



LICENSING AND HEALTH AND SAFETY COMMITTEE

Notice of a meeting to be held in the Council Chamber, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL on FRIDAY, the 25TH JANUARY 2008 at 10.00 am

The Members of the Committee are:

Cllr. Goddard (Chairman)
Cllr. Feacey (Vice-Chairman)
Cllrs. Mrs Bell, Mrs Blanford, Ellison, Mrs Heaton, Holland, Kemp, Link, Mrs Martin, Naughton, Norris, Woodford

A G E N D A

**Page
Nos.**

1. **Apologies/Substitutes** – To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii)
2. **Declarations of Interest** – Declarations of Interest under the Code of Conduct adopted by the Council on the 24th May 2007 relating to items on this Agenda should be made here. The nature as well as the existence of any such interest must be declared
3. **Minutes** – To approve the Minutes of the Meeting of this Committee held on the 26th November 2007

PART I – FOR DECISION

- | | |
|--|---------|
| 4. Proposed Fee Levels for 2008/9 for Gambling Act 2005 related applications | 1 – 8 |
| 5. Review of the Hackney Carriage and Private Hire Driver, Vehicle and Operator Fees | 9 – 20 |
| 6. Review of the Hackney Carriage Fare Scale | 21 – 40 |
| 7. Ashford Borough Council's Taxi Licensing Policy | 41 - 45 |

PART II – INFORMATION ITEMS

JV
17th January 2008

Queries concerning this agenda? Please contact Julia Vink 330305
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LICENSING AND HEALTH AND SAFETY COMMITTEE

MINUTES of a MEETING of the LICENSING AND HEALTH AND SAFETY COMMITTEE held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the 26TH NOVEMBER 2007

PRESENT: Cllr. Goddard (Chairman);
Cllr. Feacey (Vice-Chairman);
Cllrs. Mrs Bell, Mrs Blanford, Ellison, Holland, Link, Naughton, Woodford.

APOLOGIES: Cllrs Mrs Heaton, Mrs Martin, Norris.

ALSO PRESENT: Licensing Manager, Environmental Health Manager (Commercial), Police Licensing Officer, Member Services & Scrutiny Support Officer.

328 MINUTES

Resolved:

That the Minutes of the meeting of the Licensing and Health and Safety Committee held on the 16th July 2007 be approved and confirmed as a correct record.

329 REVISED LICENSING POLICY

The Licensing Manager introduced this report and explained that the 2003 Licensing Act required a licensing authority to prepare and publish a Licensing Policy every three years. A consultation exercise had been carried out during October and November 2007 (finishing on November 23rd) and the responses received had been recorded and summarised in the tabled report. The Licensing Manager apologised that the summary of representations and responses received had had to be tabled at the meeting but explained that the new policy had to be adopted on the 7th January 2008 so this recommendation had to go to the Executive on the 6th December and then on to Full Council on the 13th December 2007 in order for this to happen.

The Licensing Manager went through each of the consultation comments and they were discussed by Members. The suggested amendments to the policy were agreed subject to minor drafting changes. The Licensing Manager gave the following responses to questions/comments:

- Parish Councils cannot normally make representations on applications themselves (unlike in planning) but they would be able to make the information available in the Parish.
- Pub Watch is a voluntary organisation, therefore, membership should be encouraged rather than required. The majority of Ashford town centre pubs were part of Pub Watch. Tenterden pubs had their own system as Pub Watch did not extend that far.
- Proxy buying was acknowledged to be a problem in regard to preventing underage drinking.

Recommended:

That the revised Licensing Policy as prepared in accordance with the Licensing Act 2003 be approved.

330 UPDATE ON LICENSING ACT 2003

The Police Licensing Officer for the Weald gave the police perspective on the Licensing Act 2003 in the Ashford Borough Council area and tabled a copy of his report.

He advised the Committee that the introduction of the Licensing Act 2003 in November 2005 had brought about greater communication and an improvement in working relationships between the Local Authority and the Police. Operators in the town had shown a positive approach to the new legislation and all were members of the Ashford Partnership Against Crime Pub Watch Scheme. There had been a definite benefit in putting more Officers on the street especially on "red routes" in the town area. All licensees welcomed the increased police presence and frequent night time walk-throughs were both a deterrent and a reassurance to the public.

In partnership with other bodies the Police had developed a number of specific campaigns and initiatives to target alcohol related violence and other licensing issues. An anti social behaviour questionnaire was also being rolled out.

Locally there was concern over alcohol misuse by young people with underage and proxy sales. There was a schools initiative to highlight the dangers of alcohol abuse and the consequences of using fake or false ID to purchase alcohol.

The Police Licensing Officer concluded by saying that the Police would maintain a robust approach to licensing matters. It had not yet been necessary for the Police to apply to the Committee for the review of any premises licence but they would not hesitate to do so if the need arose.

In response to questions/comments the Police Licensing Officer advised:

- Red routes were the main routes that revellers took from premises to premises.
- There had been no increase in public disorder at premises without a rear smoking area, but there had been an increase in litter.
- There was no substantial evidence of spiking of drinks.
- Rural pubs were visited by local beat officers but problems were rare. Off sales premises were also visited.
- The Responsible Alcohol Sales Campaign (RASC), sponsored by the Home Office, Local Authorities and Police, was aimed at preventing bar staff selling to people who were already drunk (and had been successfully trialled in Blackpool and Wales).
- Supermarket sales staff could refuse to sell alcohol to someone if they had reason to believe it was being bought for someone who was underage.
- Alcohol exclusion zones were difficult to initiate. Some London boroughs used Controlled Drinking Zones (CDZs) to reduce alcohol fuelled disorder. CDZs could be designated between certain times and in certain areas.
- Since the 2003 Act the level of training of bar staff would appear to have increased markedly.
- The Ashford Community Safety Unit was held up as an example of good practice in the country not just the county.

Resolved:

That the report be received and noted.

MINS:LHSX0748

Agenda Item No: 4
Report To: LICENSING AND HEALTH & SAFETY
COMMITTEE



Date: 25th January 2008

Report Title: PROPOSED FEE LEVELS FOR 2008/9 FOR
GAMBLING ACT 2005 RELATED APPLICATIONS

Report Author: Head of Environmental Services

Summary:	The report proposes fees for premises licences and temporary use notices in connection with premises used for gambling for the financial year 2008/9.
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Key Decision: NO

Affected Wards: Not applicable

Recommendations: That the Licensing and Health & Safety Committee recommends the fees used for gambling applications and notices as given in Appendix A to the Executive.

Policy Overview: The process of setting the fees for premises licence applications and temporary use notices for premises used for gambling is essential to ensure that operational costs are recovered and that Council budgetary objectives are met.

Financial Implications: The process of setting the fees is necessary to ensure that fees are set at a level that will enable the authority to recover the costs associated with the service provision.

Risk Assessment YES

Other Material Implications: Members should note generally that premises licences and temporary use notices issued under the authority of the Gambling Act 2005 may be considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions, is relevant.

Exemption Clauses: Not applicable

Background Papers: None

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**Report Title: PROPOSED FEE LEVELS FOR 2007/8 FOR
GAMBLING ACT 2005 RELATED APPLICATIONS**

Purpose of the Report

1. The report recommends the proposed fees for premises licence fees and temporary use notices for premises used for gambling for the financial year 2007/8.

Issue to be Decided

2. Whether to approve the fees in Appendix A for recommendation to the Executive.

Background

3. 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 her the power to devolve to licensing authorities, in England and Wales, the freedom to set fees for premises licence applications, subject to any constraints she may prescribe. The Government has decided that for England and Wales, licensing authorities will determine their own fees for gambling premises licences and temporary use notices but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
4. After consulting widely and obtaining and considering information from licensing authorities and the gambling industry, the Department for Culture Media and Sport (DCMS) has prescribed maximum fees for each type of premises and each type of application for which a fee is payable. The maximum levels have been included in Appendix A in brackets for comparison purposes.
5. Local authorities are able to set fees for premises licences from within fee bands prescribed by DCMS. Each premises type will have separate fee bands.
6. There will be an initial fee to cover the cost of application and an annual "maintenance" fee.
7. The DCMS has asked Licensing Authorities 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 (Gambling Act Section 212 (2)(d)) and will be required to review their fee levels on an annual basis to ensure this.
8. The DCMS believe this approach will ensure fairness and value for money, while also allowing licensing authorities to fully recover the costs associated with premises licensing.
9. It was recognised that for the initial fees setting exercise (i.e. 2007/08 (Minute No. LHS 606/04/2007refers)), costs could only be estimated as we had limited information on how long it would take to process applications. The authority

only started dealing with applications mid 2007 and the majority were covered by transitional processes. Until such time as we have been processing applications and renewals for a full year our ability to accurately estimate costs remains somewhat uncertain.

10. At the time of preparing this report, income received from the gambling provisions amounted to £11,690. During the first year of applications the income is expected to be significantly higher than in subsequent years, as there were one off fees associated with the transition period.
11. Expenditure is currently £3079, but this figure does not include staffing costs. The full picture of the costs associated with applications under the Gambling Act will not be known until the end of year accounts.
12. As the costs associated the applications are yet to be confirmed and income levels remain unclear, it is proposed that no changes are made to the fees associated with premises licence applications for 2008/9.
13. The power to set fees is held by the Council, so it is appropriate that the Licensing, Health and Safety Committee recommend the fees to the Executive.
14. Fees must be set for all types of premises licences:
 - Casinos
 - Bingo
 - Betting (off-course)
 - Tracks (on-course betting)
 - Adult Gaming Centres
 - Family Entertainment Centres
15. The fees must be determined for the different classes of premises as set-out in the fees regulations (See Gambling Act 2005 Section 212(2)(b) and SI 2007 / 479 paragraph 3) and cannot be based, for example, upon premises size, rateable value, etc.

Fees must be set by each licensing authority for the following:

- Application for (new) premises licence
 - Application to vary a premises licence
 - Application to transfer the licence (Sections 188 and 189)
 - Application for re-instatement of the premises licence (Sections 195 & 196)
 - 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 (Sections 190)
 - Fee to accompany a notification of change of circumstances (only relevant change is that of address - Section 186)
16. Start-up costs cannot be included in the calculations for setting premises licence fees. The Secretary of State wrote to all Chief Executives of local authorities to inform them that provision had been made in the Revenue

Support Grant (RSG), as part of the EPCS (Environmental, Protective and Cultural Services) settlement, for the start-up costs related to the Gambling Act 2005.

17. Members will recall that the Gambling Act 2005 gives licensing authorities the power to allow temporary gambling in unlicensed premises, by means of a Temporary Use Notice (a "TUN"). TUNs are a new concept under this Act, an equivalent notice did not exist under the previous legislation.
18. In brief, the Act allows unlicensed premises to be used for the purposes of gambling for not more than 21 days in a period of 12 months. TUNs must be given 3 months prior to the event and can only be given by a person who holds an operating licence issued by the Gambling Commission.
19. The only permitted activity allowed under a TUN is the providing of facilities in respect of any form of equal chance gaming where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner. The reference to providing facilities for equal chance gaming does not include providing such facilities in circumstances where any person participating in the gaming does so by means of a gaming machine.
20. In making an application, as well as serving Notice on the Licensing Authority, the applicant must also serve a copy upon the following Responsible Authorities:
 - The Gambling Commission
 - The Chief Officer of Police
 - Her Majesty's Revenue and Customs
21. A set of premises may be subject to more than one TUN over a period of time, as long as the Notices, collectively, do not exceed 21 days in a 12 month period.
22. If a TUN is given and the total period which the Notice is to take effect exceeds 21 days, the Licensing Authority must issue a counter notice stating that the TUN will not have any effect.
23. If a Notice is given, and only part of the period of the Notice would exceed the 21 day limit, then the Licensing Authority must give a counter notice specifying the period to be excluded from the TUN. Where there is a choice as to which period to exclude, the Licensing Authority shall consult the person who gave the TUN before issuing a counter notice containing the excluded period.
24. The three Responsible Authorities, who are given a copy of the Notice, have 14 days from the date that the Notice was given to the Licensing Authority to raise any objections. The objection must be sent to the person who submitted the Notice and a copy sent to the Licensing Authority; the Responsible Authority must state their reasons for objection. If an objection is received, the Licensing Authority shall hold a hearing, unless all the parties involved agree in writing that a hearing is unnecessary.
25. The Licensing Authority may determine that the TUN should not have effect, or should only have effect with modifications. The principles it must apply in

reaching a view are those it applies when determining premises licence applications. If the Authority concludes that the Notice should not have effect, or should only have effect with modifications, it must serve a counter-notice upon the person who served the Notice. The counter-notice may provide that the TUN will:

- not have effect
- have effect only in respect of specific activities
- only have effect in relation to an activity at specified times of the day
- be subject to a specified condition

26. Section 227 of the Act sets out the provisions relating to the endorsement of TUNs. If there are no objections to a Notice by the end of the 14 day period, the Notice must be endorsed by the Licensing Authority and returned to the person giving the Notice as soon as reasonably practicable. If an objection is pending, then the authority must endorse and return the Notice as soon as reasonably practicable after the proceedings have been completed (provided a counter-notice has not been issued). The endorsement of the Notice must be in such a manner as prescribed by the Secretary of State.

27. There are two circumstances where a Licensing Authority may charge a fee in connection with a TUN:

- a person who gives a TUN under section 219 of the Act must pay a fee; and
- a person who applies for a new endorsed copy of a TUN where the original has been lost or stolen may be required to pay a fee.

28. Both of these fees are prescribed by the Secretary of State (in Statutory Instrument No. 3157 / 2007). The DCMS have taken the same approach for prescribing fees for a TUN as for all other Gambling Premise Licence fees, i.e. they have set the maximum fees permitted and have left it to Licensing Authorities to fix their fees on the basis of actual cost recovery.

29. The maximum permitted fees they have allowed for are as follows:

- for giving a TUN under section 219 of the Act £500
- for requesting a copy of a TUN £ 25

30. The process of dealing with a TUN is not as involved as issuing a Gambling Premises Licence in that a Notice may attract representations, but only from a limited number of Responsible Authorities and not from interested parties. Although there may be a requirement for a hearing and an appeal, there are only a limited number of aspects that a Licensing Authority should check. These being:

- that the person giving a TUN holds an operating licence which allows the operator to carry out the type of gambling in the Notice
- that the gambling offered is a permitted activity
- that the number of days notified does not exceed the number of days permitted.

31. The following fees and charges are proposed:

- for giving a TUN under section 219 of the Act £200

- for requesting a copy of a TUN £25.00

Fees and Income

32. The fees have been calculated by examining how long is spent processing an application and who in the authority is likely to carry out the various processes. The hourly rates of staff, including on costs for various members of staff were provided by our finance section. Then these hourly rates are fed in to a spreadsheet produced by the DCMS to calculate costs for each type of activity. For each application the processes involved are identified and the costs of each process are calculated and entered in to the spreadsheet provided by the Local Authorities Coordinators of Regulatory Services (LACORS), which produces an average cost for each type of application and an annual fee.
33. The type of tasks involved in a non-fast track premises application for example, include, assistance to applicant (pre-application stage, include telephone advice, sending forms, etc), the checking of an application for completeness when received, checking all required documents are attached, processing the application fee, check, process, bank and reconcile payments, entering the information into our computer system including scanning if appropriate, contacting the applicant to clarify application or chase missing information if required, assess representations for relevance, undertake informal mediation, undertaking site visits where necessary, checking operating licence once issued, determining the licence, arranging a hearing, holding a hearing, notification of the decision, prepare and issue the licence, update the records/register (including the notification of Gambling Commission), appeal preparation and holding an appeal hearing.
34. The costs associated with appeals and hearings have been estimated. An assessment has also been made as to the likelihood of these events occurring and this has been taken into account in the fee calculations. The risk of appeals and hearings occurring has been based on assumptions gathered through training on the Gambling Act 2005 and from the authority's experience of the frequency of hearings and appeals under the Licensing Act 2003.
35. Local authorities already issue a number of permits or registrations for activities under existing gambling legislation. Under the Gambling Act 2005, the Licensing Authority will be responsible for dealing with the following permits and registrations:
 - Unlicensed Family Entertainment Centre Gaming Machine Permits
 - Registration of small lottery licences
 - Club Gaming Permits
 - Club Gaming Machine Permits
 - Licensed Premises Gaming machine Permits
 - Prize Gaming Permits

Unlike premises licence fees, permit fees are prescribed by the Government and therefore licensing authorities have no discretion in this matter

Risk Assessment

36. The process of setting the proposed fees for premises licence fees for premises used for gambling is essential to ensure that operational costs are recovered and if no decision is taken, the Council budgetary objectives are unlikely to be met.
37. If the gambling industry believes 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 judicial review proceedings. 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.
38. Case law relating to fee levels in various licensing areas has agreed a general principle that licensing fees should not be used as a method of creating revenue and so setting a fee level that would result in an excess of revenue would leave the authority open to legal challenge.

Consultation

39. The report has been reviewed by legal services.

Implications Assessment

40. As previously stated the recommendation does not represent a key decision. The consideration assessment indicates low impact in terms of human rights, legal and staffing implications. Note that the recommendation has been made with reference to key stakeholders.

Handling

41. The fees as recommended by the Licensing and Health & Safety Committee will be presented to the Executive on 7th February 2008 and the Full Council on 21st February 2008. This will allow the authority to publish and apply the fees by the 1st April 2008.

Conclusion

42. The impact on income to the Council of these changes must be carefully monitored and annual reviews of fees must be continued to ensure that the service remains self-financing but avoids raising excessive revenue.

Portfolio Holder's Views

43. None received.

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APPENDIX A: RECOMMENDED PREMISES LICENCE FEES

Premises Type	New Application (£)	Annual Fee (£)
New Small Casino	6285 (8000)	3575 (5000)
New Large Casino	7540 (10000)	7215 (10000)
Regional Casino	11880 (15000)	11140 (15000)
Bingo Club	2160 (3500)	670 (1000)
Betting Premises (excluding Tracks)	2160 (3000)	430 (600)
Tracks	1690 (2500)	670 (1000)
Family Entertainment Centres	1690 (2000)	580 (750)
Adult Gaming Centre	1690 (2000)	670 (1000)
Temporary Use Notices	200 (500)	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 £
New Small Casino	2580 (4000)	1500 (1800)	1260 (1800)	6285 (8000)	2240 (3000)	25 (25)	50 (50)
New large Casino	3410 (5000)	1760 (2150)	1985 (2150)	7540 (10000)	3700 (5000)	25 (25)	50 (50)
Regional Casino	5570 (7500)	4055 (6500)	4055 (6500)	11880 (15000)	5785 (8000)	25 (25)	50 (50)
Bingo Club	1475 (1750)	820 (1200)	820 (1200)	2160 (3500)	890 (1200)	25 (25)	50 (50)
Betting Premises (excluding Tracks)	1245 (1500)	820 (1200)	820 (1200)	2160 (3000)	890 (1200)	25 (25)	50 (50)
Tracks	1130 (1250)	820 (950)	820 (950)	1690 (2500)	890 (950)	25 (25)	50 (50)
Family Entertainment Centres	760 (1000)	820 (950)	820 (950)	1690 (2000)	735 (950)	25 (25)	50 (50)
Adult Gaming Centre	760 (1000)	820 (1200)	820 (1200)	1690 (2000)	890 (1200)	25 (25)	25 (25)
Temporary Use Notices	N/A	N/A	N/A	N/A	N/A	25 (25)	N/A

Ashford Borough Council's Licensing Authority proposes the following 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.

Agenda Item No:5

Report To: LICENSING & HEALTH AND SAFETY COMMITTEE



Date: 25th January 2008

Report Title: REVIEW OF THE HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER, VEHICLE AND OPERATOR FEES

Report Author: Head of Environmental Services

Summary:	The report recommends the proposed fees for the Hackney Carriage and Private Hire Service for the financial year 2008/9.
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Key Decision: NO

Affected Wards: Not applicable

Recommendations: That the Licensing & Health and Safety Committee recommends to the Executive the Hackney Carriage and Private Hire Vehicle, Driver and Operator Licence fees structure as given in Appendix A as a basis for public consultation.

Policy Overview: The process of reviewing the Hackney Carriage and Private Hire budget is essential to ensure that operational costs are recovered and that Council budgetary objectives are met.

Financial Implications: The annual review is necessary to ensure that fees are set at a level that will enable the authority to recover the costs associated with the service provision.

Risk Assessment YES

Other Material Implications: Members should note generally that hackney carriage and private hire licences are considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions, is relevant.

Exemption Clauses: Not applicable

Background Papers: None

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Report Title: REVIEW OF THE HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER, VEHICLE AND OPERATOR FEES

Purpose of the Report

1. The report recommends the proposed fees for the Hackney Carriage and Private Hire Service for the financial year 2008/9.

Issue to be Decided

2. Whether to recommend to the Executive the proposed Hackney Carriage and Private Hire Vehicle, Driver and Operator Licence fees at Appendix A as a basis for public consultation.

Background

3. Under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 the Council is permitted to be self-financing as regards hackney carriage & private hire licensing.
4. Case law relating to fee levels in various licensing areas has agreed a general principle that licensing fees should not be used as a method of creating revenue. For example,
 - *R v Manchester C.C. ex parte King 1991* – established that local authorities may only charge reasonable fees for licences and not use them to raise revenue
 - *R v The Greater London Council ex parte The Rank Organisation 1985* - advised the total fee income should not exceed the cost of the licensing system.
5. Fees from 1992/3 until 2003/4 were increased on average by 3.5% per year. In 2004/5 the fees were revised to reflect the introduction of annual driver's licence. In 2005/6 there was a significant increase in fees (8%) due to the costs associated with the unmet demand survey that was required if hackney carriage numbers were restricted.
6. In 2006/7 the fee structure was revised, due to the removal of the limitation on hackney carriage plates and the drivers paying the vehicle test costs direct to the MOT garage. This resulted in a fall in the combined driver and vehicle licensing costs from £432 to £317, a reduction of £115 in licence fees.
7. Last year the fees were increased by 3%, which was below the relevant rate of inflation.
8. The trade has up to three additional costs to pay in relation to licensing; Criminal Record Bureau checks (every three years and currently £36), Compliance Checks (two per year and currently £32) and Medicals (upon application, every five years at 45 years of age and every year for drivers over 60).

Fees and Income

9. On the basis of estimated expenditure for 2008/9 the following licence fee recommendation are presented to Members in Appendix A.
10. The fees in general represent a 3% increase, which is below the current rate of inflation (4.1% RPI in November 2007). Keeping the increase below inflation has been made possible through careful monitoring and control of expenditure.
11. It is however proposed to increase the fee for processing an application to transfer a vehicle plate from one vehicle, by five pounds and clearly this represents an increase is well above the current rate of inflation. This increase is necessary to cover additional plate costs and to more accurately reflect the administrative time spent dealing with transfers.
12. In addition there is a proposal for a £5 increase in the application fee for a driver's licence, which will fund a DVLA driver data subject check. This is part of the proposals in the draft Taxi Licensing Policy, requiring applicants for new or renewal of driver license applications, to ensure that the information held by the DVLA is in accordance with the information submitted by the applicant.
13. After research into other local authority licence fees, it is recommended that the private hire operator fees be amended to reflect the number of vehicles covered by the licence. It is believed that this represents a more proportionate fees structure with those running less vehicles paying less for their licence.
14. As the fee is payable on application, a new fee would be due for the new applications and no refund would be payable by the authority for any obsolete licences.

Risk Assessment

15. The process of reviewing the Hackney Carriage and Private Hire budget is essential to ensure that operational costs are recovered and if no decision is taken, the Council budgetary objectives are unlikely to be met.
16. As noted above case law relating to fee levels in various licensing areas has agreed a general principle that licensing fees should not be used as a method of creating revenue and so setting a fee level that would result in an excess of revenue would leave the authority open to a prosecution.

Consultation

17. In October the Taxi Enforcement Officer, the Licensing Manager and representatives from the trade met to discuss taxi related issues including the 2008/9 fee proposals.
18. A letter was sent to all members of the trade at the end of October 2007 stating that a 3% increase was being proposed for the 2008/9 fees, with an additional charge of £5 added to the driver's application fee. Comments regarding the draft Taxi Licensing Policy, fares and fees were requested by 1st

December 2007 and seven letters were received. Two letters were received regarding fees and these are provided at Appendix B.

19. The proposed fees were presented to members of the trade at a meeting of the Taxi Forum on 4th December 2007.

Comments on fees recommendations

20. In response to questions/comments at the Taxi Forum, the Licensing Manager agreed to consider a move from one year vehicle licences to two or three year licences on the basis that certain safety elements would still be checked annually. It was agreed that a report would be presented for consideration at the next meeting of the Forum in spring 2008 and considered for the 2009/10 fees.
21. At the Taxi Forum meeting in January 2007 the proposal to check all applications for driver's licences with the DVLA was discussed. The benefits of this check was to ensure that all drivers are entitled to drive on UK roads and that any endorsements had been correctly recorded on the driving licence that was presented to the Council as part of the application procedure. There was general agreement at the meeting that this was a positive step to ensure that all drivers were eligible to drive on the roads and no banned drivers could operate a licensed vehicle.

Implications Assessment

22. As previously stated the recommendation does not represent a key decision. The consideration assessment indicates low impact in terms of human rights, legal and staffing implications. The recommendation does not suggest a change in policy or a new approach to an issue. Note that the recommendation has been made with reference to key stakeholders.

Handling

23. If an increase in fees is approved a Public Notice must be placed in the local press in accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976.
24. If no objections are received in response to the Public Notice placed in the Kentish Express the fee structure would be adopted from 1st April 2008.
25. If relevant objections are received in response to the Public Notice placed in the Kentish Express, these would be reported back to the Licensing Committee in March 2007.

Conclusion

26. The impact on income to the Council of these changes must be carefully monitored and annual reviews of fees must be continued to ensure that the service remains self-financing but avoids raising excessive revenue.
27. The fee increases have been kept below the rate of inflation through a combination of the selected delimitation of Hackney Carriages, which has increased income and removed the necessity for further unmet demand surveys and careful monitoring of costs.

28. The fee recommendations as presented have received few objections from the trade, although comments have been raised about the necessity for the DVLA check.

