the carriage may communicate with the driver;
- cause the roof or covering to be kept water-tight;
- provide any necessary windows and means of opening and closing not less than one window on each side;
- cause the seats to be properly cushioned or covered:
- cause the floor to be provided with a proper carpet, mat or other suitable covering;
- cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;

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- 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.

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

Sevenoaks DISTRICT COUNCIL

Section	Offence	Points
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

Sevenoaks
DISTRICT COUNCIL

Section	Offence	Points
69	Unnecessarily prolonging a journey.	6-12
71	Interfering with a taximeter with intent to mislead.	12
73(1)(a)	Obstruction of an authorised Officer or Constable.	12
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable.	6-12
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable.	6-12

Equality Act 2010

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

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

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

Policy: Private Hire Driver's Licence Conditions

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

Offence	Points
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

Policy: Vehicle Specifications & Conditions of Licence

Offence	Points
Operating a vehicle which does not comply with the Councils Vehicle Specification where such offence is not otherwise specified below	2 - 6
Operating a vehicle, which is not maintained in a sound and roadworthy condition.	6
Operating a vehicle, which is not maintained in a clean and safe condition inside and out.	3
Modifying a vehicle without the consent of the Council	4
Failure to display or maintain external licence plates which indicate the maximum number of passengers who may be conveyed.	4
Hackney vehicle signage not in accordance with council requirements.	4
Affixing or displaying on a private hire vehicle any roof sign.	6
Displaying on a private hire vehicle any sign or notice which consists of or includes the word TAXI or CAB or FOR HIRE	4

Offence	Points
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

Policy: Breach of Conditions attached to Operator's Licence

Offence	Points
Failure to provide a prompt, efficient and reliable service at all reasonable times.	3
Failure to ensure that office staff employed by operator act in a civil and orderly manner at all times.	3
Failure to ensure that a vehicle attends punctually at the appointed time and place unless prevented by some sufficient cause.	4
Failure to keep the premises clean, adequately heated, ventilated, lit, and in accordance with the requirements of licence conditions.	3
Failure to properly keep or produce records of private hire bookings, vehicles, drivers or other documents required to be kept or produced. (see LGMP s56(2) & (3) above)	6
Failure to act properly upon the receipt of a complaint or to notify immediately the Licensing Officer.	4
Failure to notify the Council of any changes, including change of address from where the business operates within 14 days.	3

Offence	Points
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

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Email Response 01

Anton Bishop: Fri 18/10/2019 14:36

We definitely need to be able to buy taxis with factory fitted tinted windows. It's so restrictive otherwise because we have to buy base models of any given vehicle make.

Some vehicles aren't available with clear windows!

Response

None

Action taken

Section on tinted windows has been amended to read "All windows must meet the requirements as prescribed by the Road Vehicles (Construction and Use) Regulations."

Email Response 02

Customer Services The Disclosure and Barring Service CustomerServices@dbs.gov.uk: Fri 08/11/2019 10:10

We do not provide comment on organisations, licensing policies.

Response

None

Action taken

No action taken

Email Response 03

Lucy Gibb: Wed 13/11/2019 13:59

DBS to be quicker please and if possible for you to have a designated contact at DBS whom you can liaise with directly. The whole process of obtaining a PH licence to be much quicker and take no more than 1 month. Sevenoaks District Council licensing department to have 1 designated person within the team to solely deal with taxi operators and all taxi licensing queries like they used to. We would be quite happy to pay a little extra to get a better service from the council.

More available Knowledge Test dates with opportunity for re-test to be within 2 weeks and a reduced cost for re-test of Knowledge Test if taken within 2 weeks as an

incentive to re-take quickly whilst information retained by recruit. Much improved communication between Sevenoaks District Council and Private Operators.

Response

Many of the suggestions relate to operation as opposed to Policy (operation is determined by the Head of the Licensing Partnership whereas Policy is determine by the Licensing Committee) but I shall nevertheless ensure all your comments are in the January report.

Action taken

Operational points have been taken into consideration.

Telephone Conversation 04

Dunbrik Mon 25/11/2019 13:13

Request made for all Private Hire Vehicles display the SDC Table of Fares. Tinted Windows – they agree with the 'construction and use' but asked that we include, "No extra tinted film" and "No vehicle is permitted to have blackout windows other than limousines." Dunbrik said they would be happy to have it on a case-by-case basis but believes the standard should be declared in Policy, and in their view a window which is 20-25% (with the standard being 30%) would be deemed as blacked out.

Response

The requirement for all PHV to have the Fare Chart could not be enforced as Private Hire Operators can set their own fares.

Action taken

The section which relates to Tinted Windows has been amended to include "No tinted film will be permitted on any licensed vehicle or any new vehicle being presented for licensing. No licensed vehicle is permitted to have blacked out windows other than limousines; any vehicles with tinted windows with less 25% or less transparency, will be considered as blacked out windows."

Email Response 05

Chris Theobald: Mon 09/12/2019 09:22

Guide Dogs provides mobility services to increase the independence of people with sight loss in the UK. Alongside our mobility work we campaign to break down physical and legal barriers to enable people

with sight loss to get around on their own terms. There are an estimated 2,740 people living with sight loss in Sevenoaks, and 148 guide dog owners in Kent.

Taxis and private hire vehicles (PHVs) and the door to door service they provide are essential for disabled people. They are particularly important for the independence of blind and partially sighted people, who are unable to drive, and often face barriers when using public transport. However, accessing taxis and PHVs can be a major challenge for assistance dog owners: In April 2019, we surveyed 421 assistance dog owners to ask about their experiences in the preceding 12 months. The survey revealed that unfortunately many assistance dog owners are still experiencing access refusals. 76% said they had experienced a refusal at one point, 42% reported that they had at least one in the last 12 months.

Taxis and Private Hire Vehicles (PHVs) remain the business most likely to turn away an assistance dog. Of assistance dog owners who reported at least one refusal in the last year, 73% reported they had been refused by a taxi or PHV driver during the same time period. Such access refusals can have a significant impact on assistance dog owners' lives, leading to feelings of anger and embarrassment and a loss of confidence and independence.

Key recommendations:

• The policy should clearly state that all drivers are under a duty to carry, free of charge, any assistance dog. We advise highlighting within the policy that this is a legal requirement under the Equality Act 2010 and failure to do so is a criminal offence.
• All drivers should be required to undertake disability equality training, as recommended by the Government.
• The policy should specify that a medical exemption certificate for carrying assistance dogs will only be issued when authorised by a medical practitioner and accompanied by medical evidence, such as a blood test, a skin prick test or clinical history.
• The medical exemption certificates should be accompanied by features distinguishable to vision-impaired passengers, such as an embossed or raised 'E' and a braille marker to accommodate both braille readers and non-braille readers.
• The policy should state that Sevenoaks District Council will use its best endeavours to investigate all reported violations of the Act in a timely manner with a view to pursuing a conviction.
• The policy should state that all refusals of assistance dogs by taxi or PHV drivers should result in the maximum 12 points on the licence.

