

# LICENSING COMMITTEE MEETING

Date: Thursday 19 March 2020  
Time: 6.30 pm  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Fissenden, Fort, Garten, Mrs Grigg, Hinder, Joy (Chairman),  
McLoughlin, Naghi, Mrs Robertson, M Rose (Vice-Chairman),  
J Sams and Springett

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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## AGENDA

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Urgent Items
4. Disclosures by Members and Officers
5. Visiting Members
6. Disclosures of Lobbying
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
8. Minutes of the Meeting Held on 27 November 2019 1 - 4
9. Minutes (Part I) of the Licensing Act 2003 Sub-Committee held on 6 December 2019 5 - 6
10. Minutes of the Licensing Act 2003 Sub-Committee held on 13 January 2020 7 - 13
11. Presentation of Petitions (If any)
12. Question and Answer Session for Members of the Public
13. Questions from Members to the Chairman (If any)
14. Committee Work Programme 14

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**Issued on Wednesday 11 March 2020**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

|   |         |
|---|---------|
| 15. Hackney Carriage Fare Increase 2020 | 15 - 28 |
| 16. Street Trading Policy 2020          | 29 - 75 |

## **PART II**

**To move that the public be excluded for the items set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.**

|    | <b>Head of Schedule<br/>12 A and Brief<br/>Description</b>  |         |
|----|---|---------|
| 17 | Minutes (Part II) of the Licensing Act 2003 Sub-Committee held on 6 December 2019   | 76 - 79 |
|    | Paragraph 1 – Information re any individual<br>Paragraph 2 – Information likely to reveal the identity of an individual<br>Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information |         |

## **PUBLIC SPEAKING AND ALTERNATIVE FORMATS**

If you require this information in an alternative format please contact us, call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).

In order to speak at this meeting, please contact Democratic Services using the contact details above, by 5 p.m. one clear working day before the meeting i.e. by 5 p.m. on 17<sup>th</sup> March 2020. If asking a question, you will need to provide the full text in writing. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated on a first come, first served basis.

To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk).

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON WEDNESDAY** **27 NOVEMBER 2019**

**Present:** Councillor Joy (Chairman), and  
Councillors Fissenden, Garten, Mrs Grigg, Hinder,  
Mrs Hinder, Mrs Robertson, M Rose and Springett

1. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence were received from:

- Councillor Fort
- Councillor McLoughlin
- Councillor J Sams

2. **NOTIFICATION OF SUBSTITUTE MEMBERS**

Councillor Purle was present as a substitute for Councillor Fort.

3. **URGENT ITEMS**

There were no urgent items.

4. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members and Officers.

5. **VISITING MEMBERS**

There were no Visiting Members.

6. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

7. **EXEMPT ITEMS**

**RESOLVED:** That all items be taken in public as proposed, including the Minutes (Part II) of the meeting held on 6 September 2019.

8. **MINUTES OF THE MEETING HELD ON 19 SEPTEMBER 2019**

**RESOLVED:** That the Minutes of the meeting held on 19 September 2019 be approved as a correct record and signed.

9. MINUTES (PART I) AND (PART II) OF THE LICENSING ACT 2003 SUB-COMMITTEE HELD ON 6 SEPTEMBER 2019

**RESOLVED:** That the Minutes (Part I) and (Part II) of the Licensing Act 2003 Sub-Committee held on 6 September 2019 be approved as a correct record and signed.

10. MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEE MEETING HELD ON 30 SEPTEMBER 2019

**RESOLVED:** That the Minutes of the Licensing Act 2003 Sub-Committee meeting held on 30 September 2019 be approved as a correct record and signed.

11. MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEE MEETING HELD ON 23 OCTOBER 2019

**RESOLVED:** That the Minutes of the Licensing Act 2003 Sub-Committee meeting held on 23 October 2019 be approved as a correct record and signed.

12. MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEE MEETING HELD ON 6 NOVEMBER 2019

**RESOLVED:** That the Minutes of the Licensing Act 2003 Sub-Committee meeting held on 6 November 2019 be approved as a correct record and signed.

13. PRESENTATION OF PETITIONS

There were no petitions.

14. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

15. COMMITTEE WORK PROGRAMME

The Committee considered the Work Programme.

**RESOLVED:** That the Committee Work Programme be noted.

16. REFERENCE FROM COMMUNITIES, HOUSING AND THE ENVIRONMENT COMMITTEE ACTING AS THE CRIME AND DISORDER COMMITTEE

The Committee considered the Reference from the Communities, Housing and Environment Committee, Acting as the Crime and Disorder Committee, which requested a review of the Licensing Act 2003 Policy following the recent serious incident of concern in the town centre.

The Head of Housing and Community Services advised that a review was due to be carried out in the new year of the Licensing Act 2003 Policy and any proposed changes would be brought back to the Committee.

It was noted that whenever a review was undertaken of a premises licence, it looked at what measures could be introduced that were reasonable and proportionate to reduce risk to children from harm and crime and disorder.

The Community Protection Manager advised that the majority of the nightclubs in the town centre had signed up to a voluntary scheme whereby they risk assess every event at their premises and if they determine that the risk is high, they refer this to the Police who would in turn assess whether they needed to take any action and on occasions they had advised the premises to cancel that particular event.

**RESOLVED:** That a review of the Licensing Act 2003 Policy would be carried out in the new year.

#### 17. LICENCE FEES AND CHARGES 2020/2021

The Senior Licensing Officer presented a report on the Licence Fees and Charges for 2020/21.

It was noted that as there had not been any significant change in the time taken of the various tasks required to produce each licence, the fees had a 2% inflationary increase applied to them in line with the Council's Medium Term Financial Strategy 2020/21 – 2024/25.

**RESOLVED:** That the fee levels as set out in paragraphs 2.7, 2.9, 2.11, 2.13, 2.15, 2.17 and 2.19 of the report be implemented on 1 April 2020 subject to the consideration of any representations following consultation.

#### 18. UPDATE ON ANIMAL LICENSING ACTIVITIES

The Community Protection Manager presented an update on the first year of the new licensing regime for Animal Licensing Activities.

It was noted that:-

- There had been a 55% increase in the number of licences issued for businesses being regulated. This was set to rise to 82% as there were another 9 businesses known to the Community Protection Team that had or would be making an application in the next six months.
- Animal welfare standards had improved with establishments being star rated, 50% of which had been awarded 5 stars, with a creditable 86% achieving a star rating of 3 or above.
- The fees reflect an increase of the amount of work that has had to be carried out with the businesses, in particular providing advice

and the inspections taking longer due to the forms having to be used from DEFRA.

- The cost for the licences was comparable to other districts in Kent.
- Pre-application advice was being proposed but this would be for the future once the new scheme was fully bedded in.

In response to questions from Members, the Community Protection Manager advised that:-

- An email would be circulated after the meeting from Officers on whether the requirement for a dog to be vaccinated against kennel cough was advisory or mandatory.
- There had not been any prosecutions at present for illegal businesses but there were a number of alleged breaches being investigated.
- Priority was currently being given to registering those who had approached the Council to register.
- The team would encourage members of the public to inform them of any illegal businesses and would speak to the Communications Team to highlight the service and have an article in the Borough Insight magazine.
- If a dog had puppies and the income from the sale of those puppies was more than £1,000 then the breeder would need a licence.
- The Community Protection Manager would circulate a link to where Members would be able to view the animal establishments who are licensed for those activities.
- Animal Rescue Centres were exempt from the new Animal Regulations.