Portfolio Holder's Views

29. None received.

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APPENDIX A

**PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES
2008/9**

	CURRENT FEES	RECOMMENDATI ONS
	2007/8	2008/9
	£	£
Private Hire & Hackney Carriage Drivers Licence (for 1 year)	43.00	49.00
Joint Drivers licences	59.00	60.00
Hackney Carriage Knowledge Test & Re-test	30.00	30.00
Replacement badge	15.00	15.00
Vehicle Licence - New or Renewal (including vehicle plate) for 1 year	283.00	290.00
Vehicle Plates or Brackets	16.00	17.00
Internal Vehicle Plate	12.00	15.00
Transfer of Vehicle Licence (including vehicle plate)	20.00	25.00
Vehicle Inspection - Re-test Fee	max 32.00	max 32.00
Vehicle Inspection - Missed Appointment	32.00	32.00
Private Hire Operators Licence - New or Renewal (for 3 years)	1-3 vehicles : £70	1-3 vehicles : £73
	4-10 vehicles : £300	4-10 vehicles : £310
	11-20 vehicles : £600	11-20 vehicles : £620
Replacement Licence	15.00	16.00
Transfer of any Licence (without plate or badge)	15.00	16.00
Fee for Returned (Bounced) Cheques	15.00	16.00

APPENDIX B: LETTERS FROM THE TRADE

Agenda Item No: 6

Report To: LICENSING & HEALTH AND SAFETY COMMITTEE

Date: 25TH January 2008

Report Title: REVIEW OF THE HACKNEY CARRIAGE FARE SCALE

Report Author: Head of Environmental Services



Summary: The report reviews the hackney carriage fare scale and recommends that an increase of 5% be made for 2008/9. This recommendation has been made following consultation with the trade.

Key Decision: NO

Affected Wards: Not applicable

Recommendations: That the Licensing and Health & Safety Committee recommends to the Executive approval for the purpose of issuing a public notice the Hackney Carriage Fare shown at Appendix A.

Policy Overview: In December 1996 it was agreed by the Council that the hackney carriage (taxi) fare scale would be reviewed annually. In setting this fare scale a balance needs to be struck between the legitimate aims of the taxi trade to maintain profitability in the face of increasing costs, while protecting the public from excessive fares.

Financial Implications: Fares relate to the charges levied by the taxi trade and as such have no financial impact on the Council.

Risk Assessment YES

Other Material Implications: There are no direct legal implications. The procedure for setting fares and public notice requirements are stipulated within Section 65 of the Local Government (Miscellaneous Provisions) Act 1976. Members should note generally that hackney carriage and private hire licences are considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions, is relevant.

Exemption Clauses: Not applicable

Background Papers: None

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Report Title: REVIEW OF THE HACKNEY CARRIAGE FARE SCALE

Purpose of the Report

1. The report reviews the hackney carriage fare scale and outlines the consultation with the trade on this issue. The report recommends an increase of 5% be made for 2008/9.

Issue to be Decided

2. Whether to recommend to the Executive the Hackney Carriage Fare scale be increased by 5% for 2007/8, whether there should be a change in the hours for the higher rate tariff and whether there should be an additional fare for Sundays.

Background

3. In December 1996 (Minute No. HCSC 856/12/1996 refers) it was agreed that the hackney carriage (taxi) fare scale would be reviewed annually.
4. Members are reminded that the fares relate to the charges levied by the taxi trade as opposed to the fees that are essentially the licence charges levied by the Borough Council. It should also be remembered that the legislation governing taxi and private hire vehicles does not allow Councils to set fares for private hire vehicles. Private hire proprietors may charge what they wish, although customers should normally agree the fare beforehand.
5. It should also be noted that the tariff is the maximum fare that can be charged and discounts can be given should the proprietor wish. It is known that such discounts are applied within the Borough especially in the case of pre-booked longer journeys and for regular bookings.

Comparison with other areas

6. Examining the national league table of taxi fares the majority of the other Kent Local Authority fares are currently higher than those set by Ashford. The following table shows the fares in effect across Kent as of December 2007. The areas are ranked on the basis of the 1 mile costs. The start-up fare is also given.

REGION	INITIAL RATE	1 MILE	2 MILES	10 MILES
SOUTH (Average)	£2.49	£3.35	£4.99	£18.26
Medway	£2.40	£3.80	£5.40	£18.20
Dover	£2.50	£3.70	£5.20	£17.40
Maidstone	£2.60	£3.60	£5.40	£19.60
Sevenoaks	£3.00	£3.42	£5.52	£22.32
Dartford	£2.00	£3.40	£5.40	£22.00
Tunbridge Wells	£3.40	£3.40	£5.60	£23.20

Canterbury	£2.50	£3.40	£5.20	£19.60
Ashford	£2.30	£3.30	£5.10	£18.70
Shepway	£2.50	£3.30	£4.70	£15.90
Gravesham	£2.00	£3.20	£4.80	£17.60
Tonbridge & Malling	£2.80	£3.00	£5.00	£22.80

Source = Private Hire and Taxi Monthly – December 2007

Proposed Fare Increase

7. The process of setting a fare increase is complex and a balance needs to be struck between the legitimate aims of the taxi trade to maintain profitability in the face of increasing costs, while protecting the public from excessive fares.
8. Taxi meters are used to increase fares by changing the mileage at which the fare increases e.g. the present tariff charges 20p/207 yards.
9. A 5% increase is applied by changing the fares for distance or time. Based on the current initial charge of £2.30 plus 5% this equates to a charge of £2.41.5p, we have therefore recommended a £2.40 start fare and reduced the yards from 757 to 752.3 to account for the odd 1.5p. Initial waiting time would be 238.6 seconds. Subsequent yards have been reduced from 207 to 197.1 (to the closest decimal) and the waiting time would be reduced from 64.6 to 62.5 seconds.
10. However, these changes in rate produce a varying percentage increase in the costs of actual journeys, given that the initial fare remains constant.
11. The table below presents sample journeys and the increase the tariffs shown in Appendix A will produce.

Distance	2006/7 Fare	Current rate	5% increase
2 mile	£4.80	£5.10	£5.40
5 mile	£9.70	£10.10	£10.60
10 mile	£17.80	£18.70	£19.60
20 mile	£34.10	£35.70	£37.40

12. At the Taxi Forum on 8th January 2007 members of the trade discussed the issue of an enhanced fee payable on Sundays. The justification for this enhanced rate was the difficulty of attracting drivers to work on Sundays given the standard fare that they receive for journeys. While this was not adopted by the Council in 2007, at a meeting with the taxi trade representatives on 19th October 2007, the suggestion was again raised and the independent traders' representative asked officers to consult on an enhanced rate for Sundays.

13. The following local authorities have increased rates for Sundays:

REGION	Sunday Rate
Canterbury	1 + 50%
Shepway	50p surcharge
Maidstone	1 + 50%
Dartford	£1.50 on the initial charge
Gravesham	60p surcharge
Dover	75p surcharge
Tonbridge and Malling	50p surcharge (50% for more than 4 passengers)
Tunbridge Wells	60p surcharge

Medway, Sevenoaks, Swale and Thanet and of course Ashford have no additional charge on Sundays.

Risk Assessment

14. The Council's Policy is that fares would be reviewed annually, so no decision on fares would be a potentially a breach of Council Policy.
15. The fare proposal has been recommended by the taxi trade that have made representations and no decision would undoubtedly result in complaints from the trade of inaction. An approval of a fare below their expectations may result in dissatisfaction from the trade.
16. The setting of a fare too far above the rate of inflation may result in complaints from members of the public. The increases over the last three years have not resulted in complaints from members of the public.

Other Options Considered

17. Three proposals were put to the trade as agreed by the Taxi Forum on 4th December 2007. These were an increase of 5% in all fares, a 50p surcharge on Sundays between 07:00 – 00:00 and a 5% increase on all fares and a 50p surcharge on Sundays.

Consultation

18. A letter was sent to all members of the trade at the end of October 2007 stating that a 5% increase was being proposed for the 2008/9 fees and comments regarding the draft Taxi Licensing Policy, fares and fees were requested by 1st December 2007. Copies of the letter sent to the trade and the responses are contained in Appendix B.
19. The proposed fees were presented to members of the trade at a meeting of the Taxi Forum on 4th December 2007.
20. All hackney carriage drivers were further consulted on 7th December on three options described in paragraph 17.

Consultation responses

21. There were nine members of the trade present at the Taxi Forum. Minutes are available on the Council's website.
22. The Licensing Manager reported that seven representations had been received in response to the Council's consultation over fares. The responses all called for an increase in fares for 2008/9. The main reasons given to justify an increase were the general rise in the cost of living and the increase in fuel duty. The suggested increases ranged from a 5% increase with no initial rate change, to a 10% increase with changes to the charges for Sundays and / or the start time for the tariff 2 rate from midnight to 11:30pm.
23. Having considered the representations, the Licensing Manager indicated that he proposed to recommend to the Licensing Committee a 5% increase, with no changes to the times for tariff 2 rate or the Sunday surcharge.
24. A number of suggestions were then discussed, including the possibility of applying the fare increase at a different time of the year (i.e. not April) and having additional charges for pickups from Ashford station.
25. With regard to the Sunday surcharge the members present at the Taxi Forum were equally undecided as to what was the best. It was agreed to undertake further consultation on this element of the proposals and on Friday 7th December a postcard was sent to all 101 hackney carriage drivers asking for the feedback on three fare proposals for 2008/9.
 - 5% increase in all fares;
 - 50p surcharge on Sundays between 07:00 – 00:00; or
 - 5% increase on all fares and 50p surcharge on Sundays
26. Thirty-three responses were received by the end of the week's consultation and the number of votes for each proposal were as follows:

5% increase in all fares	15
50p surcharge on Sundays between 07:00 – 00:00	2
5% increase on all fares and 50p surcharge on Sundays	16

Comments on options presented

27. From the feedback given at the Taxi Forum it appears that there is no consensus of opinion on the fare proposals.
28. It is suggested that if the Licensing Committee recommends an increase of 5% in fares, that an increase in the fares charged on Sundays may be an increase too many and there is no overwhelming support for this proposal.

Implications Assessment

29. As previously stated the recommendation does not represent a key decision. The consideration assessment indicates low impact in terms of human rights, the environment, legal and staffing implications.

Handling

30. If an increase in fares is approved a Public Notice must be placed in the local press in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976. If relevant objections are received in response to this Notice a further report would be required.
31. The final agreed fare scale will take effect on 1st April 2007.

Conclusion

32. Whilst the recommended 5% is above the rate of inflation the following should be taken into account:
- The price of fuel has risen from an average of 86p per litre of unleaded (91.6p for diesel) in November 2006 to an average of 101.5p per litre in November 2007 (105.4 for diesel) according to the AA's Monthly Fuel Report Survey.
 - Fares in Ashford remain competitive with other fares in Kent.

Portfolio Holder's Views

33. None received.

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APPENDIX A

FARES FOR DISTANCE OR TIME

£

Rate 1

If the distance does not exceed 752.3 yards, for the whole distance or for the first 238.6 seconds of waiting time

2.40

For each subsequent 197.1 yards or uncompleted part thereof

0.20

Or for each subsequent period of 62.5 seconds of waiting time or uncompleted part thereof

0.20

SURCHARGES FOR CERTAIN TIMES AND DAYS:-

Rate 2

a) For each hire commenced between 12 midnight and 7 am

1½ x Rate 1

b) For each hire undertaken on **GOOD FRIDAY, EASTER MONDAY, MAY DAY, SPRING BANK HOLIDAY, SUMMER BANK HOLIDAY** or any other specifically declared Bank Holiday only.

1½ x Rate 1

Rate 3

c) For each hire undertaken on a **CHRISTMAS DAY, BOXING DAY** or **NEW YEARS DAY**

2 x Rate 1

Note: When the holiday charge (b) or (c) is payable the Night Charge (a) is **NOT** payable.

Extras - up to a maximum of £1.20

d) for each person (excluding infants in arms) carried in excess of two persons (two children under 10 years of age count as one person) irrespective of distance.

0.20

Note: For the purposes of counting the number of persons that the vehicle is licensed to carry, children under 10 years of age should each be counted as a person. A babe in arms should not be counted as a person.

e) for each article of luggage conveyed outside the passenger compartment of the carriage

0.05

f) for perambulators

0.05

g) for dogs

0.10

APPENDIX B

RESPONSES FROM MEMBERS OF THE TRADE

Agenda Item No: 7



Report To: LICENSING AND HEALTH AND SAFETY COMMITTEE

Date: 25th JANUARY 2008

Report Title: ASHFORD BOROUGH COUNCIL'S TAXI LICENSING POLICY

Report Author: Head of Environmental Services

Summary:	The purpose of this report is to present to the Licensing and Health and Safety Committee the Taxi Licensing Policy for consideration.
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Key Decision: NO

Affected Wards: ALL

Recommendations: The Licensing and Health and Safety Committee recommends to the Executive the Taxi Licensing Policy for approval as provided at Appendix 1.

Policy Overview: The Licensing Section proposes that in order to bring various taxi related policies up to date, and in light of the Best Practice Guidance produced by the Department of Transport, a comprehensive taxi licensing policy setting out revised conditions and formalised procedures in relation to licensing applications should be considered.

Financial Implications: The costs associated with the Taxi Licensing Policy are met through the licensing fees.

Risk Assessment Yes

Other Material Implications: Members should note generally that hackney carriage and private hire licences are considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions, is relevant.

Exemption Clauses: None

Background Papers: Department of Transport – Best Practice Guidance: Hackney Carriage and Private Hire Vehicles (October 2006)

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Agenda Item No. 7

Report Title: Taxi Licensing Policy

Purpose of the Report

1. The purpose of this report is to present to the Licensing and Health and Safety Committee a Taxi Licensing Policy for consideration and recommendation to the Executive.

Issue to be Decided

2. The Licensing and Health and Safety Committee is asked to consider the consultation responses and recommend to the Executive the taxi licensing policy as amended. A tracked changes copy of the policy is given at Appendix 1. A summary of the consultation responses is provided at Appendix 2.

Background

The licensing system

3. The Council, as Licensing Authority, has the responsibility under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 for the licensing of hackney carriage and private hire vehicles, operators and drivers.
4. The Council has traditionally exercised this responsibility through the imposition of conditions together with policies and procedures which have developed over a number of years.
5. The Licensing Section proposes that in order to bring the policies up to date, and in light of the Best Practice Guidance produced by the Department of Transport, to formulate a comprehensive taxi licensing policy setting out revised conditions and formalised procedures in relation to licensing applications.
6. The policy concentrates on certain issues that have caused difficulty in the past or that seem of particular significance, including:
 - Accessibility of vehicles for disabled people
 - Specification of vehicle types
 - Vehicle testing
 - Vehicle identification
 - Quantity restrictions of taxi licences
 - Taxi fares
 - Driver licences and criminal record checks
 - Medical criteria
 - Driver proficiency
 - Enforcement
 - Limousines

7. Whilst each application and enforcement measure will continue to be considered on its individual merits, it is proposed that in exercising its taxi licensing functions the Council will have regard to the policy document.
8. The main proposals/changes contained within this document may be summarised as follows:
 - A revision of the vehicle specifications applicable to both hackney carriage and private hire vehicles;
 - Provide information regarding the conduct of licensed drivers for the purpose of maintaining minimum standards through the introduction of a Code of Good Conduct ;
 - Revised application procedure for drivers to include testing applicants on the law relating to hackney carriages and private hire and the Highway Code;
 - Implement new requirements for dealing with prospective drivers from outside the United Kingdom and for checking criminal records; and
 - Introduction of a set policy guidelines for dealing with offences during the term of a licence.
 - Provision for licensing limousines.
 - Revisions to the 1976 Act, given the removal of the contract exemption for private hire vehicles

Implementation Plan

9. The timetable for policy development and consultation is provided as follows:

October 2007	Consideration of draft policy by the Executive
October 2007	Meeting with the Taxi Trade elected representatives
October 2007	Consultation period started
December 2007	Taxi Forum Meeting
January 2008	Summary of consultation and revised policy will be brought before the Licensing Committee for consideration.
February 2008	Final version of the policy reported to Executive for recommendation for Council approval
February 2008	Policy approved by full Council.
1 April 2008	Implementation of Taxi Licensing Policy

Financial Implications

10. The cost of the consultation exercise is met within existing budget provision.
11. Under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 the Council is permitted to be self-financing as regards hackney carriage & private hire licensing.

Risk Assessment

12. Notwithstanding this policy each application must be considered on its individual merits.

13. It is important to keep Members, officers and the public aware of current legislation and guidance.
14. Notwithstanding the commitment to review the policy every three years, the policy will also keep its policy under review during each three year period and make appropriate revisions.

Other Options Considered

15. The requirement to implement and enforce the 1847 Act and the 1976 Act is a statutory duty.

Consultation

16. The draft policy was sent for consultation to the trade and other interested parties, including the Police, Kent County Council (Transport Co-ordination), and the PCT.
17. Copies of the policy were made available to all licensed drivers, licensed vehicle proprietors and operators.
18. The views of the licensed trade and the community have been incorporated via the formal consultation process.
19. A Taxi Forum was held on the 4th December 2007 to gauge verbal responses from members of the trade and members of the Licensing and Health and Safety Committee were invited to attend.
20. The Licensing and Health and Safety Committee are asked to consider the consultation responses and recommend a final policy to the Executive and Full Council.

Consultation Responses

21. Ten responses have been received, on a wide variety of matters and their comments have been summarised in Appendix 2 along with an assessment of each comment and recommendations to the Licensing and Health and Safety Committee. The consultation responses have in some cases prompted amendment of the policy. The recommended changes to the draft policy have been made and are presented at Appendix 1. Note that the paragraph numbering on the consultation document relate to the amended policy and not the consultation version. Tracked changes have been used to highlight how the policy has been amended. Note that formatting and number changes have not been show in order to make the policy and condition changes clearer. Should members wish to check the amended policy against the consultation version then this is available on the Council's website at http://www.ashford.gov.uk/transport_and_streets/taxis_and_licenses/taxi_and_private_hire_policy.aspx.
22. At the Taxi Forum there was some debate surrounding the licensing limousines and the proposed vehicle standards. Forum members were concerned over the proposed limousine vehicle standards and strongly argued that the limousines should not be allowed to operate to lower

standards than the currently licensed vehicles. Both the Licensing Manager and Chairman urged the Forum members to make their representations on the draft policy so that their views could be addressed at the above mentioned meeting.

23. As a result of the consultation responses, substantial policy and condition variations are proposed to Appendix D: Additional Conditions for Private Hire Limousines.

Implications Assessment

24. As previously stated the recommendation does not represent a key decision. The consideration assessment indicates low impact in terms of human rights, legal and staffing implications.

Human Rights Act 1998

25. Regarding Human Rights, Members must consider the hackney carriage and private hire drivers' right to "enjoyment of his possessions" (under Article 1 of the First Protocol - Protection of Property) and in determining a policy regarding the licensing of these individuals must balance this right with the need to protect the public.
26. Article 1 of the First Protocol: Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Handling

27. Rights of appeal are granted to all applicants and licensees who are aggrieved by any licensing decisions.

Conclusion

28. The Licensing and Health and Safety Committee is asked to consider the consultation responses and recommend the policy to the Executive and Full Council for approval.

Portfolio Holder's Views

29. A copy of the report has been sent to the Portfolio Holder. His comments will be presented to the committee as applicable.

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LICENSING POLICY
For Hackney Carriages and Private Hire Vehicles

2008-2010

CONTENTS

Section	Page No.
1. Executive Summary of Main Proposals	3
2. Definitions	4
3. Background	5
4. Introduction	7
5. Vehicles - (Hackney Carriage & Private Hire)	8
6. Drivers - (Hackney Carriage & Private Hire)	17
7. Private Hire Operators	23
8. Disciplinary and Enforcement Measures	25
9. Offences	28
10. Delegated Powers	29
11. Fares & Fees	30
12. Taxi Ranks	32
13. Appendices:	
Appendix A – Hackney Carriage and Private Hire Vehicles – Specification and Schedule of Condition	33
Appendix B – Hackney Carriage & Private Hire Vehicle Licences – Licensing Procedures	34
Appendix C – Licensed Vehicle Conditions	42
Appendix D – Additional Conditions for Private Hire Limousines	45
Appendix E – Testing of applicants for driver’s licences	48
Appendix F - Guidelines relating to the relevance of previous convictions	49
Appendix G – Applications for Driver’s and Operator’s Licences	56
Appendix H - Byelaws	59
Appendix I – Private Hire Driver’s Licence Conditions	63
Appendix J - Code of Good Conduct for Licensed Drivers	65
Appendix K – Private Hire Operator’s Licence Conditions	67
Appendix L – Taxi Licensing and Enforcement Policy and Procedure	70
Appendix M – Penalty Points System	74
Appendix N – Offences and Penalties	77
Appendix O – Taxi Ranks	80

1. EXECUTIVE SUMMARY OF MAIN PROPOSALS

1. The main proposals contained in this draft document are to:
 - Consider all current policies in the light of the Department for Transport Best Practice;
 - Guidance and, so far as is possible and consistent with that document, make appropriate and necessary adjustments;
 - Revise the specification of licensed vehicles;
 - Deal with the requirements for vehicle inspections;
 - Consider the environmental impacts of licensed vehicles;
 - Revise application procedures for drivers, including a knowledge test (to include both topographical knowledge of the area, Hackney Carriage and Private Hire law and local conditions);
 - Implement new requirements for dealing with prospective drivers from outside the United Kingdom and for the checking of criminal records;
 - Provide information regarding the conduct of licensed drivers for the purpose of maintaining minimum standards.
2. This policy contains information about legal requirements, government guidance, Council policy, procedures and standards relevant to Hackney Carriage and Private Hire Licensing.

2. DEFINITIONS

Throughout this document:

- “The Council” or “The Authority” means the Council of the Ashford Borough.
- “Vehicle” or “Licensed Vehicle” means both a Hackney Carriage and Private Hire vehicle.
- “Hackney Carriage” means a vehicle licensed under the Town Police Clauses Act 1847 to ply for hire throughout the district controlled by the Council.
- “Private Hire vehicle” means a vehicle licensed under the Local Government (Miscellaneous Provisions) Act 1976 to carry passengers for hire or reward by prior booking.
- “Private Hire Operator” means a person who makes provision for the acceptance of Private Hire bookings to undertake themselves or pass to others to undertake.
- “The DoT” means the Department for Transport, including previous names under which that Department has been known.
- “The DoT Guidance” means The Department for Transport - Hackney Carriage and Private Hire vehicle Licensing: Best Practice Guidance, published in November 2006.
- “The Committee” will mean the Licensing Committee of the Council.
- The word “Taxi” has no meaning in law and is often used generically to describe both Hackney Carriages and Private Hire vehicles.
- The term “DVLA driving licence” means a full original GB driving licence.

3. BACKGROUND

3.1 Role of Hackney Carriages and Private Hire vehicles

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

3.2 Aims and Objectives of Licensing

3.2.1 The aim of licensing the hackney carriage and private hire vehicle trade is, primarily, to protect the public as well as to ensure that the public have reasonable access to these services, because of the part they play in local transport provision. It is important that the authority’s hackney carriage and private hire licensing powers are used to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required. The hackney carriage and private hire industry within the Council’s area is fairly comprehensive and provides its population with a reasonable service. This policy builds on the industry’s existing strengths.

3.3 Licensing Profile

3.3.1 The Council currently licenses approximately 91 hackney carriages and 68 private hire vehicles. There are approximately 310 hackney/private hire drivers licensed by the Council.

3.4 Review of Policies & Practices

3.4.1 The Council has responsibility for licensing hackney carriage and private hire vehicles, drivers and operators within the borough of Ashford. It has traditionally exercised this responsibility through a number of different policies and procedures that have been developed over a significant number of years.

3.4.2 Many of these policies have now become rather historic and do not adequately assist the trade or the public. In addition written policies do not currently exist in respect of some important aspects of the service. At the same time, guidance has been issued to local authorities for the first time by central government. This guidance sets out what is considered to be best practice in terms of hackney carriage and private hire licensing.

3.4.3 The guidance does not seek to cover the whole range of possible licensing requirements. Instead it seeks to concentrate only on those issues that have caused difficulty in the past or that seem of particular significance.

3.5 Best Practice Guidance & legislation

3.5.1 The Department of Transport (DoT) has national responsibility for hackney carriage and private hire legislation in England and Wales. As a result of the Office of Fair Trading producing its recent report on the UK hackney carriage and private hire trade, the DoT was asked to produce Best Practice Guidance for local licensing authorities.

3.5.2 This Best Practice Guidance has now been produced. It is directed at local authorities in England and Wales who will “decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”. There is recognition, within the document, that it is for individual licensing authorities to reach their own decisions both on overall policies and on individual licensing matters, in the light of their own views of the relevant considerations.

3.5.3 This document interprets the DoT's considered views about what constitutes "Best or Good Practice" in terms of hackney carriage and private hire licensing, together with local factors specific to this Borough.

3.5.4 This document also takes account of the legislative basis of the Council's taxi licensing powers, contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended.

3.6 Costs and Benefits of Licensing Policies

3.6.1 The Guidance stresses that licensing requirements which are unduly stringent are likely to unreasonably restrict the supply of hackney carriage and private hire services, by increasing the cost of operation or by otherwise restricting entry to the trade. Licensing authorities are, therefore, cautioned to recognise that too restrictive an approach may well work against the public interest and can have safety implications.

3.6.2 Licensing authorities are encouraged to ensure that each of their various licensing requirements is properly justified by the risk it seeks to address. The financial or other cost of a particular requirement, in terms of its effect on the availability of transport to the public, should at least be matched by the benefit it will provide to the public, for example, through increased safety.

4. INTRODUCTION TO THE POLICY

4.1 Powers and Duties

4.1.1 This draft statement of licensing policy has been produced pursuant to the powers conferred by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended, which places on the Council the duty to carry out its licensing functions in respect of hackney carriage and private hire vehicles.

4.2 Objectives

4.2.1 In setting out its policy, the Council seeks to promote the following objectives, through the licensing process:

- The protection of public health and safety;
- The establishment of a professional and respected hackney carriage and private hire trade;
- Access to an efficient and effective public transport service;
- The protection of the environment.

