



LICENSING AND REGISTRATION COMMITTEE

AGENDA

DATE:	Monday, 24 July 2023
TIME:	6.30 pm
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor J Henderson (Chairman)
Councillor Wiggins (Vice-Chairman)
Councillor Casey
Councillor Codling
Councillor A Cossens

Councillor Davidson
Councillor Kotz
Councillor Land
Councillor Smith
Councillor Thompson

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DATE OF PUBLICATION: Friday, 14 July 2023

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 6)

To confirm and sign as a correct record, the minutes of the meeting of the Committee, held on 8 March 2023.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Miscellaneous Licensing Sub-Committee (Pages 7 - 8)

The Committee will formally receive and note, for its information only, the minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on Friday, 10 March 2023.

6 Premises/Personal Licences Sub-Committee (Pages 9 - 12)

The Committee will formally receive and note, for its information only, the minutes of the Premises/Personal Licences Sub-Committee held on Friday, 10 March 2023.

7 REPORT OF DEPUTY CHIEF EXECUTIVE - A.1 - VARIOUS LICENSING PROVISIONS - APPLICATIONS APPROVED UNDER DELEGATED POWERS IN QUARTER 1 - 2023/24 (Pages 13 - 18)

To provide the Committee with data on the number of licences, certificates and permits authorised by the Council in quarter 1 2023/24.

To provide the Committee with details of licensing policies that are in place or are proposed with intended development/review time frames.

8 REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.2 - DEVELOPMENT OF A COMPREHENSIVE AND COHESIVE TAXI/PRIVATE HIRE POLICY (Pages 19 - 82)

To submit to the Committee the draft Taxi / Private Hire Policy, and to seek authority for the draft policy to be circulated to key stakeholders and interested parties for consultation purposes.

9 **REPORT OF THE DEPUTY CHIEF EXECUTIVE - A.3 - TENDRING COMMUNITY SAFETY ACTION DAYS - LICENSING (Pages 83 - 84)**

To inform Members of the Licensing and Registration Committee about the Tendring Community Safety action days that took place which involved a number of licensing enforcement checks.

10 **REPORT OF THE CORPORATE DIRECTOR (OPERATIONS & DELIVERY) - A.4 - REVIEW OF THE FEES AND CHARGES FOR CARAVAN SITE LICENSING (Pages 85 - 100)**

To provide the Licensing Committee with the details of the proposed licensing fees and charges for the new financial year beginning April 2023, with regard to Residential Park Homes.

11 **EXCLUSION OF PRESS AND PUBLIC**

The Committee is asked to consider passing the following resolution:-

“that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Item 12 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.”

12 **EXEMPT MINUTES - MISCELLANEOUS LICENSING SUB-COMMITTEE (Pages 101 - 104)**

The Committee will formally receive and note, for its information only, the exempt minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on Friday, 10 March 2023.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Licensing and Registration Committee will be held on a date to be decided in due course.

Information for Visitors

FIRE EVACUATION PROCEDURE

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Licensing and Registration Committee

8 March 2023

**MINUTES OF THE MEETING OF THE LICENSING AND REGISTRATION
COMMITTEE,
HELD ON WEDNESDAY, 8TH MARCH, 2023 AT 6.30 PM
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Winfield (Chairman), V E Guglielmi (Vice-Chairman), Casey, Coley, Davis, J Henderson, Skeels Jnr. and Turner
Also Present:	Councillor I J Henderson
In Attendance:	Tim Clarke (Assistant Director (Housing and Environment)), Keith Simmons (Head of Democratic Services and Elections), Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Keith Durran (Committee Services Officer) and Chloe Blackwell (Licensing Enforcement Officer)

135. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillors Clifton and Wiggins (with no substitutions) and from Councillor McWilliams (with Councillor Turner substituting).

136. MINUTES OF THE LAST MEETING

It was **RESOLVED** that the minutes of the meeting of the Committee held on Thursday 3 November 2022 were approved as a correct record and signed by the Chairman.

137. DECLARATIONS OF INTEREST

There were no declarations of interest by Councillors in relation to any item on the agenda for this meeting.

138. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

On this occasion no Councillor had submitted notice of a question.

139. A1 - VARIOUS LICENSING PROVISIONS - APPLICATIONS APPROVED UNDER DELEGATED POWERS

The Committee noted the contents of a report (A.1) on the number of licences, certificates and permits authorised by the Council. The majority of these had been authorised by Officers in accordance with approved schemes of delegation as at 31 August 2022.

140. A2 - LICENSING ENFORCEMENT SCHEDULE OF ROUTINE LICENSING INSPECTIONS FOR 2023

The Committee was invited to consider the arrangements for routine inspections of licences, permits, consents etc. within the scope of the Committee's work.

Members heard that Tendring District Council was a Licensing Authority by virtue of separate legislative provisions relevant to the individual licensing frameworks. As set out in those separate provisions, the Council would determine its approach to ensuring that those who were licensed complied with the requirements of the licence, permit, notice, consent etc. concerned.

Where the Licensing Authority had taken enforcement action to ensure compliance with conditions etc. then it did so in accordance with the relevant legal framework and it would have had due regard to the Licensing Service's enforcement policy and the Council's overall Enforcement Policy.

After a short discussion the Committee **RESOLVED** that:

- (a) the schedule of such inspections, as set out at Appendix A to the Officer report, be endorsed;
- (b) it notes that the Licensing Manager will then make arrangements, within the available resources, to implement the endorsed routine inspection arrangements in 2023 and to then report on progress to this Committee in time for it to inform consideration of a revised schedule for 2024; and
- (c) these arrangements be reviewed in six month's time.

141. A.3 REVIEW OF THE LICENSING FEES AND CHARGES 2023

The Committee had before it details of the current licensing fees and charges for the issuing and renewal of licenses, consents, and permits issued by the Council's Licensing Team and sought approval of changes set out to those fees and charges to take effect from 1 April 2023 (or as soon as practicable thereafter taking account of legislative requirements).

Members heard that Officers had reviewed the fees and charges payable for applications within the remit of the Committee and, where a discretion existed, proposed that increases be approved to better reflect cost recovery in relation to the administration of the licensing areas concerned.

Where discretion permitted, the proposals envisaged an increase of approximately 7% on the correct fees for licensing activities. This reflected the average additional cost arising from the Pay Award for council staff. Staff costs were a major element of costs to be recovered from licence fees.

It was reported to the Committee that the relevant legislative provisions had been considered in the preparation of this report. Certain licensing activities were subject to fees/charges set nationally. Other activities were subject to maximum fee levels with a discretion for the Authority up to that maximum. A third set of licensing activities were not subject to a nationally set maximum and the discretion was solely for the licensing authority. The final set of licensing activities provided for no charges to be made by the Council. In considering the Council's discretion on licensing fees there was a long, established principle that the charging power was not a revenue raising power. As such, charges should not seek to recover more than the administrative costs of the Authority relevant to the licensing activities in question.

After some discussion it was **RESOLVED** that:

- 1) the proposed fees and charges, as set out in the Officer report, be approved with effect from April 2023;
- 2) the Licensing Manager be authorised to publish the Hackney Carriage and Private Hire licensing fees in accordance with the relevant legislative provisions; and
- 3) further to 2) above, the Head of Democratic Services and Elections be authorised to consider any objections received and to determine the final fees payable in consultation with the Chairman of the Committee.

142. A.4 DEVELOPMENT OF A COMPREHENSIVE AND COHESIVE TAXI/PRIVATE HIRE POLICY

The Committee heard that it had previously been advised that the Council had a range of separate licensing policies in respect of Hackney Carriage and Private Hire licensing. In addition, the Committee had been informed that the Government had issued statutory guidance to Councils to develop a single cohesive policy covering the range of licences concerned.

It was reported to Members that in order to develop such a cohesive policy it was important that the range of separate policies were reviewed and that areas of Hackney Carriage/Private Hire licensing where the Council had no current licensing policy were examined in undertaking this developmental work. Consultation had been undertaken and research with other Councils initiated. The report set out the outcome of that consultation and research. It also referenced a Government consultation on possible revisions to a national good practise guide to licensing authorities.

The pre-consultation questionnaire had been available for a period of eight weeks commencing 14 December 2022. During that time 44 comments had been made during the consultation period.

The Committee was therefore requested to consider the information in the report and to indicate policy areas it was minded to see included in a new cohesive policy document that could be prepared by Officers.

Members discussed and decided on the following matters:-

Vehicle Licensing

Tinted windows – Agreed to stay the same.

Identity and Signage – Livery was spoken about by Cllr Turner and voted on but defeated. Agreed to stay the same after.

Vehicle Minimum age – Agreed to stay the same.

Vehicle Maximum age – Agreed extra two years on each.

New Vehicles to have Euro 6 Emissions minimum.

Vehicle Seating Capacity spoken about and agreed to stay the same.

Quantity control – no change was agreed.

Taxi rank provisions – review every 3 years.

CCTV – Agreed to stay the same.

Door signs – Agreed to stay the same.

Vehicle condition check - agreed to.

Drivers Licensing

Proficiency – Fit and Proper was spoken about and agreed to.

Suitability Test agreed to stay the same.

Knowledge Test – Agreed to stay the same although timings to change between tests from 30 days to 14 days.

Vocational Training and Assessment – agreed to stay the same.

Dress code – Agreed to stay the same.

Enforcement

Enforcement protocol agreed to stay the same.

After that detailed debate, it was **RESOLVED** that:

1. a draft cohesive licensing policy statement be submitted to the first meeting of this Committee following the elections to the Council on 4 May 2023;
2. it notes that the development of the cohesive licensing policy statement will involve a further period of consultation and all views received will then be submitted for consideration by this Committee prior to adoption of a finalised licensing policy statement; and
3. Officers be requested to consider the implications arising from the physical capabilities of Hackney Carriage/Private Hire drivers when considering emergency evacuation or providing emergency assistance to passengers.

143. A.5 - HOME OFFICE ISSUE REVISED SECTION 182 GUIDANCE UNDER THE LICENSING ACT 2003 AND "MARTYN'S" LAW

The Committee was made aware of an update to the Guidance issued by the Home Secretary under section 182 of the Licensing Act 2003 and the introduction of "Martyn's" Law.

The Committee was requested to formally determine that, notwithstanding the changes referred to, there was currently, no requirement for an interim review of the Council's Statement of Licensing Policy (under the 2003 Act).

After a brief discussion, the Committee **RESOLVED** that it -

- (a) notes the principal amendments to the Statutory Guidance under the Licensing Act 2003 and the introduction of "Martyn's Law"; and
- (b) agrees that, notwithstanding the changes referred to, there is, currently, no requirement for an interim review of the Council's Statement of Licensing Policy under the Licensing Act 2003.

144. A.6 - REVIEW OF THE FEES AND CHARGES FOR ANIMAL AND BEAUTY TREATMENT LICENSING

The Committee had before it, details of the current licensing fees and charges for the issuing and renewal of licenses administered by the Council's Environmental Health service, that were non-executive functions. The Committee's approval was sought for those fees for the current financial year and changes to those fees and charges to take effect from 1 April 2023 (or as soon as possible thereafter taking account of legislative requirements).

Members heard that this was the first occasion for a number of years that fees and charges had been placed before a Committee in relation to Animal Licensing and Beauty Treatment Licensing. Fees and charges for such work had been set as part of the corporate fees and charges setting process and it had recently been identified that those fees, relating to non-executive functions, should in fact be set by this Committee. Fees had most recently been set in consultation with the Portfolio Holder for Environment & Public Space on 9th February 2022.

The current schedule of fees and charges was presented for Members' approval along with the proposed fees and charges to take effect from April 2023.

As in previous years Officers had reviewed the fees and charges payable for applications within the remit of the Committee and, where a discretion existed, it was proposed that increases be approved to better reflect cost recovery in relation to the administration of the licensing areas concerned.

The Committee **RESOLVED** that:

- 4) the current fees and charges in place since April 2022, as set out in column A of Appendix A to the Officer report, be approved;
- 5) the proposed fees and charges for 2023/24, as set out in column B of the aforesaid Appendix A be approved with effect from April 2023; and
- 6) the Assistant Director (Housing & Environment) be authorised to publish the Animal and Beauty Treatment Licensing fees in accordance with the relevant legislative provisions.

The meeting was declared closed at 9.32 pm

Chairman

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**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,
HELD ON FRIDAY, 10TH MARCH, 2023 AT 10.00 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors V Guglielmi (Chairman), Coley (Vice-Chairman), Casey and J Henderson
In Attendance:	Keith Simmons (Head of Democratic Services and Elections), Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Emma King (Licensing Officer) and Hattie Dawson-Dragsic (Performance and Business Support Officer)

7. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology was received from Councillor Davis (with no substitution).

8. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Sub-Committee held on Monday 10 October 2022 were approved as a correct record and signed by the Chairman.

9. DECLARATIONS OF INTEREST

There were none.

10. EXCLUSION OF PRESS AND PUBLIC

It was moved, seconded, and:-

RESOLVED – That under Schedule 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the items of business to be considered below on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act:-

B.1 Application for the renewal of a Hackney Carriage/Private Hire Driver's Licence

B.2 Request to defer the completion of yearly medical certificate

11. EXEMPT MINUTES OF THE LAST MEETING

The exempt minutes of the meeting of the Sub-Committee held on Monday 10 October 2022 were approved as a correct record and signed by the Chairman.

12. REPORT B.1 APPLICATION FOR THE RENEWAL OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE

RESOLVED – That the named individual's Hackney Carriage/Private Hire Drivers Licence be renewed for one year.

13. **REPORT B.2 - REQUEST TO DEFER THE COMPLETION OF YEARLY MEDICAL CERTIFICATE**

RESOLVED – That the named individual's Hackney Carriage Driver's Licence be revoked as a medical had not been received, as required under the conditions of the named individual's aforementioned licence.

The meeting was declared closed at 10.26 am

Chairman

**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,
HELD ON FRIDAY, 10TH MARCH, 2023 AT 11.30 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors V Guglielmi, Casey and Coley
Also Present:	Councillor Winfield
In Attendance:	Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Emma King (Licensing Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer)

52. CHAIRMAN FOR THE MEETING

It was moved, seconded and:

RESOLVED – That Councillor V Guglielmi be elected as Chairman for the meeting.

53. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence had been received from Councillor Davis. Pursuant to the provisions of Council Procedure Rule 34.5, Councillor Casey had been appointed to take her place on the Sub-Committee.

54. MINUTES OF THE MEETINGS OF THE SUB-COMMITTEE 8 APRIL 2022

The minutes of the meeting of the Premises/Personal Licences Sub-Committee held on 8 April 2022 were approved as a correct record and signed by the Chairman.

55. DECLARATIONS OF INTEREST

There were none.

56. REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL) - A.1 - APPLICATION FOR THE GRANT OF PERMISSION TO SHOW UNCLASSIFIED FILMS

The Council's Licensing Manager (Michael Cook) gave a verbal summary of the written report and advised that the Sub-Committee had before it, for its consideration, as set out in item A.1 of the Report of the Assistant Director (Governance and Legal), a request for the licence holder (Michael Offord of Electric Palace Harwich) to show to the public a number of short films that had not been classified by the British Board of Film Classification. Mr Cook also informed the Sub-Committee that the films were due to be shown at the Electric Palace Harwich at the end of March 2023.

The Licensing Manager further advised the Sub-Committee that the films submitted had been arranged by two separate organisations, namely Short Film Festival and the Essex

Film Collective. They were also informed that Mr Offord had told the Licensing Office that some of the content in the films included 'Strong Adult' themes – for example nudity, swearing, self-harm, drug misuse and murder.

Michael Cook confirmed to the Sub-Committee that a Licensing Officer had viewed all of the films and had provided recommendations that were shown in Appendix C, to the aforementioned report.

Following Michael Cook's introduction of the report the Sub-Committee moved on to questions for the licence holder (Mr Offord).

Questions from Sub-Committee	Answer
Are these all going to be put on at the same time?	Mr Offord – The plan is to have 4 separate playlists all screened on the same day. So we would have a Harwich Shorts playlist and then 3 separate playlists for the Essex Film Collective. They would then be followed by questions and answers, and an opportunity for discussions around the films with the film makers.
Will those films be monitored as some are for different age groups to the others?	Mr Offord – The plan is to set the playlist to the highest rating, so if one of the films was rated an 18 the whole playlist would only be accessible to 18 and above.

The Sub-Committee concurred that, after watching the films, it was felt that some of the films were powerful and needed to be shown. They also thanked Michael Offord for creating the film festival, submitting them and attending the meeting.

The Chairman stated for the record that the Sub-Committee was requested, in accordance with the Council's constitution, to recommend to the Assistant Director (Governance and Legal) the screening of an unclassified film subject to Council Officers viewing the film and imposing an appropriate age restriction if any, having regard to the British Board of Film Classification Guidelines. The Chairman then advised that the Sub-Committee could either approve those recommendations or refuse permission to screen an unclassified film. The Chairman finally stated that, whilst there was a general provision for appeals in relation to the conditions placed on Cinema Licences, there was no right of appeal in respect of this decision.

The Chairman then asked the Head of Legal Services (Linda Trembath) if Michael Offord needed to leave the room whilst it discussed the decision. The Head of Legal Services advised that, at this point the Sub-Committee had watched all of the films, they had the guidance contained within the report, so it now just needed to decide if the Sub-Committee agreed with the Officer recommendations that had been put before it.

It was moved by Councillor Coley, seconded by Councillor Casey and RESOLVED that the film classifications, as recommended by the Officers in Appendix C to item A.1 of the Report of the Assistant Director (Governance and Legal), be endorsed.

The meeting was declared closed at 11.39 am

Chairman

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LICENSING AND REGISTRATION COMMITTEE

24 JULY 2023

REPORT OF THE DEPUTY CHIEF EXECUTIVE

A.1 VARIOUS LICENSING PROVISIONS - APPLICATIONS APPROVED UNDER DELEGATED POWERS IN QUARTER 1 – 2023/24

(Report prepared by Michael Cook and Keith Simmons)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

This report seeks to provide the Committee with data on the number of licences, certificates and permits authorised by the Council in quarter 1 2023/24. The majority of these have been authorised by Officers in accordance with approved schemes of delegation. Data is provided to Committee on the most recent complete quarters (April to June, July to September, October to December and January to March) together with previous quarters so as to aid comparison between quarters and years.

Included within this report is the Department for Transport National statistics for taxis and private hire throughout England which have been recently published.

This report also provides the Committee with details of licensing policies that are in place or are proposed with intended development/review time frames.

EXECUTIVE SUMMARY

The details of number of licences, certificates and permits within the responsibility of the Democratic Services and Elections that were granted are set out under the separate headings below:

(i) Licensing Act 2003 - Premises Licences/Club Premises Certificates

The total of Premises Licences / Club Premises Certificates that have been approved under Delegated Powers during the period as detailed below. For comparison, the following also shows the numbers approved for the periods shown:

Type of Licence	Number of Licences as at			
	5 January to 31 August 2022	31 August 2022 to 31 January 2023	January to March 2023 (Q4 2022/23)	April to June 2023 (Q1 2023/24)
Premises Licences/Club Premises Certificates - Approved	48	26	26	15

(ii) **Personal Licences under the Licensing Act 2003**

The total of Personal Licences approved under Delegated Powers since 7 February 2005, the 'First Appointed Day' on the dates shown were.