**RESOLVED:** That

- 1) The update on the implementation of the changes in regulations for animal related activities introduced in October 2018 be noted.
- 2) Option 2, to introduce a revised fee structure from 1<sup>st</sup> April 2020, be approved as detailed in paragraphs 5.1 to 5.3 of the report.

19. DURATION OF MEETING

6.30 p.m. to 7.30 p.m.

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING ACT 2003 SUB COMMITTEE**

#### **MINUTES (PART I) OF THE MEETING HELD ON FRIDAY 6 DECEMBER 2019**

**Present:**     **Councillor Mrs Joy (Chairman) and  
Councillors Garten and M Rose**

1.     **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

2.     **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that there were no Substitute Members.

3.     **ELECTION OF CHAIRMAN**

**RESOLVED:** That Councillor Mrs Joy be elected as Chairman for the duration of the meeting.

4.     **URGENT ITEMS**

There were no urgent items.

5.     **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

6.     **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

7.     **EXEMPT ITEMS**

**RESOLVED:** That Agenda Items 8 and 9 be taken in private due to the possible disclosure of exempt information.

8.     **EXCLUSION OF THE PUBLIC FROM THE MEETING**

**RESOLVED:** That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reason specified having applied the Public Interest Test:

**Head of Schedule 12A  
and Brief Description**

Driver – Appeal against penalty points

Paragraph 1 - Information relating to any individual  
Paragraph 2 – Information which is likely to reveal the identity of an individual  
Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Operator – Appeal against penalty points

Paragraph 1 - Information relating to any individual  
Paragraph 2 – Information which is likely to reveal the identity of an individual  
Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)

9. DRIVER - APPEAL AGAINST PENALTY POINTS

The Sub-Committee considered the appeal of 24 penalty points being issued against the individual as identified in the exempt report.

**RESOLVED:** That the individual's Private Hire Driver's Licence, as identified in the exempt report, be suspended until 27<sup>th</sup> March 2020 or until he passes one Maidstone Knowledge Test before the 27<sup>th</sup> March 2020.

10. OPERATOR - APPEAL AGAINST PENALTY POINTS

The Sub-Committee considered the appeal against the six penalty points issued to the operator as identified in the exempt report.

**RESOLVED:** That the decision to issue six penalty points be retained.



## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING ACT 2003 SUB COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON MONDAY 13 JANUARY 2020**

**Present:** Councillor Springett (Chairman), and  
Councillors B Hinder and Joy

11. APOLOGIES FOR ABSENCE

There were no apologies for absence.

12. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that there were no Substitute Members.

13. NOTIFICATION OF VISITING MEMBERS

It was noted that there were no Visiting Members.

14. ELECTION OF CHAIRMAN

**RESOLVED:** That Councillor Springett be elected Chairman for the duration of the meeting.

15. URGENT ITEMS

There were no urgent items.

16. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

17. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

18. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

19. APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT  
2003 FOR 87 - 88 BANK STREET, MAIDSTONE, KENT, ME14 1SD

The Chairman requested that all those persons participating in the hearing identified themselves as follows: -

Chairman – Councillor Springett  
Committee Member – Councillor B Hinder  
Committee Member – Councillor Joy

Legal Advisor – Mr Robin Harris

Democratic Services Officer – Mrs Caroline Matthews and Miss Oliviya Parfitt who was in attendance as a training exercise

Applicant – Century Buildings (Rochester) Limited  
Representing the Applicant – Mr Steven Ross Hutchins

Other parties – Mr Robert Baker and Ms Louisa Beddoes

All parties confirmed that they were aware of the Sub-Committee hearing procedure and that each party had received a copy of the hearing procedure document.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submissions within a reasonable timeframe.
- The procedure would take the form of a discussion led by the Sub Committee and they would usually permit cross examination conducted within a reasonable timeframe.
- Any persons attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub Committee (including temporarily) and thereafter the person may submit to the Sub-Committee in writing any information which the person would have been entitled to give orally had the person not been required to leave the hearing.

The Sub-Committee confirmed that they had pre-read all the papers and any other documents contained in the report regarding the hearing.

The Chairman enquired whether any draft conditions had been agreed between the applicant and other parties from which there had been 1 objection.

Other parties confirmed to the Chairman that they wished to formally withdraw their objection. This was due to a discussion between themselves and the applicant, in the presence of the Legal advisor, prior to the meeting. During this discussion, the consequences of a Shadow License, as applied for, was explained and the other parties' concerns mitigated.

The Chairman asked the Legal Advisor that the committee would still need to determine the licensing application.

The Chairman invited any questions or statements from both parties.

The applicant's representative stated that there was none.

The objectors thanked the applicant for explaining the implications of applying for a shadow licence, as stated above, prior to the meeting.

The Chairman then invited questions from Members of which there were none.

The Chairman confirmed that the Sub-Committee would approve the Shadow Licence application. It was noted that the Applicant's Representative would receive the Notice in writing, within 5 working days from the date of the meeting.

The Chairman stated that there was a Right of Appeal within 21 days of receiving the written answer to the licence application.

The Meeting concluded at 10:50am.



**LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL**

**LICENSING ACT 2003  
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**NOTICE OF DETERMINATION**

Application Ref No: 19/04346/LAPRE

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Applicant: Century Buildings (Rochester) Ltd.

Regarding 87-88 Bank Street Maidstone

Date(s) of hearing: 13<sup>th</sup> January 2020

Date of determination: 13<sup>th</sup> January 2020

Committee Members: [Chairman]: Councillor Springett  
Councillor Hinder (B)  
Councillor Joy

Legal Advisor in attendance at hearing(s): Robin Harris, Team Leader (Contentious),  
MKLS

Democratic Services Officer in attendance at hearing: Caroline Matthews

Senior Licensing Officer in attendance at hearing: N/A

This was an application for:

☐ Variation ☒ Grant  
☐ Provisional Statement ☐ Review ☐ Other .....

for a

☒ Premises Licence ☐ Club Premises Certificate ☐ Personal Licence  
☐ Temporary Event Notice

**A: Representations, evidence and submissions:**

The Committee considered the representations, evidence and submissions of the following parties:

**Applicant**

- Name: Century Buildings (Rochester) Ltd.
- Legal or other representative: Ross Hutchins

**Responsible Authorities**

None

**Other Persons**

Name: Mr Robert Baker and Ms Louisa Beddoes (Note: the objection was withdrawn at the hearing.)