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

4.3 Policy Status

4.3.1 In exercising its discretion in carrying out regulatory functions, the Council will have regard to this policy document and the objectives set out above.

4.3.2 Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Authority to depart substantially from its policy, clear and compelling reasons will be given for so doing.

4.3.3 This policy (and associated work procedures) will provide those Council Officers who are required to administer the licensing function with appropriate guidelines within which to act. The Council may need to consider applications outside the policy. Any such decision may be referred to the Licensing Committee.

4.3.4 This policy will take effect on 1st April 2008 and will remain in existence for a period of three years, during which it shall be kept under review and revised as appropriate.

5. VEHICLES - (Hackney Carriage & Private Hire)

5.1 Limitation of Numbers

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

5.1.2 Many local licensing authorities do not impose any quantity restrictions on hackney vehicles and the DoT regards this as best practice. Where restrictions are imposed, licensing authorities are urged to regularly reconsider the matter, taking into account whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of those who use the services of such vehicles. The over-riding principles are the benefit to be achieved for them by the continuation of controls and how they might benefit if the controls were removed. Evidence should be sought as to whether removal of the controls would result in a clear and unambiguous deterioration in the amount or quality of service provision.

5.1.3 Where quantity restrictions are imposed, vehicle licence plates command a premium, often of thousands of pounds. This tends to suggest that there are people who want to enter the market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions.

5.1.4 If the local authority were to take the view that a quantity restriction can be justified in principle, the Guidance advises that the level at which the limit should be set is addressed by means of a survey.

5.1.5 The Council does not intend to set a limit on the number of hackney carriages which it licences, since no evidence has been provided of any difficulty arising from this stance. However, all new licences are issued to wheelchair accessible vehicles only.

5.1.6 The policy takes into account the repeal of the private hire contract exemption and the possibility of an increase in the number of private hire vehicles and drivers.

5.2 Specifications and Conditions

5.2.1 Local authorities have a wide range of discretion over the types of vehicle that they can licence as hackney carriages and private hire vehicles.

5.2.2 The DoT Guidance suggests that best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Authorities are encouraged to leave it open to the trade to put forward vehicles of their own choice which can be shown to meet basic criteria. In that way, emerging new designs for vehicles can be readily taken into account.

5.2.3 Licensing authorities are asked to be particularly cautious about specifying only purpose-built hackney carriages, with the strict constraint on supply that that implies. (There are at present only a small number of designs of purpose-built hackney carriages.) Councils are however encouraged to make use of the "type approval" rules within any specifications they determine this is explained in more detail elsewhere in this policy.

5.2.4 The Authority is empowered to impose such conditions, as it considers reasonably necessary, in relation to the grant of a hackney carriage or private hire vehicle licence. Hackney carriages and private hire vehicles provide a service to the public, so it is appropriate to set criteria for the external and internal condition of the vehicle, provided that

these are not unreasonably onerous. The council has adopted minimum standards as set out in Appendix A, which it will normally apply in respect of all licensed vehicles.

5.2.5 In addition conditions may be attached to hackney carriage and private hire vehicle licences and these are set out in Appendix C.

5.2.6 Vehicles will, in general, be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers will be accepted, provided that there is compliance with the specifications applicable to such vehicles. Purpose built vehicles are amongst those which a local authority will licence only as hackney carriages in view of the possible confusion in the minds of the travelling public between the two types of vehicle.

5.3 Accessibility

5.3.1 Of the 91 hackney carriages currently licensed, only a small proportion (less than 18%), are reported to be wheelchair accessible. The Government's proposals to implement the provisions of the Disability Discrimination Act 1995 involve splitting implementation into two phases, dependant upon a number of criteria. Authorities in Phase 1 are required to introduce accessible vehicles as hackney carriages between 2010 and 2020.

5.3.2 This Council is, classified as a Phase 1 authority; but we are currently awaiting publication of further details. The proposed time scale for the introduction of regulations is 2010-2020. The Government announced its proposals for taxis in 2003 and since 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 of the options; both regulatory and non-regulatory approaches are being considered.

5.3.3 The 2010 date is proposed both to accommodate a full public consultation process and to give sufficient time for vehicle manufacturers and converters to produce new models that meet the regulations. The Government is currently developing the technical specifications that all taxis in first phase authority areas will need to comply with and the final report of our research project looking at the ergonomics of taxi design to meet the needs of the widest possible range of disabled people is now available. These proposals are intended to meet the economic concerns of manufacturers and the trade as well as the aspirations of disabled people. Both the policy and the technical regulations will be the subject of full public consultation in due course.

5.3.4 Until regulations are introduced, it will remain for individual licensing authorities to determine their accessibility policies in consultation with the local trade and disabled people. When introduced, the regulations will cover wheelchair accessibility, including the provision access/egress facilities such as ramps. They will also specify the size and location of handrails, handholds and other devices as well as the provision of equipment such as swivel seats to help the widest possible range of disabled people to use taxis.

5.3.5 The National Taxi Association, supported by ROSPA (Royal Society for the Prevention of Accidents) and a number of disabled persons groups have recently written to all licensing authorities asking them to prohibit the use of hackney carriage vehicles which are adapted for disabled passengers, where the wheelchair is loaded from the rear rather than the side of the vehicle. The argument for this approach is that the wheelchair user has to be on the road during loading and unloading and is, therefore, exposed to risk from traffic. This is seen as being particularly relevant for hackney carriages, which, of necessity, operate from side loading hackney carriage stands.

5.3.6 It is ultimately the DoT's intention to make accessibility regulations under the Disability Discrimination Act 1995. Until Regulations are introduced, the Council will continue to monitor the percentage of wheel chair accessible vehicles in the Borough of Ashford and will address the matter during the next review of this policy.

5.3.7 It is arguable that different accessibility considerations should apply as between hackney carriage and private hire vehicles in that hackney carriages can be hired on the spot

by customers dealing directly with the driver; whereas private hire vehicles can only be booked through an operator. It is considered particularly important that a disabled person should be able to hire a hackney carriage on the spot with the minimum of delay or inconvenience and having accessible hackney carriage vehicles available helps make that possible.

5.3.8 The policy set out at 5.1.5 above in respect of the limitation on numbers, is specifically designed to encourage new taxis to be accessible in that every new hackney vehicle licensed must now be wheelchair accessible. Any requirements to provide such access for private hire vehicles are considered less appropriate and in this case private hire operators will simply be encouraged to offer accessible vehicles within their fleet. The Vehicle Specification at Appendix A indicates what is to be required in respect of wheelchair access for those vehicles which have been adapted or constructed for this purpose. It includes a requirement that, in the case of hackney vehicles that are adapted for disabled passengers, the wheelchair should be loaded from the side rather than the rear of the vehicle.

5.4 Maximum Age of Vehicles

5.4.1 The DoT Best Practice Guidance reminds licensing authorities that it is perfectly possible for an older vehicle to be in good condition and that the setting of an age limit beyond which they will not licence vehicles may be arbitrary and disproportionate. It is, nevertheless, accepted that a greater frequency of testing is appropriate for older vehicles subject to statutory limits (see 5.5 below).

5.4.2 Local licensing authorities are, however, also advised to consider how far their vehicle licensing policies can and should support any local environmental initiatives, for example, by setting vehicle emissions standards or promoting cleaner fuels (see 5.11 below).

5.4.3 The Council does have an age restriction on licensed vehicles, (see Appendix A), but all applications for the licensing of vehicles will be treated on its individual merit however the following conditions have been placed on the licensing of vehicles. Applicants wishing to licence vehicles outside of this policy should show sufficient reason for the Council to deviate from agreed policy.

5.4.4 For the purposes of this policy where age of vehicle is given this shall refer either to the date of first registration as shown on the registration document or, in the case of a vehicle first used outside of the UK, when first used on a road of any description.

5.5 Vehicle Testing

5.5.1 No vehicle may be used as a taxi unless it has been given a Certificate of Compliance in respect of a satisfactory test, and has been appropriately licensed by the Council.

5.5.2 In respect of MOT requirements, all private hire vehicles and hackney carriages must be submitted for inspection, and certified fit for public use, before the issue of a licence. This test will also check the taximeter (if fitted). These inspections are to be carried out (after consultation with the Licensing Officer), by a garage appointed by Ashford Borough Council.

5.6 Signage & Advertising

5.6.1 Members of the public can often confuse private hire vehicles with hackney carriages, without realising that private hire vehicles are not available for immediate hire or able to be hailed in the street. It is, therefore, important that the public are able to easily distinguish each type of vehicle.

5.6.2 It is possible to prohibit private hire vehicles from displaying any identification at all apart from the local authority licence plate or disc. Some clearer identification is, however, seen as best practice. This is for two reasons: firstly, to ensure a more positive statement that

the vehicle cannot be hired immediately through the driver, and secondly because it is quite reasonable (and in the interests of the travelling public) for a private hire vehicle operator to be able to state on the vehicle the contact details for hiring.

5.6.3 The Guidance recommends, as best practice, a licence condition that requires a sign on the vehicle in a specified form. This will often be a sign of a specified size and shape which identifies the operator (with a telephone number for bookings) and the local Authority, and which specifies that the vehicle can be 'pre-booked only'. This approach identifies the vehicle as private hire and helps to avoid confusion with a hackney carriage, but also gives useful information to the public wishing to make a booking.

5.6.4 Roof-mounted signs on private hire vehicles are not seen as best practice even if they indicate 'pre-booked only' as any roof-mounted sign, however unambiguous its words, is liable to create confusion with a hackney carriage.

5.6.5 The Guidance also recognises that there is a case for allowing any hackney carriage operators, who wish to do so, to make it clear by advertising on their vehicle that they charge less than the maximum fare.

5.6.6 What is permitted, or indeed prohibited, to be displayed on either hackney or private hire vehicles in a particular borough tends to be a controversial area of licensing controls with little or no apparent consensus between licensing authorities. At their most basic, any such controls over the appearance of hackney or private hire vehicles must serve to ensure that the public are easily able to distinguish:

- Licensed vehicles from unlicensed vehicles (which may be illegally plying for trade);
- Taxis (which may legally be hailed in the street or on a rank) from private hire vehicles (which would be illegal and uninsured if hired in this way).

5.6.7 Within the Council's area, both hackney carriages and private hire vehicles are required to display a licence plate on the rear of the vehicle and the plates are different colours to distinguish one type from another. This is a key feature in helping to identify vehicles that are properly licensed.

5.6.8 In view of the above details, all hackney carriages licensed by the Council must carry illuminated roof-mounted sign indicating they are a taxi and these must be lit when plying for trade. In order to differentiate between the two types of licensed vehicle, private hire vehicles must not carry roof-mounted signs of any kind, and they must have no signs (roof-mounted or otherwise) using the words "Taxi", "Hackney", "Cab", or "For Hire".

5.6.9 Limited advertising giving details concerning the proprietor's or operator's private hire business will be permitted, but this will be strictly controlled so that confusion between private hire and hackney carriage vehicle is kept to the minimum.

5.6.10 Private hire vehicles in the borough are permitted to display signs which indicate that they are for private hire only and are not insured for other uses.

5.6.11 Private hire vehicles are permitted to display on the outside or inside of the vehicle the following:

- Private hire car sign (issued by the Council) on the windscreen.
- Vehicle Licence plate.
- Approved KCC School Transport Sign when operating in conjunction with school contracts
- Any other thing required to be displayed by law.

5.6.12 Private hire vehicles are permitted restricted first party advertising subject to the following restrictions:

- the advertising material shall be restricted to the metal surface of the drivers and front passengers' doors. If advertising material is to be displayed, it must include

the words “ADVANCE BOOKING ONLY” OR “PRIVATE HIRE ADVANCE BOOKING ONLY”. It can include the proprietor’s company name, logo, website, email address or telephone number

- the advertising material shall not contain the words “TAXI”, “HACKNEY”, “CAB” or “FOR HIRE”. This restriction includes the use of these words within the proprietor’s company name, log, website or email address.
- the advertising material shall be non-reflective;
- nothing shall be advertised which might reasonably cause offence to members of the public .

5.6.13 Private hire vehicles are not permitted to display on the outside or inside of the vehicle in such a manner to be conspicuous from the outside any other signs, telephone numbers or other advertising material.

5.6.14 The Council reserves the right to require that any advertisement it deems unsuitable be removed forthwith.

5.6.15 Full livery third party advertising if desired is permitted on hackney carriage vehicles in the Borough. This is subject to the following conditions:

- Nothing shall be advertised which might cause reasonable offence to members of the public;
- The Council reserves the right to require that any advertisement it deems unsuitable be removed forthwith.

5.7 Security & Closed Circuit Television (CCTV)

5.7.1 The DoT Best Practice Guidance recommends licensing authorities look sympathetically on the installation of security measures, such as a screen between driver and passengers or CCTV systems as a means of providing some protection for vehicle drivers.

5.7.2 The Council will not require enhanced security or CCTV measures in vehicles as it is considered that they are best left to the judgment of the owners and drivers themselves. The hackney carriage and private hire vehicle trades are, however, encouraged to build good links with the local police force, including participation in any Crime and Disorder Reduction Partnerships.

5.7.3 If CCTV facilities are installed in a licensed vehicle, the proprietor will be responsible for ensuring the system conforms to the Data Protection Act and other relevant legislation, and displays the necessary informative notice for passengers.

5.8 Application Procedures

5.8.1 The application procedures for a hackney carriage or private hire vehicle licence are not prescribed. Therefore, existing practice will largely be retained. The Council requires that applications must be made on a specified application form in accordance with the application procedure set out in Appendix B.

5.9 Consideration of Applications

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

5.10 Grant and Renewal of Licences

5.10.1 The Guidance makes no recommendations in respect of the duration of hackney carriage or private hire vehicle licences, and legislation limits the maximum period of such licences to 12 months.

5.10.2 Therefore, hackney carriage and private hire vehicle licences will continue to be granted for a period of one year. However, a licence may be granted for a shorter period, should this be appropriate in the circumstances.

5.10.3 It is the proprietor or operator's responsibility to ensure that re-tests are carried out in sufficient time for a new Certificate of Compliance, and other necessary documentation, to be available for processing by Council staff.

5.10.4 Council officers will send a reminder letter to the current taxi proprietor or operator, one month before the existing licence expires in order to assist applicants in their prompt submission of re-licensing applications.

5.10.5 From the date of receipt of a satisfactory and complete vehicle licence application, a minimum of one week is required before the appropriate licence can be issued.

5.10.6 Officers may only accept complete applications comprising all the necessary paperwork. If an application is received late, the applicant's vehicle may be unlicensed for a period of time during which they will be unable to use it as a licensed vehicle.

5.10.7 The licence fees payable are subject to annual review and will be published together with other Council licensing fees.

5.11 Environmental Considerations

5.11.1 The Government suggests that, by adopting targeted air quality policies for road transport, significant reductions can be achieved for noxious pollutants in the atmosphere. It highlights the impact European-wide emission limits are having on improving air quality. In private cars, these standards are introduced for new vehicles as follows:

- **Euro I technology** became mandatory for new cars from 1993 (light goods vehicles 1994).
- **Euro II technology** became mandatory for new cars from 1997 (light goods vehicles 1998).
- **Euro III technology** became mandatory for new cars from 2001 (light goods vehicles 2002).
- **Euro IV technology** become mandatory for all new vehicles in 2006.

5.11.2 Consideration needs to be given as to whether, in the interests of the environment, tougher emissions standards should be introduced for all licensed vehicles and, in particular, whether it would be appropriate to shorten the period of time from the introduction of new standards to when full fleet compliance with those standards is achieved. Any introduction of emissions standards would, however, need to be phased, to ensure that operating profits are maintained. This would mean not only following the adoption dates for Euro standards, but also introducing strict retirement dates for vehicles that fail to meet the latest standards.

5.11.3 Vehicles manufactured prior to 1994 did not have to meet emission limits (Euro1 technology) designed to improve air quality.

5.11.4 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 may have adopted, bearing in mind the need to ensure that 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.

5.11.5 Hackney carriages and private hire vehicles are an essential form of transport in the Council area. Many people depend on these services for trips that buses or cars do not or cannot make. They are able to achieve higher occupancy rates than a private car and so, to

some extent, already play their part in helping to achieve environmental improvements in the Borough. It is, however, clearly important that emissions from hackney carriages and private hire vehicles are reduced as far as possible.

5.11.6 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 borough by, in particular, reducing the levels of CO₂ emitted. 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.

5.11.7 In view of the above details, 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 fuels in respect of licensed taxis, during the next review of this policy.

5.11.8 At present there are no local emission controls applicable in the Council's area. If however, the Council declares an Air Quality Management Area in any part of the Borough and especially where national air quality standards have been breached as a result of vehicle emissions, local vehicle emission controls might be brought in as part of that plan.

5.11.9 In the event that local emission controls were to be required by an Air Quality Action Plan the Council would review its policy on emission standards for licensed vehicles accordingly.

5.12 Stretched Limousines

5.12.1 Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work. The number of stretched limousines being imported, particularly from the United States, has been increasing. Their use generally includes all private hire work plus special occasions such as stag and hen parties and children's birthday parties.

5.12.2 Licensing authorities are sometimes asked to licence stretched limousines as private hire vehicles. The Guidance suggests that such requests should be approached on the basis that these vehicles have a legitimate role to play in the private hire trade, meeting a public demand. Therefore, licence applications for such vehicles will not be automatically rejected (for example just because the vehicles may be left-hand drive).

5.12.3 Licensing authorities have, however, generally considered there to be some problems preventing stretched limousines from being licensed including:

- some of the vehicles are capable of carrying more than eight passengers;
- many of them are left hand drive;
- many are fitted with all round darkened glass;
- most originate from the United States;
- many have been converted or modified after manufacture;
- seating space per passenger is 405mm and could give a greater capacity than eight persons;
- due to their origin many parts may not be available making adequate maintenance difficult.

5.12.4 Accordingly, many Local Authorities have been reluctant to licence these vehicles because of possible risks to the public. Clearly, stretched limousines will normally fall within the private hire vehicle licensing regime for licensing and enforcement purposes, or if over eight seats, the Public Service Vehicle licensing regime.

5.12.5 Most limousines are imported for commercial purposes, although there are loopholes in the import procedures by which some vehicles may never be inspected prior to being used on roads in the UK.

5.12.6 Most limousines are imported for commercial purposes and are therefore required to take a Single Vehicle Type Approval (SVA) test. They cannot be approved as Passenger Carrying Vehicles (PCV) because they cannot meet the required standards for the door arrangements and means of escape in an emergency. The SVA Scheme is an Inspection Scheme for vehicles that are not approved to British and European Standards and its purpose is to ensure that these vehicles meet modern safety standards and environmental standards before being used on public roads. When presented for SVA the vehicle is produced with a declaration that it will never carry more than eight passengers. The importer must inform any person who may use it of this restriction. Any subsequent purchasers must also be informed of the restriction.

5.12.7 The Local Government (Miscellaneous Provisions) Act 1976 defines a private hire vehicle as a motor vehicle constructed or adapted to carry fewer than eight passengers, other than the hackney carriage or public service vehicle, which is provided for hire with the services of the driver for the purposes of carrying customers. Section 48 of the 1976 Act requires that before a licence is granted the Authority must be satisfied that the vehicle is:

- suitable in type, size and design for the use as a private hire vehicle;
- not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
- in a suitable mechanical condition;
- safe;
- comfortable.

5.12.8 Stretched limousines may be granted a private hire vehicle licence provided that they are capable of carrying no more than eight passengers and meet the requirements of the Act. Possible exemptions under the 1976 Act provide that nothing should:

- (i) apply to a vehicle used for bringing passengers or goods within a controlled district in pursuance of a contract for the hire of the vehicle made outside the district if the vehicle is not made available for hire within the district;
- (ii) apply to a vehicle while it is being used in connection with a funeral or a vehicle used wholly or mainly, by a person carrying on the business of a funeral director, for the purpose of funerals;
- (iii) apply to a vehicle being used in connection with a wedding.

5.12.9 Stretched limousines which are not offered for private hire or which are used for funeral and weddings do not, as a rule, require a licence. Some operators of these vehicles have a wedding car insurance policy on the basis that the vehicle will be used largely during daylight hours, once or twice per week.

5.12.10 In accordance with the Guidance, all applications to licence stretched limousines as private hire vehicles will be treated on their merits. Because these vehicles will not meet the usual vehicle specification, additional documentation and inspection will be needed in order that the Council's responsibility to ensure safety and suitability, prior to a licence being issued, can be met. Imported stretched limousine type vehicles will:

- be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive;
- be authorised as prestige type private hire vehicles; and
- be approved for licensing as private hire vehicles subject to the additional conditions detailed in Appendix D.

5.12.11 There are concerns regarding the use of darkened glass in stretch limousines. Accordingly, the driver's compartment, including the front passenger seat, must not be fitted with darkened or blackened glass and this requirement has been reflected in Appendix D.

5.12.12 The Council strongly recommends that anyone wishing to licence a limousine contacts the licensing authority before purchasing a vehicle to ensure that advice can be provided as to whether the vehicle will meet the required standards, as each vehicle will be considered on its merits.

5.12.13 Limousine drivers should ensure that they comply with the vehicle requirements and driver's and operator requirements.

5.13 Contract Vehicles

5.13.1 Effective from January 2008, the Road Safety Act 2006 has repealed section 76 of the Local Government (Miscellaneous Provisions) Act 1976, removing the exemption to be licensed as a private hire if working under a contract. The implication is that additional vehicles will require licensing. While the Courts will provide the definitive interpretation of the law, Ashford Borough Council is following guidance issued by the Department of Transport in relation to definitions of private hire vehicles that will require licensing. Organisations that may be affected by the changes described above should also consider seeking their own independent legal advice.

5.14 Funeral Vehicles

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

5.15 Wedding Vehicles

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

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

5.16 Courtesy Cars

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

5.16.2 Those operating "courtesy cars", i.e. for transporting customers to and from hotels, night-clubs, etc should have an operator's licence, and the vehicle and the driver must be appropriately licensed.

5.17 Livery

5.17.1 Some licensing authorities require taxis to conform to particular requirements in terms of livery and markings, in order that they may be easily identified. Such an imposition is not considered appropriate in this Council's area. It is felt that that the visual distinction between hackney carriages and private hire vehicles can be achieved by the appropriate signage (see Appendix A). The Council does not require that licensed vehicles are finished in a special livery or appearance, notwithstanding requirements set out in section 5.6.

6. DRIVERS – (Hackney Carriage and Private Hire)

6.1 Parallel Procedures

6.1.1 The statutory and practical criteria and qualifications for a private hire driver are broadly similar to those for a hackney carriage driver. The sections below, therefore, apply equally to private hire and hackney carriage drivers.

6.2 Joint Licences

6.2.1 This Council requires separate driver's licences be held in respect of hackney carriage and private hire vehicles. There is, however, nothing in law, that prevents the granting of joint licences that serve as a licence to drive both types of vehicle.

6.2.2 Although the system of two separate licences works well, it does preclude some drivers, who may wish to do so, from electing to obtain one single licence that will provide them with the flexibility to drive either hackney or private hire vehicles on any particular occasion. As well as the private hire and hackney driver's licence a third category of joint licence will be available to provide increased choice for those drivers, who may wish to obtain one single licence that will allow them to drive either hackney or private hire vehicles.

6.3 Age and Experience

6.3.1 The Guidance recommends against setting a maximum age limit for drivers provided that regular medical checks are made on them. It also considers that minimum age limits, beyond the statutory age for holding a full driver's licence are inappropriate, advising that applicants should be assessed on their merits. The Council will not impose either a maximum or minimum age limit for drivers. However, a minimum period of post-qualification experience of one year is required.

6.3.2 Any applicant under 21 years will be expected to produce proof of having passed the Government's Driving Standard Agency's Taxi/Private Hire Driving Assessment Test.

6.4 Topographical and other tests

6.4.1 Hackney carriage drivers clearly need a good working knowledge of the area for which they are licensed, because vehicles can be hired immediately, directly with the driver, at hackney carriage stands or on the street. The DoT recognises that most authorities require prospective drivers to pass a test of local topographical knowledge as a condition of first grant of a licence. The stringency of the test reflects the complexity or otherwise of the local geography, on the principle of ensuring that barriers to entry into the trade are not unnecessarily high.

6.4.2 In order to maintain the high standards that the Council expects of drivers, a licence to drive a hackney carriage or private hire vehicle will not be granted unless the Council is satisfied that the applicant is a fit and proper person, which includes a knowledge of the area in which they operate, safety matters, and basic taxi licensing law. Private hire drivers will not however be expected to undertake the test of local topographical knowledge. It is argued that such topographical knowledge is, perhaps, not quite as important for private hire drivers as private hire vehicles are not legally available for immediate hiring in the same way as taxis. (To hire a private hire vehicle the would-be passenger has to go through an operator, so the driver has an opportunity to check the details of a route before starting a journey).

6.4.3 In order to determine such fitness, new private hire driver applicants will be required to undertake a test as to their knowledge of:

- Local geography (at least a knowledge of key topographical features, and an ability to find destinations and read local road maps);

- The Highway Code;
- The basic requirements of hackney carriage and private hire licensing law.

The test procedure is shown in Appendix E.

6.4.4 There appears to be no substantial difficulty concerning the use of or understanding spoken English amongst taxi drivers in this area, and therefore no language test is considered to be necessary at this time. However, if a driver is not able to satisfactorily complete the topographical and other tests due to difficulties with spoken English they may be required to take language instruction as a pre-requisite to re-sitting these tests.

6.5 Driving Proficiency and Qualifications

6.5.1 The Driving Standards Agency provides a driving assessment (DSA) specifically designed for hackney carriage and private hire drivers. Whilst most licensing authorities rely on the standard car driving licence as evidence of driving proficiency, others require the above mentioned DSA or some further driving test to be taken. Authorities considering this route are asked to be mindful as to whether or not this produces benefits, which are commensurate with the costs involved for would-be drivers, in terms of both money and broader obstacles to entry to the trade. Similarly there are nationally recognised vocational qualifications for the hackney carriage and private hire trades. These cover customer care, including how best to meet the needs of people with disabilities, and there may be advantages in encouraging drivers to obtain one of these qualifications in the future.