Type of Licence	Number of Licences as at			
	31 August 2022	31 January 2023	March 2023 (End of Q4 2022/23)	June 2023 (End of Q1 2023/24)
Personal Licences	2318	2372	2381	2409

(iii) **Gambling Act 2005 - Gambling Licences/Permits**

Below is a table showing the number of gambling licences and permits that were licensed with this Authority on the dates shown.

Type of Licence	Number of Licences as at			
	31 August 2022	31 January 2023	March 2023 (End of Q4 2022/23)	June 2023 (End of Q1 2023/24)
Adult Gaming Centres	21	19	19	19
Betting Premises	12	11	11	11
Bingo Premises	12	14	15	15
Family Entertainment Centres	4	2	2	2
Unlicensed Family Entertainment Centres	29	29	29	29
Prize Gaming Permits	2	2	2	1
Club Gaming & Club Machine Permits	23	24	23	23
Licensed Premises Gaming Machine Permits	25	21	21	22
Licensed Premises Machine Notifications	117	114	116	116
Small Society Lottery Permits	105	120	117	116

(iv) **Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage/Private Hire Licence**

Below is a table showing the number of drivers, vehicles and operators that were licensed with this Authority on the dates shown.

Type of Licence	Number of Licences as at			
	31 August 2022	31 January 2023	March 2023 (End of Q4 2022/23)	June 2023 (End of Q1 2023/24)
Hackney Carriage Driver	277	278	280	279
Private Hire Driver	7	7	6	6
Hackney Carriage Vehicle	216	201	200	198
Private Hire Vehicle	27	26	27	27
Private Hire Operator	22	19	18	19

Temporary Insurance Vehicles Issued	10	5	3	2
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Although the numbers of driver applications processed is broadly the same now has been the case over the last year, there has been a drop in the number of existing licenced drivers renewing (and a comparative increase in new individuals becoming licenced).

Taxi and Private Hire Vehicle Statistics, England 2023

The Department for Transport have published on 11 July 2023 National statistics for taxis and private hire throughout England. Data for 2023 represents the position as at 01 April 2023. Figures are updated every year through surveying each Licensing Authority in England.

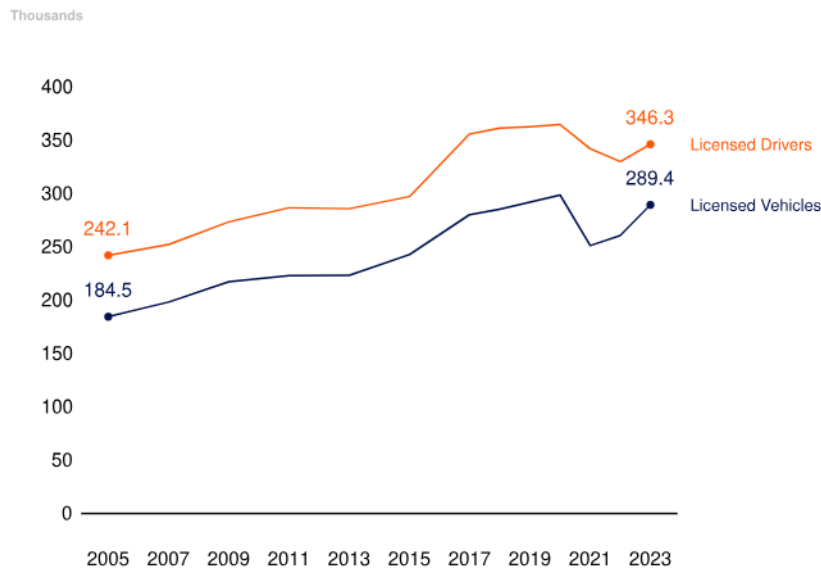
Trends since 2005

Chart 1 is a line chart that shows how the number of licenced vehicles and drivers has changed over time. Between 2005 and 2020, the total number of licenced vehicles increased from 184,500 in 2005 to 298,600 in 2020. This figure then fell sharply to 251,100 in 2021, before increasing again to 289,400 in 2023.

Chart 1 shows that there were 346,300 driver licences in 2023, an increase of 4.9% compared to the previous year. Between 2005 and 2020 the number of driver licences increased from 242,100 to 364,700. It then fell to 330,000 in 2022 before increasing again in 2023.

Licence lengths for vehicles are generally shorter than those for drivers. This is likely to explain the slightly different trends seen in vehicle and driver licences over the course of the pandemic.

Chart 1

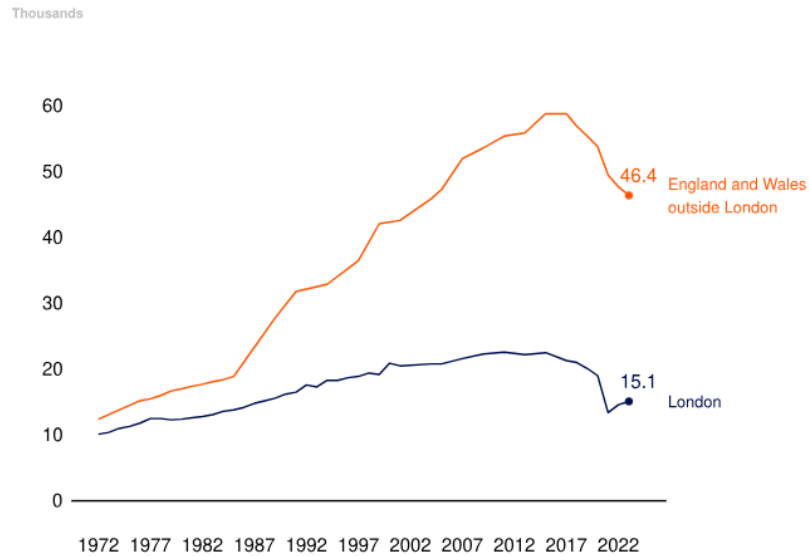


Long term taxi trends

Chart 2 is a line chart that shows that between 1972 and 2015 the numbers of licenced taxis in London, and in England and Wales outside of London, both broadly followed an increasing trend, albeit at different rates. Since 2015 the numbers have fallen, with a particularly sharp fall seen since 2020, which is likely to be at least in part due to the coronavirus pandemic.

The number of taxis in 2023 was substantially higher than in 1972: the numbers of licensed taxis almost quadrupled in England and Wales outside of London (increasing from 12,400 to 46,400), while over the same period the numbers in London increased by 45% (from 10,100 to 15,100). Prior to 2005 the only data available relates to the number of licensed taxis and licensed taxi drivers for England and Wales as a whole. Other than for London, data at a lower geographical level is not available.

Chart 2



As at 1 April 2023:

- there were 57,200 licensed taxis, a 1.3% decrease from 2022
- licensed taxis in London increased by 3.4%
- taxis in England outside of London fell by 2.9%

Licensing Policies List

Below is a table showing the licensing policies currently in place with the timescales and proposal of new policies that Officers will be working on going forward.

Licensing Enforcement Policy	Adopted 06 August 2019 Expires 06 August 2024
Gambling Act 2005 – Gambling Licensing Policy Statement	Adopted 29 March 2022 Expires 28 March 2025
Licensing Act 2003 – Statement of Licensing Policy	Adopted 22 November 2022 Expires 22 November 2027
CCTV Policy in Taxis	Approved in 2013 and it is proposed that it will become part of the cohesive Taxi Policy referred to elsewhere in the business for this meeting of the Committee.
Sex Establishment Policy	Adopted 2018 – To be reviewed in 2024.

Proposed Policies List

Hackney Carriage and Private Hire Policy	Proposed to be submitted in 2023
Licensing Act 2003 Films Classification Policy	Proposed to be submitted in 2024
Street Collection and House to House Policy	Proposed to be submitted in 2026
Street Trading Policy	Proposed to be submitted in 2026
Scrap Metal	Proposed to be submitted in 2026
Pavement Licence Policy	Proposed to be submitted in 2023 (on the basis that legislation introduces this as more than a temporary provision arising out of a back to business arrangement following the Covid-19 pandemic and associated restrictions).

RECOMMENDATION

That the Committee notes the information set out in this report including the proposed development/review for Licensing Policies.

APPENDIX

None

REPORT CONTACT OFFICER(S)

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

Name	Michael Cook Keith Simmons
Job Title	Licensing Manager Head of Democratic Services and Elections
Email/Telephone	licensingsection@tendingdc.gov.uk 01255 686565

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LICENSING AND REGISTRATION COMMITTEE

24 JULY 2023

REPORT OF THE DEPUTY CHIEF EXECUTIVE

A2. DEVELOPMENT OF A COMPREHENSIVE AND COHESIVE TAXI/PRIVATE HIRE POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To submit to the Committee the draft Taxi / Private Hire Policy, set out at Appendix A to this report and to seek authority for the draft policy to be circulated to key stakeholders and interested parties for consultation purposes.

EXECUTIVE SUMMARY

The Committee, at its meeting on 08 March 2023 (minute 142 refers), authorised officers to develop a draft comprehensive policy in relation to the licensing of Taxi and Private Hire Services in the District. The initial element of the work in this regard was to consider the Department for Transport's best practice guide to Councils in respect of this area of licensing, the 2022 consultation draft on an updated best practice guide and any amendments the Committee suggested at the 8 March 2023 meeting. The Committee on 8 March itself considered comments received to an initial consultation exercise undertaken between December 2022 to February 2023.

As reported to the meeting of the Committee on 8 March, a key impetus towards the development of a cohesive licensing policy in this area has been the statutory taxi and private hire vehicle standards, issued by Government in July 2020. By virtue of Section 177(4) of the Policing and Crime Act 2017, licensing authorities must have regard to the standards issued by Government, and the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022.

In referencing licensing policies for Taxi and Private Hire Services, in the statutory Taxi and Private Hire vehicle standards, it reads:

"The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.

When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the report by Dame Louise Casey CB of February 2015 on safeguarding failings."

RECOMMENDATION(S)

It is recommended that the Committee authorises, if satisfied, that the draft Taxi / Private Hire Policy be circulated to the Council's stakeholders and interested parties in respect of this area of licensing for consultation purposes and that the outcome of this consultation be considered at a future meeting of the Committee prior to adoption of a finalised Taxi / Private Hire Policy.

REASON(S) FOR THE RECOMMENDATION(S)

The steps outlined in the recommendations above seek to support the Committee in good decision making in this area of licensing and, in this regard, recognise the legitimate rights of licensees to be consulted at formative stages of policy development. The proposed consultation is on a draft policy and builds upon an earlier consultation prior to the development of the draft policy that was itself considered on 8 March 2023 and which the Committee's decision at that meeting in respect of proposals to be incorporated into the draft policy. The development of a cohesive licensing policy reflects the recommendations from the Department for Transport as set out in its 'Statutory Taxi and Private Hire Vehicle Standards' (July 2020).

ALTERNATIVE OPTIONS CONSIDERED

There is no good reason identified to depart from the recommendation to the Council from the Department for Transport review its Taxi Licensing Policy and develop a cohesive statement of licensing policy in this area of licensing. In so far as the draft policy sets out how the Council, as licensing authority, will exercise its discretion, the alternatives were considered at the 8 March meeting of the Committee. The Committee at this meeting and following the proposed consultation on the draft policy may determine alternatives to the use to that set out in the draft policy.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

While recognising that the primary and overriding objective of the licensing framework for hackney carriage and private Hire Services must be to protect the public, the proposed comprehensive Taxi and Private Hire Policy would support the following themes from the Council's Corporate Plan 2020-24:

- Delivering High Quality Services: Effective regulation and enforcement
- Community Leadership through partnerships: Law and Order - for a safer community
- Strong Finances and Governance: Effective and positive Governance.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The legislative framework in which the Council considers applications for Taxi and Private Hire Driver, Vehicle and Operator Licence and renews, suspends or revokes those licences is set out in the relevant provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act). This framework has been amended and

supplemented from time to time. In applying that framework, the Council must have regard to the statutory taxi and private hire vehicle standards issued by Government in July 2020. Likewise, it will give due consideration to the Government’s guidance to licensing authorities on the exercise of their licensing functions for Taxi and Private Hire Services.

“Having regard” to guidance requires public authorities, in formulating a policy to give considerations the weight of which is proportionate in the circumstances. Given this is statutory guidance issued directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these recommendations cannot be overestimated.

Within the 1976 Act, there are provisions that permit Councils to attach conditions to the grant of Taxi and Private Hire Driver, Vehicle and Operator licences as it may consider reasonably necessary. This discretion must be relevant to the role of the Council as a licensing authority.

As with all other areas of its activity, a local authority is entitled to adopt policies in relation to taxi and private hire licensing. Policies are an integral part of the decision making process and should be used to inform, guide and provide a valuable aid to the decision makers in assisting them with consistent decision making.

Irrespective of a policy statement, it continues to be the case that each request, review, application, or case must be considered and decided in its own right and on its own merits taking into account the policy in question. Where departure from a policy of the Council is proposed it should be accompanied by reasons to explain the departure in licensing terms. Officers, in their decision-making on applications, renewals, suspension and revocation situations will apply the policy of the Council.

FINANCE AND OTHER RESOURCE IMPLICATIONS

The cost of the activity in support of developing the comprehensive Taxi and Private Hire Policy (in terms of production, consultation and publication) will be met from the current service budget.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The development of a cohesive policy for this area of licensing will assist in the allocation of resources to achieve the intentions of the policy.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	A cohesive policy will support a shared understanding of the Council’s expectations in this area of licensing.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Reporting on the application of the Council’s policy is envisaged following its adoption. This will ensure resources can be focussed as policy is developed.

MILESTONES AND DELIVERY

This report sets out the approximate timescales/milestones for a draft Hackney carriage and Private Hire licensing policy to be adopted.

ASSOCIATED RISKS AND MITIGATION

By not incorporating the stand-alone policies into one comprehensive policy it may result in drivers and vehicle standards falling below the professional levels expected from members of the public and may have an impact on their safety.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The outcome of initial consultation on this matter was the subject of a report to this Committee on 8 March 2023. This outcome assisted the Committee in its directions to officers in relation to the development of the draft policy now submitted.

It is recommended that following consideration of the submitted draft policy, public consultation be undertaken over a minimum of an eight week period. The consultation itself will encompass and engage a range of consultees such as:

- All licensed Hackney Carriage and Private Hire Drivers
- All vehicle licence holders
- All licensed Private Hire Operators
- All applicants with pending Hackney Carriage/Private Hire applications
- DVSA and ROSPA
- A range of partner organisations such as in health, universities and community groups (including Citizens Advice Tending, Community Voluntary Service Tending and Age UK) and business organisations such as the Federation of small businesses and local business associations of Clacton, Frinton and Manningtree.
- Responsible Authorities
- Essex County Council Child Protection Unit, School Contracts and Trading Standards.
- Essex Police
- Institute of Licensing
- A range of licence holders of local premises licences (including pubs, off-licences, late night refreshment premises and night time economy)

The policy will also be available to view, download and comment on through the Council's website.

EQUALITIES

In developing a new cohesive Taxi and Private Hire Licensing Policy Statement, the Council will have due regard to its public sector equality duty to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

SOCIAL VALUE CONSIDERATIONS

Well regulated activities should, of themselves, contribute to the overall economic and social wellbeing of the District. The adoption of a cohesive Hackney Carriage and Private Hire Licensing Policy seeks to support well regulated licensable activities.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There are no environmental implications arising directly from the content of this report.

OTHER RELEVANT IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder	In undertaking these licensing functions the Council will have regard to the duty upon it by virtue of section 17 of the Crime and Disorder Act 1998 (duty to take into account the prevention of Crime and Disorder).
Health Inequalities	There are no direct implications arising from the proposals set out in this report.
Area or Ward affected	All

ANY OTHER RELEVANT INFORMATION

None

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Department for Transport issued best practice guidance to Councils in 2006 to assist with their role as a regulator in this sector. In 2022, the Department undertook consultation on possible revisions to that best practice guidance. The consultation concluded on 20 June 2022 and the Department for Transport website indicated that it is analysing the feedback received.

The consultation issued by the Department for Transport covered subject areas of:

- Driver licensing – proficiency
- Driver licensing – vocational training and assessment
- Vehicle licensing – tinted windows
- Vehicle licensing – identification and signage
- Vehicle licensing – age limits
- Vehicle and Driver licensing - accessibility
- Point-based enforcement systems
- Vehicle condition (daily) checks
- Vehicle safety ratings
- Seating capacity
- Obtaining details of vehicle tests, including failures

Taxi rank provision reviews every 3 years
Sample notices between licensed driver and passenger
Staying safe guidance for licensed drivers
Assessing hackney carriage quantity controls

The Council has, from time to time, adopted a number of stand-alone policies in respect of Taxi and Private Hire Services.

The Committee at its meeting on 8 March 2023 agreed a number of directions to officers which have now been incorporated into the draft comprehensive and cohesive policy now submitted. The Committee is invited to consider this and determine if any amendments should be made prior to submitting the draft policy for a further process of consultation.

Prior to further consultation, the Committee are referred to three areas of the draft policy for further discussion.

**Livery / Identification of a Hackney Carriage / Private Hire Vehicle.
Further information can be referred to on page 21 of the draft policy in appendix A.**

**Accessibility of a licensed vehicle.
Further information can be referred to on page 22/23 of the draft policy in appendix A.**

**Enforcement and Compliance.
Currently using a warning three step system, further information can be referred to on pages 34-36 of the draft policy in appendix A. Consideration of moving this towards a points based enforcement system.**

The Committee may wish to consider and ask questions during its consultation around these areas.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Licensing and Registration Committee – 8 March 2023, Minute 142
Licensing and Registration Committee – 3 November 2022, Minute 134

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

None.

APPENDICES

Appendix A - Taxi / Private Hire Draft Policy

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Tendring District Council



HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2023-2028

Adopted XXXXX

Tendring District Council: www.tendringdc.gov.uk

FOREWORD

This Statement of Hackney Carriage and Private Hire Licensing Policy is produced by Tendring District Council and will be the basis for all Hackney Carriage and Private Hire related licensing decisions taken by the Council.

This Policy was approved on the **** 2023 and shall be effective from the **** 2023 and shall remain in effect for five years; The Policy will be reviewed at the end of this period, but may also be subject to review in response to changes in regulation or guidance or other relevant significant issues which necessitate a review of Policy.

The Council recognises that the industry plays an integral part in the running of what is a growing and inclusive economy within the District, as well as being a vital support for those residents requiring transport, particularly vulnerable residents. Well run operators and drivers will receive the support of the Council in order to support the sustainability and subsequent growth of the trade, which sustains large direct and indirect employment. However, the Council will not hesitate in dealing firmly and robustly where operator and driver standards fall short; therefore all drivers and vehicles will be licensed in accordance with Statutory provisions and this Policy to ensure the safety of the public when using this vital transport service. This Policy will be kept under review and will be amended when legislative amendments and issues arise that make change necessary.

All relevant application forms and guidance are available via the Tendring District Council website or from the Council's licensing services by email: licensingsection@tendringdc.gov.uk

**TENDRING DISTRICT COUNCIL
HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY**

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1.0 **INTRODUCTION**

This is Tendring District Councils Statement of Hackney Carriage and Private Hire Licensing Policy. It is written 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, as Licensing Authority the duty to carry out its licensing functions in respect of hackney carriage drivers and vehicles, and private hire vehicles, drivers, and operators.