**Witnesses and legal representatives in support of interested parties**

N/A

**Representations considered in the absence of a party to the hearing:**

N/A

**B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council**

The Committee has taken into account the following provisions of the Licensing Act 2003 and the Regulations thereto:

Section 4 which relates to the licensing objectives  
Section 16-24 which relate to the grant of a premises licence;  
Schedule 1 which relates to Regulated Entertainment

The Committee has taken into account the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives  
Chapter 8 & 9 which relates to premises licences & determinations  
Chapter 10 which relates to conditions attached to licences;

The Committee has taken into account the following provisions of its Statement of Licensing Policy:

Chapter 17 which relates to the 4 licensing objectives;  
Chapter 17.9 – 17.15 which relates to the prevention of crime and disorder;  
Chapter 17.16 – 17.18 which relates to public safety  
Chapter 17.19 – 17.22 which relates to the prevention of nuisance;  
Chapter 17.23 – 17.26 which relates to the prevention of children from harm;

The Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

N/A

**C: Determination:**

**The Committee has decided to:**

- Grant the application as applied for.

**Reasons for determination:**

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

■ **Public Safety**

Reasons (state in full):

The Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

■ **Prevention of nuisance**

Reasons (state in full):

The Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

The Sub-Committee was satisfied that the operating schedule provided by the applicant was appropriate and proportionate to promote this licensing objective.

PRINT NAME (CHAIRMAN): Cllr Val Springett

Signed [Chairman]:

A copy of the original document is held on file

Date: 13<sup>th</sup> January 2020

**LICENSING - COMMITTEE WORK PROGRAMME**

|  | Committee | Month  | Lead            | Report Author     |
|--|-----------|--------|-----------------|-------------------|
| Licensing Partnership Update                               | Licensing | Jul-19 | John Littlemore | Sharon Bamborough |
| Amendments to the Hackney Carriage and Private Hire Policy | Licensing | Jul-19 | John Littlemore | Lorraine Neale    |
| Unmet Demand Survey 2019                                   | Licensing | Sep-19 | John Littlemore | Lorraine Neale    |
| Pre-Application Advice                                     | Licensing | Sep-19 | John Littlemore | Sharon Bamborough |
| Member Training - Refresher                                | Licensing | Sep-19 | John Littlemore | John Littlemore   |
| MBC Animal Licensing Legislation Update                    | Licensing | Nov-19 | John Littlemore | Martyn Jeynes     |
| Fees and Charges 2019/20                                   | Licensing | Nov-19 | John Littlemore | Sharon Bamborough |
| Revisiting Licensing Applications - Site Visits            | Licensing | Nov-19 | John Littlemore | John Littlemore   |
| → Hackney Fares Increases                                  | Licensing | Mar-20 | John Littlemore | Lorraine Neale    |
| Street Trading Policy                                      | Licensing | Mar-20 | John Littlemore | Lorraine Neale    |
| Busking Policy   | Licensing | TBC    | John Littlemore | Lorraine Neale    |
| Review of Licensing Act 2003 Policy                        | Licensing | TBC    | John Littlemore | Sharon Bamborough |



## Licensing Committee

19<sup>th</sup> March 2020

### Hackney Carriage Fare Increase 2020

|                                       |   |
|---------------------------------------|---|
| <b>Final Decision-Maker</b>           | Licensing Committee                                     |
| <b>Lead Head of Service</b>           | John Littlemore, Head of Housing and Community Services |
| <b>Lead Officer and Report Author</b> | Lorraine Neale  |
| <b>Classification</b>                 | Non-exempt  |
| <b>Wards affected</b>                 | All   |

#### Executive Summary

This report sets out the reasons for the request from the Hackney trade for a fare increase.

#### Purpose of Report

To consider the Maidstone Taxi Proprietor Association's request for an increase in fares for hackney carriage journeys.

#### This report makes the following recommendations to this Committee:

1. That the table of fares set out in Appendix 3 to this report be agreed.
2. That the Head of Housing and Community Services be authorised to give public notice of the Council's intention to fix this table of fares for Hackney Carriage vehicles in accordance with Section 65(2) of the Local Government (Miscellaneous Provisions) act 1976 to take effect from April 2020.
3. Should objections be received, this matter is brought back to Licensing Committee for consideration within two months of publication.

#### Timetable

| <b>Meeting</b>      | <b>Date</b>                 |
|---------------------|-----------------------------|
| Licensing Committee | 19 <sup>th</sup> March 2020 |
|                     |                             |

# Hackney Carriage Fare Increase 2020

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue                                 | Implications   | Sign-off                                |
|---------------------------------------|--|---|
| <b>Impact on Corporate Priorities</b> | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>  | [Head of Service or Manager]            |
| <b>Cross Cutting Objectives</b>       | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>  | [Head of Service or Manager]            |
| <b>Risk Management</b>                | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>  | [Head of Service or Manager]            |
| <b>Financial</b>                      | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>  | [Section 151 Officer & Finance Team]    |
| <b>Staffing</b>                       | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>  | [Head of Service]                       |
| <b>Legal</b>                          | <ul style="list-style-type: none"> <li><i>Under Section 65 of The Local Government (Miscellaneous Provisions) Act 1976, the Council may fix the rate for fares for Hackney Carriage vehicles within the Borough, for time, distance and all other charges in connection with hire of the vehicle. To meet the requirements, it is necessary to advertise the agreed variation and allow for 14 days for any objections to be made</i></li> </ul> | [Legal Team]                            |
| <b>Privacy and Data Protection</b>    | <i>No additional impact identified from a data protection or record management perspective.</i>  | Equalities and Corporate Policy Officer |
| <b>Equalities</b>                     | <i>No impact identified.</i>   | Equalities and Corporate Policy Officer |
| <b>Public Health</b>                  | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>  | [Public Health Officer]                 |
| <b>Crime and Disorder</b>             | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>  | [Head of Service or Manager]            |
| <b>Procurement</b>                    | <ul style="list-style-type: none"> <li><i>No implications have been identified.</i></li> </ul>   | [Head of Service & Section 151 Officer] |

## 2. INTRODUCTION AND BACKGROUND

- 2.1 Under section 65(1) of the Local Government (Miscellaneous Provisions) Act 1976, the Local Authority has the power to set the maximum fares for the hire of a Hackney Carriage vehicle.
- 2.2 The current fares set have been in place for 6 years and the trade has requested a review of the current fare structure. There are currently 48 licensed Hackney Carriages that are allowed to ply for hire in Maidstone. Fares charged by Hackney Carriages cannot be more than the fare set by Maidstone Borough Council. The council do not set the fares for private hire vehicles.
- 2.3 A request has been received from the Maidstone Taxi Proprietors' Association for an increase in fares, by means of a decrease in the meterage on the meter and an increase in the first 550m of hire charge, see letter of request at Appendix 1. The comparison table shows the effect the request will have on fares.

| Miles           | Current<br>Tariff 1 | Proposed<br>Tariff 1 | Current<br>Tariff 2 | Proposed<br>Tariff 2 | Current<br>Tariff 3 | Proposed<br>Tariff 3 | Av %<br>increase |
|-----------------|---------------------|----------------------|---------------------|----------------------|---------------------|----------------------|------------------|
| 2<br>(3.22km)   | £6.53               | £7.26                | £9.80               | £10.90               | £13.06              | £14.54               | 11.24%           |
| 10<br>(16km)    | £24.85              | £27.82               | £37.32              | £41.78               | £49.52              | £55.74               | 12.15%           |
| 20<br>(32m)     | £47.45              | £53.52               | £71.72              | £80.38               | £95.50              | £107.24              | 12.38%           |
| 50<br>(80.4km)  | £116.45             | £130.62              | £174.92             | £196.18              | £232.90             | £261.74              | 12.23%           |
| Waiting<br>time |                     |                      |                     |                      |                     |                      |                  |
| 15 mins         | £6.64               | £7.80                | £9.96               | £11.70               | £13.28              | £15.60               |                  |
| 30 mins         | £11.48              | £13.80               | £17.22              | £20.70               | £22.96              | £27.60               |                  |

The request will cause an average increase in fares of 11.24% for customers travelling a 2 mile journey on all 3 tariffs.