• The policy should state that Sevenoaks District Council will work together in conjunction with assistance dog owners to ensure that licensing requirements are being complied with by various means such as, but not limited to, test purchases to ensure that licensing requirements are being complied with.

Highlighting obligations under Equality Act 2010 in respect of Assistance Dogs

We advise that the policy should specify that all drivers are under a legal duty under the Equality Act 2010 to carry, free of charge, any assistance dog and failure to do so is a criminal offence.

The consequences of delayed travel combined with the emotional impact of facing discrimination and confrontation when trying to carry out everyday activities take a significant toll on assistance dog owners. Apart from feelings of anger and embarrassment, refusals can undermine the independence that assistance dogs bring to their owners. Assistance dog owners also reported that the stress of refusals has had a detrimental impact on their mental health and on whether they feel able to leave the house. This also has a negative impact on their ability to access work and other opportunities. As guide dog owners report:

• “Each refusal is crushing, confidence shattering, rejecting, and traumatic. I always feel that I don't want to go out after - but work dictates I must.” Guide dog owner, Stevenage

• “I was left on my own at the side of the road in the dark. I am deaf and unable to phone for help and it made me feel very vulnerable. It makes me feel afraid to go out.” Assistance dog owner

• “I was very upset, it was dark, raining and 10pm at night. I was scared. I avoid evening invites, as I worry about getting home. I lose out on the chance of socialising with friends, which is bad, as I have no family.” Guide dog owner, Rochester

• “I used to have a very tough two-hour commute to work. The taxi part of the journey was the shortest bit travel wise, but it always ended up being the bit that held me up the most because I was having to spend time facing drivers who wouldn’t take me with my dog. … It’s good that my contract was flexi hours otherwise I’m sure I would have been sacked for being late all the time – it happened so often.” Guide dog owner, Daventry

It therefore is essential that the policy states this legal obligation. We welcome the statement in the policy that drivers only have discretion over whether to convey animals they are not either a guide or hearing dog. However, we recommend strengthening this section by clearly stating that all drivers are under a legal duty under the Equality Act 2010 to carry, free of charge, any assistance dog, and that failure to do so is a criminal offence.

Disability equality training
As stated above, drivers who refuse to carry an assistance dog are committing a criminal offence under the Equality Act 2010. A Guide Dogs survey found that many taxi drivers are unaware of their legal obligations and the impact refusals have on assistance dog owners. The best way to address this is through disability equality training for all taxi and PHV drivers.

Therefore, to help reduce the number of access refusals, it is important that drivers know their legal obligations and how to best offer assistance to their customers with vision impairments, including those travelling with a guide dog.

Disappointingly, the current policy only requires a knowledge test and a practical "wheelchair test" and makes no reference to requiring disability equality training. This is disappointing, as under s.2.2 of the policy, it states that the DfT's 2010 Best Practice Guidance has been taken into consideration and this Guidance states that "licensing authorities should also encourage their drivers to undertake disability awareness training". We recommend that this training, as well as highlighting a driver's legal obligations and disabled people's rights, should focus on the concept of people being disabled by society's barriers and attitudes. It should highlight the role an organisation and individuals play in the removal of those barriers, while also including awareness elements such as customer care, etiquette and appropriate communication.

Disability equality training for all taxi and PHV drivers has also been recommended by the Transport Select Committee,1 the Law Commission2 and the House of Lords Disability and the Equality Act 2010 Committee3. In response to concerns into taxi licensing, the government also formed a Working Group, which in 2019 as part of its recommendations concluded that all taxi and PHV drivers should undertake disability equality training as a condition of their license. Further, the Department for Transport has recently committed to include disability equality training in the national minimum standards which they will be legislate to introduce "when time allows". They also have stated that they 'would urge the remainder [of local licensing authorities] to take action now, using their existing licensing powers, to ensure that every driver receives it'.4 In addition, the DfT currently monitors which licensing authorities require disability equality training as part of their taxi and minicab statistics.

Many of the positive experiences disabled people report when using taxis and PHVs come about following disability equality training. Councils that have introduced disability equality training report very positive results with fewer refusals and drivers feeling more confident in assisting passengers with disabilities.

Medical exemption certificates

The proposed policy does not contain information on the process of obtaining a medical exemption certificate, which is the only circumstance when a driver is legally exempt from their obligation to carry assistance dogs. The only reference in the policy is to a "statutory exemption"

1 Transport Select Committee, Access to Transport for Disabled People, 2013.
2 Law Commission, Taxi and Private Hire Services, Law Com No 347, May 2014, 4.102.
3 House of Lords, Select Committee on the Equality Act 2010 and Disability, The Equality Act 2010:
the impact on disabled people, para. 480.
4 House of Commons, Taxis: Equality, 28 March 2018, c134057 WS.

We recommend that the policy states that being issued with a medical exemption certificate by Sevenoaks District Council is the only circumstance when an assistance dog may be declined. We recommend that the policy specifies that in order to apply for a medical exemption certificate for carrying assistance dogs, this must be authorised by a medical practitioner and accompanied by medical evidence which demonstrates the driver's genuine medical condition that is aggravated by exposure to dogs, such as a blood test, a skin prick test or clinical history.

Further, it is often difficult for vision-impaired passengers to identify the validity of exemption certificates. Currently, it is not permissible for licensing authorities to issue exemption certificates which incorporate tactile features, as this would alter the certificate's prescribed form and render it invalid. We therefore recommend that Sevenoaks District Council issues exemption certificates that are accompanied by features distinguishable to vision-impaired passengers, such as an embossed or raised 'E' and a braille marker to accommodate both braille readers and non-braille readers. Guide Dogs would be happy to supply Sevenoaks District Council with tactile exemption cards.

Enforcement

While our survey shows that many assistance dog owners have been refused access over a one-year period, many of these incidents are not reported. Indeed, research in 2019 found that only 8% of owners who had been refused access had taken legal action which resulted in prosecution. In part, the underreporting is due to challenges of reporting, especially for people with sight loss. However, it is also due to disappointment at the lack of action taken following an access refusal and the low fines issued.

Considering the significant impact an access refusal can have on assistance dog owners and their communities, it is important that assistance dog owners know that all cases of access refusals are viewed very seriously and are investigated.