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

- All licensed drivers and operators are “fit and proper” persons in accordance with the statutory legislation
- All vehicles licensed by the Council are safe, comfortable, properly insured and available where and when required
- The safety and protection of passengers (and consumer rights) and others is paramount.

Any complaint or other intelligence relating to driver behaviour that puts passenger safety at risk will be investigated including working with other relevant and partner authorities.

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

- Up to three yearly licensing of drivers including medical checks, criminal record checks, a good standard of driving ability with a comprehensive knowledge of the District. DVLA checks of all drivers' licences at first application and upon renewal
- Five yearly licensing of private hire operators, subject to the power to grant a licence for a shorter period of time should this be appropriate in the circumstances
- Routine inspections of records maintained by private hire operators to support compliance
- Annual licensing of vehicles will include mechanical vehicle testing, along with inspections conducted by an authorised Officer and confirmation of required documentation
- Investigation of complaints and enforcement of legislation and licence conditions with appropriate action taken in accordance with the Council's Licensing Enforcement Policy
- Provision of information to the hackney carriage and private hire trades with members of the public through press releases and publications, the Council's website and other relevant means

2.0 DESCRIPTION OF THE DISTRICT

The Tendring District Council is situated in the County of Essex, which comprises twelve District and Borough Councils and two Unitary Authorities.



The District forms a rural peninsular bounded by the Stour estuary to the North, the Colne estuary to the South and the North Sea to the East. The majority of residents in the District live in the well-established towns, the largest of which is Clacton on Sea.

Tendring is well known for having one of the longest coastlines and the sunniest, driest weather of any District in the country. Tourism thrives in the District with many former visitors choosing to settle here and with tourism being a main source of income for businesses in the District.

The District benefits from a good rail and road infrastructure and is within easy reach of London Stansted Airport. The District boasts no fewer than fourteen railway stations, with London Liverpool Street terminating at the end of the mainline. There are also excellent links to the continent via Harwich International Port and further port expansion in the Bathside area of Harwich has been approved which has led to increased employment opportunities for the District.

The Council is a partner in the development of proposals known as “Freeport East” for the development of a freeport based on Felixstowe, Harwich and Gateway 14. The aim of the proposals are to attract inward international investment and drive domestic growth.

3.0 PRINCIPLES, PROCESS, DELEGATION AND DECISIONS

3.1 Legislation

In undertaking its Hackney Carriage and Private Hire licensing function, the Council will have particular regard to the relevant provisions of the following:

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

- Human Rights Act 1998
- Regulators Code
- Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

3.2 Statutory Taxi & Private Hire Vehicle Standards and Best Practice Guidance

The Department for Transport (DfT) has national responsibility for hackney carriage and private hire policy in England and Wales. In formulating this policy for the District of Tendring, advice contained in the DfT's "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance" has been taken into account, in addition to aligning the local policy with the DfT's Statutory Standards.

Local circumstances and requirements have been taken into account in this policy, and the DfT itself recognises that individual Councils are best placed to "decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes", providing they have regard to the Statutory Standards.

3.3 Decision Making at the Council

The Council will be mindful of the needs of the applicant and licence holder, but this will be balanced against the paramount duty that the Council has to ensure the safety and protection of passengers and others.

The Council aims to provide a clear, consistent and responsive service to prospective and current licence holders, members of the public and other stakeholders, including the provision of advice and guidance.

The Council has delegated its licensing function to the Council's Licensing and Registration Committee and further delegated authority to the Miscellaneous Licensing Sub-Committee (formally the Taxi Licensing Sub-Committee), and to Officers of the Council who will determine applications and licensing decisions in accordance with this Policy.

Whilst officers and the relevant Committee will, in the majority of cases, follow the Policy, there may be a limited number of occasions where specific circumstances require a departure from the Policy. In such circumstances, the reasons why departing from the Policy would be appropriate will be made clear. The Policy is intended to apply to a significant majority of all circumstances.

The Miscellaneous Licensing Sub-Committee consists of a selection of Members from the Licensing and Registration Committee. Three to five Councillors will sit on hearings to deal with new applications, renewals and reviews of licences that are referred directly to it. Councillors, when determining applications for a licence, renewal or a review of a licence, will have regard to hackney carriage and private hire legislation, this Policy and any other relevant legislation, legal case law and other relevant Council policies as appropriate to the licensing framework.

The Council has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions.

3.4 Miscellaneous Licensing Sub-Committee

The following are circumstances where matters are referred to the Miscellaneous Licensing Sub-Committee:

- Renewal applications for hackney carriage and private hire licences where the applicant has more than 3 penalty points on his/her licence or does not meet the current policy requirements, save where the Committee has previously determined that an application

need not be referred back to it, and can instead be determined by officers under delegated powers;

- Applicants for licences who have convictions or who do not meet the current policy requirements;
- Applications for renewal of licences where the circumstances of the applicant have changed since the grant of the previous licence;
- Any other circumstances where Officers wish the case to be referred to the Committee.

All matters presented to the Sub-Committee will be in the format of a written report, a copy of which will normally be provided or made available to the applicant or licence holder no later than 5 days before the Committee meeting, unless emergency procedures are required.

Each case will be determined giving appropriate weight to:

- The relevant legislation and/or relevant case law (if appropriate)
- The information provided by parties at a hearing
- Available and appropriate guidance
- Expectations of this policy

Within that framework, each case will be determined on its own merits. The Sub-Committee will conduct administrative consideration of the application based upon the evidence presented and following a comprehensive set of procedural rules.

A legal advisor, advocate or friend may represent any applicant or licence holder where such person chooses not to represent themselves.

The Sub-Committee will usually meet in private in order to protect the personal and sensitive information relating to an applicant. Each meeting will have to formally decide to exclude the public. To ensure impartiality, all Officers (apart from the Council's legal advisor and the Democratic Services Officer) are absent during the decision-making process.

Applicants and licence holders will be informed of the decision of the Sub-Committee on a stated date after the hearing, whereupon a written copy of the decision will be provided. The decision determined by the Sub-Committee will be accompanied with the reasons for that decision.

To make a fair decision, it is important that the Sub-Committee is aware of all of the facts relating to any given case. Accordingly, the Committee will need to understand why the applicant feels that they should be granted a licence or why an existing licence holder should keep their licence within the context of the matters brought before the Committee. Where this would be contrary to the Policy of the Council, applicants/licensee should set out how their circumstances can be distinguished from the Policy position or otherwise there are sufficiently valid reasons for the Sub-Committee to consider departing from the Policy decision. The hearings procedure ensures that applicants and licence holders have the opportunity to present suitable and sufficient evidence to support their case.

In the unusual and rare event that a licence holder is unavailable for a hearing a matter may be heard by the authority in their absence.

4.0 REVIEW OF POLICY AND PROCEDURES

4.1 Consultation

The Council has consulted widely and invited comments from any interested party in particular those listed below.

- Tendring District Council licensed hackney & private hire drivers
- Tendring District Council taxi proprietors and private hire vehicle licence holders and operators.

- Tendring District Council Safer Communities Team
- Local businesses and residents
- The National Private Hire Association
- The National Taxi Association
- Institute of Licensing
- Essex County Council (School contracts) & (Trading Standards)
- Essex Police
- The Royal Society for Prevention of Accidents (RoSPA) & Driver and Vehicle Standards Agency (DVSA)
- Members of the Public through the Council's website

4.2 Implementation

The Policy and associated documentation are available for inspection on the Council's Website. Paper copies are available upon request.

The Policy will remain in existence for a period of five years, however the Council will indicate interim reviews should there be sufficient issues arising that warrant this. Councillors sitting as the Licensing and Registration Committee will determine whether this position arises at any moment in the life of the policy.

The Policy will be approved, adopted and implemented by the Licensing and Registration Committee.

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

5.0 Information Sharing

5.1 The Council encourages partnership working alongside many other enforcement agencies such as the Police, National Anti-Fraud Network (NAFN), HM Revenue and Customs, the Home Office, DVSA, Department of Work and Pensions, benefit fraud, other Licensing Authorities etc. The Council will ensure that information is shared lawfully and fairly in accordance with its information sharing agreement. The Council is legally required to provide information if lawfully requested to do so, which is normally pursuant to the investigation of a criminal offence, to detect fraud, investigate immigration offences, or enforcement.

5.2 A key source of information will be the DBS (Disclosure and Barring Service). However, the Council will lawfully share and seek information elsewhere where it is justified and necessary to do so under common law police disclosure in order to receive timely and relevant information as it might relate to an arrest, charge, caution etc. where there might be significant risk to the public in not doing so swiftly. The Council will also look at any history of complaints and concerns raised by the public or others when considering the 'fit and proper person test'. In the interests of public safety, The Council will not issue a licence to any individual that appears on the barred lists for children or adults.

5.3 The Council maintains close ties with all local authorities across the county of Essex through an established Licensing Officers Forum. Through this group we will seek to further share information, align policy and develop best practice in order to reduce attractiveness of being licensed outside of our area and thereby maintain the objectives of this policy. This information will not be personal data (or data not in the public domain).

5.4 In some circumstances it may be appropriate under the Safeguarding and Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS in this regard.

A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to children or vulnerable adult, should be referred to the DBS.

5.5 The power for the Council to make a referral in this context arises from the undertaking of a safeguarding role. The DBS recommends that licensing authorities should make referral to the DBS when it is thought that:

- An individual has harmed or poses a risk of harm to a child or vulnerable adult;
- An individual has satisfied the 'harm test'; or
- Received a caution or conviction for a relevant offence and;
- The person they are referring is, has or might in future be working in regulated activity. the Council are mindful of future proposals by Government, contained within the Finance Bill 2020-21 that are likely to require applicants to provide the council with proof of registration with HMRC as a requisite part of the initial and ongoing licence application process.
- If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to the barred list.

DRAFT

6.0 DRIVERS

6.1 Hackney Carriage and/or Private Hire Driver Licence – new and renewal applications

Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 require that a district council shall not grant a driver's licence to drive a private hire vehicle or hackney carriage unless they are satisfied that an applicant is a fit and proper person. The onus is on the applicant to demonstrate that they meet this requirement, not on the Council to demonstrate that the applicant does not. The Council must be "satisfied" if there doubt the law says a licence must not be granted.

In order for the Council to establish whether an applicant meets the fit and proper set out in the below the applicant must provide evidence of:

- Good character (honesty and trustworthiness)
- A high driving standard
- Medical fitness
- Criminal history
- Relevant and detailed knowledge of the District
- Understanding of English (spoken, written and reading)

Applicants must take note of the following requirements for the grant and renewal of a licence which has been recommended by the DfT statutory standards:

Crimes resulting in death	Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.
Exploitation	Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.
Offences involving violence against the person	Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
Possession of a weapon	Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.
Sexual Offences	Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. In addition to the above, the Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.
Dishonesty	Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs	<p>Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.</p> <p>Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.</p>
Discrimination	Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.
Motoring Convictions	<p>Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.</p> <p>Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.</p> <p>See appendix A for further details.</p>
Drink driving/driving under the influence of drugs	Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
Using a hand-held device whilst driving	Where an applicant has a conviction for using a held-hand mobile telephone or a hand- held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Current licensed drivers with fixed penalty endorsements and previous convictions/cautions that fall under the above detailed limits will mean that the application will need to be determined by the Miscellaneous Licensing Sub-Committee.

Drivers must have held a full United Kingdom (UK) driver's licence for at least 4 years, however driving licences issued by EU/EEA States and Countries detailed in the driving licences (Exchangeable Licences) Orders are also permitted to count towards the 4 year period qualification requirement for the grant of a hackney carriage/private hire driver's licence.

Applicants who have held the necessary driving licence for the required length of time will be assessed on their individual merits.

6.2 Hackney Carriage and Private Hire Dual Driver Licence

This Council currently issues a Dual Driver Licence that authorises the holder to drive both Hackney Carriages and Private Hire Vehicles. Presently, for the purposes of this Policy, the Hackney Carriage and Private Hire Dual Driver Licence is referred to using the term 'Dual Driver Licence'

A Dual Driver Licence is issued for a maximum period of 3 yrs.

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

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

- Application form provided by the Council, complete in its entirety and signed by the applicant
- The appropriate fee. The current fees are available from the Licensing Department or the Council's website.
- The applicant's original UK DVLA driving licence. Applicants must have held a full DVLA licence for at least 4 years for a new application (EU/EEA States and Countries detailed in the driving licences (Exchangeable Licences) Orders are permitted to count towards the 4 year period qualification requirement).
- A completed medical certificate. A medical and eye test document required must be no older than 3 months at the time a valid new driver application is determined.
- Driving Standards Assessment practical taxi test, delivered by an external company (cost met by the applicant) – This must be under one year from assessment.
- Passenger Assistant Training Scheme or equivalent, delivered by an external company (cost met by the applicant) – This must be under one year from assessment.
- Child Sexual Exploitation training.
- Successful completion of the Council's knowledge test (new applicants).
- One recent, colour, passport sized photographs of the applicant (signed during the medical assessment by the medical practitioner as a true likeness) (no sunglasses or hats. Headdress may only be worn for religious beliefs while displaying full facial features).
- Application for a Disclosure and Barring Service (DBS) Enhanced Check completed by the applicant with accompanying identification. The enhanced certificate must be submitted to the Council no more than 28 days from the issued date.
- For all applicants who have lived in the United Kingdom for less than 5 years continuously, a certificate of good conduct from the appropriate Embassy is required.
- For those applicants not holding a UK passport, evidence will need to be provided of the applicant's right to work in the United Kingdom, which will include a relevant VISA or letter from the appropriate Embassy/Authority. The Council may also contact the Home Office to carry out immigration checks if appropriate to do so.
- All applicants must provide original documentary evidence confirming their right to live and work in the UK. Any licence granted to drivers whose leave to remain in the UK is time limited will only be valid for the period for which they are entitled to work in the UK. In order for the licence to be extended, drivers must produce further evidence to prove they have the right to work in the UK.
- Two proofs of address (dated within the last 3 months at time of application or a current Council Tax bill) in accordance with the DBS requirements.
- Documentary proof of the applicant's National Insurance number.
- Individuals, companies and any type of partnership must complete a HMRC tax check and give their Council a tax check code.
- Any other documents as may be required.

6.3 Fee

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

Any outstanding application older than 12 months will be destroyed. Should the applicant wish to pursue the application after 12 months, a new application will need to be submitted, along with a new DBS application, medical certificate and application fee.

6.4 Fit and proper test

In determining any application or considering a report relating to an applicant or existing licensee for a driver, operator or vehicle licence, the Council has to satisfy its duty in respect of public safety and make a judgement as to whether the applicant or existing licensee is a 'fit and proper' person to hold a licence.

The following tests are used for the basis of its decision:

Drivers

"Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?"

Private Hire Operators

"Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"

Vehicle Proprietors

"Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?"

If the answer to the question is 'no', the individual should not hold a licence.

Councils have to make difficult decisions but the safeguarding of the public is paramount. An applicant or licensee should not be 'given the benefit of doubt'. If the Sub-Committee or delegated officer is only "50/50" as to whether the applicant or existing licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

7.0 National Anti-Fraud Network - National Register of Taxi Licensing

All applicants are required to declare whether they have previously had any application for a driver licence refused by any other local authority and/or whether they have had any previously held driver licence revoked by any other local authority. To this end, the Authority may verify this information with the National Anti-Fraud Network (NAFN) National Register of Taxi Licence Revocations and Refusals database – known as [the] NR3. The Authority also contributes where an application has been refused or licence revoked by the Authority.

8.0 Suitability Test and Knowledge Test

8.1 Suitability Test

Before someone can request an application pack they will be required to undergo an applicant suitability test for which an initial fee is payable. This test covers numeracy, literacy, map reading, dates and times. When they attend this test they will need to bring along with them their DVLA drivers licence and proof of their national insurance number. If they fail to pass this test they will be required to wait 14 days before taking the test again to which a further payment is required. These tests can be arranged by contacting the Council's Licensing Team. Once this fee is submitted, no refund will be made should they wish to cancel their application. Should they fail to turn up to the appointment without notice, the Council's Licensing Team may withdraw their application. **See Appendix H for further information.**

8.2 Knowledge Test

In order for someone to become fully licensed, they will be required to undergo and pass a Knowledge Test which will be computerised multiple choice questions.

The module test consists of questions under the following categories:- Road Signage, Highway Code, Routes of roads within the Tending area, Places of Interest and Local Knowledge, Conditions, Law and Equality. **See Appendix I for further information.**

An applicant will be expected to have knowledge of the law in relation to Hackney Carriage/Private Hire Driver and Vehicles as well as the Licensing Conditions adopted by The Council. Applicants should also be familiar and have studied the Highway Code and the route areas shown in the driving knowledge test guidance. The test is computer based and the questions are automatically generated by the computer. The test is time limited and candidates will have a maximum time to complete it.

9.0 Driving Standards, Passenger Assistance Training Scheme and DVLA Licence

It is a statutory requirement that a Hackney Carriage/Private Hire licence will not be issued to any person, who at the time of the application, has not held a full driving licence for a continuous period of 4 years immediately prior to the date of receipt of a valid application to the Council.

Driving licences issued by EU/EEA States and Countries detailed in the Driving Licences (Exchangeable Licences) Orders are permitted to count towards the 4 year period qualification requirement for the grant of a private hire and/or hackney carriage licence, but applicants must produce a UK driving licence.

In order to establish that an applicant has reached an acceptable driving standard, new applicants will be required to have successfully undertaken the driving standards practical taxi test and passenger assistant training scheme delivered by an external providers.

A typical driving standards practical taxi test assessment may require the applicant to perform various driving manoeuvres, possibly an emergency stop and to drive independently of direction following road signs and directions to a particular destination. A high level of driving competence is required. To pass the test, the applicant must have no serious or dangerous driving faults.

In regard to the Passenger Assistant Training (PATs), applicants will be expected to demonstrate a variety of skills such as correctly positioning the vehicle for disabled access, assembly of the wheelchair ramp/lift, securing the wheelchair passenger in place using clamping equipment, as well as safely unloading the wheelchair.

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

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

DVLA status will be checked at ad-hoc intervals by the Council. Any discrepancies while doing the check may result in the licence holder having to appear in front of the Committee.

10.0 Age

All applicants for Hackney Carriage/Private Hire driver licences will be assessed on their individual merits. The Council does not consider it necessary to set an age limit for drivers provided that regular medical checks are made and that the applicant has held a DVLA driving licence for at least 4 years.

11.0 Medical fitness

There is a general recognition that it is appropriate for HC/PHV drivers to have more stringent medical standards than those applicable to normal car drivers due to the fact that they will be conveying members of the public and provide assistance to disabled passengers, as well as offering reasonable assistance with any luggage.

All applicants will be required to obtain a Group 2 medical standards certificate signed by their GP (or a Doctor listed under the British Medical Association (BMA), with full medical history supplied by their GP, may be used instead).

Once licensed, a medical check will be required to be undertaken at renewal or annually once the driver reaches the age of 65 years.