- 2.4 It is usual practice to review fares on receipt of such a request. The Association have made their request because of increasing effects of inflation. The change in fares relates to the distance travelled and the waiting time.
- 2.5 The Office for National Statistics shows the inflation increase as a table from 2013 – 2020 and an overall increase of 17.49%.

| Year | Pound Value | Inflation<br>Rate |
|------|-------------|-------------------|
|------|-------------|-------------------|

| <b>Year</b> | <b>Pound Value</b> | <b>Inflation Rate</b> |
|-------------|--------------------|-----------------------|
| 2013        | £146.36            | 3.04%                 |
| 2014        | £149.82            | 2.36%                 |
| 2015        | £151.30            | 0.99%                 |
| 2016        | £153.92            | 1.74%                 |
| 2017        | £159.44            | 3.58%                 |
| 2018        | £163.40            | 2.48%                 |
| 2019        | £166.34            | 1.80%                 |
| 2020        | £168.84            | 1.50%                 |

- 2.6 A comparison of all the Kent authorities for Tariff one as published by Private Hire Monthly (February 2020) for a two mile journey is as follows:-

| <b>Council</b>        | <b>Cost £ per 2 miles</b> | <b>Proposed</b> |
|-----------------------|---------------------------|-----------------|
| Dartford              | £7.10                     |                 |
| Tunbridge Wells       | £7.20                     |                 |
| Gravesham             | £6.80                     |                 |
| Maidstone             | £6.53                     | £7.26 (11.18%)  |
| Sevenoaks             | £7.06                     |                 |
| Swale                 | £6.80                     |                 |
| Tonbridge and Malling | £7.00                     |                 |
| Ashford               | £6.50                     |                 |
| Shepway               | £6.20                     |                 |
| Canterbury            | £6.40                     |                 |
| Dover                 | £6.00                     |                 |
| Medway                | £6.60                     |                 |
| Thanet                | £5.40                     |                 |

- 2.7 The increase is in line with the level of inflation and is reasonable, as can be seen from the table the increase requested is not disproportionate to the fares charged in other Kent areas. Whilst Maidstone will be the highest fare level it still remains competitive with other authorities. Therefore, it is considered that agreement to the request can be recommended and the scheme of Hackney Carriage fares amended accordingly Appendix 3.
- 2.8 The trade have requested that a "likely fares destination table" be displayed alongside the tariff. The Licensing department very rarely receive complaints of overcharging by Hackney drivers . This table will encourage more complaints being received from the public . The public expectation will be that the fare displayed is set in stone and will be what they are charged, however the cost of a journey can vary. A customer who

is stuck in traffic will have waiting time added to the meter and a 2 mile, tariff 1 journey held up in traffic for 15 minutes will increase from £7.26 to £15.06, this is not clear on that table and therefore the Licensing department does not support this request.

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### **3. AVAILABLE OPTIONS**

- 3.1 An increase to the initial hiring charge for tariffs 1, 2 and 3 by reducing the initial distance from 598.5m to 550m and each additional 140.4 m to 125.
  - 3.2 To reduce the waiting from the first 3m 5s to 2m 30s and every additional 37.2s to 30 s.
  - 3.3 Do nothing.
- 

### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 Members consider the contents of the report to determine whether the fare increase should be granted.
  - 4.2 The setting of fares is a statutory duty placed upon the Council and it is the Council's responsibility to strike a balance between setting a fare that is acceptable to the customer and to the taxi driver.
  - 4.3 It is important that the Council, through its licensing functions, protects the public by ensuring that the fares charged by licensed Hackney Carriages are fair and justified and not excessive.
  - 4.4 The last fare increase was 2013.
- 

### **5. RISK**

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. [That consideration is shown in this report at [paragraph 4]. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
- 

### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 Should Members be minded to approve the increase, the Head of Housing and Community Services, be authorised to publicise the proposed fare increase as detailed in the report, and if no objections are received, the proposed fare increase takes effect no less than fourteen days from the date of publication.

- 6.2 Should objections be received, this matter is brought back to this Committee for consideration within two months of publication.
- 

## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 Officers will update the Council Webpages and update the Fare charts currently displayed in Taxis.
- 

## **8. REPORT APPENDICES**

- 1.Trade request from trade
  - 2 Current Fare Chart
  - 3 Proposed Fare Chart
- 

## **9. BACKGROUND PAPERS**

Local Government (Miscellaneous Provisions) Act 1976

<http://www.legislation.gov.uk/ukpga/1976/57/section/65>

Inflation calculator

<https://www.in2013dollars.com/uk/inflation/2013?amount=146.36>

Private Hire Monthly – Hackney fare table

<https://www.phtm.co.uk/taxi-fares-league-tables>

From: Neil Cox  
Sent: 18 January 2020 13:48  
To: Licensing (MBC) <Licensing@maidstone.gov.uk>  
Subject: Fare Increase

Good afternoon Licensing,

Please see the attached document for our request for a fare increase.

Kind Regards

Neil Cox  
Chair  
Maidstone Taxi Association

Ms. Lorraine Neale  
Maidstone Borough Council,  
Licensing Department,  
Maidstone House,  
King St,  
Maidstone.

Mr. Neil C Cox  
(ADDRESS REDACTED)

Dear Ms. Neale,

You will be aware that the last time the Hackney Carriage trade had an increase in taxi fares was back in December 2013. The trade have asked me to write to you in order that the Licensing Committee can consider a proposal for such an increase at their earliest convenience.

The detail of our proposal is as follows with the current fare structure alongside.

#### **Tariff 1.**

6am to Midnight every day except Sunday

|   | Current Fare (£.p) | Proposed<br>Distance & Times | Fare |
|---|--------------------|------------------------------|------|
| The first 598.5m of hire                | 2.80               | 550                          | 3.00 |
| Each additional 140.4m                  | 20p                | 125                          | 20p  |
| The first 3m 5s of waiting time         | 2.80               | 2m 30 s                      |      |
| Every additional 37.2 s of waiting time | 20p                | 30 seconds                   |      |

#### **Tariff 2**

50% **above** Tariff 1 rate from Midnight to 6am every day, all of Sunday, Bank Holidays and from 6pm to Midnight on 24<sup>th</sup> & 31st December.

#### **Tariff 3**

**Double** Tariff 1 rate from 00.00 25<sup>th</sup> December till 6am on 27<sup>th</sup> December and 00.00 1<sup>st</sup> January till 6am 2<sup>nd</sup> January.

The attached table gives an indication as to what the changes will mean on Tariff 1. This amounts to an increase of 11.7% at 1km (0.6m), 12.5% at 2km (1.25m), 9.4% at 3km (1.9m), 10.2% at 4km (2.5m) and 10.8% at 5km (3.1m). While this may seem a large change I would inform you that inflation has measured 15.5% since 2013 according to the Bank of England website.