As mentioned, it is a criminal offence for any operator or driver to refuse to carry assistance dogs. On conviction for such an offence, drivers can be fined up to £1,000. As failure to carry an assistance dog is a criminal offence, we recommend a zero-tolerance approach to enforcement of the Equality Act. We therefore recommend that it is clearly stated that failure to carry an assistance dog without the requisite medical exemption certificate will result in immediate suspension or revocation of a driver's license. We therefore welcome the inclusion that refusing to carry an assistance dog results in 12 points under the Equality Act 2010 penalties. However, we recommend that the penalty points for "Failure to carry assistance dog without an exemption certificate" under private hire driver's licence conditions is also 12 – rather than the current 5-6 points currently specified.

Further, the current conditions do not contain any reference to prosecution of drivers who refuse a passenger. We also recommend a zero-tolerance approach to enforcement of the Equality Act in seeking prosecutions and therefore recommend stating that Sevenoaks District Council will use its best endeavours to investigate all reported violations of the Equality Act in a timely manner, with a view to pursuing a conviction.

We also recommend that Sevenoaks District Council works together in conjunction with assistance dog owners to ensure that licensing requirements are being complied with by various means such as, but not limited to, test purchases to ensure that licensing requirements are being complied with.

<u>Response</u>

None

Action taken

Amendments made to the section 'Carriage of animals' and removed from the title 'other than guide/hearing/assistance dogs' as it reads as though the section is not about assistance dogs, which it is.

All drivers will be taking 'Disability Awareness Training' in the future and members must agree to the method this will be provided.

The Medical exemption certificate is a standard template used across England & Wales and therefore we are unable to change the design.

Email Response 06

Phillip Meyer Sat 14/12/2019 09:44

For goodness sake, why can't we use Uber rather than the terrible services provided by the awful local taxi firms like beeline!

Response

None

Action taken

No action taken

GAMBLING ACT 2005: LICENCE FEES FROM APRIL 2020

Licensing Committee – 7 January 2020

Report of Chief Officer Planning & Regulatory Services

Status: For approval

Key Decision: No

Executive Summary:

The Council need to demonstrate that the fees it charges for such licences and permits issued under the Gambling Act 2005, have been set in accordance with the law and best practice, so as to recover it allowable costs.

Fees should be set so as to avoid either a surplus or a subsidy where possible and adjusted, if necessary, in succeeding years to achieve and maintain the correct balance.

This report sets out the revised fees and charges for licences and associated items, which it is proposed should be made with effect from 1 April 2020.

This report supports the Key Aim of sustainable economy.

Portfolio Holder Cllr. Margot McArthur

Contact Officer Michael Moss, Ext. 7364

Recommendation to Licensing Committee

That it be recommended to approve the level of fees and charges with effect from 1 April 2020 as set out in **Appendix A**.

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

Introduction and background

1 The Gambling Act 2005 Section 212 gives the Secretary of State power to make regulations prescribing the fees payable to the Licensing Authority. It also gives the power to devolve to Licensing Authorities in England and Wales the freedom to set fees for premises licence applications, subject to any constraints the Secretary of State may prescribe which includes a maximum fee level. The government has decided that for England and Wales, Licensing Authorities will

determine their own fees for gambling premises licences but that the Secretary of State will prescribe the maximum fee payable for each category of licence.

2 The maximum levels have been included in **Appendix A** in brackets for comparison purposes. The previous year's fees are printed in italics for your information. Those cells that are shaded in the body of the table are where we have reached the maximum fee level that may be set.

3 There is an initial fee to cover the cost of application and an annual fee.

4 Licensing Authorities have been asked to set fees to ensure full cost recovery and that the fee levels represent fairness and value for money for the gambling industry. All Licensing Authorities must set their fees upon a cost recovery basis only and will be required to review their fee levels on an annual basis to ensure this.

5 Fees must be set for all types of premises licence and Temporary Use Notices (TUNs):

Premises Types:

- Casino
- Bingo
- Betting Office (off-course)
- Tracks (on-course betting)
- Adult Gaming Centers
- Family Entertainment Centers

6 Fess must be set by each Licensing Authority for the following:

- Application for a (new) premises licence
- Application to vary a premises licence
- Application to transfer the licence
- Application for re-instatement of the premises licence
- Application for a provisional statement
- Application for a premises licence for a premises which already has a provisional statement
- Fee to accompany a request for a copy of the premises licence
- Fee to accompany a notification of change of circumstances (only relevant change is that of address)
- Fee to accompany a temporary use notice

7 The District currently has six betting premises that will be affected by

the proposed fee increases. There are no other gambling premises currently operating in the District. The betting premises are:

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

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

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

10 The fees have been set for 2020-2021 to include the current inflation rate from the base fee originally set by Sevenoaks District Council. This has led to a slight decrease in the fees proposed.

Other options considered and/ or rejected

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

Key Implications

Financial

Despite the proposed reduction in fees for gambling premises, there will be no specific financial implications resulting from this report. The fees which have been proposed will be adequate to cover the costs of running the service and will not result in a deficit.

Legal Implications and Risk Assessment Statement.

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

Equality Assessment

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 – Gambling Act 2005 Fees

Background Papers: None

Richard Morris
Chief Officer Planning & Regulatory Services

Appendix A

SEVENOAKS DISTRICT COUNCIL: GAMBLING ACT 2005 - FEES

From April 2020

Premises Type	New Application £			Annual Fee £		
Existing Casinos	n/a			n/a		
New Small Casino	**7960**	(8,000)	7820	**4418**	(5000)	4340
New Large Casino	**9162**	(10,000)	9000	**7131**	(10000)	7005
Bingo Club	**2260**	(3500)	2220	**794**	(1000)	780
Betting Premises (excluding Tracks)	**2840**	(3000)	2790	**575**	(600)	565
Tracks	**1771**	(2500)	1740	**794**	(1000)	780
Family Entertainment Centres	**1771**	(2000)	1740	**652**	(750)	640
Adult Gaming Centre	**1771**	(2000)	1740	**750**	(750)	780
Temporary Use Notice	**229**	(500)	225	N/A		

	Application to Vary £	Application to Transfer £	Application for Re-Instatement £	Application for Provisional Statement £	Licence Application (provisional Statement holders) £	Copy Licence £	Notification of Change £
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a)	n/a)
New Small Casino	**3889** (4000) 3820	**1675** (1800) 1645	**1649** (1800) 1620	**8000** (8000) 7875	**2860** (3000) 2810	**12** (25) 12	**29** (50) 28
New Large Casino	**4352** (5000) 4275	**2128** (2150) 2090	**2128** (2150) 2090	**9167** (10000) 9005	**4199** (5000) 4125	**12** (25) 12	**29** (50) 28
Bingo Club	**1700** (1750) 1670	**1200** (1200) 1200	**412** (1200) 405	**2260** (3500) 2220	**1200** (1200) 1200	**12** (25) 12	**29** (50) 28
Betting Premises (excluding tracks)	**1500** (1500) 1480	**1200** (1200) 1200	**392** (1200) 385	**1771** (3000) 1740	**1200** (1200) 1200	**12** (25) 12	**29** (50) 28
Tracks	**1250** (1250) 1250	**950** (950) 950	**392** (1200) 385	**1726** (2500) 1695	**950** (950) 950	**12** (25) 12	**29** (50) 28
Family Entertainment Centres	**1000** (1000) 1000	**950** (950) 950	**397** (1200) 390	**1766** (2000) 1735	**950** (950) 950	**12** (25) 12	**29** (50) 28