Should there be concerns about a licensed driver's health, a The Council may request further medical information or an additional medical check to be conducted, in order to ascertain whether the licensed driver is still fit enough to drive a licensed vehicle. The Council may suspend or revoke a licence if the information is not submitted within 3 months of being requested, or where the returned medical information states that the licensed driver is no longer fit to drive a licensed vehicle.

The medical examination will be at the applicant's own cost and also any additional cost that an eye sight test may attract.

12.0 Criminal Record

Prior to consideration of any application, the Council will obtain from the applicant a Disclosure & Barring Service Enhanced Certificate in respect of the applicant, to be assessed in accordance with the Council's statement of policy about relevant convictions. This must include a check for working with adults and children and be conducted by this Council.

All drivers will be required to submit an Enhanced Certificate, which includes whether an applicant is barred from working with children or adults, upon application and renewal.

The enhanced certificate must be submitted to the Council no more than 28 days from the issued date.

Prior to consideration of any new application, overseas applicants who have lived in the United Kingdom for a continuous period of less than five years are required to provide a certificate of good conduct from their previous country or countries of residence (within the previous five years) (the applicant must meet the cost) this in addition to an Enhanced Certificate from the

Disclosure & Barring Service. This can be applied for at the following link <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

A licence will generally not be granted to any applicant who does not comply with the minimum requirements as set out above. Where several minor offences have been committed the Council will take into consideration any pattern of offending. The Council can also take into consideration spent convictions and cautions when determining an application for a driver's licence as Licensing Authorities are exempt from the Rehabilitation of Offenders Act 1974.

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

- Driving or being in charge of a vehicle whilst under the influence of drink or drugs
- A drug related offence
- Indecent exposure, indecent assault or any of the more serious sexual offences or
- Grievous bodily harm, wounding or assault
- Dishonesty
- Any other serious crime that may have an adverse effect on public safety

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

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

Where an existing driver commits an offence and/or breaches the licence conditions, the nature and number of incidents will be taken into consideration when determining if the driver continues to be considered suitable to retain a licence.

Complaints in relation to existing drivers will generally be held on file and taken into consideration for a period of three years from receipt. Although where a further warning is issued during this period, the original warning will be kept on file from the date of the most recent warning. Where a licence is revoked for persistent breach of licence conditions a period of 4 years should generally elapse before a further application is favourably considered.

The licence holder shall notify the Council in writing immediately but no longer than 7 days of any caution/conviction (whether criminal or motoring) being imposed upon them during the period of the licence or within a period of 7 days of any fixed penalty offence (as defined in Section 51 of the Road Traffic Offenders Act 1988) being endorsed upon their driving licence during the period of this licence.

13.0 Disclosure and Barring Service – Update Service

An enhanced DBS check shall be undertaken upon application (either new or renewal) and all currently licensed drivers will at the point of renewal be required to subscribe to the DBS Update Service within the specified timescale of receiving their DBS Certificate. Periodically, officers of the Council will undertake an online check of the DBS Update Service to check the driver's current status. Depending on what is revealed from the online status check, the Council may require an additional DBS check to be undertaken. All licensed drivers will be required to renew their subscription to the DBS Update Service on an annual basis, before their current subscription ends, should they wish to continue to hold a Hackney Carriage/Private Hire driver's licence from the Council.

Where an individual fails to maintain and/or renew their subscription before it ends, they will be required to apply for a new Enhanced DBS Check and register for the Update Service again.

Licensed drivers will need to retain their DBS Certificate once they have subscribed as this may need to be provided to the Council when it undertakes the online check.

Disclosure status will be checked at ad-hoc intervals by the Council. While doing the check may result in the Hackney Carriage/Private Hire Driver's licence having to appear in front of the Sub-Committee.

14.0 Relevant Convictions

Any person submitting an application for a Hackney Carriage or Private Hire driver's licence is required to declare any criminal convictions and/or cautions and any motoring offences in addition to an enhanced DBS check. The information supplied must be complete and accurate and will be treated in a confidential manner.

The relevant offences are detailed within this Policy at section 6.1. If it is provisionally deemed by the Council's officers that they cannot be satisfied that an applicant is fit and proper due to previous convictions/cautions/offences/complaints, the applicant may request to be referred the Miscellaneous Licensing Sub-Committee for their application to be determined there. The officer will advise the Sub-Committee why they reached the decision to provisionally refuse the application. Any determination to refuse the applicant may be appealed to the Magistrates' Court.

Applications will be determined on individual merits and there may be times when the Council needs to act outside of this policy if there are clear and justifiable reasons.

15.0 Renewal of licences

It is not the responsibility of the Council to remind a licence holder that a licence is due to expire, however The Council will endeavor to issue a 'reminder' to existing licence holders that their licence(s) are due for renewal. Application forms can be requested by email or from the Council's Licensing Team who can also provide information relating to fees and supporting documentation. It is the licence holder's responsibility to ensure that licences are renewed prior to their expiry.

Not being sent or not receiving a reminder is not an acceptable reason for late application for a 'renewal'.

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

A licence may be renewed up to approximately 4 weeks prior to the expiry date.

Any licence that has lapsed and is not the subject of an application for a new licence within 1 month following expiry will be considered a new grant application in full. In these circumstance a Driving Standards pass certificate and PATS will also need to be provided as well as passing the suitability and knowledge test.

Where an application is submitted for a new licence within 1 month of a licence lapsing will be exempted from these requirements (unless there is reasoned decision to apply those requirements).

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

In any case, following expiry of a licence (where no application was made for renewal prior to the expiry), the driver will not be licensed and will not be permitted to drive a licensed vehicle until such time as a new licence has been granted.

Applicants are encouraged to submit their applications as soon as possible within the timescales detailed above.

At each renewal, all documents in line with the current application pack in force along with the appropriate fee must be submitted in order for the application to be processed.

16.0 Suspension / revocation of licence

In many cases suspension or revocation of a licence will be subject to the determination by the Miscellaneous Licensing Sub-Committee. However, in the event of a concern for public safety for the reasons set out in law, the Licensing Manager may issue an immediate suspension.

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

17.0 Driver's dress code

The Council strives to promote the professional image of the hackney carriage and private hire trade. It is the Council's view, that the travelling public expect drivers to conform to a minimum standard of dress.

Acceptable standards of dress include:

- Collared shirts or blouses or t-shirts of smart appearance (no inappropriate slogans or words/logos that may cause offence)
- Tailored trousers/shorts/skirts or jeans of smart appearance
- Plain jumpers/cardigans/jackets
- Appropriate footwear i.e. no flip-flops, no open toed or open heeled shoes
- All clothing must be of a clean and smart appearance and not ripped or torn

18.0 Right of appeal

This Statement of Hackney Carriage and Private Hire Licensing Policy is written 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 drivers and vehicles, and private hire vehicles, drivers, and operators.

Any decision to refuse to grant, refuse to renew or to suspend or revoke a licence will be determined by Officers through the scheme of delegation. The applicant will have a right of appeal to the Magistrates' Court.

Following the determination of an application which results in a refusal, or a decision to suspend or revoke a licence, the applicant will receive a copy of the decision in writing. The written decision will be delivered as soon as is practicable after the decision has been made. This will include information on the right of appeal where appropriate.

19.0 Duration of a driver's licence

A Hackney Carriage or Private Hire Driver's Licence shall be valid for a standard term of three years (unless, for administrative reasons at the Licensing Officer's discretion on a case by case basis, a shorter period is deemed to be appropriate).

20.0 Hackney Carriage and Private Hire Driver Conditions

20.1 Dual Licence Conditions - See Appendix A for further information.

20.2 Private Hire Drivers Conditions - Conditions - See Appendix B for further information.

21.0 Child Sexual Exploitation and Vulnerable Persons

All drivers will need to undertake Child Sexual Exploitation/Vulnerable Persons training carried out by a provider authorised by the Council.

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22.0 VEHICLES

22.1 Hackney Carriage / Private Hire Vehicle Licences

Section 47(2) of the Town Police Clauses Act 1847 permits a Borough/District Council to require that a hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage licensed by that Council. The licence plate issued by the Authority must be displayed in a secure, unobscured manner unless the vehicle is exempt from displaying said licence plate.

The Council will consider giving its discretion to allow a licensed private hire vehicle not to display its plate, where the operator is able to supply documented confirmation that the specific vehicle is being used to provide an “executive” hire service by way of a contract with an individual or a company. A letter of authorization issued by the Council must be issued and the licence plate must be carried within the vehicle and produced upon request by a customer or authorized Council or Police Officer. Any other private hire “circuit” work undertaken by this vehicle will require the vehicle to display the relevant licence plate.

A vehicle licence is issued to a specific vehicle, and proprietor, therefore, any change of vehicle or proprietor during the currency of a licence would require the relevant application process to be completed.

Any vehicle which it is proposed will replace an existing licensed vehicle will be required to meet the current licence requirements for a new vehicle.

22.2 Taximeters

The Authority requires every vehicle licensed as a Hackney Carriage to be fitted with a taximeter. The taximeter shall be of a type which is approved and must be calibrated to the current fare tariff.

22.3 Fare Tariff

A fare tariff (“the tariff”) is set by the Authority for Hackney Carriages, but this control does not apply to fares set by Private Hire Vehicle operators unless a taximeter is fitted.

Hires that end outside of the District boundary can be negotiated prior to the commencement of the journey but not exceed the maximum tariff.

A Table of Fares (“the tariff”) must be displayed within the vehicle fitted with a taximeter.

Please see Appendix J - Current Fare Tariff for more information.

22.4 Receipts

Drivers shall, if requested by the passenger, provide a written receipt for fares paid.

22.5 Roof signs

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

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

22.6 Hackney Carriage Vehicle/Private Hire Vehicle Numbers limit

The Council does not restrict the number of hackney carriage vehicles that are licensed in the District. The Council has no legal power to restrict numbers of Private Hire Vehicles as such it allows the market to respond as demand changes over time.

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

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

Once licensed, a hackney carriage or private hire vehicle remains a hackney carriage or private hire vehicle until the licence either expires, is suspended or revoked. A licensed vehicle can only ever be legally driven by a driver who holds the relevant hackney carriage or private hire drivers' licence and appropriate insurance; or a qualified mechanic whilst undertaking a MOT or Council test (at a Council approved facility) and only for testing purposes.

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

23.0 Wheelchair accessible vehicles

The DfT/Government's criteria for wheelchair carriage is that the user of a reference wheelchair is able to enter, leave and travel in the passenger compartment of the vehicle in safety and reasonable comfort whilst seated in their wheelchair.

All drivers of wheelchair designated vehicles will be required to comply with the Equality Act 2010 unless they have applied for and been granted an exemption from doing so on medical or physical grounds. Any refusal by the Council to grant such an exemption can be appealed by the driver to the Magistrates' Court within 21 days of the refusal notification.

It is an offence to refuse to carry a wheelchair seated passenger in a designated vehicle and the driver is liable to a fine of £1,000 on conviction and will also receive a criminal record if convicted.

Section 165 of the Equality Act 2010 places a legal duty on a driver of designated wheelchair accessible vehicles to carry out the following actions:

- To carry the passenger while in the wheelchair
- Not to make any additional charge for doing so
- If the passenger chooses to sit in a passenger seat to carry the wheelchair
- To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort
- To give the passenger such mobility assistance as is reasonably required

Mobility assistance is assistance—

- to enable the passenger to get into or out of the vehicle;
- if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- to load the passenger's luggage into or out of the vehicle;
- if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

Wheelchair accessible vehicles may be either rear or side loading.

It is strongly encouraged by the Council that drivers who are looking to purchase a new or replacement vehicle consider a wheelchair accessible vehicle.

24.0 Applications

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

- Application form provided by the Council completed in its entirety and signed by the applicant
- Appropriate Fee. The current fees are available from the Licensing Department or the Council's website.
- Valid certificate of insurance for the vehicle which covers the activity required. Such insurance to provide fully comprehensive cover.
- Current Mot (required after 1 year for Hackney Carriage and after 3 years for Private Hire)
- Current Mechanical Test
- Original vehicle registration document showing the applicant to be the registered keeper or other acceptable proof of ownership (the V5 New Keeper Supplement completed by the applicant or an official receipt from a registered company in the case of newly manufactured vehicles)
- Any other documents as may be required.

Incomplete applications may be returned to the applicant for resubmission when complete, and this may result in time off the road.

Provided all the documents are correct and the vehicle has passed the Council's mechanical test your application will be processed. The Council will aim to issue the licence and/or licence plate within 10 working days of a completed application and supporting documentation.

Where a decision to renew a licence is referred to the Miscellaneous Licensing Sub-Committee, this period may be extended. Every effort will be made to ensure continuity of trade, however, it would assist Officers if applications and supporting documentation are received at the earliest opportunity.

24.1 Licence fee

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

Licensing fees are reviewed on an annual basis and should they be subject to change will be approved by Council.

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

24.2 Insurance

All hackney carriage and private hire vehicles must hold the relevant insurance for the activity and such insurance to provide fully comprehensive cover.

Evidence of continuous insurance cover throughout the period of the licence must be provided.

Failure to provide evidence of insurance will result in the vehicle licence being suspended.

It is not the responsibility of the Council to remind a licence holder that the insurance is due to expire, however The Council will endeavour to issue a 'reminder' to existing licence holders that their insurance proof is due to be submitted to the Council.

Not being sent or not receiving a reminder is not an acceptable reason for late documentation.

Insurance status will be checked at ad-hoc intervals by the Council. Any discrepancies while doing the check may result in the licence holder having to appear in front of the Sub-Committee.

24.3 Testing of vehicles

Hackney Carriage vehicles require a valid MOT certificate and are to be tested every year from when the vehicle reaches 1 year old. Private Hire vehicles will require a valid MOT certificate and are to be tested every year once the vehicle has reached 3 years old (as stated by Government MOT requirements).

In addition to the MOT testing requirements, all licensed vehicles are required to undertake the Council's vehicle mechanical test every 6 months at the Council's nominated testing station for compliance with the Council's policy.

All vehicles that are 10 years old will be subject to an additional yearly inspection by an appropriate Council's Licensing Officer.

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

Where an application for a vehicle renewal is made 1 month after the expiry of the licence the application will be considered as a new application and any age restrictions will apply.

Any licence that has lapsed and is not the subject of an application for a new licence within 1 month following expiry will be considered a new grant application in full and any age restrictions will apply.

Where an application is submitted for a new licence within 1 month of a licence lapsing will be exempted from these requirements (unless there is reasoned decision to apply those requirements).

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

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

It is not the responsibility of the Council to remind a licence holder that the interim test is due to expire, however The Council will endeavour to issue a 'reminder' to existing licence holders that their interim test is due to be submitted to the Council.

Not being sent or not receiving a reminder is not an acceptable reason for late documentation.

24.4 Routine Daily Vehicle Condition Checks

The licensed driver driving the vehicle is responsible for its condition while in use. Drivers are therefore responsible for carrying out daily routine vehicle inspections with a walkaround check. Checks must include lights, tyres, wipers, mirrors, seatbelts and taxi plates to ensure the safety of the vehicle and carrying passengers.

24.5 Temporary Insurance Vehicles

Where an existing licensed vehicle is temporary replaced due to accident or major repairs, the replacing vehicle must meet all policy requirements in respect of its age and Euro 6 compliance. A replacement fee will be required and a temporary licence of a maximum of one month can be issued on satisfactory.

At the discretion of the Council (including where the issued plates are inaccessible or damaged beyond use), where a vehicle is replaced, the licence plates for the new vehicle will not be issued until the old plates have been returned to the Authority. Effectively the old licence is surrendered, and a new licence is issued although in practice this tends to be an amended vehicle licence.

Where the previously licensed vehicle needs to be returned back onto the original licence (for example, the replacement vehicle was a temporary arrangement due to accident damage or major repair to the original vehicle) then following a re-test of vehicle it can be reinstated onto the original licence with the age restrictions applied using the same previous criteria. The reinstatement will not be subject to a further replacement vehicle fee except a mechanical test re-inspection; however, fees may be levied where new licences, plates or door stickers have been damaged and require replacement.

25.0 Re-allocation of Expired Hackney Carriage Vehicle Plates

It is not the responsibility of the Council to remind a licence holder that a licence is due to expire, however The Council will endeavor to issue a 'reminder' to existing licence holders that their licence(s) are due for renewal. Application forms can be requested by email or from the Council's Licensing Team who can also provide information relating to fees and supporting documentation. It is the licence holder's responsibility to ensure that licences are renewed prior to their expiry.

Not being sent or not receiving a reminder is not an acceptable reason for late application for a 'renewal'.

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

A licence may be renewed up to approximately 4 weeks prior to the expiry date.

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

26.0 Type of vehicle and age

Granting of new vehicles must meet the minimum requirements of Euro 6 Emissions standards.

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

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

In order to be considered suitable to be licensed as a Hackney Carriage or Private Hire Vehicle the vehicle must comply with the basic specification set out below and pass the Council's vehicle inspection test.

Licensed vehicle will only be licensed until they are 14 years old, unless they have an emission of less than 110 in which case they are permitted to be licensed until 15 years old. New applications for vehicles must only be made for vehicles under 5 years old.

Purpose built wheelchair accessible vehicles and the London black cab style taxis can be licensed until 17 years old.

27.0 Guidelines for saloon and estate vehicles: Please see Appendix F for more information.

28.0 Guidelines for multi-seater vehicles: Please see Appendix G for more information.

29.0 Licence Plate Exempt Vehicles

The Road Safety Act 2006 requires vehicles used for a contract with an organisation or company for carrying passengers for Hire or reward under a contract to be licensed as Private Hire Vehicles. As a general guide this includes executive Hire, chauffeur services, park and ride for private car parks, airport travel, stretch limousines and novelty vehicles.

Proprietors of executive type vehicles licensed as Private Hire Vehicles may seek the permission of the Authority to waive certain conditions of licence. Proof of contracts must be submitted to the Council with application.

30.0 Funeral and Wedding vehicles

30.1 Funeral Vehicles

A vehicle does not need to be licensed as a Hackney Carriage/Private Hire Vehicle when it is used in connection with a funeral or is being wholly or mainly used by someone carrying out a business as a Funeral Director.

30.2 Wedding vehicles

A vehicle does not need to be licensed as a Hackney Carriage/Private Hire Vehicle whilst being used in connection with a wedding. The exemption only applies to journeys directly relating to the wedding service. This could be, for example, taking the bride or groom to the service. Transport to other places, such as the airport, would require a licence.

31.0 Tinted Windows

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

32.0 Vehicles powered by Liquid Petroleum Gas (LPG)

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

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

33.0 Advertising Door Signs on Hackney Carriage (Taxi) and Private Hire vehicles including third party advertising.

Each application for approval of advertising material will be considered on its own merits but advertisements will not be permitted which advertise or promote the sale of alcohol or tobacco products; nor if they contain political, ethnic, religious, sectarian, sexual or controversial text; display nude or semi-nude figures; or are likely to offend public taste; depict men, women or children as sexual objects; depict direct and immediate violence to anyone shown in the advertisement or observing it; advertise any racist group or organisation which intends to promote such a group or such organisation and/or any of its activities.