I have used metric measurements for ease of calculation and used whole numbers rather than decimals so that the public, trade and MBC can understand the fare structure more easily. I further suggest that the fare chart that we must display by law is about as useful as a chocolate teapot. It is technically accurate but uninformative.

I recommend that the likely fares to any given destination should be displayed alongside the fare chart. To that end can I suggest that the list below of approximately 50 landmark addresses in and around this borough and the likely taxi fares from the town centre displayed for the benefit of the taxi using public. This might help reduce overcharging by some of the drivers. I include those landmarks in alphabetical order after the table of fares.

I look forward to this being discussed at a future Licensing Committee meeting.

Kind Regards

Neil Cox  
Chair  
Maidstone Taxi Association.

**Proposed****Current****3.**

| <b>Distance in metres</b> | <b>Fare £.p</b> | <b>Distance in metres</b> | <b>Fare</b> |
|---------------------------|-----------------|---------------------------|-------------|
| 0 – 550.0                 | 3.00            | 0 – 598.5                 | 2.80        |
| 550.1 – 675.0             | 3.20            | 598.6 – 738.9             | 3.00        |
| 675.1 – 800.0             | 3.40            | 739.0 – 879.3             | 3.20        |
| 800.1 – 925.0             | 3.60            | 879.4 – 1019.7            | 3.40        |
| 925.1 – 1050.0            | 3.80            | 1019.8 – 1160.1           | 3.60        |
| 1050.1 – 1175.0           | 4.00            | 1160.2 – 1300.5           | 3.80        |
| 1175.1 – 1300.0           | 4.20            | 1300.6 – 1440.9           | 4.00        |
| 1300.1 – 1425.0           | 4.40            | 1441.0 – 1581.3           | 4.20        |
| 1425.1 – 1550.0           | 4.60            | 1581.4 – 1721.7           | 4.40        |
| 1550.1 – 1675.0           | 4.80            | 1721.8 – 1862.1           | 4.60        |
| 1675.1 – 1800.0           | 5.00            | 1862.2 – 2002.5           | 4.80        |
| 1800.1 – 1925.0           | 5.20            | 2002.6 – 2142.9           | 5.00        |
| 1925.1 – 2050.0           | 5.40            | 2143.0 – 2283.3           | 5.20        |
| 2050.1 – 2175.0           | 5.60            | 2283.4 – 2423.7           | 5.40        |
| 2175.1 – 2300.0           | 5.80            | 2423.8 – 2564.1           | 5.60        |
| 2300.1 – 2425.0           | 6.00            | 2564.2 – 2704.5           | 5.80        |
| 2425.1 – 2550.0           | 6.20            | 2704.6 – 2844.9           | 6.00        |
| 2550.1 – 2675.0           | 6.40            | 2845.0 – 2985.3           | 6.20        |
| 2675.1 – 2800.0           | 6.60            | 2985.4 – 3125.7           | 6.40        |
| 2800.1 – 2925.0           | 6.80            | 3125.8 – 3266.1           | 6.60        |
| 2925.1 – 3050.0           | 7.00            | 3266.2 – 3406.5           | 6.80        |
| 3050.1 – 3175.0           | 7.20            | 3406.6 – 3546.9           | 7.00        |
| 3175.1 – 3300.0           | 7.40            | 3547.0 – 3687.3           | 7.20        |
| 3300.1 – 3425.0           | 7.60            | 3687.4 – 3827.7           | 7.40        |
| 3425.1 – 3550.0           | 7.80            | 3827.8 – 3968.1           | 7.60        |
| 3550.1 – 3675.0           | 8.00            | 3968.2 – 4108.5           | 7.80        |
| 3675.1 – 3800.0           | 8.20            | 4108.6 – 4248.9           | 8.00        |
| 3800.1 – 3925.0           | 8.40            | 4249.0 – 4389.3           | 8.20        |
| 3925.1 – 4050.0           | 8.60            | 4389.4 – 4529.7           | 8.40        |
| 4050.1 – 4175.0           | 8.80            | 4529.8 – 4670.1           | 8.60        |
| 4175.1 – 4300.0           | 9.00            | 4670.2 – 4810.5           | 8.80        |
| 4300.1 – 4425.0           | 9.20            | 4810.6 – 4951.0           | 9.00        |
| 4425.1 – 4550.0           | 9.40            | 4951.1 – 5091.4           | 9.20        |
| 4550.1 – 4625.0           | 9.60            | 5091.5 – 5231.8           | 9.40        |
| 4625.1 – 4750.0           | 9.80            | 5231.9 – 5372.2           | 9.60        |
| 4750.1 – 4875.0           | 10.00           | 5372.3 – 5512.6           | 9.80        |
| 4875.1 – 5000.0           | 10.20           | 5512.7 – 5653.0           | 10.00       |

|                                   | Distance<br>In km/miles | Town Centre Rank<br>Fare £.p |
|-----------------------------------|-------------------------|------------------------------|
| Allington Castle                  | 4.5/2.8                 | 9.40                         |
| Aylesford Village                 | 5.6/3.5                 | 11.00                        |
| Bearsted Green                    | 5.6/3.5                 | 11.00                        |
| Bull, Barming                     | 4.3/2.7                 | 9.00                         |
| Boxley Village                    | 4.3/2.7                 | 9.00                         |
| Burham                            | 8.5/5.3                 | 16.20                        |
| Chatham station                   | 14/9.0                  | 25.00                        |
| Cherry Tree, Tonbridge Rd         | 2.9/1.8                 | 6.80                         |
| Coxheath centre                   | 6.7/4.2                 | 12.80                        |
| Ditton Corner                     | 6.6/4.1                 | 12.60                        |
| Downswood                         | 4.6/2.9                 | 9.60                         |
| East Malling, King & Queen        | 8.7/5.4                 | 16.00                        |
| East Station                      | 1.6/1.0                 | 4.80                         |
| East Farleigh (Bull)              | 4.7/2.9                 | 10.00                        |
| Eccles                            | 8.0/5.0                 | 14.80                        |
| Gillingham station                | 16.0/10.0               | 27.60                        |
| Harrietsham                       | 13.0/8.1                | 22.00                        |
| Headcorn Centre                   | 15.3/9.6                | 26.00                        |
| Hollingbourne Centre              | 9.6/6.0                 | 15.00                        |
| Hospital                          | 4.8/3.0                 | 10.20                        |
| Landway, Bearsted                 | 4.5/2.8                 | 9.40                         |
| Leisure Centre, Mote Park         | 2.4/1.5                 | 6.00                         |
| Langley                           | 8.0/5.0                 | 14.80                        |
| Lenham Square                     | 16.0/10.0               | 27.60                        |
| Linton Crossroads                 | 6.4/4.0                 | 12.40                        |
| Maidstone Girls Grammar School    | 1.6/1.0                 | 4.80                         |
| Malta Inn                         | 3.2/2.0                 | 7.40                         |
| Marriott Hotel, Bearsted          | 5.8/3.6                 | 11.40                        |
| Mereworth                         | 9.1/6.8                 | 16.60                        |
| Mid Kent College, Oakwood Park    | 2.3/1.4                 | 5.80                         |
| Mid Kent Shopping Centre          | 3.2/2.0                 | 7.40                         |
| New Hythe Lane                    | 8.0/5.0                 | 15.00                        |
| Northumberland Rd shops           | 4.0/2.5                 | 8.60                         |
| Park Wood Shops                   | 6.0/3.7                 | 11.00                        |
| Penenden Heath                    | 2.7/1.7                 | 6.60                         |
| Quarry Wood                       | 5.1/3.2                 | 10.40                        |
| Queens Rd/Oakwood Park            | 2.6/1.6                 | 6.40                         |
| Rainham (station)                 | 14.7/9.2                | 25.00                        |
| Ringlestone                       | 2.3/1.4                 | 6.00                         |
| Rochester                         | 13.4/8.4                | 23.60                        |
| St. Michaels Church, Tonbridge Rd | 1.6/1.0                 | 4.80                         |
| Strood                            | 17.6/11.0               | 27.00                        |
| Sutton Valence                    | 10.1/6.3                | 18.00                        |
| Tescos Grove Green                | 4.3/2.7                 | 9.20                         |
| 20/20 Industrial Estate           | 4.5/2.8                 | 9.40                         |
| Wateringbury crossroads           | 8.0/5.0                 | 14.80                        |
| West Malling (centre)             | 11.0/6.9                | 19.80                        |
| West Station                      | 0.8/0.5                 | 3.60                         |
| Willington Street shops           | 5.4/3.4                 | 10.80                        |
| Yalding                           | 10.6/6.6                | 19.00                        |