Adult Gaming Centre	**1000** (1000) 1000	**1200** (1200) 1200	**397** (950) 390	**1766** (2000) 1735	**1200** (1200) 1200	**12** (25) 12	**29** (50) 28
Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	12 (25) 12	29 (50) 28

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

SEXUAL ENTERTAINMENT LICENSING FEES

Licensing Committee – 7 January 2020

Report of	Chief Officer Planning & Regulatory Services
Status:	For approval
Key Decision:	No

Executive Summary:

Sevenoaks District Council, as the Licensing Authority, is responsible for processing and issuing licences for a wide range of activities.

The Council need to demonstrate that the fees it charges for such licences have been set in accordance with the law and best practice, so as to recover it allowable costs in administering the various licensing regimes for which it is responsible.

Fees should be set so as to avoid either a surplus or a subsidy where possible and adjusted, if necessary, in succeeding years to achieve and maintain the correct balance.

This report sets out the revised fees and charges for licences and associated items, which it is proposed should be made with effect from 1 April 2020.

This report supports the Key Aim of sustainable economy.

Portfolio Holder:	Cllr. Margot McArthur
Contact Officer:	Michael Moss, Ext. 7364

Recommendation to Licensing Committee

Members are recommended to approve the level of fees and charges with effect from 1 April 2020 as set out in **Appendix A** of this report.

Reason for recommendation:

The Licensing Department has not received or processed an application for a Sexual Establishment within the Sevenoaks District, therefore the fees have been worked out from the original fee set.

There has been a decrease in the rate of inflation (1.8%) following the previously set fees in 2018 and this is reflected in the proposed costs for 2020-2021.

Introduction and background

1 The Council is required to review any charges which it makes for licences and other associated items, from time to time.

2 The Council must seek to recover the costs associated with processing applications for licences as well as the administration and monitoring of compliance with conditions. The fees charged should be capable of withstanding legal challenge, should the need arise.

3 It is not permitted to make a surplus or to subsidies licence holders, and so where necessary fees are adjusted in succeeding years to achieve and maintain the correct balance.

4 The cost to the Council of this work is regularly checked and real time costs are used in compiling the figures. Where it is possible to reduce costs by use of more efficient working this is reflected in the charges made.

5 The proposed charges for 2020/2021 are set out in **Proposed Fee(s)** Section 13 below.

Sex Establishment Licensing:

6 The fees for applications made under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, have previously been calculated by examining the time it takes to process an application.

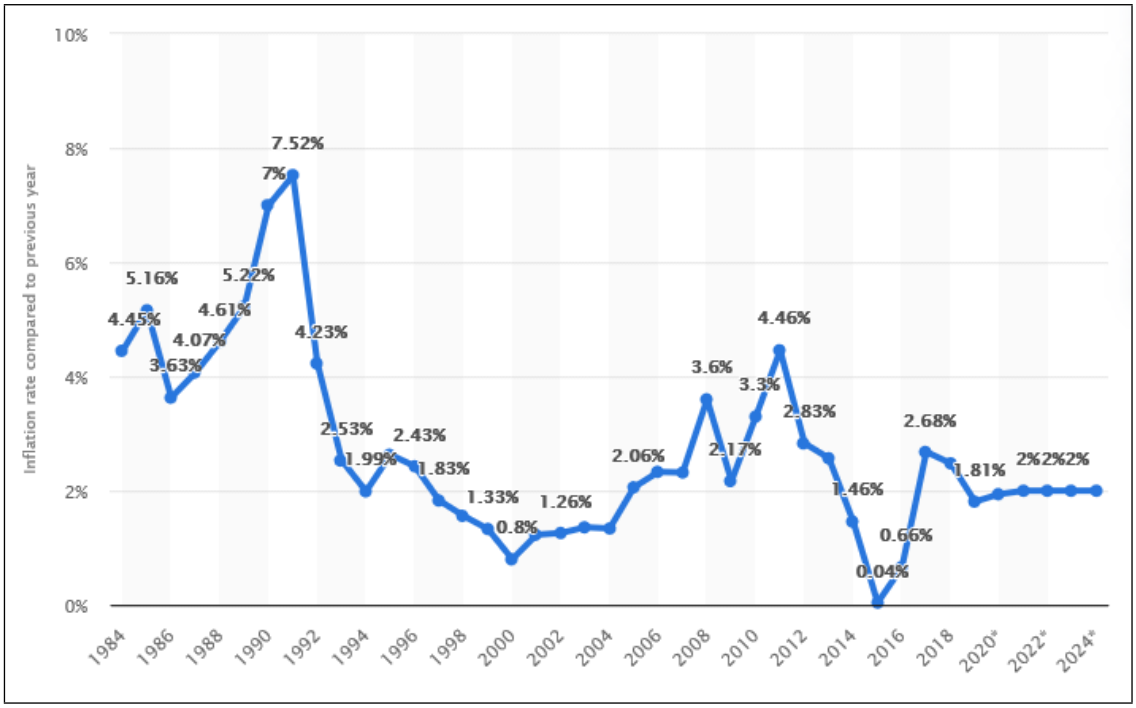
7 The tasks involved with processing an application include assisting the applicant, checking the validity of an application, assessing representations, formal mediation and site visits.

8 The Council does not currently have any Sexual Entertainment venues.

9 As the Council is unable to demonstrate any additional costs involved with the processing of applications made under this Act (due to the point raise in section 8 above), the Licensing Department proposes to make a small decrease to the existing fee in line with the inflation.

Proposed Fee(s)

10 Statistic have taken from Statista who show the inflation rates in the United Kingdom from 1984 to 2018, with projections up until 2024. The rates proposed for 2020 are 1.94%.



11 In 2019 the fees were increased by 2.5% in line with the 2018 rate of inflation, however the rate of inflation dropped to 1.8% throughout 2019.