In particular the Council will not give its permission for:

- An advertisement which incites someone to break the law.
- An advertisement that is likely to cause widespread or serious offence to members of the public on account of the nature of the product or service being advertised, the wording or design of the advertisement, or by way of inference.
- An advertisement which depicts or refers to indecency or obscenity or uses obscene or distasteful language.
- An advertisement which relates to adult entertainment or activities such as lap dancing, escort agencies or massage parlours.
- An advertisement that promotes alcohol or tobacco.
- An advertisement which condones or provokes anti-social behaviour.
- An advertisement which contains images or messages which relate to matters of public controversy and sensitivity.
- An advertisement which contains negative references to Tendring District Council, its services, staff or Members.

* All adverts must comply with the above code and be pre-approved by the Council before they are placed on any hackney carriage or private hire vehicle and permission should be sought in writing giving an example of the size of the door sign and content of the promotion.

*** The Council reserves the right to refuse any request for door sign advertising that does not comply with the above code and to suspend the licence of any vehicle displaying signs that breach the above code or that have not been duly authorised by the Council.**

The licensee remains responsible for the content of any advertisement displayed on his/her vehicle, whether internal or external. It remains the licensee's responsibility to comply with the current law and British Code of Advertising Practice referred to above, irrespective of any consent to display the advertisement which may have been given by the Council.

It is the licence holder's responsibility to ensure that none of the advertising material obscures the driver's vision, the vehicle's licence plates, or constitutes a danger to passengers or the public or other road users where they are displayed on the vehicle.

The maximum size of door sign that Tendring District Council will allow to be fixed to a hackney carriage or private hire vehicle licensed by the Council is as follows:

Large

(447 x 292 mm)

(17.5 x 11.5 inches)

The maximum number of door signs permitted per vehicle is four, but if two doors are being used to display the taxi company's own logo then any advertisement can only be placed on the remaining two uncovered doors. All door signs must be of the same size (see maximum size details shown above) and all advertising signs must carry/display the same identical advertisement. I.e. advertisements for different products on each sign will not be agreed or permitted.

34.0 CCTV

The Council permits the installation of CCTV within a licensed vehicle but does not require it to be installed as mandatory and only where inspected by the Licensing Department.

No CCTV system shall be installed in a vehicle without the prior written consent of the Council.

No cameras shall be installed in the vehicle without prior written consent from the Council as to the number and location of such cameras.

The number and location of cameras shall not be varied without the prior written consent of the Council.

34.1 The installation of CCTV in licensed vehicles can be both a deterrent to would-be troublemakers and a source of evidence in the case of disputes between drivers and passengers, other incidents and accidents. If fitted correctly, it can assist the police and insurance companies with their investigations and must be recording at all times when working as a licensed vehicle but this is a matter for each owner to assess and document the need in accordance with data protection legislation.

34.2 Where fitted, proprietors and/or operators will become 'data controllers' and must notify the Council prior to installation and pay the required fee to the ICO (Information Commissioners Office) - where required - and comply with all aspects of data protection and the CCTV codes of practice, including clear signage that the vehicle uses CCTV. Further information can be found on the following link <https://ico.org.uk/>

34.3 CCTV (and where applicable, dashcams) must be installed by a competent person to ensure no interference with other equipment and in such a manner that it does not increase the risk of injury or discomfort to the driver and passengers, or affect any other safety system or in any way breach the motor vehicle construction and use regulations. It must be regularly checked and maintained, be clearly visible and the vehicle must display the required signage. It is not the intention of the authority to limit approval of devices and equipment to specific suppliers, only to ensure the safety of passengers and compliance with legislation.

34.4 CCTV must not routinely be used to record conversations of passengers. Sound must only be used by way of a panic switch as specified by the ICO and can be activated by either the driver or passenger which can be used in extreme circumstances such as in response to a threat of physical violence. The footage may only be accessed by the Police or authorised officer of the council, not by either the proprietor or driver. Footage must be kept for no longer than necessary and in accordance with the owner's own data retention policy.

34.5 Where CCTV (including audio recording) is in use there must be appropriate signage visible externally that informs passengers before they alight the vehicle.

35.0 Vehicle Protection screens

The Council does not require driver protection screens to be fitted as mandatory. However, Where these are fitted, the following requirements will apply and may be required as licence conditions. If a licenced vehicle is subsequently fitted with a driver protection screen, the Proprietor is required to notify the Authority as a significant alteration to the vehicle so that appropriate conditions can be attached to the licence.

Where a vehicle owner decides to have a protection screen fitted, they must do so at their own expense and:

- Inform their insurance company of the modification
- Ensure that the screen is certified as safe and meets appropriate safety standards.
- Should be of the solid polycarbonate type and not plastic sheeting
- Ensure that the screen does not interfere with the vision of the driver through the windscreen or left and right of the vehicle
- Ensure that the screen does not interfere with the airbags
- Ensure that any fixtures and fittings do not protrude such that they affect the safety of passengers
- Ensure that the screen is fitted by a competent person

Before having a driver protection screen fitted, if there is any doubt as to whether it will meet safety standards, proprietors should seek advice from the Council's Licensing office before having one fitted.

36.0 Taxi ranks

36.1 Waiting on stands

It is an offence for any person to cause or permit any vehicle other than a hackney carriage licensed by this Authority to wait on any rank or stand for hackney carriages within the Tendring District. Drivers of hackney carriages may only wait on a rank or stand whilst plying for hire or waiting for a fare; drivers who park on a rank or stand and leave their vehicle unattended are committing an offence. Hackney Carriages licensed by this Authority are not permitted on any rank or stand outside of the Tendring District.

36.2 Plying for hire

For the avoidance of doubt, the Council does not have a byelaw requiring hackney carriages to return to a taxi rank between fares. Hackney Carriages can be hailed in the street, and can be hired whilst stationary from a designated rank.

36.2 Taxi Rank Provisions

Provisions are reviewed every three years in consultation with Essex County Council Highways as the majority of roads with taxi ranks are adopted by Essex County Council.

37.0 Hackney Carriage Vehicle Conditions

Please see Appendix C for more information.

38.0 Private Hire Vehicle Conditions

Please see Appendix D for more information.

39.0 PRIVATE HIRE OPERATOR LICENCE

39.1 Private Hire Operator's Licence

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

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

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

Applications will only be acceptable if they include the following:

- Application form completed in its entirety and signed by the applicant along with all the information prescribed
- Application for a Disclosure and Barring Service (DBS) Enhanced Check completed by the applicant with accompanying identification.
- The appropriate fee. The current fees are available online on our website.

It is not the responsibility of the Council to remind a licence holder that a licence is due to expire, however Tendring District Council will endeavor to issue a 'reminder' to existing licence holders that their licence(s) are due for renewal. Application forms can be requested by email or from the licensing team who can also provide information relating to fees and supporting documentation. It is the licence holder's responsibility to ensure that licences are renewed prior to their expiry.

Not being sent or not receiving a reminder is not an acceptable reason for late application for a 'renewal'.

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

A licence may be renewed up to approximately 4 weeks prior to the expiry date.

39.2 Criminal Records checks

Private Hire Vehicle operators are not exceptions to the Rehabilitation of Offenders Act 1974. Private hire operators that are not licensed drivers, will be required to produce an basic DBS disclosure. An basic Disclosure from the DBS, or a certificate of good conduct from the relevant embassy for overseas applicants, is however, considered appropriate in promoting the objective of public safety.

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

The basic certificate must be submitted to the Council no more than 28 days from the issued date.

Prior to consideration of any new application, overseas applicants who have lived in the United Kingdom for a continuous period of less than five years are required to provide a certificate of good conduct from their previous country or countries of residence (within the previous five years) in addition to an basic Disclosure Certificate. A certificate of good conduct authenticated by the relevant embassy will satisfy this requirement.

All licensed operators will be required to sign up and renew their subscription to the DBS Update Service on an annual basis, before their current subscription ends, should they wish to continue to hold an Tendring District Council issued operator's licence.

Where an individual fails to maintain and/or renew their subscription before it ends, then they will be required to apply for a new basic DBS Check and register for the Update Service again. Licensed operators will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.

Disclosure status will be checked at ad-hoc intervals by the Council. Any discrepancies while doing the check may result in your licence having to appear in front of the Committee.

39.3 Record keeping

The record required to be kept by the operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept on a prescribed booking pad, or on a spreadsheet, or on trade specific computer system. This software must be capable of providing the information listed below. The entries must be numbered consecutively, and no pages should be removed. The operator shall enter the required information for each booking invited or accepted by him, before the commencement of each journey.

- The time and date of the booking
- The name and address of the hirer
- How the booking was made (i.e. by telephone, personal call etc.)
- The time of pick-up
- The point of pick-up
- The destination
- The time at which a driver was allocated to the booking
- The name and licence number of the driver and the registration number of the vehicle allocated for the booking.
- Fare (if agreed at the time of booking) or indication that the meter was used.
- The name of the booking staff
- The name of the dispatcher
- Remarks (including details of any sub-contract).

All records kept by the operator shall be preserved for a period of not less than 12 months, following the date of the last entry. In the case of computer records the entries must be capable of being printed on demand and/or emailed in a universal format at the request of a Police officer or the licensing officer.

39.4 Licence Duration

The Council will, issue a successful applicant for a Private Hire Operator's Licence with a five-year licence from the date of grant.

39.5 Fees

On receipt of the appropriate fee, the permitted number of vehicles can be increased at any time during the period of the licence. The application fee is for a 5 year private hire licence for 1 private hire vehicle. Additional fees are required for each further private hire vehicle to be added to the operator licence.

39.6 Operation

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

All three licences:

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

must be issued by the same Council.

39.7 Private Hire Operator Licence Conditions

Please see Appendix E for more information.

39.8 Insurance

The operator shall retain a copy of the insurance for any vehicle they use to fulfil private hire bookings.

Where the operator maintains a bookings office open to members of the public they shall ensure that the premises is covered by a suitable level of public liability insurance of at least £1million.

Where the operator employs people, suitable employees liability insurance should be in place.

39.9 Address from which an Operator may operate

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

The operator must notify the Council in writing of any change of address during the period of the licence, whether this is a home address or the operating address, within seven days of such a change taking place.

The Council will not grant a licence to an operator whose premises are located outside the district of Tendring. This is to ensure that proper regulation and enforcement measures may be taken by the Council and is in no way intended to be a restraint of trade.

39.10 Gaming machines

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

40.0 Departure from the Policy

There may be instances whereby the Council may need to consider applications outside the policy.

Where it is necessary to depart substantially from this policy, clear and compelling reasons for doing so will be given. Any such decision may be referred to the Licensing and Registration Committee or the Miscellaneous Licensing Sub Committee.

40.1 Amendments to the Policy

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

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41.0 ENFORCEMENT AND COMPLIANCE

41.1 Warning compliance scheme

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

Alternatively an authorised Officer of Tendring District Council may request a driver attend the Council offices or otherwise agreed location with the licensed vehicle in order to carry out an inspection.

Tendring District Council has implemented a warning compliance system in order to regulate enforcement and any action required.

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

- The Council's Hackney Carriage and Private Hire Licensing Policy and Licensing Enforcement Policy will be fully considered by an authorised Officer when determining the manner on which any breach of legislation or the requirements of this Policy are dealt with.
- Where it is decided that the use of the warning compliance scheme is appropriate, then warnings will be issued after due consideration and where proportionate to the offence.
- Warnings will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place, the matter will be referred in the first instance to the Licensing Manager for consideration. The Licensee may be required to appear before the Miscellaneous Licensing Sub Committee.
- The imposition of a warning against a driver who is an employee will not necessarily result in additional imposition of a warning to their employer or operator. However the Council retains the discretion to issue warnings to drivers, proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licenses and it is considered that joint responsibility is held.
- Warnings issued to either a proprietor or driver will be confirmed in writing within ten working days from the discovery of the contravention.
- When issued, the warning will remain "live" for a period of one year from the date they are imposed so that only warnings accumulated in a rolling twelve month period will be taken into account.
- There is no financial penalty associated with the system and the licensee may continue to work. However, the licensee may be asked to attend either a meeting with the Licensing Manager or attend a hearing of a Licensing Sub Committee if 3 warnings are imposed on an individual licence in any one 12 month period, where appropriate action will be taken in accordance with this policy.
- Where a driver, proprietor or operator attains 3 warnings, disciplinary options available to the Miscellaneous Licensing Sub Committee will include suspension or revocation of the appropriate licence, where applicable.
- If it is felt that the matter does not warrant suspension or revocation of the licence, the period for which the warnings are to remain "live" may be extended or a written warning may be issued to the driver as to his future conduct.
- Periods of suspension of a licence will be dependent on the nature of the breaches of the legislation or the requirements of this Policy and the compliance history of the licence holder.
- A driver will always have the right to be represented at any meeting, either legally or otherwise, and to state any mitigating circumstances they deem necessary.

- Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of
- appeal to the Magistrates' Court against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.
- The warning compliance system will operate without prejudice to the Council's ability to take other action under appropriate legislation or as provided for by this policy.
- The warning compliance system outlined identifies a number of breaches of conditions, byelaws and/or statutory provisions.

41.2 WARNING PROTOCOL FOR HACKNEY CARRIAGE DRIVERS/VEHICLES OWNERS AND OPERATORS

Brief Introduction

If drivers, operators or vehicle owners receive three written warnings for clear and provable breaches of conditions and/or traffic offence within a rolling 12 month period they are to be brought before the Miscellaneous Licensing Sub Committee for Members to determine whether they are fit and proper and the action (if any) that should be taken which could include suspension or revocation of their licences.

The Three Steps System

Step 1 Informal Warning Letter sent to the licence holder for a first time offence. This letter will outline the offence which has occurred and list all details including the date and time of the offence. This letter will include a warning of what action might be taken if further breaches occur during a rolling period of twelve months. Where considered appropriate general advice on how to prevent the same or similar offences occurring will be included in the letter.

Step 2 Second and Formal Warning Letter sent to the licence holder if a second offence has occurred during a rolling period of twelve months. This letter will outline the offence which has occurred and list all details including the date and time of the offence. The licence holder will be requested to attend the Licensing Office for an interview regarding the two current offences. This letter will include a warning of what action might be taken if a third breach occurs during a rolling period of six months. Further advice/guidance will be given in appropriate cases.

Step 3 If a third offence has occurred during a rolling period of twelve months a letter will be sent to the licence holder which outlines the offence which has occurred and lists all details including the date and time. The licence holder will be informed in writing that it will now be necessary for them to attend a meeting of the Miscellaneous Licensing Sub-Committee to enable Members to determine whether they are fit and proper and the action (if any) that should be taken. The date of the Miscellaneous Licensing Sub-Committee meeting will be given to them as soon as possible.

The decision of the Miscellaneous Licensing Sub-Committee along with their rights to appeal against any action taken by the Miscellaneous Licensing Sub-Committee will be notified to them in writing.

Types of Offences

- Failing to comply with any of the conditions noted on their driver, vehicle or operator licences.
- Failing to produce relevant documents within timescale when requested.
- Failing to produce a vehicle for mechanical test when required.
- Overloading of licensed vehicle (including exceeding the licensed number of passengers).
- Late application for renewal on expiry of a licence.

This list is not proscriptive and may be added to at the discretion of the Licensing Committee.

Options available to the Miscellaneous Licensing Sub Committee when considering cases of this type

After taking into account all the evidence submitted by the Licensing Section and any comments made by the licence holder, Members will determine whether they consider the licence holder is fit and proper to hold a driver, vehicle or operator licence and the action (if any) that should be taken which could include suspension or revocation of their licences.

Appeals against Member decisions

The licence holder has a right of appeal to the Magistrates' Court within 21 days of receipt of the decision letter.

42.0 Complaints

Complaints which are pursued by the Council are based upon the driver's fitness to hold a licence and/or the condition of the licensed vehicle or offences alleged to have been committed (including breach of licence conditions). Accordingly, any complaints about crime or driving manner will be directed to Essex Police.

Each step of any complaint investigation will be recorded as there is potential for the complaint to progress to being heard in Court and/or may be disclosable in connection with any police investigation.

The public can submit concerns about licensed drivers, vehicles (including proprietors) and operators by e-mail to licensingsection@tendringdc.gov.uk

In order to progress an investigation a complainant should aim to provide the following information where available:

- Date and time of the incident;
- Vehicle identification (plate number, description of vehicle etc.);
- Identification of Licensed Operator (if applicable);
- Identification of the driver (licence number, personal description);
- Description of the incident

The investigating officer may require the complainant to confirm information in writing.

A formal response outlining the conclusion of an investigation will be provided to the complainant.

Where a matter has been reported to the police - in order to avoid compromising any investigation - licensing officers will usually wait on the outcome of that investigation before considering any further action.

In order to help customers correctly identify and report a driver who may give cause for complaint, the Authority requires that certain information is to be displayed inside all licensed vehicles in the form of an internal vehicle notice.

The format of the notice will be provided by the Council and shall be clearly displayed and visible from the rear seating area of the vehicle. Driver identification can additionally be found either worn by the driver or on the dashboard of the vehicle.

Complaints that are made anonymously unless of a serious nature may be recorded for intelligence purposes only and may not be investigated unless substantiated by a secondary source.

Complaints of a minor nature may be recorded for intelligence purposes only but may not be pursued unless a history of complaints indicates a potential matter of wider concern.

Complaints will not be investigated if it is made with vexatious intention, frivolous or has been made repeatedly and previously been subject of investigation.
Where a complaint potentially indicates a criminal offence enforced by the police or another regulatory body or authority, the information relating to that complaint may be shared with that body or authority.

43.0 Whistleblowing

Tendring District Council is committed to the highest possible standards of openness and accountability and anyone can report any suspected malpractice or wrongdoing.
<https://www.tendringdc.gov.uk/council/consultation-contact-and-complaints/how-complain>

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APPENDIX A – PROTOCOL FOR APPLICATION OF THREE PENALTY POINTS

Adopted Protocol for dealing with applications for Hackney Carriage and Private Hire Drivers' Licences where up to three penalty points have been endorsed on the applicants' Driving Licences

1. Delegation to Corporate Director (Governance)

That the Corporate Director (Governance) is authorised to determine applications for Hackney Carriage Vehicle, Hackney Carriage Driver, Private Hire Operator, Private Hire Driver and Private Hire Vehicle Licences in accordance with the Council's policy or in cases where no more than three penalty points have been endorsed on the applicant's driving licence except in the case of mobile phone offences.

2. Submission of Fixed Penalty Notice

In accordance with Condition 17 of the Dual Driver's Licence and Condition 12 of the Private Hire Driver's Licence a driver who has received a Fixed Penalty Notice shall submit to the Corporate Director (Governance) **the original of such Notice* within seven days of receipt** thereof. If the original of the Notice* cannot be produced, the application for any future renewal of the Licence will be referred to the next meeting of the Licensing Sub-Committee for determination irrespective of the number of penalty points endorsed on the Driver's Licence.

* Notice must include the speed you were doing and the legal speed.

3. Factors to be taken into account when determining applications in accordance with the Delegated Power

Speeding	
1-5 miles per hour in excess of mandatory speed limit	Licence granted for a maximum period of three years
6-10 miles per hour in excess of mandatory speed limit	Licence granted for a maximum period of two years
11 miles per hour in excess of mandatory speed limit	Licence granted for a maximum period of one year
Failing to comply with Automatic Traffic Signal	Licence granted for a maximum period of one year
Pedestrian Crossing Offences	Licence granted for a maximum period of one year

4. Serious Traffic Offences

In cases where, in the opinion of the Corporate Director (Governance), a more serious traffic offence has been committed which has put passengers at risk but only three penalty points have been endorsed on the applicant's driver's licence, it will be at that Officer's discretion to refer the application to the Miscellaneous Licensing Sub-Committee for determination.