## HACKNEY CARRIAGE FARES 2019/20 Effective from 7 December 2013

### MAXIMUM FARES FOR DISTANCE AND/OR TIME

Maximum fares for Distance and Time (The appropriate metric measurements is shown in each case)

#### TARIFF 1

For the first 598.5 metres (654 yards)  
Or 3 minute 5 seconds waiting time or part thereof £2.80

For each additional 140.4 metres (153 yards)  
Or 37.2 seconds waiting time or part thereof £0.20  
(on 24 December up to 6.00pm Tariff 1 applies on 31 December up to 6.00pm Tariff 1 applies)

#### TARIFF 2

(A) For hirings commenced between midnight and 6.00am and all day Sunday and Bank Holidays 50% above Tariff 1 rate EXCEPT where Tariff 3 applies. (From 6.00pm to Midnight on 24 December Tariff 2 Applies, from 6.00pm to Midnight on 31 December Tariff 2 applies)

For the first 598.5 metres (654 yards)  
Or 3 minute 5 seconds waiting time or part thereof £4.20

For each additional 140.4 metres (153 yards)  
Or 37.2 seconds waiting time or part thereof £0.30

#### TARIFF 3

(B) For hirings commenced between Midnight 24 December and 6.00am on 27 December Tariff 3 Applies and Midnight on 31 December and 6.00am on 2 January 100% above Tariff 1 rate.

For the first 598.5 metres (654 yards)  
Or 3 minute 5 seconds waiting time or part thereof £5.60

For each additional 140.4 metres (153 yards)  
Or 37.2 seconds waiting time or part thereof £0.40

NOTE: only one of the above charges A or B is payable in respect of one hiring.

#### EXTRA CHARGES

For vehicles hired for more than two passengers, an extra 10p charge for each additional person, (over two passengers) shall be charged.

#### FARES FOR TIME

If a Hackney Carriage is hired by time such fare shall be agreed with the hirer at the commencement of the hiring.

#### TAXIMETER

When a Hackney Carriage furnished with a taximeter is hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for extra charges authorised by the above mentioned table which it may not be possible to record on the face of the taximeter.

#### CONTAMINATION FEE

A fee of £50 will be permitted to be charged in cases of soiling or fouling within a Hackney Carriage, caused by any person or animal.



## HACKNEY CARRIAGE FARES 2020/21 Effective from ? ??? 2020

### MAXIMUM FARES FOR DISTANCE AND/OR TIME

Maximum fares for Distance and Time (The appropriate metric measurements is shown in each case)

#### TARIFF 1

For the first 550 metres (601 yards)  
Or 2 minute 30 seconds waiting time or part thereof £3.00

For each additional 125 metres (137 yards)  
Or 30 seconds waiting time or part thereof £0.20  
(on 24 December up to 6.00pm Tariff 1 applies on 31 December up to 6.00pm Tariff 1 applies)

#### TARIFF 2

(A) For hirings commenced between midnight and 6.00am and all day Sunday and Bank Holidays 50% above Tariff 1 rate EXCEPT where Tariff 3 applies. (From 6.00pm to Midnight on 24 December Tariff 2 Applies, from 6.00pm to Midnight on 31 December Tariff 2 applies)

For the first 550 metres (601 yards)  
Or 2 minute 30 seconds waiting time or part thereof £4.50

For each additional 125 metres (137 yards)  
Or 30 seconds waiting time or part thereof £0.30

#### TARIFF 3

(B) For hirings commenced between Midnight 24 December and 6.00am on 27 December Tariff 3 Applies and Midnight on 31 December and 6.00am on 2 January 100% above Tariff 1 rate.

For the first 550 metres (601 yards)  
Or 2 minute 30 seconds waiting time or part thereof £6.00

For each additional 125 metres (137 yards)  
Or 30 seconds waiting time or part thereof £0.40

NOTE: only one of the above charges A or B is payable in respect of one hiring.

#### EXTRA CHARGES

For vehicles hired for more than two passengers, an extra 10p charge for each additional person, (over two passengers) shall be charged.

#### FARES FOR TIME

If a Hackney Carriage is hired by time such fare shall be agreed with the hirer at the commencement of the hiring.

#### TAXIMETER

When a Hackney Carriage furnished with a taximeter is hired by distance the proprietor or driver thereof shall not be entitled to demand and take a fare greater than that recorded on the face of the taximeter, save for extra charges authorised by the above mentioned table which it may not be possible to record on the face of the taximeter.

#### CONTAMINATION FEE

**A fee of £50 will be permitted to be charged in cases of soiling or fouling within a Hackney Carriage, caused by any person or animal.**

## Licensing Committee

19<sup>th</sup> March 2020

### Street Trading Policy 2020

|                                       |   |
|---------------------------------------|---|
| <b>Final Decision-Maker</b>           | Licensing Committee                                     |
| <b>Lead Head of Service</b>           | John Littlemore, Head of Housing and Community Services |
| <b>Lead Officer and Report Author</b> | Lorraine Neale  |
| <b>Classification</b>                 | Non-exempt  |
| <b>Wards affected</b>                 | All   |

#### Executive Summary

The Street Trading Policy was last reviewed in 2014 and the report sets out suggestions to bring the policy up to date with current practice and regulations.

#### Purpose of Report

To consider the amended Draft Street Trading Policy.

#### This report makes the following recommendations to this Committee:

1. To consider the revised draft Street Trading Policy as detailed in this report (Appendix 2) and to provide comments and feedback.
2. Amend the draft policy to reflect any feedback and bring back to Licensing Committee on 18 June 2020 for approval before consultation .
3. To agree the draft amended fee structure together with introducing a non-refundable consultation application fee.