6.5.2 It is believed that the standard car-driving test provides sufficient evidence of driving competency for the drivers of hackney carriage and private hire vehicles in the Council's area. It is considered that introducing a requirement that drivers pass the specific DSA test or indeed any other competency qualification would not produce benefits which are commensurate with the costs involved. However for applicants below the age of 21, the DSA test will be required.

6.5.3 Although any person, who has held a DVLA driving licence for at least 12 months, is qualified to apply for a hackney carriage or private hire vehicle drivers licence, other arrangements will apply for those applicants who have recently arrived from other countries.

6.5.4 Where applicants have recently arrived from other countries, they will be required to convert their existing driving licence to a UK issue, either by straight transfer or by undertaking an appropriate driving test. The Council requires that the twelve month qualifying period for holding such a licence will start from the time of the conversion.

6.5.5 An applicant who has held a licence from another country for 12 months or more and has converted it to a UK licence may obtain an exemption from the 12 months qualifying period by passing the DSA and providing proof that they have been driving for 12 months in that other country (see 6.5.1 above).

6.6 Medical Examination

6.6.1 The DoT recognises that it is clearly good practice for medical checks to be made on each driver as a condition for the initial grant of a licence and subsequent renewals. The Council has adopted the relevant DVLA medical standard ie 'Group 2'. This is the standard applied to the licensing of lorry and bus drivers and is considered to be best practice.

6.6.2 A medical examination by a GP, to assess an applicant's fitness to drive a licensed vehicle, is required before a licence may be granted. A DVLA Group 2 standard of medical fitness for professional drivers will be required.

6.6.3 A request form for a medical examination, which may be presented to the applicant's GP, is obtainable from the Council. The applicant will be responsible for paying the fee for the examination to the relevant surgery. On completion of the examination, the report must be submitted to the Council.

6.6.4 Existing licence holders, having presented a medical certificate upon first being granted a licence, will be required to be re-examined at the age of 45, and every five years thereafter. Drivers of 65 and over must be examined annually. More frequent checks will also be necessary if, in the opinion of the medical practitioner, it is necessary.

6.6.5 Holders of current passenger service vehicle and/or heavy goods vehicle licences, where the holder is able to produce proof of current medical examination, will not be required to undergo a further medical examination.

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

6.6.7 Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo and pay for a further medical examination by a Doctor.

6.6.8 Where there remains any doubt about the fitness of any applicant, the Council will review the medical evidence and make any final decision in light of the medical evidence available.

6.7 Criminal Record Bureau (CRB) Disclosures

6.7.1 A criminal record check on a driver is an important safety measure. The DoT considers that such checks should be at the level of Enhanced Disclosure through the Criminal Records Bureau, as these disclosures include details of spent convictions and police cautions.

6.7.2 Private Hire Drivers are obliged within 14 days to report all new convictions, official cautions, and fixed penalty notices to the Council. A similar declaration is required as part of the annual licensing process in respect to both private hire and hackney carriage drivers.

6.7.3 The Rehabilitation of Offenders Act 1974 sets out the period after which a conviction is regarded as "spent" and which would not normally necessitate disclosure of that conviction. However, in 2002 the Rehabilitation of Offenders Act 1974 was amended so as to exclude hackney carriage drivers and private hire drivers from the effects of the 1974 Act. Applicants for licences are, therefore, now required to disclose all convictions, including those that would previously have been regarded as spent under the 1974 Act.

6.7.4 Before an application for a driver's licence will be considered, the applicant must submit an application for an Enhanced CRB Disclosure of criminal convictions, or a certificate of good conduct from the relevant embassy or a statutory declaration of good character, witnessed by a solicitor in the case of an overseas applicant.

6.7.5 The Council is an approved Criminal Records Bureau body. Therefore applicants can deal with the Criminal Records Bureau through the Council.

6.7.6 An Enhanced CRB Disclosure of criminal convictions in respect of each licensed driver of a hackney carriage or private hire vehicle is required on initial licensing.

6.7.7 A further Enhanced CRB disclosure must be obtained and submitted by a licensed driver to the Council at least every 3 years.

6.7.8 The Council may request another disclosure at any time if a further check is considered necessary.

6.7.9 The Council is bound by rules of confidentiality, and will not divulge information obtained to any third parties. The applicant for an Enhanced CRB disclosure will be sent a separate disclosure report to their home address, while the Council will also receive a copy of the report. Information arising from disclosures will be kept only for as long as is necessary and then destroyed.

6.8 Relevance of Convictions and Cautions

6.8.1 The Guidance recommends that in considering an individual's criminal record, authorities be encouraged to consider each case on its merits, but to take a particularly cautious view of any offences involving violence, dishonesty and sexual offences. Authorities are recommended to have a clear policy for the consideration of criminal records. For example, the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence. Such a policy should encompass applicants from elsewhere in the EU and other overseas countries through, for example, by requiring a certificate of good conduct authenticated by the relevant embassy.

6.8.2 The Council has generally worked to the guidelines set out in the DoT Circular 2/92 and Home Office Circular 13/92, in assessing the relevance of specific criminal convictions to a particular application. However a guide to the relevance of previous convictions, cautions and fixed penalty notices is in Appendix F.

6.8.3 The Council will consider each application on its own merits once the appropriate tests have been undertaken, and the application form and supporting documents are complete.

6.8.4 In assessing whether the applicant is a fit and proper person to hold a licence, the Council will consider each case on its merits. They will take account of cautions, convictions, and fixed penalty notices whether spent or unspent, but only in so far as they are relevant to an application for a licence. Upon receipt of a licence application, the Licensing Officer will assess from the information provided whether any or all of the current or spent convictions are capable of having significant relevance as to whether the applicant is a fit and proper person to hold a licence.

6.8.5 In relation to cautions, the Council will have regard to the class and age of the offence and the age of the applicant when the offence occurred, when considering their relevance to an application.

6.8.6 In relation to previous convictions, the Council will have regard to the following:

- Whether the convictions are spent or unspent;
- The class of the offences;
- The age of the offences;
- The apparent seriousness, as gauged by the penalty.

6.8.7 Guidance in relation to specific offences is given in Appendix F. In general terms, the more recent, serious and relevant to public safety the offence is, the less likely that an application will be granted.

6.8.8 In particular, applications may be rejected where the applicant's record includes one or more of the following:

- Any term of imprisonment or custody;
- Any conviction for a violent or sexual offence, or dishonesty, which is of a serious nature;
- Any serious motoring offence, such as dangerous driving, driving whilst disqualified, or drink driving;
- More than nine points have been acquired on their DVLA Driving Licence.

6.8.9 Where applicants have recently been living in another country, an Enhanced CRB check will still be required, although this will be of limited value. Therefore, in addition the applicant must produce a Certificate of Good Conduct, or equivalent document, issued and authenticated by the appropriate embassy or a statutory declaration of absence of convictions, signed by a solicitor.

6.8.10 A DVLA driver endorsement check will be required upon applications for new or renewal of driver licence applications, to ensure that the information held by the DVLA is in accordance with the information submitted by the applicant. The fee for the endorsement check will be incorporated into the application fee.

6.9 Application Procedure

6.9.1 An application for a hackney carriage or private hire driver's licence must be made on the specified application form. The application procedure adopted by the Council is set out in Appendix G.

6.9.2 Council officers will send a reminder letter to drivers four weeks before their existing licence expires in order to assist applicants in their prompt submission of re-licensing applications.

6.9.3 To allow sufficient time for documents to be processed, applicants should ensure that the Council receives their complete application (including the fee and all documentation) at one week before the expiry date.

6.10 Grant and Renewal of Licences

6.10.1 The DoT Guidance recognises that it is important, for safety reasons, that drivers should be licensed but advises that it is not necessarily good practice to require licences to be renewed annually. It sees this requirement as imposing an undue burden on drivers and licensing authorities alike. Three years is the legal maximum period allowed for a licence and is in general advocated as the best approach.

6.10.2 The licensing of hackney carriage and private hire drivers is governed by Section 53 of the Local Government (Miscellaneous Provisions) Act 1976. This provides that these licences shall remain in force for up to three years from the date of such licence or for such lesser period as may be determined.

6.10.3 However a three year licence proved problematic in the past and in January 2004, the Council agreed that an annual licence was the best option. This was based on the requirement for drivers to declare any convictions that had occurred in the last 12 months, difficulties ensuring compliance with the medical examination requirement with a three year licence and the inability for the Council to attach conditions to hackney carriage driver's licences.

6.10.4 Applicants for renewal of a hackney carriage or private hire driver's licence are required to provide a current enhanced criminal record check from the Criminal Records Bureau every third year. Applicants who are aged 45 or over must provide evidence of their medical fitness to hold a licence every five years and applicants 65 or over upon renewal each year.

6.11 Conditions of Licence

6.11.1 The Authority is not permitted to attach conditions to a hackney carriage driver's licence. It is, however, empowered to attach such conditions to a private hire driver's licence as are considered necessary.

6.11.2 It could be argued that many of the requirements prescribed within the Hackney bye-laws are effectively hackney carriage driver's licence conditions. Ashford Borough Council's bye-laws were, however, adopted over 9 years ago and do not, therefore, impose any controls over many aspects of a driver's conduct when operating a hackney vehicle. Amending bye-laws is, nevertheless a complex and lengthy process with inherent restrictions. It is, accordingly, not proposed to seek such amendments as part of this review process. See Appendix H for details of the existing bye-laws.

6.11.3 It is considered that the conditions set out in Appendix I are reasonably necessary and appropriate for all licensed drivers but accepted that they may only be legally imposed in respect of private hire drivers.

6.12 Code of Conduct

6.12.1 Adopting a Code of Good Conduct for hackney carriage and private hire drivers serves to promote the Council's licensing objectives set out in Paragraph 3.2 above.

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

6.12.3 Failure to comply with any aspect of the Code of Good Conduct will not in itself result in enforcement action. However, breach of the code of Conduct is an indicator which officers will use to help decide upon subsequent enforcement action. This may result in advice or warnings being given by officers or, if necessary, by the Licensing Committee. Repeated breaches following such advice or warnings may lead to more serious consequences including, if necessary, non-renewal, suspension or revocation of licences.

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

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

7. PRIVATE HIRE OPERATORS

7.1 Requirements & Obligations

7.1.1 Any person who operates a private hire service (who is not also a hackney carriage proprietor who permits hackney carriages to be used for private hire) must apply to the Council for a private hire operator's licence. The objective in licensing private hire operators is the safety of the public, who will be using operators' premises and vehicles and drivers arranged through them. But again, best practice, in respect of the controls required over private hire operators, is to ensure that the costs of any licensing requirements are commensurate with benefits that they seek to achieve.

7.1.2 A private hire vehicle may only be despatched to a customer by a private hire operator who holds an operator's licence. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a vehicle. A private hire operator must ensure that every private hire vehicle is driven by a person who holds a private hire driver's licence.

7.1.3 Applications for operator's licences must be made on the prescribed form, together with the appropriate fee. The Council will then decide whether the applicant is a fit and proper person to hold such a licence.

7.2 Criminal Record Checks

7.2.1 Private hire operators (as opposed to private hire vehicle drivers) are not exempt in respect of the Rehabilitation of Offenders Act 1974, so Standard or Enhanced disclosures cannot be required as a condition of grant of an operator's licence. However, as a minimum standard, a Basic Disclosure from the Criminal Records Bureau, a Certificate of Good Conduct or a certificate of good conduct from the relevant embassy for overseas applicants, is required. A reference, covering for example the applicant's financial record, may also be submitted.

7.2.2 Before an application for a private hire operator's licence will be considered, the applicant must provide a current (less than 3 months old) Basic CRB Disclosure of criminal convictions, a Certificate of Good Conduct or a certificate of good conduct from the relevant embassy for overseas applicants or a statutory declaration of absence of convictions, signed by a solicitor.

7.3 Conditions

7.3.1 The Authority has power to impose such conditions on an operator's licence, as it considers reasonably necessary. The standard conditions set out in Appendix K are those considered to be reasonably necessary.

7.4 Record Keeping

7.4.1 Requiring operators to keep records of each booking, including the name of the passenger, the destination, the name of the driver and the number of the vehicle is accepted as good practice. This would, for example, enable police checks to be made if any mishap should befall a passenger and assist with the recovery of lost property to the rightful owner.

7.4.2 Operators must keep records in respect of all bookings, vehicles and drivers, for a period of one year. See Appendix K for more details.

7.5 Insurance

7.5.1 The Council will check that appropriate public liability insurance has been taken out for premises that are open to the public (e.g. taxi waiting rooms).

7.6 Licence Duration

7.6.1 The DoT considers that annual licence renewal is not necessary or appropriate for private hire operators, whose involvement with the public is less direct than a driver (who will be alone with passengers). They recommend, as good practice, that an operator's licence period of five years would be reasonable.

7.6.2 However, it is considered that 5 years is a long time in the context of the life of a business of this type. Therefore, private hire operators licences will be granted for a three-year period from the date of grant, subject to the power to grant a licence for a shorter period should this be appropriate in the circumstances.

7.6.3 A revision of private hire operator fees was undertaken in 2007 to introduce proportionality to the fees paid by operators with more vehicles. An operator can apply for a licence for the number of vehicles that they have at the time of application. The licence if granted authorises vehicles up to the number proposed and if an operator wishes to add to his or her fleet above that number then a new operator's licence would need to be applied for. As the fee is payable on application, a new fee would be due for the new applications and no refund would be payable by the authority for any obsolete licences.

7.6.4 Applicants for renewal of such licences are required to provide a current (less than 3 months old) basic criminal record check from the Criminal Records Bureau every third year or provide authority for the Police to carry out a check on the Police National Database.

7.6.5 Holders of existing licences will normally be reminded, in the month preceding their expiry, when their licences are due to be renewed.

7.7 Address from which an Operator may operate

7.7.1 Upon grant of an operator's licence, the Authority will specify the address from which the operator may operate. This will be the premises where the records referred to in Paragraph 7.4 above are kept and at which they may be inspected by Council officers. This will also be the address at which the vehicle(s) will normally be kept and be available for inspection.

7.7.2 The operator must notify the Council in writing of any change of his/her address, (whether this is a home address or the address from where he/she operates) during the period of the licence, within 7 days of such a change taking place or, preferably, before this takes place.

7.7.3 It will be the responsibility of the operator to ensure that appropriate planning consent exists for the operational address to be used for that purpose. The grant of a private hire operators licence will not imply that such consent is necessary or likely to be granted, as such determination will be subject to any appropriate planning application and consultation process.

7.8 Bases outside the Borough of Ashford Area

7.8.1 The Council will not grant an operator's licence for an operator with an operating base that is outside the Council's area. This is to ensure that proper regulation and enforcement measures may be taken by the Authority and is in no way intended to be a restraint of trade.

8. DISCIPLINARY AND ENFORCEMENT MEASURES

8.1 Enforcement

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

8.1.2 In pursuance of its objective to encourage responsible hackney carriage/private hire businesses, the Council will operate a firm but fair disciplinary and enforcement regime. With a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, the Council will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in section 4.2 of this document.

8.1.3 The Taxi Licensing and Enforcement Policy & Practice set out at Appendix L will be used to ensure that its enforcement effort is reasonable, transparent and well directed.

8.2 Disciplinary Hearings

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

8.3 Penalty Points Scheme

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

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

8.3.3 A number of licensing authorities have found that an effective means of applying the conditions at a local level is through the adoption of a penalty points scheme. This acts as a first step in ensuring compliance with the conditions, and serves as an "early warning" system to drivers and owners or operators who see fit to ignore their responsibilities or fail to meet the requirements of the conditions. Points are accumulated on a sliding scale dependent upon the type of offence or breach of licence conditions. These penalty points then remain "live" for a period of say a year or two years from the date they are imposed so that only points accumulated in, for example, a rolling 24 months period are taken into account. If a driver, proprietor or operator accumulates, for example, twelve or more points within a period of two years from the date they are imposed, he/she would then be brought before the Licensing Committee or a panel of the committee who would have a range of punishment options open to them, depending on circumstances.

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

8.4 Range of Powers

8.4.1 The Council may take any of the steps below, upon receipt of evidence that an offence has been committed in relation to a hackney carriage licence or private hire driver's licence. A breach of a condition or of the hackney carriage and private hire Licensing Policy amounts to an offence in this context.

- Suspension of the Licence;
- Revocation of the Licence;
- Refusal to Renew;
- Issuing of Warnings or Cautions;
- Prosecution.

8.4.2 Suspension

(i) Vehicles

Hackney carriage vehicles and private hire vehicles must be kept at all times in an efficient, safe, tidy and clean condition. Compliance with the vehicle specifications and conditions is essential and will be enforced by periodic, random vehicle inspections by the Council. Where it is found that any vehicle is not being properly maintained, a defect(s) notice will be served on the proprietor setting out the defect(s) and where public safety is likely to be imperilled, the further use of the vehicle will be suspended until the defects have been remedied. The suspension will then not be lifted until the vehicle has undergone a further test, at the proprietor's expense and been passed as fit for use as a hackney carriage or private hire vehicle.

(ii) Drivers

The Council may exercise its discretion to suspend the operation of a driver's licence for a specified period. Action may be taken via the Licensing Committee or delegated to an Officer.

8.4.3 Revocation

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

8.4.4 Refusal to Renew

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

8.4.5 Issuing of Warnings and Cautions

As a method of dealing with less serious matters, the Council will issue warnings and cautions as are appropriate to the circumstances. Minor or first-time transgressions are likely to attract either an oral or written warning. Repeated or more serious conduct is likely to lead to the issuing of a formal caution, provided:

- there is sufficient evidence to justify a prosecution;
- the licence holder admits his/her guilt;
- the licence holder agrees to be cautioned.

8.4.6 Prosecution

The Council will usually prosecute licence holders for relevant offences in the following circumstances:

- where the allegation is of a serious or repeated offence;
- where the Council proposes to caution the licence holder, but the offence is not admitted, or the caution accepted.

9. OFFENCES

9.1 Offences

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

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

The relevant offences under the 1847 Act, the 1976 and the 1980 Act are set out in Appendix N.

10. DELEGATED POWERS

10.1 Public Protection Committee

10.1.1 The Licensing Committee of Ashford Borough Council is responsible for the management of the hackney carriage licensing regime in the borough, along with the formulation and review of its policy in this regard.

10.2 Delegated Functions

10.2.1 The Licensing Committee has delegated responsibility for exercising the council's functions in respect of the following:

- Sections 47, 57, 58 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; and as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
- Power to licence drivers of hackney carriages and private hire vehicles under sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
- Power to licence operators of hackney carriages and private hire vehicles under Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

Accordingly it will deal with applications and disciplinary matters referred to it by Licensing Officers.

10.2.2 The Council's Environmental Health Manager has delegated responsibility, in so far as it relates to hackney carriage or private hire, in respect of the licensing and registration functions of the Council listed in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) for:-

- Deciding applications for authorisations, registration, consents, licences or certificates of approval;
- Serving notices and take consequential action, including carrying out work in default;
- Issuing formal cautions;
- Recommending the institution of legal proceedings;
- Authorising officers to exercise statutory functions

Through this delegation, Licensing Officers, on behalf of the Environmental Health Manager, have power to grant or suspend refuse or revoke licenses. Officers also have power to issue oral and written warnings, and cautions, and may instigate prosecutions wherever appropriate.

10.2.3 In general terms where an applicant is aggrieved by the Council's decision to refuse to grant a licence or by any conditions imposed on a licence the applicant has a right of appeal to the Magistrates Court within 21 days of the applicant being notified of the Council's decision.

11. FARES & FEES

11.1 Fares - General

11.1.1 Licensing authorities have the power to set taxi fares for journeys within their area (there is no power to set fares for private hire vehicles). The DoT sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week. It suggests that in doing so authorities should pay particular regard to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also to the need to give taxi drivers sufficient incentive to provide a service at the times when it is needed. It recognises that there may well be a case for higher fares at times of higher demand.

11.1.2 Taxi fares are a maximum, and in principle are open to downward negotiation between passenger and driver. Such negotiations are, however to be discouraged at ranks or for on-street hailings as they could lead to confusion and arguments. Local licensing authorities are, nevertheless, advised that they can usefully make it clear that published fares are a maximum, especially in the context of telephone bookings, where the customer benefits from competition. There is more likely to be a choice of taxi operators for telephone bookings and there is scope for differentiation of services to the customer's advantage (for example, lower fares off-peak or for pensioners).

11.1.3 Consideration has been given the introduction of a tariff formula by which fares are set annually. These have been used by some licensing authorities and usually involve timetabling annual tariff reviews to coincide with the release of national statistics on relevant factors e.g. average earnings, motoring costs or fuel prices. Such an arrangement would bring changes compared to present practice as the review would be triggered as a matter of course and an agreed formula would then be applied. This then results in the publication of either tariff proposals or a maximum percentage increase in fares above which the authority would not consider any applications. However, although a number of authorities have introduced different formulae in an attempt to ensure that tariffs are automatically updated, most are very complex and none seem to have gained universal acceptance. In any event, all the formulae are generally used to give a maximum percentage rise in fares above which the Council will not consider any application for a tariff review. None of the formula seen can be used to set the various individual elements that make up a taxi fare (i.e. base rate + first flag drop + subsequent flag drops) It appears, however, unfortunately to be capable of being interpreted in different ways with differing results.

11.2 Fares - Prescribed rates

11.2.1 The driver of a hackney carriage vehicle, whether by agreement or otherwise, must not charge any fare greater than the rate prescribed by the Council. The driver/operator of a private hire vehicle (on the other hand) may make their own agreement with the hirer as to the fare for a particular journey.

11.2.2 There are, however, no provisions in the relevant legislation or this policy, which prevent the driver of a hackney carriage or private hire vehicle from charging less than the fare shown on the meter.

11.2.3 It is not proposed to introduce provisions that would prevent the driver of a hackney carriage or private hire vehicle from charging less than the fare shown on the meter.

11.4 Fares - Review

11.4.1 Fares rates are currently, normally only reviewed by the Council following representations from the trade or from a particular sector of the trade. As explained in 11.1.1 above, however guidance recommends that authorities should regularly review the scale of fares that operate in their area.

11.4.2 The views of the taxi trade are sought on this important aspect of taxi licensing, to determine whether a consensus view emerges regarding the formula which should be used to set tariffs and if the trade supports proposals to review fares annually and wished to see some simple formula used to help the council determine the level of fare increases.

11.4.3 It is proposed that fare scales could be reviewed no more than once per year between December and February with any change agreed being implemented on 1st April following. In reviewing the scale of maximum fares to be charged locally, consideration could be given to the percentage by which the "National Average" of Tariff One and Tariff Two, 2 mile journey fares (as published in Private Hire & Taxi Monthly magazine) increased over the previous calendar year (i.e. January to January). In general, this average percentage will constitute the maximum Tariff One and Tariff Two percentage increase in fares above which the authority would not generally consider any application for a tariff increase.

11.5 Receipts

11.5.1 A hackney carriage driver must, if requested by the passenger, provide him/her with a written receipt for the fare paid.

11.6 Fee Structure

11.6.1 The guidance does not deal with the issue of licensing fees at all. It is, however, generally recognised that the fees set for all hackney carriage and private hire licences should be such as to ensure that the costs of the service, including the cost of issue and administration will, so far as possible be met from fee income. It is, on the other hand, not lawful for the Council to seek to make a profit from licence fees that are within its discretion. In particular, with regard to the fees charged for hackney carriage and private hire vehicle and operator licences, the legislation provides that these should be sufficient to cover the costs of inspecting the vehicles, providing hackney carriage stands, and administering the control and supervision of hackney carriages and private hire vehicles.

11.6.2 The fees payable for the grant and renewal of hackney carriage and private hire licences will be reviewed annually as part of the budgetary process and licence holders will be notified of any changes. Notice of the current scale of fees will be supplied to new applicants at the time of application.

11.7. Payments

11.7.1 Fees for licences should be made payable to Ashford Borough Council.

12. TAXI RANKS

12.1 Appointed Ranks

12.1.1 A number of ranks for hackney carriages have been designated within the Ashford Borough Council area and these are listed in Appendix O.

12.1.2 The number and position of taxi ranks within the borough has not been reviewed for some time. As part of the consultation process for this policy comments are invited from both the trade and the public on the need for additional ranks in specific locations, the potential for re-locating or extending existing ranks or indeed arguments for the removal of ranks which no longer fulfil a useful purpose.

Following the consultation, a review of the provision of taxi ranks will be undertaken, in consultation with the taxi trade, with a view to further facilities being made available.

12.2 Waiting on Stands

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

APPENDIX A

HACKNEY CARRIAGE & PRIVATE HIRE VEHICLES - SPECIFICATION AND SCHEDULE OF CONDITIONS

1.1 Introduction

The following details specify the standard minimum requirements for vehicles licensed for hire or reward by the Council. They have been set down for the purposes of indicating to any prospective licence holder what will be acceptable, under delegated powers, by Licensing Officers and this should be borne in mind before a vehicle is purchased. Any vehicle presented for licensing which does not comply may only be accepted after consideration of the merits of the application by the Licensing Authority. The applicant will, in these circumstances, be required to submit a persuasive and substantial case for departing from the normal policy.

1.2 Vehicle Safety Certification

To ensure that all vehicles licensed by the Council are of a recognised safety standard all licensed vehicles must be certified by the Vehicle Certification Agency (VCA) to one of the standards listed below. The vehicle must be M1 classified i.e. it was built to be a passenger carrying vehicle.

- **EC Whole Vehicle Type Approval**

EC Approval of most road vehicles is based around “whole vehicle” framework Directive 92/53/EEC and this specifies the range of approximately 50 aspects of the vehicle that must be approved including testing of brakes, seats, emissions etc. This is regarded as the highest standard of safety, and 98% of all passenger cars entering service in Great Britain are type approved to meet harmonised European standards.

- **UK Low Volume Type Approval**

Low volume type approval is a special scheme to enable vehicles made in small numbers to be registered in the UK. The operation of the scheme has been tailored to suit the needs of the smaller manufacturer. Under this Type Approval system, a prototype is tested. If it meets the requirements and the production arrangements also pass conformity inspection, then vehicles of the same type can be sold and registered without each one having to be tested and inspected.

This approval currently represents “best practice” for taxi converters. Many taxi conversions are available, some wheelchair accessible, manufactured under Low Volume Type Approval. These vehicles meet the highest safety standards available.