APPENDIX B - DUAL LICENCE - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER CONDITIONS

Conditions:

1. The driver shall ensure that the Vehicle Licence Plate is clear and legible at all times.
2. The driver shall keep the dial of the taximeter lit during all hirings within the period of lighting-up time and any other time when required to do so.
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 fixed for the purpose;
 - (b) if a stand is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
on arriving at a stand not full, position the carriage behind the rearmost carriage, facing the same direction, and move forward when the carriage in front is moved forward or has driven off.
4. The driver when standing or plying for hire shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purpose.
5. The driver 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.
6. Where a vehicle has been hired to be in attendance at an appointed time or place, the driver thereof shall, unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at such appointed time or place.
7. The driver when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.
8. The driver shall not convey in the vehicle a greater number of passengers than the number of persons specified on the plate affixed to the outside of the vehicle, provided that for the purposes of ascertaining the number of persons travelling in the vehicle, children under the age of three years shall not be counted and such children must at all times be under the supervision of a responsible adult other than the driver of the vehicle.
9. 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 a position and manner as to be plainly visible.
10. The driver of a Hackney Carriage constructed or adapted so as to carry luggage shall, when requested by any persons hiring the carriage:-
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading;
 - (c) afford reasonable assistance in removing it to or from the entrance of any building or place at which he may take up or set down such person.
11. Every driver who shall knowingly convey in the carriage the dead body of any person shall immediately thereafter notify the fact to the Chief Environmental Health Officer of the Council and shall not further use the vehicle for public hire without the consent of that Officer.
12. The driver shall ensure that the fare table is unobscured and legible at all times.
13. The driver shall behave in a civil and orderly manner.

14. 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.
15. The driver shall if any property accidentally left in the vehicle by any persons who may have been conveyed in the vehicle be found or handed to him:-
 - (a) as soon as possible and in any event within 72 hours, return it to its owner or if not known to the nearest Police Station and obtain a receipt / reference number for the property, which must be passed to the Licensing Office;
 - (b) be entitled to receive from any person to whom the property shall be redelivered 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 Council Offices, whichever be the greater) but not more than five pounds.
16. The driver shall notify the Council in writing within a period of seven days of any change in his permanent address and produce his licence for the change to be recorded thereon.
17. The driver shall notify the Council in writing within a period of **seven days** of any caution/conviction (**whether criminal or motoring**) being imposed upon him or her during the period of this Licence or within a period of seven days of any fixed penalty offence (as defined in Section 51 of the Road Traffic Offenders Act 1988) being endorsed upon his or her driving licence during the period of this licence.
18. Upon reaching the age of 65 and thereafter on an annual basis any driver wishing to continue to hold his/her licence or apply for a new or renewed licence shall provide to the Council a medical certificate in a format prescribed by the Council duly signed by a recognised General Practitioner certifying that the licence holder/applicant is fit to drive a Hackney Carriage. That in the case of existing licensed drivers the medical certificate shall be supplied to the Council within fourteen days of their 65th birthday and thereafter annually within the same period of time.

In the event of no medical certificate being provided within the prescribed period, or if the General Practitioner certifies that the driver is not fit to drive, the licence shall be revoked forthwith.
19. Unless medically exempt the driver shall carry, free of charge, guide dogs, hearing and certain other assistance dogs as may be prescribed from time to time, accompanying disabled people.
20. These conditions may be added to or varied by the Council at any time.

APPENDIX C - PRIVATE HIRE DRIVER CONDITIONS

Conditions:

1. The driver shall ensure that the Private Hire Licence Plate is clear and legible at all times.
2. The driver shall behave in a civil and orderly manner.
3. Where a vehicle has been hired to be in attendance at an appointed time and place, the driver thereof shall, unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at such appointed time and place.
4. The driver shall not by calling out or otherwise importune any person to hire such vehicle and shall not make use of the services of any other person for this purpose.
5. If a badge has been provided by the Council the driver shall, when driving or attending to the vehicle, wear the badge in such position and manner as to be plainly visible.
6. The driver of a vehicle constructed or adapted so as to carry luggage shall, when requested by any persons hiring the vehicle:-
 - (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading;
 - (c) afford reasonable assistance in removing it to or from the entrance of any building or place at which he may take up or set down such person.
7. Every driver who shall knowingly convey in the vehicle the dead body of any person shall immediately thereafter notify the fact to the Chief Environmental Health Officer of the Council and shall not further use the vehicle for hire without the consent of that Officer.
8. The driver shall not convey in the vehicle a greater number of passengers than the number of persons specified on the plate affixed to the outside of the vehicle, provided that for the purposes of ascertaining the number of persons travelling in the vehicle children under the age of three years shall not be counted and such children must at all times be under the supervision of a responsible adult other than the driver of the vehicle.
9. 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.
10. The driver shall if any property accidentally left in the vehicle by any persons who may have been conveyed in the vehicle be found by or handed to him;
 - (a) as soon as possible and in any event within 72 hours, return it to its owner or if not known to the nearest Police Station and obtain a receipt / reference number for the property, which must be passed to the Licensing Office;
 - (b) be entitled to receive from any person to whom the property shall be redelivered 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 Council Office, whichever be the greater) but not more than five pounds.
11. The Driver shall notify the Council in writing within a period of seven days of any change in his permanent address and produce his licence for the change to be recorded thereon.

12. The driver shall notify the Council in writing within a period of **seven days** of any caution / conviction (**whether criminal or motoring**) being imposed upon him or her during the period of this Licence or within a period of seven days of any fixed penalty offence (as defined in Section 51 of the Road Traffic Offenders Act 1988) being endorsed upon his or her driving licence during the period of this licence.
13. Upon reaching the age of 65 and thereafter on an annual basis any driver wishing to continue to hold his/her licence or apply for a new or renewed licence shall provide to the Council a medical certificate in a format prescribed by the Council duly signed and recognised General Practitioner certifying that the licence holder/applicant is fit to drive a Private Hire Vehicle. That in the case of existing licensed drivers the medical certificate shall be supplied to the Council within fourteen days of their 65th birthday and thereafter annually within the same period of time.

In the event of no medical certificate being provided within the prescribed period, or if the General Practitioner certifies that the driver is not fit to drive, the licence shall be revoked forthwith.

14. Unless medically exempt, the Driver shall carry, free of charge, guide dogs, hearing and certain other assistance dogs as may be prescribed from time to time, accompanying disabled people.
15. These conditions may be added to or varied by the Council at any time.

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APPENDIX D - HACKNEY CARRIAGE VEHICLE CONDITIONS

1. The vehicle shall be suitable in type, size and design, for the purpose of public hire.
2. (a) The Council's Licence Plate shall be affixed to the rear of the vehicle by the use of the plate platform and/or bracket provided in a position so that the details shown on the plate may be seen clearly and are not illegible, defaced or concealed from public view except where provided for by Statute. Such plate shall be affixed by use of the bracket beneath the registration number plate in accordance with the instructions provided or, in cases where this is not practical, by riveting the plate platform to the bodywork of the vehicle on the rear right hand side on, or just above, the bumper. The vehicle may not be used for the purpose authorised by the vehicle licence without such plate being so affixed.

(b) No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in, or from the vehicle, except as may be required by any statutory provision or required or permitted by these conditions, provided however, that this condition shall not apply to any indication on a taxi meter fitted to the vehicle.
3. (a) The proprietor shall cause to be affixed and maintained on the roof of the vehicle a sign which will be lit during the time when it is obligatory to use side or head lamps which reads 'Taxi'. This condition does not apply when the vehicle is an FX4 (London Cab).

(b) The proprietor may display such signs, etc., as may from time to time be approved by the Council.
4. The vehicle shall:-
 - (a) be equipped with sufficient means by which any person in the vehicle may communicate with the driver;
 - (b) be equipped with any necessary windows and a means of opening and closing not less than one window each side;
 - (c) be kept weatherproof;
 - (d) be equipped with properly upholstered seats;
 - (e) be equipped with proper floor covering;
 - (f) be kept in a clean condition, well maintained and in every way fit for service;
 - (g) be equipped with means for securing luggage, if the vehicle is constructed or adapted to carry luggage;
 - (h) be equipped with an efficient fire extinguisher (British Standards Approved) which shall be kept in such a position as to be readily available for use;
 - (i) be equipped with at least two doors for the use of persons being conveyed in the vehicle and a separate means of entry and an exit for the driver.
5. The vehicle will be equipped with a taximeter which is so constructed, attached and maintained as to comply with the following requirements:-
 - (a) The taximeter should be fitted with a key, flag, button or other device the operation of which will bring the taximeter into action and caused the word 'Hired' to appear on the face of the taximeter;
 - (b) Such device should be capable of being locked or operated in such a position or way that the taximeter is not in action and no fare is recorded on the face of the taximeter;
 - (c) When the taximeter is in action there should 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 time as well as for distance in pursuance of the tariff fixed by the Council in that behalf;
 - (d) The word 'Fare' should be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
 - (e) The taximeter should be so placed that all letters and figures on the face thereof are at all times plainly visible to any persons being conveyed in the carriage, and for that purpose the letters and figures should be capable of being suitably illuminated during any period of hiring;
 - (f) The taximeter and fittings thereof should be so affixed to the carriage that it should not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the fixings.

6. If seals are fitted or attached to the meter the Council should be notified forthwith if such a seal is broken through any cause.
7. A statement of the fares fixed by the Council shall be exhibited inside the vehicle and shall not be concealed or rendered illegible at any time whilst the vehicle is plying or being used for public hire.
8. A vehicle which has conveyed a dead body of any person shall not be used for public hire without the consent of the Head of Environmental Services of the Council.
9. The vehicle shall not be used for the conveyance of any fare which has been importuned in any way.
10. These conditions may be added to or varied by the Council at any time.

Failure to conform to these requirements will result in a breach of policy and further action may be taken by the Council against the vehicle proprietor/s.

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APPENDIX E - PRIVATE HIRE VEHICLE CONDITIONS

1. The vehicle shall be suitable in type, size and design for the purpose of private hire and shall not lead persons to believe that it is a Hackney Carriage.
2. (a) The Council's Licence Plate shall be affixed to the rear of the vehicle by the use of the plate platform and/or bracket provided in a position so that the details shown on the plate may be seen clearly and are not illegible, defaced or concealed from public view except where provided for by Statute. Such plate shall be affixed by use of the bracket beneath the registration number plate in accordance with the instructions provided or, in cases where this is not practical, by riveting the plate platform to the bodywork of the vehicle on the rear right hand side on, or just above, the bumper. The vehicle may not be used for the purpose authorised by the vehicle licence without such plate being so affixed.

(b) The Proprietor shall cause signs to be affixed and maintained on the near side and off side front doors of the vehicle to the following specifications:-

"The sign shall be 8¹/₄" x 11³/₄ " overall with a white background and a border ¹/₄" from the edge, the border to be the same colour as the lettering. The sign shall state only the name, address and telephone number of the operator of the vehicle, and the legend "Licensed Private Hire Vehicle". The size of the lettering for the address and legend shall be ³/₄"; the name shall not be greater than 2" and the telephone number shall not exceed 2¹/₂". The colouring of the lettering may be as chosen by the operator"

(b) No sign other than the foregoing shall be displayed on the vehicle in such a manner as to be visible to persons outside the vehicle, unless required by law or with the consent of the Council in writing.
3. The vehicle shall:-
 - (a) be equipped with sufficient means by which any person in the vehicle may communicate with the driver;
 - (b) be equipped with any necessary windows and a means of opening and closing not less than one window each side;
 - (c) be kept waterproof;
 - (d) be equipped with properly upholstered seats;
 - (e) be equipped with proper floor covering;
 - (f) be kept in a clean condition, well maintained and in every way fit for service;
 - (g) be equipped with means for securing luggage, if the vehicle is constructed or adapted to carry luggage;
 - (h) be equipped with an efficient fire extinguisher [British Standards Approved] which shall be kept in such a position as to be readily available for use;
 - (i) be equipped with at least two doors for the use of persons being conveyed in the vehicle and a separate means of entry and exit for the driver.
4. A vehicle which has conveyed the dead body of any person shall not be used for hire without the consent of the Chief Environmental Health Officer of the Council.
5. The vehicle shall not be used for the conveyance of any fare which has been importuned by any person.
6. These conditions may be added to or varied by the Council at any time.

Failure to conform to these requirements will result in a breach of policy and further action may be taken by the Council against the vehicle proprietor/s

APPENDIX F - PRIVATE HIRE OPERATOR LICENCE CONDITIONS

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

1. The Operator shall record in a bound book before the commencement of each journey, the date and time of hiring; the name and address of the hirer; the date, time and place of commencement of the journey, the destination, number of passengers, plate number of the vehicle and badge number of the driver. If the booking is passed to another operator, the name of that operator and date and time of passing shall be recorded. This record shall be preserved for a period of one year from the date of the last entry, and shall be produced for inspection on request by any authorised Officer of the Council or any Police Constable and such Officer or Constable shall be entitled to make copies of any entries recorded therein.
2. The Operator shall maintain a proper record of all persons driving Private Hire Vehicles for which he invites or accepts bookings; such record shall show the driver's name and address, hours of work, rest periods and plate number of the vehicles driven. This record shall be preserved for a period of one year from the date of the last entry and shall be produced for inspection on request by an authorised Officer of the Council or any Police Constable and such Officer or Constable shall be entitled to make copies of any entries recorded therein.
3. The Operator shall provide and maintain the above records at his own expense.
4. If any Director or Partner ceases to be a Director or Partner, or if any person becomes a Director or Partner, or there is any change of Company Secretary or place or business, such fact shall be reported to the Council in writing within seven days.
5. The Operator must not use in any advertisement the words Hackney Carriage, Taxi or Cab if licensed Hackney Carriages cannot be supplied.
6. Notify the Council within 7 days of any change of business address or change of company trading name.
7. The Operator shall be aware that a booking accepted by telephone or otherwise verbally is a lawful agreement and they may be liable for breach of contract if a booking is not honoured. The accurate recording of booking details is a means of protecting themselves should such circumstances arise.
8. These conditions may be added to or varied by the Council at any time.

APPENDIX G - GUIDELINES FOR SALOON AND ESTATE VEHICLES:

The following should be observed in relation to all applications for licensing vehicles constructed for the sole use of passengers and their effects in accordance with Construction and Use Regulations, and **NOT** adapted, for the conveyance of up to four passengers.

1. No vehicle will be licensed for less than four passengers.
2. The maximum number of passenger seats is four and the following will be taken into account when deciding seating capacity:-
 - (a) The width of each seat should not be less than 400mm per person, this measurement being taken across the front of the seat and, where necessary, between arm rests.
 - (b) There shall be sufficient room in the rear of the vehicle to accommodate three passengers. There shall also be adequate head and leg room to allow passengers to be conveyed in comfort and safety and therefore there should be a height of 870mm between the seat and roof of the vehicle and 180mm from the back of the front seat to the front of the rear seat [when the front seat is fully pushed back].
 - (c) There shall be a separate front seat to accommodate one person in addition to the driver [excluding London style cabs].
 - (d) There shall be a minimum of four doors, each adjacent to and allowing direct access to and from the seats.
 - (e) Each seat should comply with the seat belt regulations and, if necessary, be able to secure a child seat/booster seat.
 - (f) All seats should face forward in the direction of travel [except London style cabs].
 - (g) The vehicle shall be right hand drive, with the driver's door to the offside.

APPENDIX H - GUIDELINES FOR MULTI-SEATER VEHICLES:

The following should be observed in relation to all applications for licensing vehicles constructed for the sole use of passengers and their effects in accordance with Construction and Use Regulations, and NOT adapted, for the conveyance of up to eight passengers.

1. The maximum number of passenger seats is eight and the following will be taken into account when deciding seating capacity:-
 - a) The vehicle shall be right hand drive, with the driver's door to the offside.
 - b) The vehicle will have a front nearside passenger door.
 - c) In respect of minibus and other MPV style vehicles a minimum of three doors to the passenger accommodation shall be provided.
 - d) Except where the vehicle is fitted with an offside passenger door, it shall be possible for a passenger to walk from the rear nearside passenger door through the vehicle and out of the rear door without having to step over any seats.
 - e) The width of each seat should not be less than 400mm per person, this measurement being taken across the front of the seat and, where necessary, between arm rests.
 - f) Each seat should face forward in the direction of travel unless, in the case of rear facing seats, there is supporting documentation to say that the seats conform to the relevant Ministry of Transport standards.
 - g) All seats, whether rear or front facing, shall be fitted with a seat belt. Each seat should comply with the seat belt regulations and, if necessary, be able to secure a child seat/booster seat.
 - h) There shall be sufficient room between the seats to allow adequate room for the movement of passengers. There shall also be adequate head and leg room to allow passengers to be conveyed in comfort and safety and therefore there should be a height of 870mm between the seat and roof of the vehicle and 180mm from the back of the front seat to the front of the rear seat [when the front seat is fully pushed back].
 - i) Have proper signs on how to lift the second row of seats. The sign should be clearly visible to any persons seated in the rearmost seats providing customers with instructions on the operating mechanisms for the seat that may be required to be tipped/moved forward in order to gain access/egress from the vehicle.
 - j) The operating levers to be coloured yellow/orange so that they are easily identifiable. They can be coloured by using the appropriate colour tape. Tape should remain damage free at all times and replaced when worn.
 - k) When deciding the seating capacity of any vehicle, account will be taken of the weight bearing capacity of the rear axle and any other factors considered necessary in order to ensure the comfort and safety of the public. Applicants will be required to supply this information or take the necessary steps to contact the manufacturer of the vehicle in order that this information is available at the time the inspection takes place.
 - l) Taken from the area to the rear of the driver, the floor of the vehicle shall be of one level to the rear of the vehicle.
 - m) The vehicle shall be fitted with either a sliding or front pillar hinged door to the nearside passenger carrying area such additional door, if hinged to be capable of opening 90°, ideally with a step or similar device to assist passengers in entering or leaving the vehicle.

- n) If the vehicle is fitted with an offside rear passenger door, then the rear door may be of the hinged lift-up type such offside rear passenger door to be of the sliding or front pillar hinged type, capable of opening to 90°, ideally with a step or similar device to ease passengers to enter or leave the vehicle.
- o) Have windows on the near and offside in respect of the rear row of seats and that they be free from obstruction at all times to allow access in the event of an emergency.
- p) Have well positioned exit window signs (where appropriate).
- q) Have an internal device for the rear hatch door to be opened from the inside. This can be by way of an emergency 'quick release' button which can be fitted to the rear hatch door which can be operated by passengers in order to allow access/egress in the event of an accident and one of the side passenger doors being inaccessible.
- r) All vehicles must be capable of carrying a wheelchair in a reasonable manner. In the interests of passenger safety and comfort, should any vehicle be capable of carrying a person who remains in the wheelchair, or where the seating layout may be varied to accommodate a wheelchair, such vehicle must have adequate provision to enable the wheelchair to be fixed securely to the floor of the vehicle. The remaining seating capacity will then be determined in accordance with the conditions set out above but the total passenger carrying capacity shall not be less than four.
- s) Notwithstanding the seating capacity stated on the Vehicle Registration Document, in order to meet the above criteria for the safe conveyance and comfort of passengers it may be necessary for a seat or seats to be removed and any licence and subsequent licence issued by the Council in respect of the vehicle will be subject to such reduced seating capacity.
- t) An appeal against a decision on capacity may be referred to the Licensing Sub-Committee, provided that documentation in support of the appeal can be produced by the applicant.
- u) These conditions may be varied from time to time to accord with changes of Government legislation. It should be noted that the Government is currently considering new legislation which will incorporate the carriage of disabled persons in their wheelchairs.