12 Prior to the 2019 increase, the fees were increased in 2018 by 2.7%. Therefore the original costs for the following applications were:

Type of Application	Fee
New Application	3571
Renewal Application	3571
Transfer Application	1790

13 Taking into account the drop in inflation between 2018 and 2019, the inflation for 2020 has been added to the original costs and results in a small decrease in licence fees. The proposed fees are:

Type of Application	Fee
New Application	3641
Renewal Application	3641
Transfer Application	1825

14 This results in a decrease of **£121** per new and renewal application and **£61** decrease for transfer applications.

Key Implications

Financial

Despite a reduction in the proposed fee there will be no financial implications resulting from this report. The Council does not currently have any sexual entertainment venues within the district and we are therefore not currently receiving any income from this particular regime.

Legal Implications and Risk Assessment Statement.

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

Equality Assessment

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 – Level of fees and charges
Background Papers:	Local Government (Miscellaneous Provisions) Act 1982

Richard Morris
Chief Officer Planning & Regulatory Services

Appendix A

SEVENOAKS DISTRICT COUNCIL'S SEXUAL ESTABLISHMENT FEES
From April 2020

Type of application	Existing Fee	Proposed Fee
New application	£3762	£3571
Renewal application	£3762	£3571
Transfer application	£1886	£1790

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HACKNEY CARRIAGE 'TABLE OF FARES'

Licensing Committee – 7 January 2020

Report of	Chief Officer Planning & Regulatory Services
Status:	For approval
Key Decision:	No

Executive Summary:

This report informs the Licensing Committee of the outcome of the recent Hackney Carriage Fare Consultation and asks whether Members are minded to revise the existing Fares as set out in **Appendix A**.

This report supports the Key Aim of sustainable economy.

Portfolio Holder	Cllr. Margot McArthur
Contact Officer	Michael Moss, Ext. 7364

Recommendation to Licensing Committee

The Licensing Committee is asked to note the results of the consultation and decide whether a revised Hackney Carriage fare is required. The existing fare chart is set out in **Appendix A** to this report.

Reason for recommendation:

The Licensing Authority is responsible for setting the maximum fare which can be charged by Hackney Carriage licensed by Sevenoaks District Council.

It is important to find a balance between the income generated by Taxi Drivers, to cover their day-to-day costs and the costs associated with the licensing process, as well as setting fare which meets the needs of the residents of Sevenoaks District.

Introduction and background

1 Hackney Carriages (taxis) are a vital form of local transport. Local Authorities have the power to set the fares of taxis which they license.

2 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 states that a 'district council may fix the rates or fares within the

district for time as well as distance, and all other charges in connection with the hire of the vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of Hackney Carriages by means of a table (hereafter in this section referred to as a 'table of fares') made or varied in accordance with the provisions of this section.

3 By fixing the fares, the Council is effectively setting the maximum fare that Hackney Carriage drivers can charge. Legally, taxi drivers may charge less than this rate but may not charge more.

4 The fares set by the Council include provisions for taxi drivers to earn a wage, cover the costs of running a taxi and providing a service to the public when it is needed whilst ensuring that fares are reasonable for the public to pay for such a service.

Consultation

5 A consultation took place with all licensed Hackney Carriage drivers licensed by Sevenoaks District Council.

6 The consultation ran from 21 October 2019 until 13 December 2019.

7 19 response were received from the Hackney Carriage trade and the results of the consultation are provided in **Appendix B**

8 The statistics taken from the consultation show that the trade would like to see an increase in the existing 'Table of Fares'. The initial flag rate has been highlighted by the majority of the responses as needing an increase and the average rate (from the responses) is **£4.56**.

9 The response regarding the ticking rate is almost evenly split, with the majority asking for an increase. The average suggested increase is **26p**.

10 The majority of the trade agreed with the distances set, the waiting time charge, the extra charges for additional passengers, evening fares, Christmas/ New Year's and for carrying pets (not including assistance dogs).

11 The trade were evenly split about whether the Council should set a 'Spoilage Charge'. However, of those that said they were not happy with the current procedure, almost half of them said they did not want the Council to set a maximum limit.

12 Only one comment was made under 'what other rates would you like us to consider' and that was proposing a separate rate for Saturday & Sunday fares.

Options

13 Members should consider the response from the recent consultation and make a decision as to whether or not the existing Table of Fares as outlined in **Appendix A** should be revised, or whether the existing Table of Fares should continue unchanged throughout 2020-2021.

14 If Members are minded to revise the existing Table of Fares, the changes would need go out for advertisement with the public and the Hackney Carriage Trade.

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 Hackney Carriage & Private Hire Policy will be met from the running costs of the Licensing Team and Licensing Partnership.

Legal Implications and Risk Assessment Statement.

Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to fix the maximum rates or fares.

Any proposals for amendment are to be published and, if no objection is received then the amendments shall take effect. Where objection is received then the Council shall consider the objections received and may set a further date (no later than two months) on which the table of fares (with or without modification) shall take effect.

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 – Current Hackney Carriage Permitted Maximum Fares

Appendix B – Response from Hackney Carriage Table of Fares consultation.

Background Papers:

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

Richard Morris
Chief Officer Planning & Regulatory Services

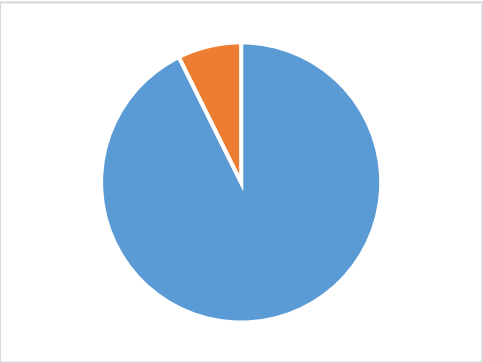
Sevenoaks District Council

Hackney Carriage: Table of Fares

Consultation 2019

A Fare consultation was undertaken between 21 October 2019 & 13 December 2019.

19 responses were received from the 240 Hackney Carriage drivers



Members should consider whether the 19 responses represent the trade as a whole.

The following calculations are the results from those 19 responses received.