- **Enhanced Single Vehicle Approval**

This approval is also for individual vehicles that do not have European Type Approval. However, as well as the visual examination carried out on the vehicle, additional documentary evidence that the vehicle complies with the Type Approval standards has to be produced. The Vehicle Inspectorate can accept an equivalent standard certificate by or on behalf of a foreign authority, or can do a comparison between two vehicles to satisfy themselves that the vehicle meets this standard. Some destructive tests are done on one vehicle and then every other vehicle of this make is given a visual inspection to check that it is of the same vehicle construction as the one that was destructively tested. From October 2003 evidence of crashworthiness has also been required.

1.3 Other Vehicle Requirements

When licensing private hire and hackney carriage vehicles the Council has to consider the need for safety, convenience, and comfort of passengers in vehicles that operate in rural, urban and motorway environments. The size and engine capacity have also to be considered given that all vehicles are required to carry their licensed number of passengers together with their luggage. The Council considers that a vehicle should be of manufacturers' original specification and shall be constructed and designed:-

- for the carriage of not less than 4 and not more than 8 passengers with the provision of a seatbelt for each passenger.
- with the seat provided for each passenger having a minimum width of 405 millimeters measured across its narrowest part.
- not to be left-hand drive. Right hand drive passenger vehicles offer the driver clearer and safer vision in an overtaking manoeuvre, and also eliminate the need for a front seat passenger to alight from the vehicle into the road.
- with an engine having a capacity of at least 1600 cc. including vehicles badged by the manufacturer as "1.6" models

1.4 Testing

As well as holding a suitable approval certificate (see Vehicle Certification above), all vehicles must be submitted for inspection, and certified fit for public use, before the issue of a licence. This test will also check the taximeter (if fitted). These inspections to be carried out (after consultation with the Licensing Officer), by a garage appointed by Ashford Borough Council.

1.5 Ownership and Insurance

Documentation relating to the vehicle must be in order and produced to the Licensing Officer.

1.6 Age

Vehicles will not normally be accepted for licensing, or continue to licensed, after seven years from the date of their first registration. Certain purpose built taxis e.g. those from the TX range, which are constructed for the specific purpose of conveying members of the public will be accepted for licensing up to ten years from first registration, providing their mechanical condition and appearance is satisfactory.

All other purpose built taxis, e.g. Peugeot E7's and Eurocabs will be considered on a case by case basis. Where the age of a vehicle is not identifiable, the age will be calculated as three years old at the date of registration in line with the policy of the D.V.L.A.

1.7 Doors

A minimum 4 doors should be capable of being opened from the inside. Although this seems restrictive when thinking of saloon vehicles, consideration should be given to the weight and manoeuvrability of Multi Purpose Vehicles (MPV's), People Carriers or Mini-Buses that can be licensed for up to eight passengers together with luggage. As regards doors some of these larger vehicles have only a single nearside sliding door on the passenger compartment and should the vehicle suffer impact or tip on this side of the vehicle, it would be very difficult to remove people quickly from the vehicle.

1.8 Tyre Safety

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

1.9 Luggage in Estate Cars

Estate Cars cause a safety concern when stacking luggage in the vehicle causing a potential danger to passengers in the event of harsh braking or an accident. It is recommended that luggage should not be stacked above the height of the rear seats unless the vehicle is designed, or fitted with suitable luggage restraints or covers to prevent luggage from entering the passenger compartment.

1.10 Roof racks and roof mounted luggage boxes

These offer convenience that has to be balanced with safety. Most roof-mounted devices have weight limits. These are set to ensure the weight carried on the roof or the luggage boxes does not significantly alter the vehicle's driving characteristics by changing the vehicle's centre of gravity. If weight is added to the roof of a vehicle beyond a manufacturer's recommendation, the centre of gravity is moved upwards and vehicle may become unstable. Therefore as the permissible weight for roof racks and luggage boxes varies from vehicle to vehicle, it is recommended that any proprietor who wishes to use either must apply to the Council for permission. The Licensing Officer will then make the necessary enquiries, and the licence shall be amended to show the maximum permitted weight.

1.11 Trailers

Trailers may also be used as a means of carrying luggage. There are no British Standards that define the specification requirements of trailers or a specific British Standard that defines how they may be tested for roadworthiness. The trailer itself is subject to The Road Vehicles (Construction and Use) Regulations 1986 that covers various aspects of how the vehicle may be used on the road. All vehicles have a maximum permissible towing weight, and this differs as to whether the trailer has its own braking system or not. It is recommended that any proprietor who wishes to use a trailer must apply to the Council. The Licensing Officer will make the necessary enquiries, which may require the vehicle and trailer being examined to establish its towing weight, and the vehicle licence amended to show this.

1.12 Tinted Glass

Vehicles are manufactured and produced with window glass in various tints or film coatings from clear to jet-black, the latter making it impossible to view into the passenger compartment. The removal of film coating from windows is far less expensive than the changing of glass. These heavily tinted windows may be of concern to women passengers travelling alone, and parents of children travelling unaccompanied. Many of the vehicles supplied with tinted glass are acceptable, however in the interests of safety and reassurance of passengers, tinted glass or mirrored glass that restricts all view into the passenger compartment will not be accepted on licensed vehicles.

1.13 Seating

1.13.1 Seating in saloon and estate cars does not normally create concern. MPV's or people carriers offer a bewildering number of seat configurations often to match the owner's needs, In the interests of the safety of the passengers it is necessary to examine these seating arrangements to ensure that in the event of a collision or fire there is unobstructed egress from the vehicle. If MPV's or people carriers have individual seats, it is will be necessary to remove a second row middle seat to permit improved access to the rearmost seats. This however would reduce the maximum permissible passengers by one. In the event of an emergency it should not be necessary for a person to step over a folding seat, or more than one other passenger who may be injured or unconscious.

It is therefore recommended that the following policy concerning seats for all vehicles be accepted:

- a) Each row of seats must have an unobstructed egress route. The passenger carrying capacity will be at the discretion of the licensing authority;
- b) The rear seat of the vehicle must be a minimum of 1.22 meters long (405 millimetres per person);
- c) Folding seats will not be accepted if they form part of an egress route;
- d) All seats must be fitted with fully operational seat belts;
- e) The number of passenger seats must remain as stated on the vehicle licence;
- f) There must be no alteration to the seating configuration without notification to the Council;
- g) All seats must be forward or rear facing; and
- h) All vehicles must be able to seat a minimum of 4 passengers in comfort with sufficient legroom for all passengers. The seat covering must be clean and in a good state of repair.

1.13.2 Any non-standard or imported vehicle may need to have specific and differing certification and/or inspection details.

1.14 Maintenance, Appearance and Condition of the Vehicle

The vehicle and its fittings must, when being presented for inspection and at all times during when it is licensed and available for hire:

- be safe;
- be tidy;
- be clean;
- comply with all relevant statutory requirements applicable to the class of vehicle to which it belongs including, but without prejudice to, the generality of the foregoing the Motor Vehicle (Construction and Use) Regulations which currently apply; and
- the vehicle must be maintained throughout the term of the vehicle licence to a high standard of appearance to the complete satisfaction of the Council.

1.15 Exterior Appearance

1.15.1 All paintwork to be professionally finished and displayed in accordance with the manufacturers' specifications. Bare metal, primer paint, visible rust and perforations will not be permitted.

1.15.2 All bodywork to be free from dents and damage.

1.16 Interior Appearance

1.16.1 Carpets, upholstery and cloth trim to be kept clean and undamaged. Good quality seat covers and carpet mats may be used, provided that each is a matching set, of a colour co-ordinating with the vehicle and kept in good condition.

1.16.2 All plastic fascia, door linings, roof linings and trim to be kept free from marks, stains and damage.

1.16.3 All door locks, levers and window winders to be operating efficiently.

1.16.4 All interior lights and fascia illumination to be maintained in good condition.

1.16.5 All windows to be kept free of dirt, grime and marks.

1.16.6 Each passenger seat shall be forward or rear facing. No seat may be reversed or removed and all seating must remain in an upright position whilst the vehicle is plying, or available for, hire.

1.17 General

1.17.1 No vehicle will be accepted for licensing as a private hire vehicle if its appearance is likely to create confusion in the minds of the travelling public that it may be a hackney carriage. For this reason, vehicles which are recognisable as purpose built "London Style" cabs or similar vehicles should be avoided by any operator intending to provide private hire services.

1.17.2 In all other respects, the vehicle and its fittings must be kept in a clean, unaltered and undamaged condition.

1.18 Identification Plates and Signs

1.18.1 Hackney carriages shall be fitted with an approved roof sign which:-

- Bears the word "TAXI" to the front
- Is capable of being illuminated when the vehicle is plying for hire, such illumination to be extinguished when the taximeter operates
- Unless integral to the bodywork of the vehicle, is positioned in the centre of the roof

1.18.2 Private hire vehicles will not be permitted to display any type of roof sign.

1.18.3 The identification plate and signs supplied on the licensing of the vehicle shall remain the property of the Council at all times, shall be affixed to the vehicle as required and shall be maintained and kept in such condition that the information printed on them is clearly visible to the public at all times.

1.18.3 No other signs of whatever nature shall be provided without the prior consent of the Council, except those which are required by other legislation.

1.19 Taximeters

1.19.1 The proprietor of a hackney carriage shall ensure the vehicle is fitted with a taximeter approved by the Council, and that meter shall be maintained in a sound working condition at all times. The taximeter shall be set for up to the current maximum tariff agreed by the Council and no unauthorised adjustment of the meter shall be made. The proprietor shall ensure the "For Hire" sign or other illuminated sign is extinguished when the fare commences, and the taximeter brought into operation.

1.19.2 The taxi meter shall:

- a) be of the clock calendar type or an approved taximeter and change according to the wording of the Council's current maximum fare tariff;
- b) not be altered or tampered with except with the approval of the council and must be retested by the Council if it is altered;
- c) show the fare recorded on the taxi meter in plainly legible figures, and the word "FARE" shall be clearly displayed so as to apply to such figures;
- d) be kept surely fixed in such a position so that the fare recorded is visible to all passengers within the vehicle at all times, and the figures shall be illuminated for this purpose whenever necessary.

1.19.3 A Private Hire Vehicle may also be fitted with a taximeter, approved by the Council, at the discretion of the proprietor. Such device shall:-

- a) be of the clock calendar type and change according to the wording of the Proprietor's current fare tariff;

- b) not be altered or tampered with except with the approval of the council and must be retested by the Council if it is altered;
- c) show the fare recorded on the taximeter in plainly legible figures, and the word "FARE" shall be clearly displayed so as to apply to such figures;
- d) be kept surely fixed in such a position so that the fare recorded is visible to all passengers within the vehicle at all times, and the figures shall be illuminated for this purpose whenever necessary.

1.20 Fare Tables

1.20.1 A hackney carriage proprietor shall ensure that a copy of the current fare table supplied by the Council is on display inside the hackney carriage at all times and that table is not concealed from view or rendered illegible when the vehicle is for hire.

1.20.2 If a taximeter is fitted within a private hire vehicle, details of the tariff of fares to which it is calibrated shall be clearly on display within the vehicle.

1.21 Two Way Radios

1.21.1 The proprietor shall ensure that any radio equipment fitted to the licensed vehicle is at all times kept in a safe and sound condition and maintained in proper working order.

1.22 Mobile Telephones

1.22.1 Mobile telephones may only be used with a hands-free kit.

1.23 Fire Extinguisher & First Aid Kit

1.23.1 All vehicles must carry a standard motorist's first aid kit, and an easily accessible and compliant fire extinguisher. These shall be provided and maintained at all times when in use for hire and reward.

1.24 Disability access

1.24.1 In the case of all hackney vehicles that are built or adapted for disabled passengers, the design of the vehicle should ensure that any wheelchair is loaded from the side rather than the rear of the vehicle.

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

- (i) Access to and exit from the wheelchair position must not be obstructed in any manner at any time except by wheelchair loading apparatus.
- (ii) Wheelchair internal anchorage must be of the manufacturer's design and construction and secured in such a position as not to obstruct any emergency exit.
- (iii) A suitable restraint must be available for the occupant of a wheelchair.
- (iv) Access ramps or lifts to the vehicle must be securely fixed prior to use, and be able to support the wheelchair, occupant and helper.
- (v) Ramps and lifts must be securely stored in the vehicle before it may move off.

1.24.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations 1998 (S.I. 1998/2307). Any such equipment must be maintained in good working order and be available for use at all times.

1.24.4 Where a vehicle is designed or adapted to carry a wheelchair, the operator shall ensure that the driver has received sufficient training to load and convey wheelchair bound passengers.

1.25 Smoking

1.25.1 The Health Act 2006 and its associated regulations require vehicles to be smoke free. A vehicle means every type of enclosed vehicle hackney carriage and private hire vehicle shall be smoke free.

1.25.2 If the vehicle has a roof which is able to be removed then the vehicle must be smoke free when it is wholly or partly covered by a roof. A vehicle does not need to be smoke free when its roof is completely stowed away so that it does not cover any part of a compartment in which persons may travel – when the vehicle is engaged in carrying persons.

1.25.3 Hackney carriage and private hire vehicles are required to be smoke free at all times, whether they are being used for work or for private use.

1.25.4 Under the Health Act 2006 and the Smoke-free (Signs) Regulations 2007, all hackney carriage and private hire vehicles are required by law to be smoke free will also be required to display the prescribed no-smoking signs and the signage must be displayed in a prominent position

1.25.5 The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 set out the persons who will have legal duties to cause any person who is smoking on a smoke free vehicle to stop smoking, namely:

- the driver;
- any person with management responsibilities for the vehicle; and
- any person in a vehicle who is responsible for order or safety in it.

APPENDIX B

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE - LICENSING PROCEDURES

1. Applications for new or renewed vehicle licence

1.1 The applicant will complete, in full, the necessary Application Form as follows:-

- New application for hackney carriage vehicle licence
- Renewal application for hackney carriage vehicle licence
- New application for private hire vehicle licence
- Renewal application for private hire vehicle licence

which will be submitted and accompanied by the following.-

- Evidence that the vehicle is insured for third party risks to cover "Hire and Reward". This will be by way of original Cover Note or Certificate of Insurance.
- The Vehicle Registration Document issued by DVLA or proof of ownership.
- The fee, which will be determined annually and publicised separately.

1.2 If the documentation is complete, photocopies will be taken of all original documents. The copies will be retained and the originals returned to the applicant.

1.3 The Licensing Authority will arrange with the appropriate Approved Testing Station for a vehicle inspection appointment.

1.4 A Certificate of Compliance will be issued if the inspection confirms that the vehicle meets the Council's requirements as to suitability, safety and appearance. This Certificate must be produced the Council before the licensing process can be completed.

1.5 If the inspection shows that the vehicle does not comply with the Council's requirements in any respect, a Failure Notice will be issued. The application may then only continue if the defects are remedied, the vehicle re-inspected and a Certificate of Compliance subsequently issued.

1.6 The successful completion of this procedure will be indicated by the issue of an appropriate hackney carriage/private hire vehicle licence together with the necessary signs for the vehicle, which must not be used for hire or reward until these are attached to the vehicle.

2 Transfer Application for Hackney Carriage/Private Hire Vehicle Licence

2.1 Section 49 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the proprietor of a licensed vehicle has the right to transfer ownership of that vehicle to another person. Appropriate notice of the transfer must be given to the Council within 14 days. In practice, such vehicles are generally in use for hire or reward immediately transfer of ownership has been arranged and it is necessary to obtain a new Licence in the name of the new owner. The procedure will be:-

2.2 The applicant will complete, in full, the necessary application form as follows:-

- Transfer application for hackney carriage vehicle licence
- Transfer application for private hire vehicle licence

which will be submitted and accompanied by the following:-

- Evidence that the vehicle is insured for third party risks to cover "Hire and Reward". This will be by way of a Cover Note or Certificate of Insurance.
- The Vehicle Registration Document issued by DVLA or proof of ownership.
- The fee. Fees will be determined annually and publicised separately.

2.3 If the documentation is complete, photocopies will be taken of all original documents. The copies will be retained and the originals returned to the applicant.

2.4 The Licensing Authority will arrange with the appropriate Approved Testing Station for a vehicle inspection appointment.

2.5 A Certificate of Compliance will be issued if the inspection confirms that the vehicle meets the Council's requirements as to suitability, safety and appearance. This Certificate must be produced to the Council before the licensing process can be completed.

2.6 If the inspection shows that the vehicle does not comply with the Council's requirements in any respect, a Failure Notice will be issued. The application may then only continue if the defects are remedied, the vehicle re-inspected and a Certificate of Compliance subsequently issued.

2.7 The successful completion of this procedure will be indicated by the issue of an appropriate hackney carriage/ private hire vehicle licence together with the necessary signs for the vehicle, which must not be used for hire or reward until these are attached to the vehicle.

APPENDIX C

LICENSED VEHICLE LICENCE CONDITIONS

1. Conditions Relevant to Hackney Carriage and Private Hire Vehicles

1.1 Roof racks, luggage boxes and trailers are not permitted without the express prior approval of the Licensing Officer.

1.2 All vehicles must be clean and presentable internally and externally. They must be rust free and display uniformity of paint colour, with no damage to body panels. All doors and windows must operate correctly.

1.3 If in the opinion of the Council a vehicle is in such a condition internally or externally as to render its use by the public as undesirable, the Council shall notify the proprietor thereof whereupon the proprietor shall not use or cause or permit the use of the vehicle until the Council has re-inspected the vehicle and confirms that it has been brought to a standard suitable for public use.

1.4 The depth of tyre tread on all vehicles must be minimum of 2mm.

1.5 Tinted glass or mirrored glass that restricts all view into the passenger compartment will not be accepted on licensed vehicles.

1.6 In the event of a vehicle being involved in an accident, the proprietor must inform the Council as soon as reasonably practicable and, in any case within 72 hours of any accident causing damage materially affecting the safety, performance or appearance of the vehicle or the comfort or convenience of persons carried therein. If the damage to the vehicle is such that the Council reasonably considers the damage to be extensive enough to seriously affect the general appearance and/or use of the vehicle and so notifies the proprietor, the vehicle shall immediately be withdrawn from service and shall not be used until such time as the permanent repairs are completed.

1.7 The vehicle shall not be used in the district unless there is in force in relation to the vehicle a policy of insurance complying with the requirements of the Road Traffic Acts and which covers the vehicle the carriage of passengers for hire or reward. The Certificate of Insurance must be produced upon request by an authorised officer of the Council, or by a Police Officer.

1.8 The proprietor shall present the vehicle for inspection and testing by or on behalf of the Council at such time and at such place within the Borough as the Council may by notice reasonably require.

1.9 All vehicles must carry a standard motorist's First Aid Kit, and an easily accessible and compliant Fire Extinguisher.

1.10 The proprietor must ensure that the licence plate provided and allocated to him by the Council is maintained in a clear and legible condition and is affixed to the outside of the carriage, on or adjacent to the rear bumper or in such other position as may be approved by the Council. The Council must be informed should the licence plate be lost broken or defaced. The proprietor shall not cause or permit the vehicle to be used or operated with the said plate so defaced that any figure or material particular is illegible.

1.11 If the proprietor transfers all or part of his interest in the vehicle he shall within 14 days of such transfer give notice in writing to the Council, specifying the name and address of the person to whom the vehicle has been transferred.

1.12 The proprietor must notify the Council of any change of address forthwith.

1.13 The proprietor must notify the Council forthwith of any intended change in use of the specified vehicle, of any change in the particulars supplied at the time of application for the licence and of any modifications made to the vehicle, including seating arrangements.

- 1.14 The licence must not be altered or defaced in any way.
- 1.15 The licence must be kept in the possession of the proprietor. It must be produced on request to an authorised officer of the Council, or any Police Officer.
- 1.16 In the event of loss of or damage to this licence the Council must be informed immediately so that a replacement can be issued.
- 1.17 On revocation, expiry, transfer or suspension of the licence, the licence and the plate issued in respect of the vehicle must be returned to the Council forthwith upon service of a notice on the proprietor.
- 1.18 Each row of seats in the vehicle shall at all times have a separate unobstructed egress route.

2. Conditions Relevant to Private Hire Vehicles Only

2.1 A private hire vehicle can only be driven by a person licensed to drive that particular type of vehicle, and that driver's licence having been issued by Ashford Borough Council. A Joint Licence permits the driver to drive both types of vehicle.

2.2 The proprietor must ensure that the vehicle is not used as a private hire vehicle if it has not passed a vehicle test prescribed by the Council within the preceding six months.

2.3 The proprietor of a private hire vehicle must ensure that the driver lodges his private hire drivers licence with the proprietor until the driver ceases to drive for that proprietor.

2.4 Private hire vehicles are permitted to display on the outside or inside of the vehicle the following:

- Private hire car sign (issued by the Council) on the windscreen.
- Vehicle Licence plate.
- Approved KCC School Transport Sign when operating in conjunction with school contracts.
- Any other thing required to be displayed by law.

2.5 Private hire vehicles are permitted restricted first party advertising subject to the following restrictions:

- the advertising material shall be restricted to the metal surface of the drivers and front passengers' doors. If advertising material is to be displayed, it must include the words "ADVANCE BOOKING ONLY" OR "PRIVATE HIRE ADVANCE BOOKING ONLY". It can include the proprietor's company name, logo, website, email address or telephone number.
- the advertising material shall not contain the words "TAXI", "HACKNEY", "CAB" or "FOR HIRE". This restriction includes the use of the words when used within the proprietor's company name, log, website or email address.
- the advertising material shall be non-reflective.
- nothing shall be advertised which might reasonably cause offence to members of the public.

2.6 Private hire vehicles are not permitted to display on the outside or inside of the vehicle in such a manner to be conspicuous from the outside any other signs, telephone numbers or other advertising material.

3. Conditions Relevant to Hackney Carriage Vehicles Only

3.1 A hackney carriage vehicle can only be driven by a person licensed to drive that particular type of vehicle, and that driver's licence having been issued by Ashford Borough Council. A Joint Licence permits the driver to drive both types of vehicle.

3.2 The proprietor must ensure that the vehicle is not used as a hackney carriage or private hire vehicle if it has not passed a vehicle test prescribed by the Council within the preceding six months.

3.3 No hackney carriage shall be used in the district under a contract or purported contract for private hire except at a rate of fares or charges not greater than that fixed by the Council in relation to hackney carriages, and when any hackney carriage is so used the fare or charges shall be calculated from the point in the district at which the hirer commences his journey.

3.4 The proprietor of a hackney carriage vehicle must ensure that the driver lodges his hackney carriage drivers licence with the proprietor until the driver ceases to drive for that proprietor.

3.5 Full livery advertising is allowed on the exterior of hackney carriages subject to the following restrictions:

- Nothing shall be advertised which might cause reasonable offence to members of the public

- The Council reserves the right to require that any advertisement it deems unsuitable be removed forthwith

3.6 Hackney Carriage Vehicles must have a TAG (electronic device required to activate the lowering and raising of the barriers situated in restricted roads), fitted to the vehicle by a person authorised by Ashford Council for that purpose. Each TAG may only be used while fitted to the licensed hackney carriage vehicle it was issued to.

3.7 The TAG must only be used whilst the licensed vehicle is being used in conjunction with journeys associated with hire and reward, not for personal journeys.

3.8 It is the licence holder's responsibility to ensure the TAG is fitted with the licensed vehicle, at the licence holder's expense.

3.9 The TAG must not be transferred to any alternative vehicle without the prior approval of Ashford Borough Council.

3.10 On revocation, non-renewal or suspension of the licence, the TAG will be deactivated.

3.11 Damage to (or theft of) any TAG must be reported to Ashford Borough Council without delay.

3.12 The licence holder will allow a licensing officer to inspect and if necessary remove the TAG at any reasonable time upon written or verbal notice.

APPENDIX D

ADDITIONAL CONDITIONS FOR PRIVATE HIRE LIMOUSINES

1. TYPES OF VEHICLES

1.1 The vehicle must have one of the following:

- (i) A UK Single Vehicle Approval Certificate
- (ii) A European Whole Vehicle Approval Certificate
- (iii) UK Low Volume Type Approval Certificate

1.2 If the vehicle has a UK Single Vehicle Approval Certificate, the licensing authority will expect that the vehicle will have been modified in accordance with a program approved by the original vehicle manufacturer and have appropriate documentary proof.

2. VEHICLE AND SAFETY EQUIPMENT

2.1 Stretched limousines and similar vehicles shall comply with the existing conditions of licence applicable to all licensed private hire vehicles in so far as they are not superseded by these additional conditions and the local private hire licence fee shall be the same.

2.2 The Proprietor of a vehicle shall:-

- (i) ensure that the fire extinguisher required to comply with the standard Vehicle Conditions of Licence applicable to all licensed private hire vehicles should be mounted on brackets, in a convenient position in the driver's compartment;
- (ii) ensure that the vehicle and all its fittings and equipment are at all times kept in a fit, serviceable, efficient, safe and clean condition and all relevant statutory requirements (*including those contained in the Motor Vehicles(Construction & Use) Regulations*) are fully complied with. Should the vehicle fail to comply with any legal requirement then the vehicle should be removed from service until the reasons for non-compliance is rectified;
- (iii) ensure that loose luggage is not carried within the passenger compartment of the vehicle;
- (iv) ensure that any CCTV cameras installed in the vehicle have received prior written approval of the Council; and
- (v) display a Council approved sign, in a position clearly visible to passengers, warning customers that camera surveillance equipment may be in operation.
- (vi) Ensure the vehicle is fitted with tyres that meet both the size and weight specification.

2.3 Vehicles may be granted an exemption from the requirement under the conditions of licence for private hire vehicles to be right hand drive.

2.4 Limousines with sideways facing seating to be considered for private hire licensing.

2.5 The passenger compartment of the vehicle may be fitted with darkened or blackened glass.

2.6 The driver's compartment, including the front passenger seat must not be fitted with darkened or blackened glass.

2.7 The licence holder shall not at any time use or permit to be used in the vehicle a radio scanner or citizen band radio.