These conditions may be varied from time to time to accord with changes of Government legislation. It should be noted that the Government is currently considering new legislation which will incorporate the carriage of disabled persons in wheelchairs.

APPENDIX I - SUITABILITY TEST

Guidelines for Suitability Tests

All applicants wishing to apply for a Hackney Carriage and Private Hire Drivers Licence are required to pass a suitability test before they can apply for a full application pack. These notes advise you on what you will need to know to pass the suitability test and how the test is conducted.

The test is computer based and the questions are automatically generated by the computer. The test is time limited and candidates will have a maximum of **24 minutes** to complete it.

The test will consist of:-

- Money & Finance
- Literacy
- Times & Dates
- A-Z (which will be provided at the test)

You will be asked 5 questions from each of the categories and the pass mark is 4 out of 5 per category. Should you fail any of the sub sections listed above you will have failed the complete test. You will not be able to take another test for a minimum of 14 days where a further £30 would be required.

Using the Suitability Test Software

Step 1.

Read the question through **carefully**, and then select your answer from the four options.

Step 2

Once your answer has been selected (it will show a tick in the box next to the answer you have selected, and will be highlighted), press the 'Next Question' button as shown below. Please note that you can change your answer at any time by simply selecting an alternative answer.

Step 3

When you have finished the test it will not be possible to select the 'Next Question' button, and you should click on the button marked 'Finished'. The computer will then ask you if you are sure you have finished and will highlight any questions that you have not selected an answer for. You then have the opportunity to go back and enter an answer for these questions if you wish, or the opportunity to double check your answers. Once you are satisfied with your answers, you should end the test and inform the invigilator.

APPENDIX J - KNOWLEDGE TEST

Guidelines for Knowledge Test

All applicants for a Hackney Carriage and Private Hire Drivers Licence are required to pass a special test before they can be Licensed to drive Hackney Carriages and Private Hire Vehicles Licensed by this authority. In London this test is known as 'The Knowledge' and a similar, though less rigorous test is administered by Tendring District Council. These notes advise you on what you will need to know to pass the knowledge test and how the test is conducted.

Applicants will be expected to have a reasonable understanding of the streets and main buildings within the entire District of Tendring. Therefore, the test will incorporate all of the main areas of Tendring such as Clacton, Harwich, Manningtree, Frinton, Walton, Brightlingsea, Great Bentley and the surrounding areas as shown on the map below.



An applicant will be expected to have knowledge of the law in relation to Hackney Carriage / Private Hire Driver and Vehicles as well as the Licensing Conditions adopted by Tendring District Council. Applicants should also be familiar with and have studied the Highway Code.

The test is computer based and the questions are automatically generated by the computer. The test is time limited and candidates will have a maximum of **60 minutes** to complete it.

The test will consist of:-

- **Road Signage**
- **Highway Code**
- **Routes of roads within the Tendring area**
- **Places of Interest and local knowledge**
- **Conditions, Law and Equality**

Test Information

The test is modular and a candidate must achieve a pass mark in each of the sections (shown below) to satisfactorily pass the test. The number of questions and the pass mark in each category is:

- Signage - Answer 5 out of 5 questions correctly
- Highway Code - Answer 5 out of 5 questions correctly
- Routes – Surrounding areas - Answer 1 of 2 questions correctly in each group
(Clacton / Holland / St Osyth / Jaywick)
(Harwich / Dovercourt / Parkeston)
(Walton / Frinton / Thorpe / Weeley)
(Manningtree / Wix / Mistle)
(Brightlingsea / Thorington / Great Bentley / Alresford)
- Places of Interest / Local Knowledge – Surrounding area - Answer 3 of 5 questions correctly in each group
(Clacton / Holland / St Osyth / Jaywick)
(Harwich / Dovercourt / Parkeston / Manningtree / Wix)
(Walton / Frinton / Thorpe / Weeley)
(Brightlingsea / Thorington / Great Bentley / Alresford)
- Conditions, Law and Equality - Answer 4 of 5 questions correctly.

Should you fail any of the modular sub sections listed above, you will have failed the test, but can choose to return and resit the test at a later date and will only be required to undergo the sections that you have failed on. You will only ordinarily be permitted to undertake the knowledge test 3 times. **Should you not have completed the test after 3 attempts your application will be terminated. The following timescales apply if you fail the test:**

- **Fail first attempt - Wait a minimum 14 days before retest of the failed sections.**
- **Fail second attempt - Wait a minimum 14 days before retest of the failed sections.**
- **Fail third attempt - Your application will be terminated.**

There is an appeal procedure in place for a fourth attempt if you fail your third attempt which must be made in writing to the Licensing manager.

If your application is withdrawn, you cannot resubmit an application for 1 months. Any fees paid towards the grant of a hackney carriage/private hire drivers licence will be refunded if the licence is not granted to you.

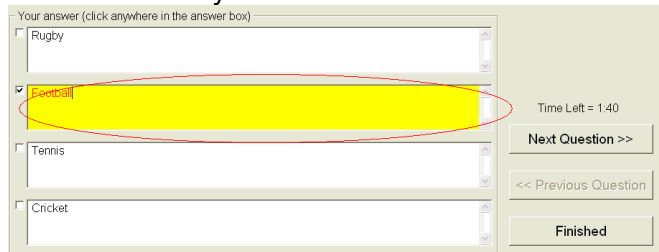
It is strongly recommended that anybody wishing to be licensed as a new driver should take the time therefore, to familiarise themselves with the highway code, and the law relating to the driving of Hackney Carriage and Private Hire Vehicles, Tendring District Council Vehicle Licensing Conditions, Tendring District Council Hackney Carriage / Private Hire Driving Licence Conditions.

The knowledge test will be administered in English. Assistance may be given, should an applicant have any difficulty in undertaking this test. Additional information is enclosed with this guidance to assist you.

Using the Knowledge Test Software

Step 1.

Read the question through **carefully**, and then select your answer from the four options given as demonstrated by the circle below.



Your answer (click anywhere in the answer box)

Rugby

Football

Tennis

Cricket

Time Left = 1:40

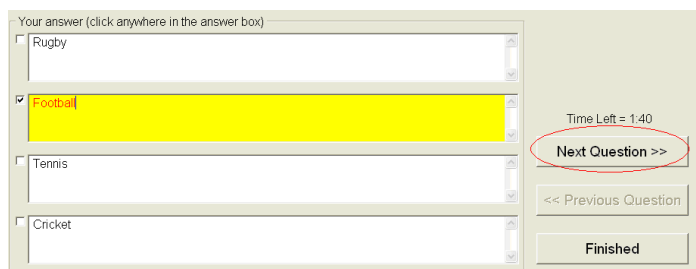
Next Question >>

<< Previous Question

Finished

Step 2

Once your answer has been selected (it will show a tick in the box next to the answer you have selected, and will be highlighted), press the 'Next Question' button as shown below. Please note that you can change your answer at any time by simply selecting an alternative answer.



Your answer (click anywhere in the answer box)

Rugby

Football

Tennis

Cricket

Time Left = 1:40

Next Question >>

<< Previous Question

Finished

Step 3

When you have finished the test it will not be possible to select the 'Next Question' button, and you should click on the button marked 'Finished'. The computer will then ask you if you are sure you have finished and will highlight any questions that you have not selected an answer for. You then have the opportunity to go back and enter an answer for these questions if you wish, or the opportunity to double check your answers. Once you are satisfied with your answers, you should end the test and inform the invigilator.

Guidance to the Knowledge Test (points to study)

There are no lists of roads, routes or places of interest to assist you in learning the area of Tendring. Experience has shown that an applicant could sit down and learn the list without knowing the area in which they will be working. In this day and age of GPS navigation it could be said that there is no requirement for a driver to learn the area as the device will take him or her to the destination. This is not the case. There can be no substitute for having a working knowledge of the area that you intend to drive. It conveys a wrong impression to the customer and is unprofessional when a driver has to fumble with his GPS before setting off on the journey. In undertaking the knowledge test there is no substitute for studying the area and where necessary driving around to familiarise yourself with the location.

In this test you will be required to identify public buildings such as Police Stations, Courts, Job Centres, Social Services buildings, Hospitals, Hospice, Schools and Colleges, Cemeteries and Crematoriums. You should be able to identify all Pubs, Restaurants, Shops and Supermarkets, Hotels, Nightclubs and Places of Entertainment within the District together with Local Football and Rugby Clubs, Parks and Open Spaces, Golf Courses, Sports and Leisure Centres. You should be able to identify large businesses within the District and the industrial estates that they are located on. The list of places of interest is not exhaustive and applicants should actively research the area using such means as Google, Google Maps or Street View on the Internet for example, or hard copy such as Road Atlases or the Yellow Pages or Thompsons Local Directories. Where any doubt exists a visit to the area may be of benefit.

The licence conditions and bye laws have been attached to these notes; however you should obtain the latest copy of the Official Highway Code and familiarise yourself with the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.

Hackney Carriage and Private Hire Licence Conditions and Guidance

As part of the knowledge test you will be asked questions on licence conditions. For reference and further help you, it is recommended that you have read the conditions as laid out in **appendix B & C** within the policy.

DRAFT

APPENDIX K - CURRENT FARE TARIFF

TENDRING DISTRICT COUNCIL

HACKNEY CARRIAGE FARE SCALE TO TAKE EFFECT 11 AUGUST 2022

- 1. MILEAGE**
 - (a) If the distance does not exceed 235 yards for the whole distance **£3.40**
 - (b) For each subsequent 235 yards or uncompleted part thereof in addition to (a) above **.30**
- 2. WAITING TIME**

For each period of 60 seconds or uncompleted part thereof **.30**
- 3. EXTRA CHARGES**
 - (a) For hirings throughout Sundays and throughout all Bank and Public Holidays and for hirings commencing after Midnight and before 6 a.m. Mondays to Saturdays inclusive **One-half of the above rate of fare**

Note: When the Bank and Public Holiday charge is payable, the Sunday and night charges are not payable
 - (b) For each article of luggage conveyed **.20**
[Luggage means suitcases or trunks but not smaller items such as a briefcase or carrier bag]
 - (c) For each person in excess of one **.20**
 - (d) For each bicycle or non-folding pram **.20**
- 4. MULTI-SEAT VEHICLES**

When used to carry more than 4 passengers or a greater amount of luggage than can be conveyed in a four-seater **Add one-half of the rates specified in 1 or 3(a) above**

Note: When this charge is payable no further extra charges are applicable.
- 5. CHRISTMAS AND NEW YEAR PERIODS**

For the Christmas Period – 6 p.m. on 24 December until 7a.m. on 27 December **DoubleTariff 1**
For the New Year Period – 6 p.m. on 31 December until 7.am. on 2 January
- 6. MULTI-SEAT VEHICLES – CHRISTMAS AND NEW YEAR PERIOD**

When used to carry more than 4 passengers or a greater amount of luggage than can be carried in a four seater for the days and times set out in Paragraph 5 above **Double Tariff 1 plus 50%**
- 7. DAMAGE AND SOILAGE CHARGE**

The driver may recover costs under Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976 from the hirer who will be responsible for any damage to (or human discharge left in) the taxi, which has been caused by the action of the hirer or travelling companion(s), and the hirer will be liable to meet the full cost of restoration work required to make good the effects of the aforementioned damage and/or human discharge.
- 8. CARRIAGE OF PERSONS WITH DISABILITIES**

(No extra charges for wheelchairs) **Fares as specified in 1,2 and 3 above**

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LICENSING AND REGISTRATION COMMITTEE

24 JULY 2023

BRIEFING NOTE

A3. TENDRING COMMUNITY SAFETY ACTION DAYS - LICENSING

PURPOSE OF THE REPORT

To inform Members of the Licensing and Registration Committee about the Tendring Community Safety action days that took place which involved a number of licensing enforcement checks.

SUMMARY

Members of the Licensing team joined forces with partners for a number of activities aimed at improving safety in Tendring.

On Wednesday 14 June, Licensing Officers were in attendance with Essex Police road policing officers and the Environmental Agency for a series of road checks, clamping down on motoring offences, checking waste carriers and scrap metal carriers had the appropriate licences, and carrying out spot checks on taxis.

Taxi spot checks were carried out on 19 taxis, with three warning letters issued and one referral made.

Friday 16 June, the Licensing Enforcement Officer attended an evening night of action tackling the night time economy with a number of partners. As part of this, checks were carried out at licensed premises and taxis to make sure all were operating safely and legally. One premises has been referred to further enforcement action and one taxi was found with an expired plate where this was removed.

Awareness of drink spiking was raised with 100 drink covers given to pubs to hand out to customers.

Those that have received warning letters have received a follow up by the Licensing Enforcement Officer.

REPORT CONTACT OFFICER(S)

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

Name	Michael Cook
Job Title	Licensing Manager
Email/Telephone	licensingsection@tendringdc.gov.uk 01255 686565

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LICENSING AND REGISTRATION COMMITTEE

24 JULY 2023

REPORT OF THE CORPORATE DIRECTOR – OPERATIONS & DELIVERY

A.4 REVIEW OF THE FEES AND CHARGES FOR CARAVAN SITE LICENSING

(Report prepared by Grant Fenton-Jones & Tim R Clarke)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To provide the Licensing Committee with the details of the proposed licensing fees and charges for the new financial year beginning April 2023, with regard to Residential Park Homes. The Mobile Homes Act 2013, amended Section 3(3) of the Caravan Sites and Control of Development Act 1960 and empowered Local Authorities to charge when issuing licences in respect of 'relevant protected sites' and to charge fees for the provision of other associated licensing functions. The purpose of the report is to endorse those fees charged during 2022/23 and changes to those fees and charges to take effect for the current financial year (as soon as possible thereafter taking account of legislative requirements).

EXECUTIVE SUMMARY

This is the first occasion that fees and charges have been placed before this committee for the Licensing of Residential Parks (protected sites) and for charging fees as part of our inspection regime. Fees and charges for this work have previously been set as part of the corporate fees and charges procedure approved by Full Council, as part of the annual Budget process and in accordance with the Council's Mobile Home Site Licensing Fees Policy. Recently, the corporate process was amended, to allow Assistant Directors in consultation with Portfolio Holders to approve Fees and Charges, within year and in consultation with the Portfolio Holder for Environment & Public Spaces fees for 22/23 were agreed on 9 February 2022. However, it has been identified, that these fees, relating to a non-executive function, should in fact be set by this Committee.

The current schedule of fees and charges is presented for approval along with the proposed fees and charges to take effect from the 1st April 2023.

As in previous years Officers have reviewed the fees and charges payable for applications and, where a discretion exists, propose that increases be approved to better reflect cost recovery in relation to the administration of the licensing areas concerned. The proposed fees and charges for 2023/24 along with the fees and charges for 2022/23 are set out within Appendix A to this report.

RECOMMENDATION(S)

It is recommended that:

- 1) The current fees and charges in place since April 2022 as set out in column A of Appendix A be endorsed and approved;
- 2) That the proposed fees and charges for 2023/24 set out in column B of Appendix A be approved with effect from April 2023; and,
- 3) The Assistant Director for Housing & Environment be authorised to publish The Mobile Homes (Residential Protected Sites) fees and charges in accordance with the relevant legislative provisions.

REASON(S) FOR THE RECOMMENDATION(S)

The Council has made provision in its Constitution within the Committee’s Terms of Reference (at Part 3.20) for the Committee to approve the setting of fees and charges for licences falling within its remit.

The statutory principle in relation to the setting of fees is that they should be reasonable and should relate to the costs of performing the function, including staffing, administration, testing, inspections, hearings, regulation and appeals. The recommendation is in order to comply with the provisions of the European Services Directive (2006/123/EC) which although following Brexit, is no longer applies to the UK, the requirements of such were incorporated into UK law by the Provision of Services Regulations 2009. The legal requirements of what could be and were not recoverable were considered by the Supreme Court in the case of R (on the application of Hemming and others) v Westminster City Council [2015] UKSC 25 and [2017] UKSC 50. These considerations have been taken into account in setting the proposed fees.

ALTERNATIVE OPTIONS CONSIDERED

Where a discretion exists in relation to fees and charges for licences and other licensing provisions, consideration has been given to not increasing the fees payable. However, the costs associated with providing the service have increased over the past year and it is necessary for the service to be, so far as possible, cost neutral and increase fees in line with inflation and therefore a 15% increase is proposed for 2023/24. This is to ensure that all relevant costs are lawfully recovered from the income derived from the fees and charges for each distinct area of the licensing of Residential (Protected Mobile Home Sites), as well as charging annual fees and for other associated licensing provisions as necessary. If there is no increase in fees there is a risk that the Council will not recover all of the costs for statutory services or functions for which it is permitted to charge and increase the burden on the Council’s General Fund.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

It is intended that the revised fees and charges would support the following themes from the Council’s Corporate Plan 2020-24:

- Delivering High Quality Services: Effective regulation and enforcement
- Community Leadership through partnerships: Law and Order - for a safer community
- Strong Finances and Governance: Effective and positive Governance.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) determined in Regulation 2, which functions are not to be the responsibility of the executive, as set out in column 1 of Schedule 1 of the Regulations. For the purposes of this report, The Licensing of Caravan Sites are contained within column 1, and therefore, sit within the terms of reference of the Licensing and Registration Committee as set out in Part 3.21 of the Council’s Constitution. Any fees set in accordance with the licensing regime under this legislation are to be approved by the Committee.

Licence Type	Charging Power
Mobile Homes Site licensing (Residential Protected Sites)	<p>Local Authorities were afforded powers under The Caravan Sites and Control of Development Act 1960 (the Act), to grant caravan site licences for sites that have planning permission.</p> <p>The Act has now been amended by The Mobile Homes Act 2013 (the 2013 Act), that enables Local Authorities to charge for the issue of licences in respect of Residential Mobile Homes (‘relevant protected sites’), and to charge fees for other associated licensing provisions for these type of sites.</p> <p>The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person)(England) Regulations 2020</p>

The Caravan Sites and Control of Development Act 1960 (the Act) was amended by the Mobile Homes Act 2013 (the 2013 Act). The changes introduced by the 2013 Act come into force on 1st April 2014. These included powers for local authorities to charge fees for their licensing functions in respect of “relevant protected sites”.

Local authorities can charge:

- a licence fee for applications to grant or transfer a licence or an application to alter the conditions on a licence and;
- an annual licence fee for administering and monitoring licences

Before a local authority can charge a fee, it must prepare and publish a fees policy. (See section 10A of the Act). When fixing a fee the local authority:

- must act in accordance with their fees policy
- may fix different fees in different cases
- may determine that no fee is required in some cases.