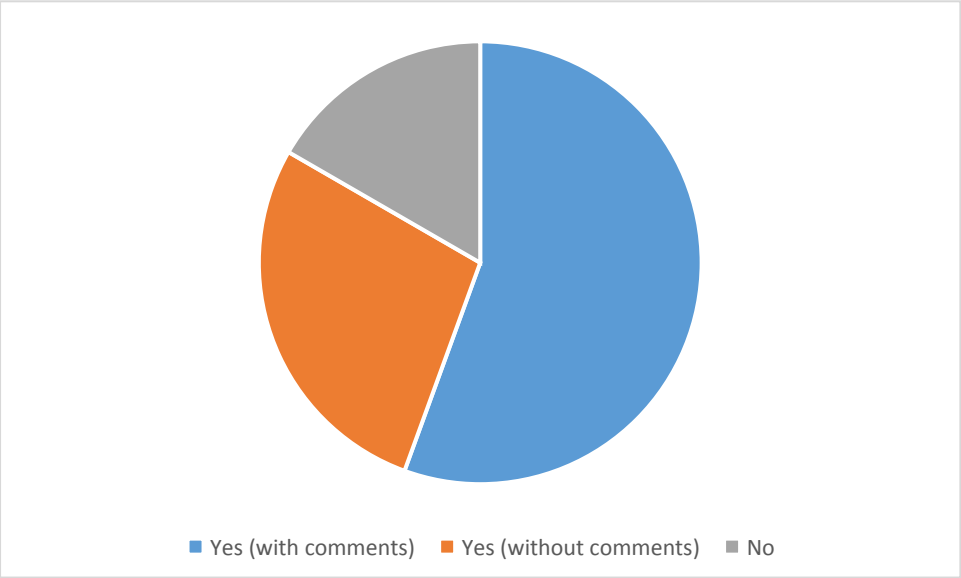
<u>Would like to see changes to taxi fares next year?</u>

18 drivers want to see a Fare increase, while 1 driver said no.

Of the 18 drivers who wanted to see the fare changed, they were asked

Do you think the current flat rate of £4.20 needs to change?

Yes (with comments)	10
Yes (without comments)	5
No	3



What amount do you suggest the flat rate should be?

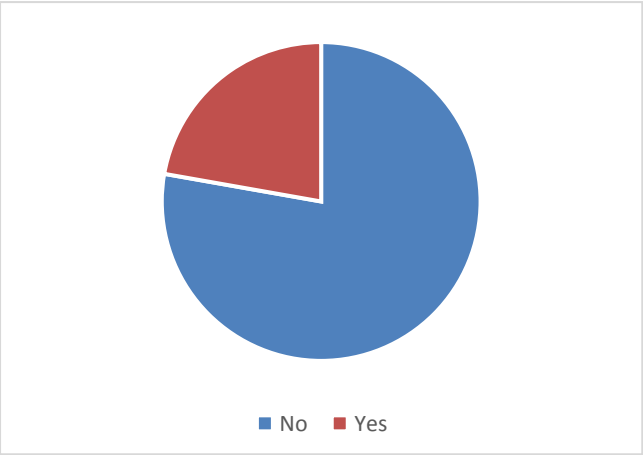
Suggestion were made to increase with the rise in inflation. The 2019-2020 rate of inflation is 1.8% which would result in a flat rate of £4.28.

The following information should to preferred rate from the 10 responses received.

£4.28	3
£4.30	1
£4.40	1
£4.50	2
£4.60	1
£5.00	1
£5.50	1

The flat rate distance is currently set at 1,232 yards. Do you think this distance should be changed?

No	14
Yes	4



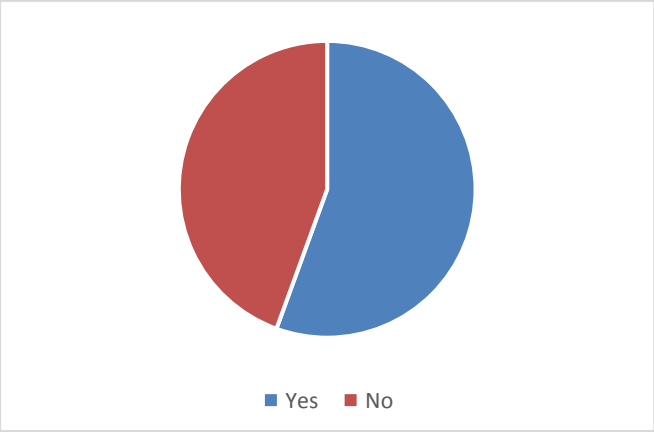
What do you suggest the initial flat distance should be?

One response asked for the distance to be 6/10th of a mile. All taximeters are calibrated in yards and therefore this would = 1056 yards.

	Don't Known	1
Decrease	1000	1
Decrease	1100	1
Decrease	1056	1

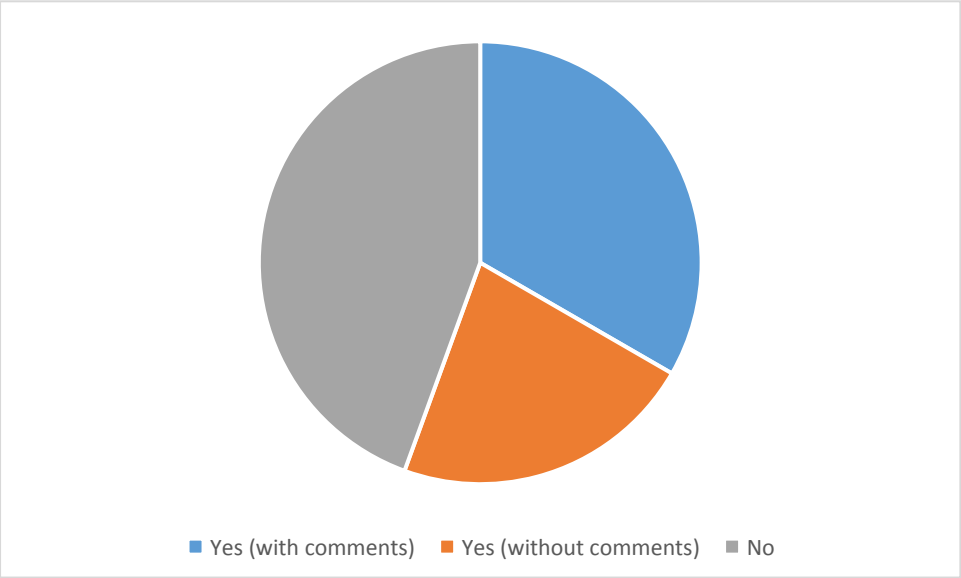
The current ticking rate is 22p. Should this be changed?

Yes	10
No	8



The current ticking rate is 22p. Should this be changed?

Yes (with comments)	6
Yes (without comments)	4
No	8



Please suggest a new ticking rate

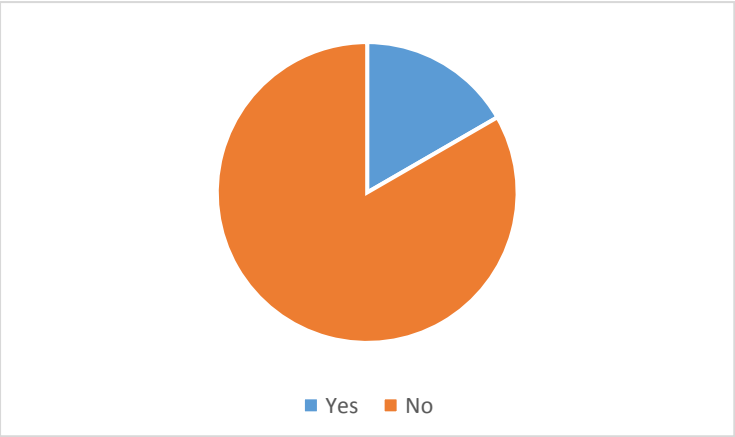
Suggestion were made to increase with the rise in inflation. The 2019-2020 rate of inflation is 1.8% which would result in a flat rate of 22p (existing rate).