3. USE OF VEHICLE

3.1 The proprietor of the vehicle shall:-

- (i) ensure that the vehicle is at all times only driven by a person who holds a current private hire vehicle driver's licence issued by Ashford Borough Council;
- (ii) not permit to be conveyed in the vehicle more than the number of persons for which the vehicle is licensed, regardless of the age or size of the passengers;
- (iii) ensure that in any advertisement publicising their limousine service, the vehicle is only licensed to carry a maximum of eight passengers.
- (iv) not convey any passengers in the front compartment of the vehicle;
- (v) not supply any intoxicating liquor in the vehicle unless there is in force an appropriate authorisation under the Licensing Act 2003 permitting the sale or supply of the same.
- (vi) if the occupants are below the age of 18, there should be no alcohol in the vehicle for consumption or otherwise.
- (vii) any glassware in the vehicle must be made of either shatterproof glass or plastic.
- (viii) the driver shall not play or permit the performance of any media that, given its age classification or content, is unsuitable for the age of the passengers in the vehicle.
- (ix) if the limousine parks to provide some sort of entertainment to its passengers, the relevant authorisation must be in place in accordance with the Licensing Act 2003.
- (x) when directed by the Council, display and maintain any notices in conspicuous position.

4. VEHICLE IDENTIFICATION

4.1 The vehicle will not be required to display the rear, external private hire vehicle licence plates which must normally be displayed by licensed private hire vehicles. The proprietor of the vehicle will be issued, by the Council, with the licence identification which identify the vehicle as a private hire vehicle on which will be displayed the registration number that vehicle and the number of passengers permitted to be carried. The proprietor shall ensure that:-

- (i) vehicle identification is displayed on the top left-hand corner of the front windscreen in a conspicuous position where it can be clearly seen from the outside of the vehicle and all wording and lettering contained thereon read. The other identification shall be fixed inside the vehicle in such a position (such as the bulkhead or security screen) as to be visible to persons conveyed therein;
- (ii) no private hire limousine vehicle identification shall be parted with, lent or used on any other vehicle and the loss or damage of the vehicle identification shall be reported to the Council as soon as the proprietor is aware of the loss. In the event of ceasing to use the vehicle for private hire (special event) purposes the proprietor shall surrender the vehicle identification and licence to the Council within seven days.

5. SIGNS, NOTICES, ETC

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

6. INSURANCE/MOT TEST CERTIFICATE

6.1 The vehicle must not be used to carry passengers for private hire special events unless there is in force for the vehicle:

- (i) a current Certificate of Compliance test certificate.
- (ii) a policy of insurance covering the use of the vehicle for private hire special events and the proprietor of the vehicle is shown as the policy holder and any other licensed private hire limousine vehicle drivers who drive the vehicle are covered.

These documents shall be produced to an authorised officer of the Council or a Police Officer at such time and place as may be required.

6.2 The proprietor shall deposit a valid and current copy of the Certificate of Compliance Test Certificate and Certificate of Insurance or cover note with the Operator before the vehicle is used to accept bookings provided by the Operator.

6.3 If the insurance cover on the vehicle is cancelled, expires or fails to cover the use to which the vehicle is being put, the Licence Officer shall be informed immediately and the vehicle shall not be used until appropriate cover is obtained.

7. DEPOSIT OF LICENCES

7.1 If the proprietor permits or employs any other person to drive his private hire limousine vehicle, he shall, before that person commences to drive the vehicle, cause the driver to deliver to him a copy of his private hire limousine vehicle driver's licence for retention until such time as the driver ceases to be permitted or employed to drive that vehicle.

7.2 The proprietor of the vehicle will deposit within five working days, a copy of the private hire limousine vehicle licence with the Operator before any bookings are accepted.

7.3 The loss of any vehicle or driver licence shall be reported to the Council as soon as possible.

8. VEHICLE TESTING

8.1 A private hire limousine vehicle will be subject to twice-yearly mechanical examination at intervals to be specified by the Council, at an authorised testing station.

9. GENERAL CONDITIONS

9.1 All Operators will be required to sign a declaration stating that the vehicle will not carry more than 8 passengers and at the time of booking the vehicle, the restriction of carrying no more than 8 passengers shall be explained to the hirer.

9.2 The Licensee must produce a copy of the SVA certificate at time of licensing.

APPENDIX E

THE TESTING OF APPLICANTS FOR A DRIVER'S LICENCES

1. Introduction

1.1 In order to maintain the high standards that the Authority expects of its drivers operating within the Borough a review may take place of how the suitability of new drivers' knowledge of locations and conditions is assessed.

1.2 It is therefore proposed that applicants for intending drivers to undergo a written test as part of the process of satisfying the Council that they are suitable persons to hold such a licence. The written test taken before a Drivers Licence is issued will consist of:

2. Local Geography

Applicants will be tested on their knowledge of the Borough of Ashford area's geography, by recording the shortest routes between locations in the area.

3. Highway Code

Applicants will be asked to answer a number of questions as to driving skills, road information and etiquette as set out in the Highway Code. (Ten questions relating to the Highway Code.)

4. The Hackney Carriage & Private Hire licensing law and Council Rules & Policy

Applicants will be tested on their knowledge and understanding of the law in respect of hackney carriage and private hire licensing. The questions will relate to legislation, bye-laws, conditions, etc and the Council will produce a test guidance booklet to assist applicants prepare for the tests.

5. Language

If a driver is not able to satisfactorily complete the topographical and other tests due to difficulties with spoken English they may be required to take language instruction as a pre-requisite to re-sitting these tests.

6. Disability Issues

In view of the special considerations when dealing with those passengers of differing physical abilities, it may be necessary to test the awareness of the applicant of these issues. In particular, and without prejudice to the generality of this paragraph, consideration may be given to the differing types of vehicle likely to be used by the individual concerned and the difficulties arising in each case.

7. Test Failure

7.1 Applicants who fail to achieve a pass in any of the written tests shall be invited to take a different test on another occasion. They shall not be considered to be fit and proper to hold a licence unless or until they have achieved the requisite pass rate in all of the tests.

7.2 To ensure that all applicants are encouraged to comprehensively prepare for the above process, a non-returnable fee may be charged in respect of each individual occasion.

APPENDIX F

GUIDELINES RELATING TO THE RELEVANCE OF PREVIOUS CONVICTIONS

1. General Policy

1.1 Each case will be decided on its own merits.

1.2 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.

1.3 A person with a current conviction for a serious crime need not be permanently barred from obtaining a licence but should be expected to (a) remain free of conviction for an appropriate period and (b) show adequate evidence of good character from the time of the conviction. Simply remaining free of conviction will not generally be regarded as sufficient evidence of good character.

1.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

1.5 The following examples afford a general guide on the action which might be taken where convictions are disclosed.

2. Offences of Dishonesty

2.1 Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.

2.2 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may comprise especially vulnerable people.

2.3 For these reasons a serious view is taken of any convictions involving dishonesty. In general, a period of 4 years free of conviction will be required before an application is likely to be considered favourably.

2.4 In particular, an application will normally be refused where the applicant has a conviction for an offence of:-

- Theft
- Burglary
- Fraud
- Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception

and the conviction is less than 4 years prior to the date of the application.

2.5 Between 4 and 5 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

3. Violence

3.1 As hackney carriage and private hire drivers maintain close contact with the public, in general a period of 4 to 10 years free of conviction for offences involving violence (depending on the nature and seriousness of the offence) will be required before an application is likely to be considered favourably.

3.2 In particular:-

(i) An application will normally be refused where the applicant has a conviction for an offence of:-

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Arson
- Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
- Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)

and the conviction is less than 10 years prior to the date of application.

(ii) An application will normally be refused where the applicant has a conviction for an offence of:-

- Grievous bodily harm with intent (s.18 Offences Against the Person Act)
- Grievous bodily harm (s.20 Offences Against the Person Act) « Robbery
- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- Racially-aggravated s.4 Public Order Act 1986 offence (fear or provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress) (s.31 (1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)

and the conviction is less than 8 years prior to the date of application.

3.3 Between 8 and 10 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

(iii) An application will normally be refused where the applicant has a conviction for an offence of:-

- Common assault
- Common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- Assault police
- Affray
- Racially aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)
- Riot
- Obstruction
- Possession of offensive weapon
- Possession of firearm
- Criminal damage
- Violent disorder
- Resisting arrest
- and the conviction is less than 4 years prior to the date of application.

3.4 Between 4 and 8 years after conviction more weight will be given to the circumstances of the offence and any evidence adduced to show good character since the date of conviction.

4. Drugs

4.1 An application will normally be refused where the applicant has a conviction for a drug-related offence and the conviction is less than 5 years prior to the date of application.

4.2 In addition applicants will normally be required to show a period of at least 5 years free from taking drugs and/or 5 years after detoxification treatment if (s)he was an addict.

5. Indecency Offences

5.1 As hackney carriage and private hire drivers often carry unaccompanied passengers, applicants with convictions for soliciting, importuning, indecent exposure or any sexual offence will normally be refused a licence until they can show a substantial period (usually between 5 and 10 years) free from any such conviction.

5.2 In particular, an application will normally be refused where the applicant has a current conviction for an offence of:-

- Rape
- Indecent assault
- Gross indecency with a female
- Gross indecency with a male
- Indecent assault on a child under 16 years
- Buggery
- and the conviction is less than 10 years prior to the date of the application.

6. Motoring Convictions

6.1 Major Traffic Offences

An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.

More than one conviction for this type of offence within the last 5 years is likely to merit refusal.

A list of offences to which this paragraph applies can be found below.

6.2 Minor Traffic Offences

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

In particular, an application will normally be refused where the applicant has 12 or more penalty points on his DVLA licence (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

A list of offences to which this paragraph applies can be found below.

6.3 Hybrid Traffic Offences

Offences of the type listed below will be treated as major traffic offences if the court awarded 4 or more penalty points for the offence and as minor traffic offences if the court awarded 3 or less penalty points for the offence.

6.4 Disqualification

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

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

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

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

6.5.1 One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the Acts") is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant is to be treated as a fit and proper person to hold a licence.

6.5.2 In particular, an applicant will normally be refused a licence where (s)he has been convicted of an offence under the Acts at any time during the 6 months preceding the application or has more than one conviction within the last 2 years preceding the date of the application.

6.6 Drunkenness

6.6.1 With a motor vehicle

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should elapse after the restoration of the DVLA licence before an applicant is granted a licence.

An isolated conviction for drunkenness, without disqualification, will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence or one such offence within the last five years is likely to merit refusal.

In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

6.6.2 Not in a motor vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate. However, a number of convictions for

drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.

In addition, applicants will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if (s)he was an alcoholic.

6.7 Spent Convictions

The Council will only consider spent convictions if it appears to be relevant for deciding whether the applicant is a fit and proper person to hold a licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction.

6.8 Cautions and Endorsable Fixed Penalties

For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

APPENDIX F (Continued)

RELEVANCE OF PREVIOUS CONVICTIONS

MAJOR TRAFFIC OFFENCES

- AC10 Failing to stop after an accident
- AC20 Failing to give particulars or to report an accident within 24 hours
- AC30 Undefined accident offences

- BA10 Driving while disqualified by order of court
- BA20 Attempting to drive while disqualified by order of court

- CD10 Driving without due care and attention
- CD20 Driving without reasonable consideration for other road users
- CD30 Driving without due care and attention or without reasonable consideration for other road users
- CD40 Causing death through careless driving when unfit through drink
- CD50 Causing death by careless driving when unfit through drugs
- CD60 Causing death by careless driving with alcohol level above the limit
- CD70 Causing death by careless driving then failing to supply a specimen for analysis

- DD40 Dangerous driving
- DD60 Manslaughter or culpable homicide while driving a vehicle
- DD80 Causing death by dangerous driving

- DR10 Driving or attempting to drive with alcohol level above limit
- DR20 Driving or attempting to drive while unfit through drink
- DR30 Driving or attempting to drive then failing to supply a specimen for analysis
- DR40 In charge of a vehicle while alcohol level above limit
- DR50 In charge of a vehicle while unfit through drink
- DR60 Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
- DR70 Failing to provide specimen for breath test
- DR80 Driving or attempting to drive when unfit through drugs
- DR90 In charge of a vehicle when unfit through drugs

- IN 10 Using a vehicle uninsured against third party risks

- LC20 Driving otherwise than in accordance with a licence
- LC30 Driving after making a false declaration about fitness when applying for a licence
- LC40 Driving a vehicle having failed to notify a disability
- LC50 Driving after a licence has been revoked or refused on medical grounds

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

- UT50 Aggravated taking of a vehicle

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

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

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

MINOR TRAFFIC OFFENCES

- MS10 Leaving a vehicle in a dangerous position

MS20 Unlawful pillion riding
MS30 Play street Offences
MS40 Driving with uncorrected defective eyesight or refusing to submit to a test
MS70 Driving with uncorrected defective eyesight
MS80 Refusing to submit to an eyesight test
MS90 Failure to give information as to identity of driver, etc.

MW10 Contravention of Special Road Regulations (excluding speed limits)

PC10 Undefined contravention of Pedestrian Crossing Regulations
PC20 Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30 Contravention of Pedestrian Crossing Regulations with stationary vehicle

TS10 Failing to comply with traffic light signals
TS20 Failing to comply with double white lines
TS30 Failing to comply with a "Stop" sign
TS40 Failing to comply with direction of a constable or traffic warden
TS50 Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60 Failing to comply with school crossing patrol sign
TS70 Undefined failure to comply with a traffic direction sign

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

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

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

HYBRID TRAFFIC OFFENCES

CU10 Using vehicle with defective brakes
CU20 Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30 Using a vehicle with defective tyre(s)
CU40 Using a vehicle with defective steering
CU50 Causing or likely to cause danger by reason of load or passengers

SP10 Exceeding goods vehicle speed limit
SP20 Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30 Exceeding statutory speed limit on a public road
SP40 Exceeding passenger vehicle speed limit
SP50 Exceeding speed limit on a motorway
SP60 Undefined speed limit offence

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

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

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

APPENDIX G

APPLICATION FOR DRIVER'S AND OPERATOR'S LICENCES

1. APPLICATION FOR NEW LICENCE TO DRIVE A LICENSED VEHICLE

1.1 The applicant will complete, in full, the application for licence to drive hackney carriage/private hire vehicle which will be submitted and accompanied by the following.-

- Full UK (or equivalent EC) Drivers Licence which has been held for at least 12 months.

1.2 Where applicants have recently arrived from countries within the European Union, any driving licence entitlement held in that country will automatically count towards the qualification requirement for the issue of a hackney carriage or private hire vehicle driver's licence.

1.3 Where applicants have recently arrived from other, non-EU countries, they are required to convert any existing driving licence to a UK issue, either by straight transfer or by undertaking an appropriate driving test. The Council requires that the twelve month qualifying period for holding such a licence will start from the time of the conversion.

1.4 An applicant who has held a non EU licence for 12 months or more and has converted it to a UK licence may obtain an exemption from the 12 months qualifying period by passing the DSA)

1.5. A Driver and Vehicle Licensing Agency (DVLA) check will be carried out to check the individual's driving history and the applicant will be responsible for paying the fee for the check.

- A medical certificate indicating that the applicant is physically fit and able to fulfil the role, to DVLA Vocational Group 2 Standards.
- A completed application form for an Enhanced Criminal Records Bureau Check. In the event that the applicant has, within the last 12 months, lived in the European Community, a Certificate of Good Conduct from the relevant embassy or equivalent document, issued and authenticated by the appropriate embassy will also be required or a statutory declaration of absence of convictions, signed by a solicitor.

1.6 A Criminal Records Bureau Application Form should be completed in full before the application is submitted to the Council. This must be accompanied by the following documentation.

- a) Driving Licence or Passport (Original - to confirm identity)
- b) An original Utility Bill or Bank Statement etc. (to confirm address)
- c) CRB Fee

Please note that the application process cannot continue until this check has been received from the CRB.

- The fee, which are determined annually and publicised separately.
- At 4 colour photographs, of passport size and standard, showing the full face of the applicant as it would normally appear.

1.7 If the documentation is complete, photocopies will be taken of all original documents and returned to the applicant.

1.8 Before the application proceeds further, the applicants for hackney carriage driver's licences will be provided with an opportunity for a test of their topographical knowledge, the Highway Code and the law relating to hackney carriages. If the applicant's knowledge of is not satisfactory, appropriate advice will be given as to when the applicant is likely to meet the requirements and a retest arranged. When the applicant's knowledge is deemed to be suitable, the application may continue without further testing.

2. Application for Renewal of a Licence to Drive Hackney Carriage/Private Hire Vehicle

2.1 The applicant will complete, in full, the application for licence to drive hackney carriage/private hire vehicle form, which will be submitted and accompanied by the following:

- Full UK (or equivalent EC) Drivers Licence
- A Group 2 medical certificate if necessary
- A completed application form for an Enhanced Criminal Records Bureau Check. This will only be required if no CRB check has been carried out within the three years prior to the date of application.

2.2 A Criminal Records Bureau Application Form should be completed in full before the application is submitted to the Council. This must be accompanied by the following documentation:-

- a) Driving Licence or Passport (Original - to confirm identity)
- b) An original Utility Bill or Bank Statement etc. (to confirm address)
- c) CRB Fee

2.3 Please note that the application process cannot continue until this check has been received from the CRB, if necessary).

- The fee, which is determined annually and publicised separately.
- At least 2 colour photographs, of passport size and standard showing the full face of the applicant as it would normally appear.

2.4 If the documentation is complete, photocopies will be taken of all original documents and returned to the applicant.

3. Application for Private Hire Vehicle Operator's Licence

3.1 The applicant will complete, in full, the Application for Private Hire Vehicle Operator's Licence form, which will be submitted and accompanied by the following.-

- Proof of public liability insurance
- The fee. Fees will be determined annually and publicised separately.
- If the applicant has not previously been through the Drivers Application process, a Basic Criminal Records Bureau check (less than 3 months old) for each person named on the application form.

3.2 If the documentation is complete, photocopies will be taken of all original documents and returned to the applicant.

4. Applications – General

4.1 If the Application Form contains any details to suggest that any relevant convictions or cautions have been imposed on the applicant since the Licence was last issued or

renewed, Licensing Officers will discuss the matter with the applicant. At that time it will be decided whether the application is likely to be successful in the light of the Council's Policy of the Relevance of Convictions detailed in Paragraph 6.9, either by approval by Licensing Officers or by reference to the Licensing Committee. In both cases, the CRB check will be applied for before any further consideration of the application.

4.2 When the CRB check has been returned, the application will be considered in the light of the information provided. The information received from the CRB will be used to ascertain whether the information given on the original Application Form was correctly and truthfully provided. It is therefore necessary to ensure that details of ALL convictions and cautions are provided at the initial stage. A serious view will be taken of any application which seeks to conceal any caution or conviction in order to obtain a Licence. This is a criminal offence and, as such, is likely to lead, not only to consideration of the applicant as not being a "fit and proper person", but criminal proceedings. Any information relating to criminal background will be kept only for as long as it is necessary for assessment purposes.

4.3 In the event that there are no relevant convictions or cautions held, the applicant will be considered to be a "fit and proper person" and the matter will be determined by the issue of the Operator's Licence.

4.4 Applications considered by a Licensing Officer or the Licensing Committee will result in either the determination of the applicant as a "fit and proper person", indicated by the issue of a Licence, or the application being refused. In these circumstances, the applicant has the Right of Appeal to the Magistrates Court, such appeal to be lodged within 21 days of the decision being notified.

APPENDIX H

BYELAWS

1.1 Introduction

1.1.1 Byelaws are made under section 68 of the Town Police Clauses Act 1847 and section 171 of the Public Health Act 1875.

1.1.2 The following byelaws were confirmed for Ashford Borough Council effective 2nd November 1998.

1.2 Interpretation

Throughout these byelaws “the Council” means the Ashford Borough Council and “the district” means Ashford.

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

1.3.1

- a) 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
- b) A proprietor or driver of a hackney carriage shall:
 - i. 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;
 - ii. 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.

1.4 Provisions regulating how hackney carriages are to be furnished or provided.

1.4.1 The proprietor of a hackney carriage shall:

- c) provide sufficient means by which any person in the carriage may communicate with the driver;
- d) cause the roof or covering to be kept water-tight;
- e) provide any necessary windows and a means of opening and closing not less than one window on each side;
- f) cause the seats to be properly cushioned or covered;
- g) cause the floor to be provided with a proper carpet, mat, or other suitable covering;
- h) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
- i) provide means for securing luggage if the carriage is so constructed as to carry luggage;
- j) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use; and
- k) 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.

1.4.2 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.

1.5 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

1.5.1 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.

1.5.2 A proprietor or driver of a hackney 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.

1.5.3 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.

1.5.4 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.

1.5.5 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.

1.5.6 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.

1.5.7 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.

1.5.8 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.

1.6 Provisions fixing the rates or fares to be paid for hackney carriages within the district and securing the due publication of such fares

1.6.1 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.

1.6.2 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.

1.6.3 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.

1.6.4 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.

1.7 Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages and fixing the charges to be made in respect thereof

1.7.1 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.

1.7.2 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:

1.7.3 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 Environmental Services Manager 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

1.7.4 be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the office of Environmental Services Manager of the Council, whichever be the greater) but not more than five pounds.

1.8 Penalties

1.8.1 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 therefor.

1.9 Repeal of Byelaws

1.9.1 The byelaws relating to hackney carriages which were made by the Ashford Borough Council on the 18th day of March 1975 and which were confirmed by one of Her Majesty's Principal Secretaries of State on the 9th day of May 1975 are hereby repealed.

APPENDIX I

PRIVATE HIRE DRIVER'S LICENCE CONDITIONS

1. Conduct of Drivers

1.1 The driver shall not accept any person as a passenger in a private hire vehicle unless the passenger or someone on his behalf previously requested the hiring by telephone, letter or personal call to the office or business premises of the proprietor/operator.

1.2 The driver shall not permit an order or request for a hiring to be transmitted by means of a radio set installed in a licensed private hire vehicle.

1.3 When picking up or setting down passengers, the driver shall not cause his vehicle to remain stationary for a longer period of time than is reasonably necessary to enable him to carry out those operations.

1.4 The driver shall not by calling out or otherwise, importune any person to hire such a vehicle and shall not make use of the services of any other person for that purpose.

1.5 The driver 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 vehicle at such appointed time and place.

1.6 The driver must take all reasonable steps to ensure that there is no radio scanning equipment in the vehicle at any time.

1.7 The driver of a private hire vehicle shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

1.8 The driver of a private hire vehicle, so constructed as to carry luggage, shall, when required by any person hiring or seeking to hire the vehicle:

- Convey a reasonable quantity or weight of luggage;
- Afford reasonable assistance in loading and unloading;
- Afford reasonable assistance in removing it to or from the entrance of any house, station or place at which he may take up or set down such person.

1.9 The driver shall, when hired to drive to any particular destination, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

1.10 Whilst driving a private hire vehicle the driver shall:

- At all times be clean and respectable in his dress and person;
- Not without the express consent of the hirer drink or eat in the vehicle whilst a hiring is under way.

2. Custody of property accidentally left in a Private Hire Vehicle

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

2.2 The driver of a private hire vehicle shall, if any property accidentally left therein by any person who may have been conveyed in the vehicle has been found by or handed to him, carry it within 24 hours, if not sooner claimed by or on behalf of its owner, to the Council offices or nearest Police Station and leave it in the custody of the person in charge of the office on his giving a receipt for it.

3. MISCELLANEOUS

3.1 This licence must not be handed to any unauthorised person but must be produced on request by any authorised officer of the Council, or any Police Officer.

3.2 In the event of loss or damage to this licence the Council must be informed immediately so that a replacement licence can be issued.

3.3 The licence must not be defaced or altered in any way.

3.4 The driver shall notify the Council immediately of any change of address.

3.5 The driver, if he/she drives licensed vehicles belonging to another person, must ensure that he/she lodges his/her private hire driver's licence with the proprietor of the licensed vehicle until he/she ceases to drive for that proprietor.

3.6 The driver will be issued with a driver's identity badge which must be worn at all times in such a position and manner as to be plainly and distinctly visible whilst in charge of a private hire vehicle. The driver's identity badge must be produced on request by any authorised officer of the Council or any Police officer.

3.7 The driver must produce his Department of Transport driving licence to the Council within seven days of a written request for production being made.

3.8 The driver shall not carry more than the maximum number of passengers for which the vehicle is licensed.

3.9 The driver shall not drive a licensed vehicle unless a first aid kit and an easily accessible and compliant fire extinguisher are carried in the vehicle.

3.10 The driver must sign this licence on receipt.

3.11 The driver must notify the council within the 14 days of any of the following:

- a) The driver's conviction for any criminal or road traffic offence (including fixed penalty offences);
- b) Any grant of bail to the driver (conditional or unconditional) by any court or police station;
- c) Any court cases pending against the driver
- d) Whether the driver has been cautioned or received an official warning from the police.

3.12 The driver shall disclose to the Council in writing, within five days, details of any serious illness or injury (for example, head injury, heart attack, stroke, broken limbs, etc) sustained and may be required to undergo an additional medical examination or produce written confirmation from his/her own medical practitioner or hospital consultant as to his/her continued fitness.

3.13 Each driver must carry, in a licensed private hire vehicle, a guide, hearing or other assistance dog belonging to a passenger, free of charge unless the driver has a proven medical condition that would preclude such action. Licensed drivers have a responsibility to ensure that the proprietor they drive for is aware of such condition when they are first employed. The dog must be allowed to remain with the passenger.

3.14 Where reference is made to produce documents or report matters to the Council these should be sent/reported to the Licensing Officer, Environmental Health Section, Community Services Directorate, Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL.

APPENDIX J

CODE OF GOOD CONDUCT FOR LICENSED DRIVERS

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

2. Responsibility to the Trade

2.1 Licence holders must comply with the following:

- a) comply with this Code of Good Conduct;
- b) comply with all the Conditions of their Licence and the Council's hackney carriage and private hire Licensing Policy;
- c) behave in a civil, orderly and responsible manner at all times.

3. Responsibility to Customers

3.1 Licence holders shall comply with the hackney carriage and private hire vehicle conditions.

4. Responsibility to Residents

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

- a) not sound the vehicle's horn illegally or repeatedly;
- b) keep the volume of audio and communications equipment to a reasonable level;
- c) switch off the engine if required to wait or on ranks;
- d) avoid the use of offensive language and
- e) take reasonable additional action is necessary to avoid disturbance to residents in the neighbourhood.

4.2 At taxi ranks and other places where hackney carriages ply for hire by forming queues, drivers shall, in addition to the requirements above:

- a) queue in an orderly manner and proceed along the rank in order and promptly; and
- b) remain in or in close proximity of the vehicle.