#### Timetable

| <b>Meeting</b>      | <b>Date</b>                 |
|---------------------|-----------------------------|
| Licensing Committee | 19 <sup>th</sup> March 2020 |
| Licensing Committee | 18 <sup>th</sup> June 2020  |
|                     |                             |

# Street Trading Policy 2020

## CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue                                 | Implications  | Sign-off                                |
|---------------------------------------|---|---|
| <b>Impact on Corporate Priorities</b> | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>   | [Head of Service or Manager]            |
| <b>Cross Cutting Objectives</b>       | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>   | [Head of Service or Manager]            |
| <b>Risk Management</b>                | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>   | [Head of Service or Manager]            |
| <b>Financial</b>                      | <ul style="list-style-type: none"> <li><i>There are no financial implications identified within this report. The Council recovers the costs associated with any application and has an agreed approach to determining the application fees.</i></li> </ul>                        | [Section 151 Officer & Finance Team]    |
| <b>Staffing</b>                       | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>   | [Head of Service]                       |
| <b>Legal</b>                          | <ul style="list-style-type: none"> <li>The relevant legislation in relation to street trading is contained within Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended). The policy provides a framework for consistent decision-making.</li> </ul> | [Legal Team]                            |
| <b>Privacy and Data Protection</b>    | <ul style="list-style-type: none"> <li><i>All records will be held in accordance with Data Protection and records management.</i></li> </ul>  | Equalities and Corporate Policy officer |
| <b>Equalities</b>                     | <ul style="list-style-type: none"> <li><i>Equalities implications are a key consideration of a policy review and will be addressed as part of the consultation process.</i></li> </ul>  | Equalities and Corporate Policy officer |
| <b>Public Health</b>                  | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>   | [Public Health Officer]                 |
| <b>Crime and Disorder</b>             | <ul style="list-style-type: none"> <li><i>No implications have been identified</i></li> </ul>   | [Head of Service or Manager]            |
| <b>Procurement</b>                    | <ul style="list-style-type: none"> <li><i>No implications have been identified.</i></li> </ul>  | [Head of Service & Section 151 Officer] |



## **1. INTRODUCTION AND BACKGROUND**

- 1.1 Maidstone Borough Council has adopted powers under the Local Government (Miscellaneous Provisions) Act 1982 so that any person selling articles in the 'street' must obtain a street trading consent from the Council.
- 1.2 Maidstone Borough Council has a current street trading policy, which sets out the Council's approach for managing street trading, the process for applications and making decisions. (Appendix 1). However, experience has demonstrated that it lacks clarity and is not very helpful to applicants or Officers when determining applications.
- 1.3 The Policy was last updated in 2010 and has been reviewed in order to make it a more comprehensive informative document, the revised Street Trading Policy will be of more benefit to applicants, officers and residents and ensures improved public safety and protection. It will strengthen decision-making and support the Council's position should issues arise.
- 1.4 The process for applying for a street trading consent has not changed significantly but the draft provides a clearer explanation to assist applicants. The proposed alterations to areas of policy are listed below: -

### **Exemptions**

1. Any land in the ownership and control of a public authority or a registered charity have been excluded from the scope of requiring a street trading consent. "Public Authority" means Kent County Council, Maidstone Borough Council or any Parish Council.

In recent years Licensing have been made aware through the Safety Advisory Group of events, usually long established (i.e Bearsted & Thurnham Fayre and Yalding Xmas market) where street trading consents have never been in place. Those applicants are now being advised that they must have them in order to meet legal requirements.

Usually in these instances event organisers circumvent the requirement of obtaining street trading consents by charging an entrance fee into a managed area. Events with an Entrance Fee have also been explained as an exemption in the revised policy.

2. Exemptions for charity stalls with a Street Collection Permit, which will allow for the collection of money for a charitable causes (including through the sale of items).

### **Type of Consents**

1. The different types of consents are laid out; and the process of dealing with consents for multi user consents is clearer.

## **Applicants**

1. All applicants and assistants will now be required to submit a basic criminal check and prove their right to work.

## **Consultation**

1. There will now be a consultation application fee charged at this stage that is non-refundable.

## **Fees**

1. The current fee scheme be amended to that suggested below.

|  | Current Fee 2020 -21 | Proposed Fee |
|--|----------------------|--------------|
| <b>Maidstone Borough Council</b>                           |                      |              |
| Consultation application fee (applies to all applications) | -                    | £150.00      |
| Up to 12 trading days New only (on grant)                  | £32                  | £32.00       |
| Up to 30 trading days (New & Renewal)                      | £69                  | N/A          |
| Up to 90 trading Days (New & Renewal)                      | £189                 | N/A          |
| Full year consent (New & Renewal) (on grant)               | £405                 | £255.00      |
| Additional assistants (checks and badges)                  | -                    | £50.00       |
| Additional change (additional products)                    | -                    | £50.00       |
| Copy/replacement Licence                                   | -                    | £12.00       |
| Copy/replacement Badge                                     | -                    | £12.00       |

1. The non-refundable fee will cover the cost of administering the consultation. This fee must be paid when submitting an application and is non-refundable. The fee covers the administration costs of the consultation exercise that enables Officers to determine suitability of a site and applicant.
2. The proposal is to remove the 30 and 90 day street trading consents, there has been little uptake of this type of consent and as the administration process is the same, regardless of the trading days, it does not really cover the cost to the Council. However, we will continue with the short-term consent 1 – 12 days, as these are more popular. A Street Trader will only be able to apply for one short term/seasonal consent per year.

### **Conditions**

1. Revised conditions will be applied to all new street trading consents that are issued.

### **Delegation**

1. That the Head of Housing and Community Services is delegated to determine applications, including those that receive objections. The Head of Housing and Community Services in exercising his delegated authority will consider whether it is necessary and proportionate for an appeal to be heard by a Licensing Sub Committee based on criteria set out in the revised policy. Currently all appeals are heard by the Licensing Sub Committee on the basis of a written request from the applicant, irrespective of the merits of the case.

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## **3. AVAILABLE OPTIONS**

- 3.1 To consider the proposed policy and make comments

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## **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The detailed draft Street Trading Policy provides clear advice and information to all persons involved in the consent process. The policy sets out the Council's expectation of the street traders in the district and provides a clearer understanding of what this Council will consider when administering applications, dealing with issues and undertaking any enforcement activities. It will support Licensing Officers in their day to day role in ensuring the Council's licensing aims within this policy are met and ensuring good standards are met and maintained.
- 4.2 A comprehensive review of Street Trading fees will be conducted to assess the full process at a later date.

---

## **5. RISK**

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 The Policy is brought back to this Committee with their feedback included on 18 June 2020
- 

## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 N/A
- 

## **8. REPORT APPENDICES**

- 1.Current Policy
- 2 Revised Draft Policy

## **9. BACKGROUND PAPERS**

N/A



**STREET TRADING CONSENT POLICY**

**MARCH 2010**

# **MAIDSTONE BOROUGH COUNCIL STREET TRADING CONSENT POLICY**

**MARCH 2010**

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# **MAIDSTONE BOROUGH COUNCIL STREET TRADING CONSENT POLICY**

**MARCH 2010**

## **1. Introduction**

- 1.1 Maidstone Borough Council 'the Council' has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Since 1, September 1986, a Consent has been required before trading on any street in the Borough area.
- 1.2 Street trading is the selling, exposing or offering for sale any article in a street subject to some exemptions. The term 'street' includes any road, footway or other area to which the public have access without payment (this can include private land).
- 1.3 This does not include activities such as tables for street café operations from a fixed premises or the siting of 'A' boards on the street as this is not within the remit of this legislation.