Tendring District Council published its first fee policy in April 2019 following approval by

Cabinet. It provides a framework for fee setting and the process for the granting, renewal, transfer, amendment of licences, the checking of site rules, and since the 1st October 2021, the requirement for accepting applications for a relevant person to be included on the Fit and Proper Person Register with regard to Mobile Home Protected Sites. The policy was updated and revised in 2021 in consultation with the Portfolio Holder for Environment & Public Spaces to include the fit and proper person provisions. The fee policy is attached as **Appendix B**.

An Officer decision was made and published, in consultation with the Environment Portfolio Holder for Environmental & Public Spaces for the 2022/23 fees, however, it has recently become apparent that this Schedule of Fees and charges included some non-executive functions. Therefore, the Committee is asked to endorse and approve these fees for the current year. Prior to the current year fees and charges were either set by Full Council as part of the budget setting process or by officers in consultation with the Portfolio Holder.

The setting of these proposed fees and charges is in accordance with the requirements of the Provision of Services Regulations 2009 and case law as referenced earlier in this report.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Where possible, the Housing & Environment service aims to recover all reasonable costs. In a number of areas, statute dictates whether a fee may or may not be charged and the level of any charge.

When setting the fees and charges for the new financial year, the responsible officer refers to the Fee Policy and the framework for setting the appropriate level of fee and charges. They carefully monitor the licensing fee income through the financial year, which can fluctuate depending on whether new applications are made and whether amendments are needed due to a change of ownership or a transfer of the licence. The income from the “Fit and Proper Person” applications is renewed every five years and a fee is only chargeable at this time. Therefore, if at any time, it was considered there would be a short fall between income and expenditure the fees could be reconsidered and increased, subject to notice and consultation, and implemented in the next financial year.

Local Authorities are not allowed to make a profit from fees and charges associated with licensing of Residential Mobile Homes (Protected Sites), and must reduce fees if it is found that a surplus of funds has been amassed. This is monitored and is unlikely to happen as fees and charges are set in accordance with the Fees Policy Framework which is time specific and based on the hourly rate of the responsible officer, whilst any increase is calculated in accordance with the annual RPI and inflation each year.

USE OF RESOURCES AND VALUE FOR MONEY

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	It is important that fees are set by the correct decision making arm of the Council. Discussions between the Assistant Director for Housing and Environment and Governance have recently taken place to ensure the service is fully aware of these requirements. The Monitoring Officer is satisfied that suitable assurances have been given and improvements

	identified.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	
MILESTONES AND DELIVERY	
The report sets out the proposed fees and charges currently being charged and those to be set from April 2023 and invites the Committee to consider approving them.	
ASSOCIATED RISKS AND MITIGATION	
If the Committee determined that no increases in fees are appropriate, this could place a financial burden on licensing budgets that may require support from the General Fund. This in turn may mean that other Teams or Services see their budgets reduced.	
OUTCOME OF CONSULTATION AND ENGAGEMENT	
The following Council Units or Officers and/or other organisations have been consulted in preparing this report: Assistant Director (Governance) Assistant Director (Finance & IT)	
EQUALITIES	
There are no direct equality implications. The fees are calculated on a cost recovery basis and will not disproportionately affect those with a protected characteristic. An Equality Impact Assessment has therefore not been completed as part of this process.	
SOCIAL VALUE CONSIDERATIONS	
Not Applicable	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
There are no direct implications for climate change. The Private Sector Housing service does, when appropriate, make use of remote digital inspection technology to reduce officer travel and associated carbon emissions.	
OTHER RELEVANT IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	There are no direct implications for crime and disorder.

Health Inequalities	There are no direct implications for public health although some of the licences these fees relate to are aimed at ensuring public safety.
Area or Ward affected	All
ANY OTHER RELEVANT INFORMATION	
None	

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Licensing Authority may charge a fee for the issuing or renewal of various licences for which they have a statutory duty to issue. Certain fees are set either by Statute or Regulations, but some fees can be set by Local Authorities to cover the cost of administration, compliance, and some elements of enforcement; Locally Set Fees. The Council is not able to make a profit from licensing fees and cannot support the General Fund from licensing fees.

Where possible, the Housing & Environment service aims to recover operating costs and where the Council has the discretion to set the fees, they are subject to review which can take into account operating costs, inflation, and purchase costs etc.

In proposing the fees for 2023/24 we have been mindful of the current cost of living increases, the continued effect of the economy post pandemic on the licensed trade, and the increases in costs to the Council caused by current inflation rates.

The Private Sector Housing Manager monitors fees and charges set by other Local Authorities as a bench marking exercise and the service always has due regard to this when setting fees.

The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed annually to ensure that neither a significant surplus nor deficit is created. Should a surplus be accrued, the following years fees and charges will be reduced to bring it back to zero profit. Likewise, should there be a deficit the following year's fees and charges will reflect this and they will be increased to ensure the Council's activities are supported financially and there is no loss in revenue.

Many licensing schemes fall within the definition of 'services', under the EU Services Directive, as incorporated into UK law by the Provision of Services Regulations 2009. For such schemes, fees and charges must "be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those

procedures and formalities”. This principle was affirmed by the courts in R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council. Fees must reflect administrative, policy and compliance costs, but cannot include the costs of enforcement action against unlicensed operators.

Details of the proposed fee structure is attached at Appendix A.

As mentioned in the Finance section above, the service will continue to monitor the fees and charges for licensing Residential Mobile Homes (Protected Sites) in accordance with TDC’s Fees Policy which includes a comprehensive breakdown of the services activity in this matter.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

<https://tdcdemocracy.tendringdc.gov.uk/ieDecisionDetails.aspx?ID=1543>

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

- Local Government (Miscellaneous Provisions) Act 1982

APPENDICES

Appendix A – List of current fees and the proposed increases

Appendix B – Fee Policy

REPORT CONTACT OFFICER(S)

Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.

Name	Grant Fenton-Jones Tim R Clarke
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Appendix A

VAT is not applicable	A	B
LICENSING OF MOBILE HOME SITES (PROTECTED SITES)- MOBILE HOME ACT 2013	2022/23	2023/24
:	£	£
Application for New Site Licence		
Number of Caravans		
200+	706.00	812.00
100 to 199	600.00	690.00
25 to 99	488.00	561.00
6 to 24	416.00	478.00
1 to 5	394.00	453.00
Annual Site Licence Fees (Every April)		
Number of Caravans		
200+	533.00	613.00
100 to 199	426.00	490.00
25 to 99	293.00	337.00
6 to 24	204.00	235.00
1 to 5	150.00	173.00
Transfer of Site Licence	208.00	239.00
Amendment of Site Licence	208.00	239.00
Checking and Registering Site Rules	208.00	239.00
NEW - Application for the Fit & Proper Person Register	208.00	239.00

Tendring District Council Fees Policy

Mobile Home Site Licensing

1.0 Introduction

- 1.1** Tendring District Council ('the Council') has powers under the Caravan Sites and Control of Development Act 1960 (the Act) to grant caravan site licences for sites that have planning permission. The Act has now been amended by the Mobile Homes Act 2013 (the 2013 Act) to enable the Council to issue licences in respect of 'relevant protected sites' and to charge fees for the provision of their licensing functions.
- 1.2** A 'relevant protected site' is defined as any land to be used as a caravan site other than one where a licence is:
- Granted for holiday use only
 - In any other way subject to conditions which restrict the usage of the site for the stationing of caravans for human habitation at certain times of the year (such as planning conditions).
 - It does not include sites that are owned by the local authority.
- 1.3** Relevant protected sites will include residential parks, mobile home parks and Gypsy and Traveller sites.
- 1.4** Before a local authority can charge a fee, it must prepare and publish a fees policy. When fixing a fee the local authority:
- must act in accordance with their fees policy
 - may fix different fees in different cases
 - may determine that no fee is required in some cases.
- 1.5** It is recommended that a local authority take into account the following matters on which costs are incurred (or likely to be incurred) (by whichever department, including costs incurred by contracting out) when determining its fee policy for consideration of applications for the grant or transfer of a site licence:
- Considering applications for the issue or transfer of a site licence
 - Initial enquiries
 - Letter writing/ telephone calls, etc. to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the licensing process
 - Sending out forms
 - Updating hard files/ computer systems
 - Updating the EU Directive website if appropriate
 - Processing the licensing fee

- Land registry searches
- Time for reviewing necessary documents and certificates
- Downloading photographs
- Preparing reports on contraventions
- Preparing draft and final licences
- Review by manager or lawyers; review any consultation responses from third parties
- Updating public register
- Carrying out any risk assessment process considered necessary
- Reviews of decisions or in defending appeals.

1.6 In addition a local authority will need to make such inquiries as are necessary in connection with the application, such as those relating to:

- Management and financial standing
- Outstanding licensing issues and debts; and
- Undertakings.

1.7 All time taken in establishing the information required to make an informed decision will be allowed to be included in the licence fee, whether or not the transfer or new licence is allowed.

1.8 The fee levels have been calculated based on an estimate of the time and costs involved in undertaking the various activities involved; the fee scales have been based on a 'banding' of sites according to the number of pitches.

1.9 Sites of fewer than 5 pitches that are occupied by members of the same family are exempted from the fees.

1.10 The proposed fees for the period 1st April 2022 to 31st March 2023 for each band are shown below:

	Band A	Band B	Band C	Band D	Band E
Number of pitches	1 to 5	6 to 24	25-99	100-99	200+
Annual Fee	£150.00	£204.00	£293.00	£426.00	£533.00
New site licence application fee	£394.00	£416.00	£488.00	£600.00	£706.00
Transfer of site licence fee	£208.00	£208.00	£208.00	£208.00	£208.00
Amendment of site licence fee	£208.00	£208.00	£208.00	£208.00	£208.00
Checking & Registering Site Rules	£208.00	£208.00	£208.00	£208.00	£208.00

2.0 Charging arrangements

- 2.1** This policy comes into effect on 1st April 2019 and the date annual charges will be due is 1st April 2019
- 2.2** Where an annual site licence is payable, the request for payment of site licence fees will be made in April each year and must be paid to the Tendring District Council within 28 days from the date of issue.
- 2.3** Payment in full of all fees shall be made with any application for a new site licence, or for amending or transferring a site licence.
- 2.4** Where a payment due to the Council has not been made, the Council may apply to the Residential Property Tribunal, for an order requiring the licence holder to pay the Council the amount due by the date specified in the Order.
- 2.5** Where a licence holder fails to comply with such an Order within the period of 3 months from the date of the Order, the Council may apply to the Tribunal for an Order revoking the site licence.
- 2.6** A licence holder has the right to apply to the Tribunal where they disagree with the licence fee being charged.
- 2.7** The Fee Policy will be kept under review and a new policy will be published when revisions are made.
- 2.8** Any fees charged must fairly cover the costs (or part of the costs) incurred by a local authority under its functions in Part 1 of the Act, other than the costs of enforcement action. They must be reasonable and transparent and whilst different fees can apply to different types of cases, there must be consistency in the fee structure and its application.
- 2.9** The fee scales have been calculated for this year on the basis of the predicted time taken to carry out the relevant administrative and inspection duties multiplied by an hourly rate. Each year the council will assess its previous costs to check that they were accurate. Where a deficit appears because expenditure was more than anticipated the shortfall will be reflected in the fee charged to the site owner in the next year. Similarly, where a surplus is made the fee for the following year will be reduced by that amount.
- 2.10** The legislation allows the site owner to pass the annual licence fee on each year to residents through their annual 'pitch fees'. If the Council's annual licence fees increase in subsequent years the proportion of the charge that can be passed on is limited to the amount of the charge imposed in the first year and any subsequent Retail Price Index increases will be applied to it. Only the annual fees can be passed on to site residents.

3.0 Charges for Enforcement action

3.1 Where there has been a breach in a site licence condition which comes to the attention of the council we may serve a compliance notice. The Council is able to make a charge to cover the cost of taking the enforcement action and this will apply to all sites, including those exempted from other fees. A detailed breakdown of the relevant expenses will be provided with the compliance notice. Charges would be based on the hourly rate detailed below, in addition to any other costs incurred.

Hourly rate for enforcement costs (Based on the rate for the Private Sector Housing Manager) = £25.42

3.2 If any works in the compliance notice are not carried out the licence holder commits an offence and the local authority may consider taking legal proceedings. Any costs associated with this process would be at the discretion of the court.

3.3 If any prosecution were successfully taken, the Council would have the power to carry out the works in default of the licence holder. An administration cost of 20% would be added to the cost of the works.

4.0 Breakdown of Costs

4.1 The following tables show the time allocations for each activity identified for the licensing functions and the total fees to be charged.

Process	Annual Site Licence - Fee Structure				
	200+	100 to 199	25 to 99	6 to 24	1 to 5
Number of Caravans					
Programme visits send appointment letters and request certain info (mins)	15	15	15	15	15
Check documentation requested/chase (mins)	15	15	15	15	15
Input on CAPS (mins)	5	5	5	5	5
Check history and recent correspondence (mins)	20	15	10	10	10
Site inspection (mins)	420	300	180	90	30
Travel time (mins)	40	40	40	40	40
Download photos; put file notes on CAPS (mins)	60	40	30	20	15
Prepare report of contraventions (mins)	60	50	40	30	30
letter to site owner, cc to RA confirming satisfactory or agreed works over time (mins)	15	15	15	15	15
Add details to CAPS (mins)	5	5	5	5	5
Programme revisit date; inform site owner (mins)	10	10	10	10	10
E mail and telephone enquiries with residents/ site owner (mins)	60	50	40	30	20
Re -visit (mins)	120	90	60	40	30

Travel time (mins)	40	40	40	40	40
Prepare report of contraventions (mins)	40	40	30	20	20
Letter to site owner, cc to RA confirming satisfactory or outstanding works. If o/s continue towards enforcement (mins)	15	15	15	15	15
Update CAPS (mins)	10	10	10	10	10
routine monitoring visits (mins)	120	90	30	0	0
Travel time for routine visits (mins)	30	30	30	45	15
Download photos from monitoring visits; put file notes on MVM3 (mins)	40	30	10	0	0
letter to site owner following monitoring visits, cc to RA confirming satisfactory or agreed works over time (mins)	60	45	15	0	0
Add details to CAPS following monitoring visits (mins)	20	15	5	0	0
Total time (mins)	1220	965	650	455	340
Total time (hours)	20	16	11	7.5	5.6
Hourly rate (£)	25.42	25.42	25.42	25.42	25.42
Total annual charge to site owner (£)	533.00	426.00	293.00	204.00	150.00

Process	Application For New Site Licence- Fee Structure				
	200+	100 to 199	25 to 99	6 to 24	1 to 5
Enquiry received re-application process and forms sent out with covering letter inviting site visit (mins)	30	30	30	30	30
Create licensing worksheet on CAPS (mins)	10	10	10	10	10
Check planning status and any conditions (mins)	30	30	30	30	30
Check any previous history to new site/ adjacent land (mins)	15	15	15	15	15
Update CAPS (mins)	5	5	5	5	5
Appointment arranged to visit site (mins)	10	10	10	10	10
Meet site owner on site and carry out inspection; give advice re conditions and application form and documents required (mins)	210	180	120	90	60
Travel time (mins)	40	40	40	40	40
Update CAPS file notes and download photos (mins)	60	40	30	20	15
Application form received update CAPS (mins)	5	5	5	5	5

check application is full and proper; signed; fee included; documents included (mins)	40	40	40	40	40
Process the fee and send out receipt to owner (mins)	20	20	20	20	20
Update fields on CAPS and attach application form and docs. to worksheet (mins)	10	10	10	10	10
Check certificates for gas, electricity, fire risk assessment (mins)	30	20	20	20	20
Check Land Registry- owner details (mins)	10	10	10	10	10
Review documentation; check suitability of site and site owner :management and financial standing; outstanding licensing issues and debts; undertakings (as set by new Regs)	90	90	90	90	90
carry out a credit check and review	20	20	20	20	20
Clarification of any matters with new owner	20	20	20	20	20
Report to manager recommending approval or refusal or accept undertaking - notify owner	30	30	30	30	60
Update licensing sheet on CAPS ; attach all documents (mins)	20	15	15	15	15
Produce draft licence and site licence conditions (slc) with cover letter detailing works identified as necessary following site inspection (mins)	90	60	60	60	45
Update CAPS (mins)	10	10	10	10	10
Discussions with site owner re works/ conditions, including any requests to amend. (mins)	60	60	45	45	30
Review case with manager, discuss requests for any amendments and redraft if necessary (mins)	30	20	10	10	10
Draft new site licence with slc attached, (mins)	15	15	15	15	15
Manager checks document with file, signed and dated (mins)	50	40	30	20	20
Send site licence and slc to owner; update CAPS and attach documents (mins)	15	15	15	15	15
Update site licence register on system and hard file (mins)	10	10	10	10	10
When site is occupied arrange full site inspection with owner (mins)	10	10	10	10	10

Inspect site against slc, note breaches (mins)	420	300	180	90	30
Travel time	40	40	40	40	40
Update CAPS ; download photos (mins)	40	30	20	15	15
Prepare report of contraventions (mins)	60	60	45	30	30
Letter to site owner (mins)	15	15	15	15	15
Update CAPS and record next inspection date (mins)	15	15	15	15	15
Letter to site owner advising of procedure for annual inspections and next programmed visit (mins)	10	10	10	10	10
total time (mins)	1595	1350	1100	940	845
total time (hours)	26.5	22.5	18.3	15.6	14.8
hourly rate (£)	25.42	25.42	25.42	25.42	25.42
total charge to site owner (£)	706.00	600.00	488.00	416.00	394.00

Process	Application to Transfer Site Licence - Fee Structure				
	200+	100 to 199	25 to 99	6 to 24	1 to 5
Enquiry received and application form sent out with cover letter	30	30	30	30	30
Create worksheet on CAPS and update licensing file on CAPS	15	15	15	15	15
Application form received; check it is a full and proper application, complete, signed and fee included	40	40	40	40	40
Process the fee and send out receipt to owner; request standard documentation	20	20	20	20	20
Update fields on CAPS worksheet and licensing file on MVM3; attach application form and docs.	30	30	30	30	30
Check Land Registry- confirm applicant is the owner of the land; update MVM3	10	10	10	10	10
Review documentation; check suitability of site and site owner :management and financial standing; outstanding licensing issues and debts; undertakings (as set by new Regs)	90	90	90	90	90
carry out a credit check and review	20	20	20	20	20
Clarification of any matters with new owner	20	20	20	20	20
Report to manager recommending approval or refusal or accept undertaking - notify owner	60	60	60	60	60
Re -draft the site licence	20	20	20	20	20

Manager checks draft site licence and authorised officer to sign and date.	20	20	20	20	20
Check details of last site inspection and note any outstanding breaches/ outstanding Compliance Notices	20	20	20	20	20
Send new site licence to the site owner with details of outstanding breaches, copies of Compliance Notices with timescales for compliance. Advise of next programmed site inspection date.	50	50	50	50	50
Add new licence to electronic folder and update MVM3; attach all docs	15	15	15	15	15
Update site licence register on system and hard file	10	10	10	10	10
total time (mins)	470	470	470	470	470
total time (hours)	7.83	7.83	7.83	7.83	7.83
hourly rate	25.42	25.42	25.42	25.42	25.42
total charge	208.00	208.00	208.00	208.00	208.00

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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