4.3 At private hire offices a licence holder shall:

- a) not undertake servicing or repairs of vehicles, other than routine maintenance checks;
- b) not allow their audio or communications equipment to cause disturbance to residents of the neighbourhood; and
- c) take reasonable action to avoid disturbance to residents of the neighbourhood which might arise from the conduct of their business.

5. General

5.1 Drivers shall:

- a) pay attention to personal hygiene and dress so as to present a professional image to the public;
- b) be polite, helpful and fair to passengers, particularly those whose mobility may be restricted ;
- c) drive with care and due consideration for other road users and pedestrians;
- d) obey all Traffic Regulation Orders and directions at all time;
- e) fulfil their responsibility to ensure compliance with common sense and any legislation regarding the length of working hours;
- f) check tyre pressures when starting shifts;
- g) undertake suitable training, for example disability awareness training.

5.2 In relation to driving with care and due consideration for other road users and pedestrians drivers shall in particular not:

- h) use a hand held mobile phone whilst driving;
- i) smoke or allow smoking in the vehicle at any time;
- j) consume alcohol before or at any time whilst driving or being in charge of a hackney carriage or private hire vehicle and
- k) drive while having used illegal or misused legal drugs or acted contrary to the advice of a medical practitioner.

6. Disciplinary Hearings

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

- a) where the driver has been convicted , since the grant of the licence, of an offence involving dishonesty, indecency or violence;
- b) where the driver has been convicted of an offence under the legislation or hackney carriage and private hire Licensing Policy relating to taxi regulation; or
- c) if there is any others reasons to do so, including a breach of condition or this code.

7. PLEASE NOTE:

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

APPENDIX K

PRIVATE HIRE OPERATOR CONDITIONS

1. PROVISION AND FURNISHINGS OF PRIVATE HIRE VEHICLES

1.1 The operator shall ensure that at all times the vehicle including its seating, vehicle including its seating, flooring and fittings are kept in a clean and tidy condition and if in the reasonable opinion of the Council's Licensing Officer a lack of cleanliness and/or tidiness is such as to render its use by the public undesirable he shall notify the proprietor thereof whereupon the proprietor shall not use or cause or permit the use of the vehicle as a private hire vehicle until such time as the Licensing Officer has re-inspected the vehicle and confirmed it is clean and tidy.

2. DISPLAY OF LICENCE PLATES, SIGNS AND ADVERTISING

2.1 The operator shall ensure that the licence plate issued and allocated by the Council is affixed to the outside of the carriage, on or adjacent to the rear bumper, or in such other position as may be approved by the Licensing Officer.

2.2 The operator shall ensure maintenance of such licence plate in a clean and legible condition and shall inform the Council immediately should it be lost or broken or become defaced.

2.3 The operator may display on the outside or inside of the vehicle the following:

- Private hire car sign (issued by the Council) on the windscreen.
- Vehicle Licence plate.
- Approved KCC School Transport Sign when operating in conjunction with school contracts.
- Any other thing required to be displayed by law.

2.4 The operator may display restricted first party advertising subject to the following restrictions:

- the advertising material shall be restricted to the metal surface of the drivers and front passengers' doors. If advertising material is to be displayed, it must include the words "ADVANCE BOOKING ONLY" OR "PRIVATE HIRE ADVANCE BOOKING ONLY". It can include the proprietor's company name, logo, website, email address or telephone number.
- the advertising material shall not contain the words "TAXI", "HACKNEY", "CAB" or "FOR HIRE". This restriction includes the use of the words when used within the proprietor's company name, log, website or email address.
- the advertising material shall be non-reflective.
- nothing shall be advertised which might reasonably cause offence to members of the public.

2.5 The operator shall not display on the outside or inside of the vehicle in such a manner to be conspicuous from the outside any other signs, telephone numbers or other advertising material.

3. RECORDS

3.1 The operator shall keep a permanent record of every booking of a private hire vehicle invited and accepted by him, whether direct from the hirer or by undertaking the bookings at the request of another operator. The records shall be made available for inspection by the Council's Licensing Officer upon request. The record entries must be made before the commencement of each journey and shall include

- the time and date of the booking
- the time and date of the hiring
- the pick-up time and point and destination
- the name and address of the hirer
- the registration number of the vehicle and driver allocated for the journey

3.2 All records kept by the operator pursuant to Condition 3.1 above shall be preserved for a period of not less than twelve months following the date of the relevant entry.

3.3 The operator shall keep written records of the particulars of all private hire vehicles operated by him which particulars shall include details of the proprietors, registration number and drivers of such vehicles together with any radio call sign used.

4. CONDUCT OF PROPRIETORS

4.1 The operator shall not accept any person as a passenger in a private hire vehicle unless the passenger or someone on his behalf previously requested the hiring by telephone, letter or personal call to the office or business premises of the proprietor.

4.2 The operator shall not permit an order or request for a hiring to be transmitted by means of a radio set installed in a licensed private hire vehicle, from a private hire vehicle to an operator.

4.3 The operator shall not by calling out or otherwise, importune any person to hire such a vehicle and shall not make use of the services of any other person for that purpose.

5. MISCELLANEOUS

5.1 The operator shall notify the Council forthwith should he/they change address.

5.2 The operator shall notify the Council forthwith of any intended change in use of a licensed vehicle, or of any relevant change of particulars supplied at the time of application for this licence.

5.3 This licence must be kept in the possession of the operator and must not be passed to any unauthorised person. It must be produced when requested by any authorised officer of the Council or any police officer.

5.4 In the event of loss or damage to this licence the Licensing Section must be informed immediately so that a replacement licence can be issued.

5.5 This licence must not be altered or defaced in any way.

5.6 The operator must sign this licence on receipt.

5.7 The operator must take all reasonable steps to ensure that there is no radio scanning equipment in the vehicle at any time.

5.8 Since 2001 private hire vehicles must carry guide, hearing or other assistance dogs belonging to passengers, free of charge, unless a driver has a proven medical condition that would preclude such action. Licensed drivers have a responsibility to ensure that the proprietor they drive for is aware of such condition when they are first employed. The dog must be allowed to remain with the passenger.

5.9 If you wish to operate a greater number of vehicles than permitted under your licence, you will need to apply for a new operator's licence with payment of the appropriate fee, and submit your original licence to be surrendered upon grant of the new licence. You would not be entitled to any refund in respect of the surrendered licence.

5.10 No person or corporate or incorporated body may hold more than one operator's licence.

TAXI LICENSING AND ENFORCEMENT POLICY

1. Enforcement Policy Statement

1.1 It is the policy of Ashford Borough Council to ensure that taxi drivers and operators are licensed correctly and carry out their trade in accordance with both the relevant Law and the conditions attached to the licences.

1.2 All enforcement action, be it verbal warnings, the issue of written warnings, statutory notices, appearance before the sub-committee or prosecution, will primarily be based upon the seriousness of the breach and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation.

1.3 Authorised officers, when making enforcement decisions, will abide by this policy. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed by the Licensing Manager or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).

1.4 Authorised officers must be fully acquainted with the requirements of the policy and appropriate training will be provided where required.

1.5 Officers will be authorised by the Environmental Health Manager to take enforcement actions relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.

2 Enforcement Options

2.1 Achieving and maintaining a consistency of approach to making all decisions that concern taxi licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.

2.2 Licence application and enforcement decisions must always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria must be considered including the:-

- seriousness of any offences;
- driver or operator's past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- danger to the public.

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

2.3.1 Licence Applications:

- grant licences subject to the Council's Standard Conditions
- refuse to grant a licence.

2.3.2 Enforcement Action:

- take no action;
- take informal action;
- use statutory notices, (stop notices etc.);
- suspend a licence;
- revoke a licence;
- use formal cautions;
- prosecute.

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

3. Informal Action

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

3.2 Such informal enforcement action may be appropriate in any of the following circumstances:-

- the act or omission is not serious enough to warrant more formal action;
- from the individual driver or operator's past history it can be reasonably expected that informal action will achieve compliance;
- confidence in the operator's management is high;
- the consequences of non-compliance will not pose a significant risk to the safety of the public.

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

4. Appearance before the Licensing Committee

4.1 An offending individual or company may be summoned before the Licensing Committee to answer allegations of breaches of relevant legislation, Bye-laws or conditions attached to licences.

4.2 Current licence holders who report convictions or breach relevant legislation during the period of their licence may be brought before the Licensing Committee.

4.3 The Committee may decide to take one or more of the following actions:-

- no action;
- a written warning;
- require the production of driving licences or other specified documentation at the Council's Office;
- suspend a licence;
- revoke a licence;
- recommend prosecution action

5 Section 68 Notices

5.1 An authorised officer may serve notice in writing for a hackney carriage or private hire vehicle or the taximeter affixed to such vehicle to be examined at the Council's appointed garage at a time specified in the notice. This notice must only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as he is satisfied with the condition of the hackney carriage or private hire vehicle. This action will only be taken when he has reasonable grounds to suspect that the condition of the vehicle is an immediate danger to passenger and/or other road users.

6 Appeals

6.1 Appeals against decisions of the Licensing Committee or Licensing Officers may be made to the Magistrates' Court.

6.2 Any notifications of enforcement actions will include written information on how to appeal. This will explain how, where and within what period an appeal may be brought and on

what grounds and will confirm that the enforcement action is suspended pending the outcome of the appeal.

7 Prosecution

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

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

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

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

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

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

- the seriousness of the alleged offence;
- the risk or harm to the public;
- identifiable victims;
- failure to comply with a statutory notice served for a significant breach of legislation;
- disregard of safety for financial reward;
- the previous history of the party concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings;
- the ability of any important witnesses and their willingness to cooperate;
- the willingness of the party to prevent a recurrence of the problem;
- the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent. (As indicated above, advice on the public interest is contained in the
- Code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution);
- whether other action, such as issuing a formal caution in accordance with the Home Office Circular 18/1994 would be more appropriate or effective.

8 Formal Cautions

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

8.2 Home Office Circular 18/1994 states that the purposes of the formal caution are:-

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

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

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

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

8.5 Formal cautions must be used in accordance with the Home Office Circular and may only be issued by the Environmental Health Manager.

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

9 Transparency

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

9.2 Any written documentation issued or sent will:-

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

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

APPENDIX M

PENALTY POINTS SYSTEM

1. The penalty points system outlined below identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven. The implementation of points would take place following investigation of offences or receipt of formal proceedings elsewhere by another agency e.g. the police.

1.1 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 only option available to the Council will be to prosecute.

2. The details of how the scheme will be operated are as follows:

2.1 Penalty points will be applied by authorised officers of the Council upon completion of investigation of relevant breaches of the Council's hackney carriage and private hire conditions or other relevant statutory provisions where breaches of those conditions or other relevant statutory provisions are identified.

2.2 Penalty points when issued will be confirmed in writing to the relevant Licence holder.

2.3 The number of penalty points issued will be in accordance with the tariff, reproduced below.

2.4 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.

2.5 The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to his/her employer or operator.

2.6 Penalty points issued under this scheme will have a "life" of twelve months, and then will be deemed spent. The system is based upon a rolling twelve-month period.

2.7 There is no financial penalty associated with the system, and the licensee may continue to work. However, the licensee will be asked to attend a Licensing Committee hearing if more than a certain number of points are imposed on an individual licence in any one 12 month period. The thresholds are as follows:

Hackney Carriage Driver	12 Points
Hackney Carriage Vehicle	24 Points
Private Hire Driver	12 Points
Private Hire Vehicle	24 Points
Private Hire Operator	24 Points

3. On appearing before the Licensing Committee the following recommendations will generally be made by Officers.

3.1 On the accumulation of 12 or more penalty points in a 12 month period a driver or a vehicle proprietor will be subject to a recommendation to suspend his/her licence for a period of 1 month.

3.2 On the accumulation of 24 or more penalty points in a 12 month period an Operator will be subject to a recommendation to suspend his/her licence for a period of 1 month.

3.3 Drivers, proprietors, or Operators who accumulate the necessary total of points in a rolling year on a second or subsequent occasion, will be asked to reappear before the Licensing Committee. The Committee will take into account previous cautions, suspensions or prosecutions when considering Officers recommendation for a longer period of suspension, or revocation of the relevant licence.

3.4 The above recommendations would not fetter the discretion of the Licensing Committee who may always decide to take no further action, to suspend the licence for any period, or to revoke a licence.

3.5 Once prosecuted or suspended all penalty points will be removed from the total accrued for that year by drivers, vehicle proprietors, and Operators.

3.6 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.

4. PENALTY POINTS TARIFF

PH - Private Hire
 HC - Hackney Carriage

4.1 GENERAL BREACHES

			Driver	Vehicle	Operator
1.	False declaration on application/renewal of licence	*	6	4	4
2.	Obstruction of authorised officer	*	3	3	3
3.	Failure to behave in a civil and orderly manner to customers.	C/B	3		
4.	PH Driver failing to notify any motoring, criminal conviction, pending court case, or caution within 14 days	C	3		
5.	Failure to display badge in such position as to be plainly visible	B/*	4		
6.	Failure by HC Proprietor, PH driver or Operator to notify the Council of change of address within 7 days	*/C	2	2	2
7.	Smoking and/or failing to prevent smoking in licensed vehicle	Health Act	3		
8.	Failure to display required no smoking signs	Health Act		3	3

4.2 VEHICLE BREACHES

9.	No fire extinguisher in vehicle.	B/C		3	3
10.	No First Aid kit in vehicle.	C		3	3
11.	Failure to return vehicle licence plate at request of authorised officer following expiry, revocation or suspension of licence.	*		2	2
12.	Interfering with a taximeter	*	4	4	4
13.	Failure to display vehicle licence plate in authorised manner	C		3	3
14.	Proprietor of HC or PH Operator failing to report accident damage to vehicle within 72 hours.	*		2	2
15.	Failure to produce insurance documents at request of authorised officer.	*		4	4

16.	Using unlicensed vehicle, or using without insurance.	*C		12	12
17.	Carrying more passengers than permitted by vehicle licence.	*B	4		
18.	Refusal to carry passengers without reasonable excuse. (HC)	*	4		
19.	Unauthorised advertising on vehicle.	C		3	3
20.	Failure to notify transfer of vehicle licence interest within 14 days.	*		3	3
21.	Failure to convey or assist with carrying luggage.	B/C	2		
22.	Failure to deliver lost property to police	B/C	2		
23.	Failure to display tariff card in the vehicle (HC)	B/C		3	
24.	Defective taxi meter (HC)	B		3	
25.	Vehicle not clean, well maintained or comfortable	C		3	2
26.	Failure of HC Proprietor to hold a HC drivers' licence	*		2	
27.	Unattended HC Vehicle on a rank. (HC)	*	2		
28.	Failure to present vehicle for mechanical inspection.	*		3	3
29.	HC or PHV unfit for use as a Hackney Carriage or Private Hire vehicle	*		4	4
30.	Use of vehicle without a current compliance certificate	*		9	9
31.	Plying for hire without a licence	*	9	9	
32.	Overcharging (HC)	*	4		
33.	HC Proprietor employing an unlicensed driver (HC)	*		12	
34.	Using a vehicle subject to a suspension order issued by an authorised Officer, or by the police.	*		12	12
35.	Driver not holding a HC and/or PH drivers licence.	*	6		
36.	Unnecessarily prolonging a journey	*	4		
37.	PH Driver failing to notify the Council of serious injury or illness	C	4		

4.3 OPERATOR BREACHES

38.	Failure to keep proper records of bookings	*			4
39.	Operating a PH Vehicle when the driver is not licensed	*			12
40.	Operating a vehicle as a PH Vehicle when the vehicle is not licensed as a PH Vehicle	*			12

4.4 Matters identified with an asterisk are direct contraventions of the Local Government (Miscellaneous Provisions) Act 1976 or other statutory requirements.

4.5 Matters identified with "C" are breaches of conditions imposed on the licence. Matters identified with "B" are breaches of the Byelaws.

4.6 Some offences marked **(HC)** apply only to Hackney Carriages.

APPENDIX N

OFFENCES & PENALTIES

1. Introduction

1.1 Two statutes principally create offences relating to hackney carriages and private hire vehicles:

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

1.2 The offences are set out below under the relevant statute in relation to the maximum penalties specified.

2. Town Police Clauses Act 1847 (HACKNEYS)

SECTION	OFFENCE	MAXIMUM PENALTY
40	Giving false information on application for HC licence.	Level 1
44	Failure to notify change of address of HC proprietor.	Level 1
45	Plying for hire without HC proprietor's licence.	Level 4
47	Driving a HC without HC driver's licence.	Level 3
47	Lending or parting with HC driver's licence.	Level 3
47	HC proprietor employing unlicensed driver.	Level 3
48	Failure by HC proprietor to hold HC driver's licence.	Level 1
48	Failure by HC proprietor to produce HC driver's licence.	Level 1
52	Failure to display HC plate.	Level 1
53	Refusal to take a fare.	Level 2
54	Charging more than the agreed fare.	Level 1
55	Obtaining more than the legal fare.	Level 3 & 1 month's imprisonment
56	Travelling less than the lawful distance for an agreed fare.	Level 1
57	Failing to wait after a deposit to wait has been paid.	Level 1
58	Charging more than the legal fare.	Level 3
59	Carrying other person than the hirer without consent.	Level 1
60	Driving HC without proprietor's consent.	Level 1
60	Allowing another to drive HC without proprietor's consent.	Level 1
61	Drunken driving of HC	Level 1
61	Wanton or furious driving leading to injury or danger.	Level 1
62	Driver leaving HC unattended.	Level 1
64	HC driver obstructing other HC's.	Level 1

3. Local Government (Miscellaneous Provision) Act 1976

SECTION	OFFENCE	MAXIMUM PENALTY
49	Failure to notify the transfer of a HC proprietor's licence.	Level 3 (by virtue of s76)
50(1)	Failure to present a HC for inspection, as required.	Level 3 (by virtue of s76)
50(2)	Failure to inform the Authority where the HC is stored, if requested.	Level 3 (by virtue of s76)
50(3)	Failure to report an accident to the Authority.	Level 3 (by virtue of s76)
50(4)	Failure to produce the HC proprietor's licence and insurance certificate.	Level 3 (by virtue of s76)
53(3)	Failure to produce the HC driver's licence.	Level 3 (by virtue of s76)
57	Making a false statement or withholding information to obtain	Level 3 (by

	a HC driver's licence.	virtue of s76)
58(2)	Failure to return a plate after notice given following expiry, revocation or suspension of a HC proprietor's licence.	Level 3 + fine of £10/day
61(2)	61(2) Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3 (by virtue of s76)
64	Permitting any vehicle other than a HC to wait on a HC stand.	Level 3 (by virtue of s76)
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement.	Level 3 (by virtue of s76)
67	Charging more than the meter fare when HC used as private hire vehicle.	Level 3 (by virtue of s76)
69	Unnecessarily prolonging a journey	Level 3 (by virtue of s76)
71	Interfering with a taximeter.	Level 3 (by virtue of s76)
73(1)(a)	Obstruction of an authorised Officer or Constable.	Level 3 (by virtue of s76)
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable.	Level 3 (by virtue of s76)
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable.	Level 3 (by virtue of s76)
PRIVATE HIRE		
46(1)(a)	Using an unlicensed PH vehicle.	Level 3 (by virtue of s76)
46(1)(b)	Driving a PH vehicle without a PH driver's licence.	Level 3 (by virtue of s76)
46(1)(c)	Proprietor of a PH vehicle using an unlicensed driver.	Level 3 (by virtue of s76)
46(1)(d)	Operating a PH vehicle without a PH operator's licence.	Level 3 (by virtue of s76)
46(1)(e)	Operating a vehicle as a PH vehicle when the vehicle is not licensed as a PH vehicle.	Level 3 (by virtue of s76)
48(6)	Failure to display a PH vehicle plate.	Level 3 (by virtue of s76)
49	Failure to notify transfer of a PH vehicle licence.	Level 3
50(1)	Failure to present PH vehicle for an inspection, as required.	Level 3 (by virtue of s76)
50(2)	Failure to inform the Authority where the PH vehicle is stored, if requested.	Level 3 (by virtue of s76)
50(3)	Failure to report an accident to the Authority.	Level 3 (by virtue of s76)
50(4)	Failure to produce a PH vehicle licence and an insurance certificate.	Level 3 (by virtue of s76)
53(3)	Failure to produce a PH driver's licence.	Level 3 (by virtue of s76)
54(2)	Failure to wear a PH driver's badge.	Level 3 (by virtue of s76)
56(2)	Failure by a PH operator to keep records of bookings.	Level 3 (by virtue of s76)
56(3)	Failure by a PH operator to keep records of PH vehicles operated by him.	Level 3 (by virtue of s76)
56(4)	Failure to produce a PH operator's licence on request.	Level 3 (by virtue of s76)
57	Making false statement or withholding information to obtain a PH driver or operator's licence.	Level 3 (by virtue of s76)
58(2)	Failure to return plate after notice given following expiry, revocation or suspension of a PH vehicle licence.	Level 3 + fine of £10/day
61(2)	Failure to surrender a driver's licence after suspension, revocation or refusal to renew.	Level 3 (by virtue of s76)

67	Charging more than the meter fare when a HC used as PH vehicle	Level 3 (by virtue of s76)
69	Unnecessarily prolonging a journey.	Level 3 (by virtue of s76)
71	Interfering with a taximeter.	Level 3 (by virtue of s76)
73(1)(a)	Obstruction of an authorised Officer or Constable.	Level 3 (by virtue of s76)
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable.	Level 3 (by virtue of s76)
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable.	Level 3 (by virtue of s76)

4. Transport Act 1980

SECTION	OFFENCE	MAXIMUM PENALTY
64(2)(a)	Driving a PH vehicle with a roof sign, which contravenes s64 (1).	Level 3
64(2)(b)	Causing or permitting a PH vehicle to be driven with a roof sign which contravenes s64 (1).	Level 3

APPENDIX 0

TAXI RANKS

• Park Street (Upper)	Rank for 6 cars
• Park Street (Lower)	Rank for 7 and 2 cars - rarely used
• International Station	Rank for 7 cars
• Domestic Station	Rank for 2 cars plus feeder rank
• Drum Lane	Rank for 2 cars - Not used
• Middle Street	Rank for 4 cars

Appendix 2

Consultation on Draft Hackney Carriage & Private Hire Licensing Policy Summary of the Representations and Responses Received

Background

Ashford Borough Council has reviewed the policies and procedures that affect licensed taxis (hackney carriages) and private hire vehicles operating in the Ashford Borough Council area. It prepared a draft document which set out the policies it was considering and invited views from a number of interested parties, including taxi and private hire drivers, operators of taxis and private hire vehicles, taxi and private hire users, and interested parties including disability groups, local partnership groups, transport user groups and residents' associations.

This consultation exercise was conducted over a 13 week period between October 2007 and January 2008. All of the responses received were recorded and summarised in this document. For ease of reference, they will be listed in the order and within the section that the points occur within the draft policy document. Each respondent will be identified and each issue raised will be assessed in column 4. The final column of the schedule then sets out the recommendations, which are made to the Council's Licensing Committee in respect of amendments to the draft document.

Note the paragraph numbering relates to the amended policy as presented within Appendix 1 and not the consultation version of the policy.

Relevant Paragraph of Draft Policy	Respondent	Comments	Assessment of Comments	Action Proposed (Recommendations to Committee)
GENERAL COMMENTS ON THE DOCUMENT				
Front Page	Licensing Section	Policy to be adopted for 2008-2010.	A three year policy is proposed, similar to the Council's Licensing Policy and Gambling Policy.	Suggest: substitute "2008-2010" for 2007.
EXECUTIVE SUMMARY OF MAIN PROPOSALS				
No comments received.				
DEFINITIONS				
No comments received.				