Inflation rate only	1
30p	2
25p	2
23p	1

Changing the fee in line with the inflation rate would result in the existing fee of 22p.

The ticking over distance is currently set at 176 yards. Do you think this distance should be changed?

Yes	3
No	15



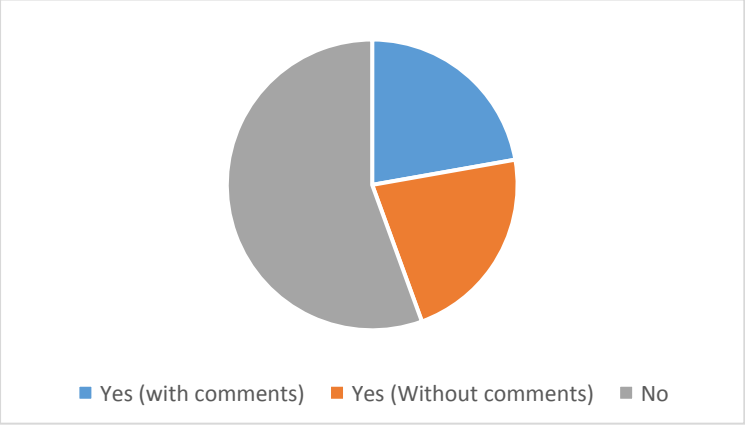
What do you think the ticking over distance should be?

Of the three response which would like to see a change in the distance, the following where the responses given.

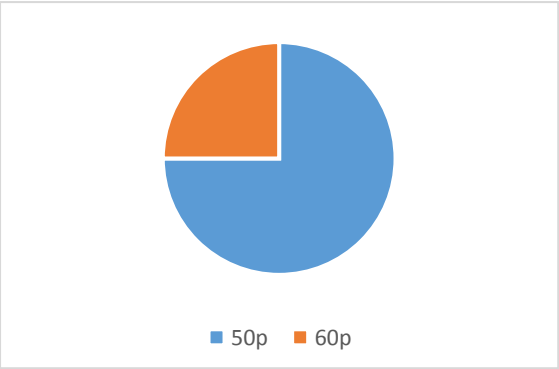
- Okay (Not sure what this meant)
- 170 yards
- 188 yards

The current waiting charge is 45p. Do you think this should be changed?

Yes (with comments)	4
Yes (Without comments)	4
No	10

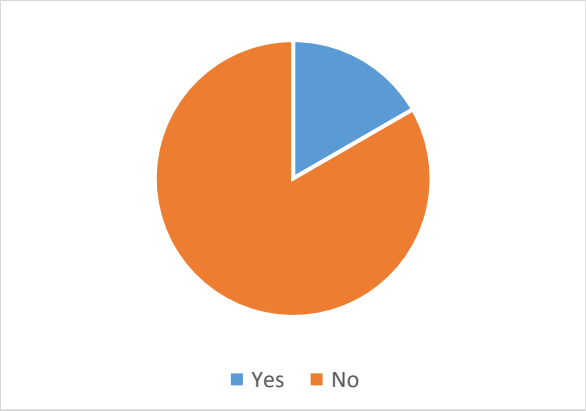


Please suggest a new waiting time charge



The waiting time period is currently set at one minute intervals. Do you think this time should be changed?

Yes	3
No	15



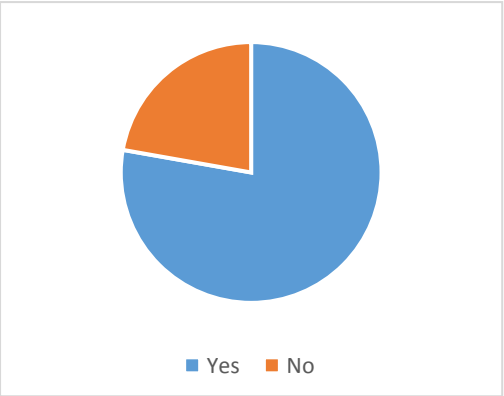
What waiting time period would you suggest?

Of the three response which would like to see a change in the distance, the following where the responses given.

- Don't Know
- 1.5 Minutes
- 30 Seconds

Do you agree with the 25% extra charge for additional passengers?

Yes	14
No	4



What amount/rate do you suggest for additional passengers?

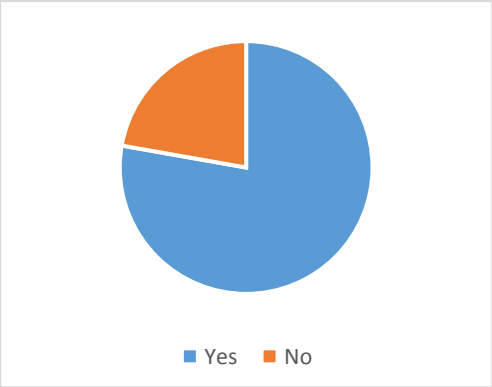
Only one of the 4 respondents (who ticked 'No') answered this question and said, for any journey with 5+ passengers, it should be the normal fare rate + 50% (as opposed to the existing 25%).

Should the extra charge be for each additional customer or a flat rate for all additional customers over four persons?

Only two of the 4 respondents (who ticked 'No') answered this question and both suggested that it should remain as a flat rate as opposed to charging each individual passenger, 5 and over.

Currently there is a £2 extra charge for journeys between 11pm and 7am. Do you agree with this charge?

Yes	14
No	4

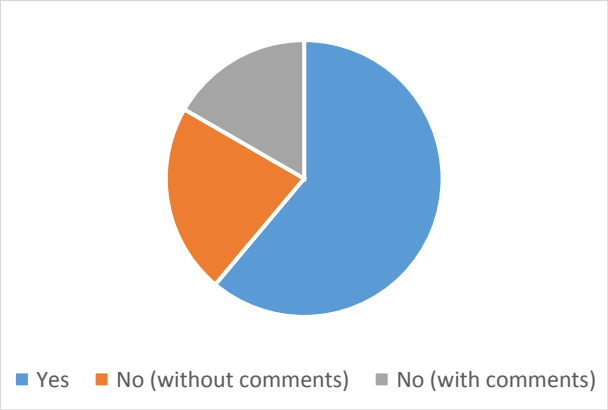


What extra charge do you suggest for fares between 11pm and 7am?