BACKGROUND				
3.1 Role of Hackney Carriages and Private Hire vehicles	Sue Whybrow (driver)	Highlights section about importance of taxi trade as part of integrated transport system and raises concerns about how bus services are better integrated into the transport policies	The taxi policy can only impact on taxi related matters; however the importance of the taxi trade to an integrated transport policy should not be underestimated.	No change.
3.2 Aims and Objectives of Licensing	Sue Whybrow (driver)	Aims & objectives fail as public are denied reasonable access to the taxi trade, as rank provision is not strategically placed.	Rank provision should take into account access by disabled persons.	No change. Officers will continue to promote greater access to ranks. See below.
3.6 Costs and Benefits of Licensing Policies	Sue Whybrow (driver)	Policy imposes restrictions and higher costs on a taxi trade & the Council is oblivious to the problems facing the trade.	There are no substantial changes to the vehicle policy, so there are no associated costs. The costs borne by the drivers will increase by £5 for an annual check on driver's licences with the DVLA as a result of the adoption of the policy.	No change
INTRODUCTION				
4.2.1 Objectives	Sue Whybrow (driver)	With regards to the protection of the environment, decisions as to how old a vehicle can be when submitting for licensing should be decided by owners, backed up by MOT certificate.	A MOT certificate is a basic & minimum safety check, designed for non-commercial vehicles used for normal motoring and does consist of any destructive tests. The 7-year vehicle policy was adopted by the Council due to the high mileage of licensed vehicles & to promote a high quality vehicle fleet.	No change.
4.3.3 Policy Status	Legal Services	Should be provision for making decisions outside the policy in exceptional circumstances.	Uncontentious decisions for example a request by an executive type vehicle not to display a permit	Suggest "the Council may need to consider applications outside the

		Suggest at 4.3.3 delete the last sentence and insert “exceptionally the Council may need to consider applications outside the policy. Any such decision will normally be made by the Licensing Committee rather than Council officers”.	perhaps should perhaps not concern members. These happen on a frequent basis.	policy. Any such decision may be referred to the Licensing Committee”
4.3.4 Policy Status	Licensing Section	It is hoped that the policy will become adopted by the Council in February 2008 & come into effect on 1 st April 2008.	Agree.	Suggest: “This policy will take effect on <u>1st April 2008</u> and will remain in.....”
VEHICLES				
5.1 Limitation of Numbers	Sue Whybrow (driver)	States that larger firms want more hackney carriage vehicles to be licensed but feels the firms could meet the demand with private hire vehicles.	No letters have been received from any companies requesting an increase to the number of hackney carriages. There are no restrictions on the number of private hire licences.	No change.
5.1.6 Limitation of Numbers	Licensing Section	Following the passing of Road Safety Act 2006, a number of additional vehicles and drivers may require licensing as private hire vehicles.	This legislation will repeal the contract exemption (see revision to 5.13 below) and the effects of this have been considered in preparing this policy.	Suggest: 5.1.6 “The policy takes into account the repeal of the private hire contract exemption and the possibility of an increase in the number of private hire vehicles and drivers.”
5.1 Limitation of Numbers	Sue Whybrow (driver)	Believes that hackney carriage plates should be limited. Believes that there are too many taxis (& private hire vehicles) but also believes that we should not restrict new plates to disabled access vehicles.	Since delimiting the Council has in fact only issued around 20 additional plates. Some plates are no longer used and therefore the number of hackney carriage vehicle has not been unduly increased. See comment below regarding the success of our policy in promoting	No change.

			disabled vehicle provision.	
5.1.5 Limitation of Numbers	Bob Surtees (driver)	New hackney carriage plates should not be recruited [restricted] to disabled access vehicles. Saloon cars to be licensed if they are powered by low emission fuel.	The policy of licensing new hackney carriages to disabled accessible vehicles has significantly increased the number of wheelchair accessible vehicles in the Borough and helped prepare for the implementation of the Disability Discrimination Act implementation, which will require all hackney carriage vehicles to be accessible to disabled persons. Emission checks are part of the twice yearly compliance test.	No change, but see below re: low emission fuelled vehicle fees.
5.2.4 Specifications and Conditions	Legal Services	Add "normally"	Agree	Suggest: "The council has adopted minimum standards as set out in Appendix A, which it will <u>normally</u> apply in respect of all licensed vehicles."
5.3.5 Accessibility	Sue Whybrow (driver)	ROSPA & National Taxi Association have asked for no rear access vehicles to be used as taxis. Highlights problems associated with loading wheelchair accessible vehicles at current rank space.	Agreed (see 5.3.5). The new rank provision in Bank Street has taken wheelchair accessibility to taxis into consideration. Possible new single rank space in Tufton Street would be similar. Policy proposes side loading wheelchair accessible vehicles only; otherwise wheelchairs are loaded/unloaded on to the highway.	No change, but suggest Chair writes to Kent County Council Highways Department to reinforce the need to ensure rank spaces are wheelchair accessible.
5.3.5 Accessibility	Sue Whybrow (driver)	Ranks not wheelchair accessible.	See above comment.	See above comment.
5.4.1 Age	Licensing Section	Need to stress the Council is aware of statutory limits around		Insert "subject to statutory limits."

		vehicle age.		
5.6 Signage & Advertising	Paul Chinnery (driver)	Private Hire should not be permitted to advertise their services on the outside of the vehicles as this would cause confusion to the public and increase the possibility of a private hire to accept hailed fares.	Believe the words “Advance Bookings Only” on the side of vehicles, with contact details, will enhance the clarification of whether the public can hire a private hire. Unlicensed vehicles would be easier for the public to spot. Brings us in line with policies and practices of the rest of Kent. Main reason for signage changes relate to public safety.	No change.
5.6 Signage & Advertising	Arrow Taxis (Operator)	Concerned that they would have to replace their roof signs to meet the suggested conditions and worried that private hire vehicles could use the word taxi within their company name adverts.	Agree these concerns are valid. It is suggested that the policy and conditions be amended to delete the requirement that roof signs bear the word “TAXI”. The policy and conditions also to be amended to ensure that the words “TAXI”, “HACKNEY” etc cannot be included in signage on private hire vehicles even when part of a companies name, contact details etc. The Licensing Section has completely redrafted this section to overcome these concerns and generally make the signage conditions clearer.	See amended signage conditions for private hire vehicles.
5.6 Signage & Advertising	Sue Whybrow (driver)	Private hire vehicles are not recognised by the rear plate, but then customers approach hackney carriage vehicles and ask if they are taxis.	This would appear to support advertising on the side of private hire vehicles and make the vehicles more distinctive.	No change.
5.6.12 Signage & Advertising	Legal Services	Add "reasonably cause offence"	Agree	Suggest “nothing shall be advertised which might reasonably cause offence to

				members of the public; and”
5.10 Grant and Renewal of Licences	Sue Whybrow (driver)	What are “appropriate circumstances”?	For example if a vehicle would exceed the 7-year policy, is to be replaced in the next couple of months.	No change or add examples to policy.
5.11 Environmental Considerations	Bob Surtees (driver)	Low emission fuelled vehicles to should receive a discount on application fees.	This is an initiative that should be supported, in trying to protect the environment, but decreased fees for low emission fuelled vehicles would need to be costed.	Suggest matter is brought before Taxi Forum in Spring 2008 for discussion.
5.11 Environmental Considerations	Cllr Feacey	As a Beacon Council we need to promote cleaner & efficient vehicle use. Grants are available from EU to help clean diesel vehicles & an incentive scheme is needed to promote better air quality. e.g. environmental code of conduct: turning engines off at taxi ranks & checking tyre pressures when starting shifts.	Grants to help clean diesel vehicles to be researched. Cost effective measures that encourage the protection of the environment should be encouraged. Appendix J – The Code of Good Conduct for Licensed Drivers includes (4.1(c)) – “switch off the engine if required to wait”	Amend The Code of Conduct for Licensed Drivers 4.1 “switch off the engine if required to wait or on ranks”. Add 5.1(j) Check tyre pressures when starting shifts.
5.11 Environmental Considerations	Sue Whybrow (driver)	If lower emissions are brought in, will this include buses and coaches?	The taxi policy can only impact on taxi related matters.	No change.
5.11 Environmental Considerations	Sue Whybrow (driver)	Use of LPG is expensive, both through initial outlay and running costs. Concern regarding gas tank and positioning of disabled persons.	Noted.	Suggest matter is brought before Taxi Forum in Spring 2008 for discussion.
5.11 Environmental	Sue Whybrow	Concerned about problems of converting vehicles to LPG,	Noted.	Suggest matter is brought before Taxi Forum in Spring

Considerations	(driver)	difficulties of obtaining LPG etc.		2008 for discussion.
5.12 Stretched Limousines	Sue Whybrow (driver)	Suggests that private hire regulations amended to cover limousines.	In effect this is what removal of the contract hire exemption has achieved.	No change.
5.12 Stretched Limousines	Cllr Feacey	Concern re: safety of vehicles in relation to exits & left hand drive. This has to be balanced against the responsibility to ensure safe vehicles are on the road.	Limousines are not exempt from the requirement in the vehicle policy to have two exits from passenger compartments. Department of Transport has recommended that Councils should not refuse to licence limousines because they have characteristics which contravene their existing policy e.g. left hand drive vehicles.	No change.
5.12.3 Stretched Limousines	Cllr Feacey	Parts can be sourced within 48 hours & supply is quick.	Noted. Policy states "parts may not be available" and some parts such as tyres for a Cadillac are difficult to source.	No change.
5.12 Stretched Limousines	Cllr Feacey	Are not campers the only excluded vehicles from SVA testing?	No, limousines can be self certificated, meaning they may never be inspected by any the DVLA or VOSA.	No change.
5.12.8 Stretched Limousines	Licensing Section	Remove (ii) as legislation has been repealed (see 5.13).	Noted.	Delete 5.12.8 (ii)
5.12.11 Stretched Limousines	Licensing Section	There are obviously concerns regarding the use of darkened glass in stretch limousines, however measuring the % of any tint is difficult and there may be alternatives.	It is recognised that the privacy provided by tinted glass in the passenger compartment is a central characteristic of a limousine. However, glass in the driver cockpit must satisfy the standards within the Road Vehicles (Construction and	Suggest: The passenger compartment of the vehicle may be fitted with darkened or blackened glass. The driver's compartment,

			Use) Regulations 1986 as amended.	including the front passenger seat, must not be fitted with darkened or blackened glass.
5.12 Stretched Limousines	Taxi Forum	Please see attached minutes of the Taxi Forum in December 2007 and specifically the concerns of members present.	Noted.	See revised conditions.
5.12 Stretched Limousines	Licensing Section	Research since the policy was drafted have developed officer's understanding of the stretched limousines. Discussions have been had with VOSA, VOSA approved garages, other licence authorities that licence limousines and at the Institute of Licensing Annual Conference.	Noted.	See revised conditions.
5.12 Stretched Limousines	Arrow Taxis (Operator)	Believes that permitting darkened glass and lateral seating for limousines but not other vehicles is unfair.	These concerns are addressed within the policy. There is however a need to accept that limousines are fundamentally different vehicles and therefore the need for their own conditions. See also Licensing Section changes above.	See revised conditions.
5.13.1 Contract Vehicles	Licensing Section	Parliament has passed legislation that repeals section 75(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976, which removes the exemption for vehicles operating under a contract.	This section should be revised due to the legislation changes and to provide the public with how the Council will interpret the law.	Suggest: Effective from January 2008, the Road Safety Act 2006 has repealed section 76 of the Local Government (Miscellaneous Provisions) Act 1976, removing the exemption to be licensed as a private hire if working under a contract. The

				implication is that additional vehicles will require licensing. While the Courts will provide the definitive interpretation of the law, Ashford Borough Council is following the guidelines issued by the Department of Transport in relation to definitions of private hire vehicles that will require licensing. Organisations that may be affected by the changes described above should also consider seeking their own independent legal advice.
5.16 Courtesy Cars	Sue Whybrow (driver)	Courtesy cars taking legitimate taxi / private hire business.	See above comment regarding removal of the exemption for vehicles operating under a contract.	See above.
DRIVERS				
6.2 Joint Licences	Sue Whybrow (driver)	Believes that hackney drivers should be required to also hold a private hire licence in order to ensure that they don't flout the private hire legal provision.	This is an issue for national legislation rather than local policy. If hackney drivers break the law then this is a matter the Licensing Section would investigate. Joint licences are however available for drivers.	No change. But note change of terms i.e. Dual to Joint.
6.3 Age and experience	Sue Whybrow (driver)	Drivers should have more experience before being licensed.	Legislation states that an applicant can apply for a licence after 12 months of holding a DVLA driving license. This is not a matter for the discretion of the Licensing Authority.	No change.
6.4 Topographical and	Sue Whybrow	Private hire drivers to take topographical tests in the same	Topographical tests recommended within the policy for hackney and	Noted.

other tests	(driver)	way as the hackney carriage drivers.	private hire drivers. Note paragraph changed to emphasis that the new test only applies to private hire drivers. Hackney drivers will continue to take the knowledge test as normal.	
6.4 Topographical and other tests	Arrow Taxis (Operator)	Additional test likely to reduce supply of private hire drivers. Concerned that the tests are a barrier to licensing drivers who have only recently lived in the UK	Testing regarded as a means of improving the skills of private hire drivers.	No change.
6.5 Driving Proficiency and Qualifications	Sue Whybrow (driver)	Enhanced driving tests for taxi and private hire drivers.	The introduction of a driving standards test for drivers will be considered in the future but it is not appropriate at this stage.	Suggest matter is considered by the Taxi Forum at a future date as necessary.
6.5.4 Driving Proficiency and Qualifications	Licensing Section	Currently many driver's licence issued outside the UK do not have counterparts that contain penalties or offences, which raises the issue of whether they meet the Council's criteria for "fit and proper" person.	Could insist that licenses issued abroad are converted to UK licences.	Suggest: Where applicants have recently arrived from other countries, it will be <u>required</u> that their existing licences are converted to a UK issue, either by straight transfer or by undertaking an appropriate driving test. The Council requires that the twelve month qualifying period for holding such a licence will start from the time of the conversion. Also to provide proof that they have been driving for 12 months in another country.
6.6.5 Driving Proficiency	Licensing Section	The word country has been missed out and it wasn't made	Noted.	Suggest: "An applicant who has held a licence from

and Qualifications		clear that those from another country who have converted to a UK licence needs to provide proof that they have been driving for 12 months in that other country.		another country for 12 months or more...” Suggest “and providing proof that they have been driving for 12 months in that other country” is added.
6.6 Medical Examination	Licensing Section	No need to single out insulin treated diabetes.		Suggest: Delete “and applying the C1 standards to hackney carriage and private hire drivers with insulin treated diabetes is”
6.7.2 Criminal Record Bureau (CRB) Disclosures	Legal Services	Add it is always the driver's/operator's responsibility to keep the Council updated about new convictions/cautions”.	Condition is already in private hire driver conditions (Appendix I, 4), but no conditions can be imposed on a hackney carriage driver's licence by law. A change within this section is however suggested to make the differences between private hire and hackney clearer in this regard.	No change to policy substance but suggest amendment to make it clear that “Private Hire Drivers are obliged within 14 days to report all new convictions, official cautions, and fixed penalty notices to the Council. A similar declaration is required as part of the annual licensing process in respect to both private hire and hackney carriage drivers”.
6.7 Criminal Record Bureau (CRB) Disclosures	Sue Whybrow (driver)	Wants those who have not previously lived in the UK to wait 2/3 years before they can apply for a hackney or private hire licence. Suggested in terms of inadequacies of CRB checks.	An applicant not having lived in the UK for 5 years will be required to produce a statutory declaration stating that they have no offences in another country. Legally they are required to hold a driving licence for 12 months before applying for a hackney or private hire licence.	No change.

6.8.10 Relevance of Convictions and Cautions	Paul Chinnery (driver)	Yearly check on driver's licences through the DVLA and the £5 cost should be limited to new drivers. Police & DVLA have the full information detailed to them year on year.	There is currently no means of checking whether the licences presented to the Council as part of a driver's licence application are valid or if penalty points are up to date. Police are not involved in the application procedure. If only new drivers are required, this will undermine the ethos behind this proposal.	No change.
6.8 Relevance of Convictions and Cautions	Cllr Feacey	If a licensed driver is convicted of an offence, they should inform the Council immediately.	Condition is already in private hire driver conditions (Appendix I, 4), but no conditions can be imposed on a hackney carriage licence.	No change.
6.9 Application Procedure	Licensing Section	Removal of paragraph regarding certificates of compliance as this doesn't apply to drivers only vehicles!		Delete relevant paragraph.
6.10 Grant and Renewal of Licences	Bob Surtees (driver)	Driver's licences should run for 2/3 years given all the checks that are now in place.	Agreed at Taxi Forum (12/07) that this would be examined and a report given to the Spring Taxi Forum.	No change, but report to Taxi Forum on benefits and drawbacks of adopting a 2/3 year drivers' licence in Spring 2008.
6.11.2 Conditions of Licence	Legal Services	Replace "enacted" with "adopted".	Agree	Ashford Borough Council's bye-laws were, however, <u>adopted</u> over 9 years ago and do not, therefore, impose any controls over many aspects of a driver's conduct when operating a hackney vehicle.
6.12 Code of Conduct	Paul Chinnery	Driver training on disability issues should be introduced.	Discussed at previous Taxi Forums & compulsory training was not generally	Suggest: adding in Appendix J 5.1(k) undertake

	(driver)		supported. However training should be encouraged.	suitable training, for example disability awareness training.
PRIVATE HIRE OPERATORS				
7.2 Criminal Record Checks	Sue Whybrow (driver)	Private hire operators should be required to hold a private hire licence in order to force full disclosure.	There is no power to require full CRB disclosure in respect to private operators.	No change.
7.6 Licence Duration	Sue Whybrow (driver)	Driver's licences should run for more than 1 year.	Agreed at Taxi Forum (12/07) that this would be examined and a report given to the Spring Taxi Forum.	No change, but report to Taxi Forum on benefits and drawbacks of adopting a 2/3 year drivers' licence in Spring 2008.
DISCIPLINARY AND ENFORCEMENT ISSUES				
8.1 Enforcement	Sue Whybrow (driver)	Comments on the need for late night enforcement.	Noted.	No change.
8.2 Disciplinary Hearings	Legal Services	Clarification on what disciplinary hearings are.	Clarification provided. See Appendix L.	No change.
OFFENCES				
9.1.1 Offences	Legal Services	Delete last bullet point - offences don't come from policy.	Agree	Suggest remove: "The hackney carriage and private hire Licensing Policy (hackney and private hire)."
DELEGATED POWERS				
10.2.3 Delegated Functions	Cllr Feacey	Is there an appeal procedure if any disciplinary action is taken?	Currently any appeal to a decision is made to the Appeals Committee & to the Magistrates' Court (in most cases) It is hoped this can be streamlined in	Suggest insert: "In general terms where an applicant is aggrieved by the Council's decision to refuse to grant a

			the future.	licence or by any conditions imposed on a licence the applicant has a right of appeal to the Magistrates Court within 21 days of the applicant being notified of the Council's decision."
FARES & FEES				
11.1.3 Fares	Legal Services	It looks a bit odd to put the Brighton and Hove tariff in and then say "it doesn't work"- Leave this out.	Agree	Suggest remove: "An example of one of the more commonly used schemes, the "Brighton and Hove Formula", is provided by way of information at Appendix O. It appears, however, unfortunately to be capable of being interpreted in different ways with differing results."
11.4 Fares - Review	Bob Surtees (driver)	Soiling charge should be added to the list of charges.	This is perhaps a matter for annual fees and fares reports.	No change. The matter will be added to the consideration for fares for 2009/10, after consultation with other drivers and operators.
TAXI RANKS				
12 Taxi Ranks	Paul Chinnery (driver)	Provision of a "sleeper" rank for 12-20 minutes to allow drivers use the toilet. For example in Drum Lane.	This is being looked into with Kent County Council' Highways Authority and Ashford Borough Council's Parking Services, but until the benefits and hurdles can be identified, it is suggested this is examined as part of rank provision review. New ranks will be brought come into	No change

			operation in 2008.	
12 Taxi Ranks	Phil Collins (Operator)	Trade needs more rank space.	See above.	No change.
12.1 Taxi Ranks	Sue Whybrow (driver)	Concerns about ranks including need for more and need to remove and replace others.	Agreed that improving rank provision is important and the Licensing Section will try and encourage necessary improvements. To progress this through the Forum. The new rank provision in Bank Street has taken wheelchair accessibility to taxis into consideration. Possible new single rank space in Tufton Street would be similar. Policy proposes side loading wheelchair accessible vehicles only; otherwise wheelchairs are loaded/unloaded on to the highway.	No change, but suggest Chair writes to Kent County Council Highways Department to reinforce the need to ensure rank spaces are wheelchair accessible.
12.1 Taxi Ranks	Sue Whybrow (driver)	Seeks clarification regarding waiting on stands in terms of who has enforcement responsibility.	Advice to be provided to respondent but changes to the policy unnecessary.	No change.
APPENDIX A: VEHICLE SPECIFICATION AND CONDITIONS				
1.2 Vehicle Safety Certification	Licensing Section	Need to clarify that the vehicle must be M1 classified i.e. it was built to be a passenger carrying vehicle.	This will stop goods vehicle adaptations. Such vehicles have not been tested to the standards of a passenger carrying vehicle.	Suggest: Add to this paragraph that the vehicle must be M1 classified i.e. it was built to be a passenger carrying vehicle.
1.23 Fire Extinguisher	Licensing Section	We forgot to include first aid kits. This is a condition that has always been placed on licences. Also removed reference to a specific standard for fire		Suggest substitute British Standard requirements with the need for a compliant fire extinguisher.

		extinguishers in order to future proof the policy.		
1.9 Age	Sue Whybrow (driver)	Suggests extension to vehicle age limits.	There are no plans to change the age limit. Extensions can however be granted to vehicles in exception condition.	No change.
1.11 Tyre Safety	Sue Whybrow (driver)	Comments on the 2mm depth of tyre tread	Tyre safety standards are as required for passenger carrying vehicles.	No change.
1.12.1 Identification Plates and Signs	Sue Whybrow (driver)	Concerns over roof signs.	Addressed with the proposed policy.	No change.
1.23 Fare Tables	Sue Whybrow (driver)	Table designs impractical.	Licensing Section to consider further and best design to be addressed when the next set of tables is printed.	No change.
1.26 Fire Extinguisher	Sue Whybrow (driver) and Licensing Section	Concerned that drivers and operators unclear about the requirements relating to fire extinguishers. Also concerned that listing the relevant British Standard will mean that the policy soon becomes out of date. Also concerned about practicality of requiring extinguishers to be fixed within vehicles and concern relating to driver safety.	Suggest simplification of the policy and conditions relating to fire extinguishers. To provide guidance to drivers and operators about current standards as necessary. To address this issue further with the Taxi Forum if necessary.	Amended policy to state “All vehicles must carry a standard motorist’s First Aid Kit, and an easily accessible and compliant Fire Extinguisher. These shall be provided and maintained at all times when in use for hire and reward”.
1.24.4 Disability access	Sue Whybrow (driver)	Believes that the term of helper and proprietor should be amended.	No alternative suggested to helper but agree proprietor should be replaced by operator.	Change “proprietor” to “operator”.
APPENDIX B: VEHICLE LICENSING PROCEDURES				
1.3 Applications for	Licensing Section	It is not necessary for the applicant to produce evidence		Suggest: Delete “The authenticated copy of the

new or renewed vehicle licence		that they have had their vehicle inspected. This is provided directly to the Licensing Section by the Testing Station.		application form will need to be produced as evidence that the application has been properly made”.
APPENDIX C: LICENSED VEHICLE CONDITIONS				
2.4.5 Signs	Sue Whybrow (driver)	Need to ensure signage restrictions are fairly enforced. Concerned specifically about the Arrow Taxi Charter Mark.	The policy allows such signage and helps overcome this area of concern.	No change.
APPENDIX D: LIMOUSINES				
2.0 Vehicle and Safety Equipment	ClIr Feacey	Formal training is needed when driving stretched left hand drive vehicles. The training should be documented.	The figures to support whether left hand drive vehicles are more dangerous are limited and research has not indicated that specific left hand drive training is available.	No change.
3.1 Use of Vehicles	Sue Whybrow (driver)	Restriction on use of vehicles for every day private hire is vague.	Agreed.	Suggest this paragraph is deleted.
4.1 Vehicle Identification	Paul Chinnery (driver)	How will the identification disk be clearly displayed inside the vehicle, especially if the windows are tinted and working during night times.	Signage serves to distinguish private hire vehicles from ordinary saloon cars and to make them clearly identifiable to the public. However, the naturally distinctive appearance of stretched limousines means that they are unlikely to be confused with a private road user’s vehicle. Driver’s compartment will not be have tinted glass. However the type of identification is yet to be determined.	Suggest change reference to vehicle identification disc to “vehicle identification marking”.
4.0 Vehicle Identification	Sue Whybrow (driver)	Identification disk could restrict front or rear windscreen.	A small internal plate displayed in the top front nearside windscreen would not contravene the Road Traffic Act.	No change.

APPENDIX D: Additional conditions for private hire limousines	Licensing Section	Research since the policy was drafted has developed officer's understanding of stretched limousine licensing. Discussions have been had with VOSA, VOSA approved garages, other licence authorities that licence limousines and at the Institute of Licensing Annual Conference.	Noted.	See revised conditions.
APPENDIX E: TESTING OF APPLICANTS				
No comments received.				
APPENDIX F: PREVIOUS CONVICTIONS				
No comments received.				
APPENDIX G: APPLICATIONS FOR DRIVERS AND OPERATORS LICENCES				
2.1 Application for Renewal of a Licence to Drive Hackney Carriage/Private Hire Vehicle	Licensing Section	Too much detail provided on medical certification requirements.		Delete additional information as indicated.
3.2 Application for Private Hire Vehicle Operator's Licence	Licensing Section	Only a basic CRB check is required for Private Hire Operators.		Requirements amended to reflect this position.
APPENDIX H: BYELAWS				
Byelaws: Seat belts	Paul Chinnery (driver)	Include provision that taxi drivers do not have to wear a seat belt as compulsory, as this knowledge would be beneficial to	Legislation permits hackney drivers not to wear seat belts and this is not a matter for Byelaws. The Council would hope that all hackney drivers	No change.

		the community.	wear their seat belts whilst driving, for their own safety.	
Byelaws : Lost property	Sue Whybrow (driver)	Difficulties of leaving lost property with the police or council offices.	Noted but relevant to a review of the byelaws rather than this policy. To address if the byelaws are reviewed.	No change.
APPENDIX I: PRIVATE HIRE DRIVER'S LICENCE CONDITIONS				
1.2 Conduct of Drivers	Sue Whybrow (driver)	Statement that use of two way radio is permitted.	This is not the case.	No change.
1.8 Conduct of Drivers	Sue Whybrow (driver)	Request to include weight as well as quantity.	Agreed.	Include "weight"
1.10 Conduct of Drivers	Arrow Taxis (Operator)	Smoking to be removed.	Agreed.	Delete "smoking"
APPENDIX J: CODE OF CONDUCT				
4.1 Responsibility to Residents	Sue Whybrow (driver)	Requests code be amend to state that drives should avoid the use of foul language.	Agreed.	Add "avoid the use of offensive language"
5.1 & 5.2 General	Sue Whybrow (driver)	Confusing requirements.	Agreed.	See amended section 5.
APPENDIX K: PRIVATE HIRE OPERATOR'S LICENCE CONDITIONS				
2.0 Display of Licence Plates	Licensing Section	Amended in light of suggested changes for advertising on private hire vehicles.	See earlier comments.	New section 2.3, 2.4 and 2.5.
4.0 Conduct of Proprietors	Licensing Section	Heading included drivers by mistake.		Remove drivers from heading.
APPENDIX L: ENFORCEMENT POLICY				

No comments received.

APPENDIX M: PENALTY POINTS SYSTEM

No comments received.

APPENDIX N: OFFENCES AND PENALTIES

1.2 Offences and penalties	Legal Services	Leave out the amounts at the levels because they are updated annually and will be out of date very quickly.	Agree.	Suggest: “The offences are set out below under the relevant statute in relation to the maximum penalties specified” and remove current penalty rates.
1.2 Offences and penalties	Sue Whybrow (driver)	Recommends changes to penalties.	The penalties are set by law. The Licensing Authority has no influence over this.	No change.

APPENDIX O: TAXI TARIFF

Example of Taxi Tariff	Legal Services	Remove.	Agree.	Suggest remove Appendix O. Replaced with Taxi Rank Information.
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APPENDIX P: TAXI RANKS

No comments received.