It should be noted that one of the 'No' respondents said "It should stay the same" in this section, which implies they are satisfied with the current rate and therefore the answer to the previous question was incorrect and their stats should be added to the 'Yes' responses.

Currently there is an extra charge of £2.20 on public & bank holidays (other than Christmas & New Year holidays). Do you agree with this?

Yes	11
No (without comments)	4
No (with comments)	3



What extra charge would you suggest for fares on public & bank holidays?

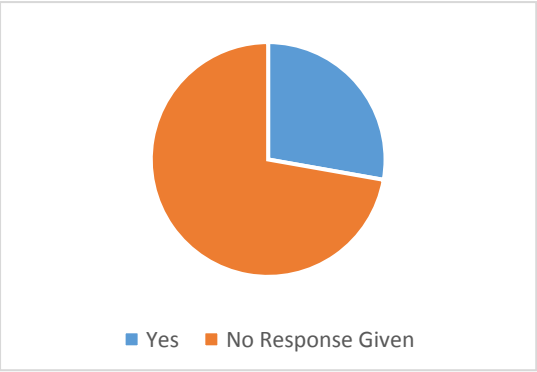
Of the three response which would like to see a change in the extra charge for Public Holidays, the following where the responses given.

- Double
- + 60p
- Stay the same

The latter seems to suggest the previous question was answered incorrectly and an additional stat should be added to the 'Yes' responses.

Do you agree with the Christmas and New Year holiday time period which is currently from 6pm on Christmas Eve to 6am on 27 December and 6pm New Year's Eve to 6am on 2 January?

Yes	5
No Response Given	13

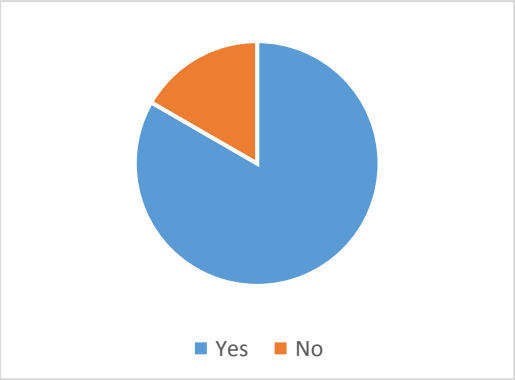


When do you believe the Christmas and New Year rate should start and end?

No responses were received.

Currently fares during the Christmas and New Year period are double the standard fare. Do you agree with this charge?

Yes	15
No	3

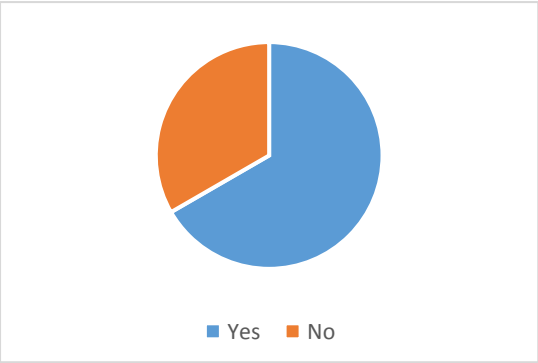


What extra charge would you suggest for fares during the Christmas & New Year holidays?

Only one comment was made from those that selected 'No'; they said "For multi-seaters carrying 5 or more individuals, should get Double Time + 50% of the overall fare.

We currently charge £3.30 for anyone carrying a pet (other than registered working assistance dogs). Do you agree with this charge?

Yes	12
No	6



What amount would you suggest for carrying a pet?

Only one comments was made from those that selected 'No'; they said the charge should be £5.

Currently, any spoilage issues are sorted out between the driver and the passengers. Are you happy with this system?

Yes	9
No	9

This matter appears to have split reviews from the trade.

Do you think the Council should set a maximum limit on the amount which can be charged for spoilage?

Of the 9 that ticked 'No' only 7 made further comments…

Yes	4
No	3

What should the maximum amount be set at?

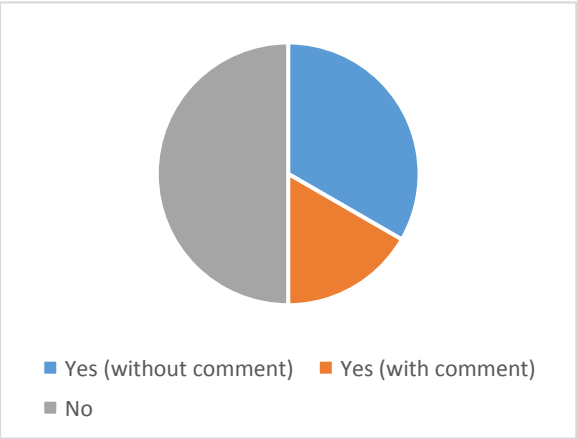
Of the 4 who responded 'Yes' only 3 made comments; they recommended:

- £100 for 4 passenger vehicles & £500 for multi-seater vehicle (5+ passengers)
- £100
- £80

Taking into account that only 3 of the original 9 that were unhappy with the existing method for dealing with a spoilage charge, the states are shown below:

Yes (without comment)	6
Yes (with comment)	3

No	9



Please let us know if there are any other rates or fare issues you would like us to consider?

Only one comment was made, which asked us to consider a **Saturday & Sunday** fare rate.

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HACKNEY CARRIAGE PLATE NUMBER

HACKNEY CARRIAGE PERMITTED MAXIMUM FARES

as from 1st January 2019

Sevenoaks DISTRICT COUNCIL

	POUNDS	PENCE
(a) DISTANCE		
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		
for each period of 1 minute		45
(c) WAITING TIME (WITH INDICATED EXTRA CHARGES APPLIED AS BELOW):		
for each period of 1 minute **(d)** (ii)		65
(d) (iii)		65
(d) (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 6am 27 December and 6pm New Year's Eve to 6am 2 January)	100% of prescribed fa	
(v) For carriage of pets (other than dogs for registered disabled people)	£3.3	

(e) SPOILAGE

Any claim for damage causing spoilage to the interior of the vehicle **MUST** be a matter between the proprietor of the vehicle and the passenger.

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

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Licensing Committee Work Plan 2019/20 (as at 18/11/19)

7 January 2020	16 March 2020	Summer 2020	Autumn 2020
The Licensing Act 2003 – Statement of Licensing Policy Statement of Hackney Carriage & Private Hire Policy Sex Establishment Policy Gambling Act Fees Sex Establishment Fees Hackney Carriage Fares			

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