## **2. Aim of Maidstone Borough Council's Street Trading Consent Policy**

- 2.1 The aim of this statement of Street Trading Consent Policy is to provide a consistent and transparent approach for the method of determining street trading Consent applications and their ongoing position.
- 2.2 To achieve this aim the Council is committed to partnership working with Kent Police, Kent Highways Services, the trade and local fixed premises businesses.
- 2.3 This policy sets out how we intend to manage the Street Trading Consent function and how we will ensure the process is fair.
- 2.4 The Council has an aim to improve the quality of life in Maidstone.



### 3. **Scope of the Policy**

3.1 The Council's policy is concerned with the administration of the street trading Consent functions within the Local Government (Miscellaneous Provisions) Act 1982,

- determining first applications
- renewals
- revocation

#### **4. Interpretation**

- 4.1 Any words or expressions in this policy have the meanings assigned to them under the 1982 Act. Nothing in the policy should be regarded or interpreted so as to prejudice the 1982 Act.

## **5. The Maidstone Act 2006**

- 5.1 This came into force on 7 September 2006. This removed the exemption for pedlars to act with the authority of a Pedlars Certificate to trade within the Borough. Pedlars must now have a Street Trading Consent to trade on the streets within the Borough of Maidstone.
- 5.2 There is power to seize articles, receptacles and equipment by an officer of the Council or Constable if there is reason to suspect an offence has been committed under this Act.

## **6. Application Process**

- 6.1 Applications must be made in writing on the application form provided by the Council as detailed in Appendix A and be accompanied by a Consent fee. An applicant must be aged 17 or over.
- 6.2 Proposed food business should be registered under the Food Regulations with the Local Authority where their vehicle is based and provide documents as evidence that they are so registered.
- 6.3 Applicants are advised to contact the Development Control section of the Council to check whether planning permission is required.
- 6.4 Determining First Applications – The process on receipt of any application will include a consultation period of 14 days with:-
  - Ward Members
  - Parish Council if relevant
  - Town Centre Management if relevant
  - Adjacent shops
  - KCC Highways
  - MBC Planning and Development Control
  - MBC Environmental Health Section
  - MBC Environmental Enforcement
  - Police

If no objections to a Street Trading application are received the Head of Housing and Community Services be given delegated powers to grant consent, subject to consultation with the Chairman and Vice Chairman of the Licensing Committee who might ask for the application to be referred to a Sub-Committee consisting of three Members of the Licensing Committee for decision.

If objections are received the application will be determined by a Sub-Committee consisting of three Members of the Licensing Committee for decision. A hearing will be held following the procedure at page 18.

### **6.5 Determining Additional Applications For An Agreed Site**

Once the application for a site has been agreed in accordance with 6.4 above, the Licensing Manager will be authorised to issue further Street Trading consents for the same site in the exact terms of the

first application subject to a satisfactory Police check being received which would determine good character and their right to work in the United Kingdom.

- 6.6 Renewals – the process on receipt of a renewal application will be for the Licensing Manager to renew if no complaints have been received following the consultation process the process for first applications will be followed and the matter will be reported to the Licensing Sub Committee (procedure in appendix B).

6.7 Revocation – Any consideration for review of a consent including a decision for revocation will be taken by the Sub-Committee consisting of three Members of the Licensing Committee for decision.

- 6.8 Applications for Street Trading Consent in Fremlin Walk - Applications must be made in writing on the application form provided by the Council as detailed in Appendix A and be accompanied by a Consent fee. An applicant must be aged 17 or over.

- 6.9 Proposed food business should be registered under the Food Regulations with the Local Authority where their vehicle is based and provide documents as evidence that they are so registered.

- 6.10 Applicants are advised to contact the Development Control section of the Council to check whether planning permission is required.

- 6.11 Applications for Street Trading Consent will be undertaken in 2 stages comprising an application for the site (which could include more than 1 pitch) and then an application from the Street Trader.

- 6.12 Determining Site Application – An application for a site will be made to the Council and will require a consultation period of 14 days with:-

- Ward Members
- Parish Council if relevant
- Town Centre Management if relevant
- Adjacent shops
- KCC Highways
- MBC Planning and Development Control
- MBC Environmental Health Section
- MBC Environmental Enforcement

## Police

If no objections are received the Licensing Manager has delegated power to grant all applications within the Town Centre area subject to consultation with the Chairman and Vice Chairman of the Licensing Committee who can ask that the Application is referred to a Sub-Committee consisting of three Members of the Licensing Committee for decision.

If objections are received the application will be determined by a Sub-Committee consisting of three Members of the Licensing Committee for decision. A hearing will be held following the procedure at page 18. Each agreed site applicant will allocate the pitches in those sites to Traders agreed by the Council.

- 6.13 Determining Site Application from Traders – Traders will apply to the Council to trade in the approved sites and consent will be given subject to the assessment of the site holder and a satisfactory Police check being received which would determine good character and their right to work in the United Kingdom.
- 6.14 Renewals – the process on receipt of a renewal application will be for the Licensing Manager to renew if no complaints have been received following the consultation process the process for first applications will be followed and the matter will be reported to the Licensing Sub Committee (procedure in appendix B).
- 6.15 Revocation – Any consideration for review of a consent including a decision for revocation will be taken by the Licensing Sub Committee.
- 6.16 Any provisions relating to the River Festival will not apply to any agreed sites in Fremlin Walk.

## **7. Consideration of Applications**

- 7.1 The Council will consider each application on its individual merits and normally grant a Street Trading Consent **unless**, in its opinion, there is:-
- a) not enough space for each applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street,
  - b) there are already enough traders in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade,
  - c) there is undue concentration of traders trading in the street in which the applicant desires to trade,
  - d) the Consent, if granted, will result in nuisance to members of the public, residents or local businesses, due to the likely noise, smell, litter, obstruction, disturbance, or other problems which will be caused by granting the Consent,
  - e) the size, nature or appearance of the proposed stall and any associated equipment is inappropriate for the proposed location in terms of amenity or public or highway safety,
  - f) the proposed trading hours are outside the usual business hours of shops in the vicinity, except in relation to a trader wishing to sell hot food, which will be considered on a site by site basis,
  - g) any additional issues arising from consultation or the particular circumstances of the application.
  - h) previous conviction of the applicant (or an assistant) for relevant offences (dishonesty, food safety, health & safety, licensing or other related issues) or unsuitable for other reasonable cause,
  - i) failure on a previous occasion to pay Street Trading Consent fees within agreed timescales,
  - j) applications for Street Trading Consent on a site where there is already a Consent granted,
  - k) there is an earlier application or an application for renewal has been received which will be determined first by the Licensing Sub Committee.

## **8. Administration, Exercise and Delegation of Function**

- 8.1 The powers and duties of the Council with regard to Street Trading Consent may be carried out by the Licensing Sub Committee or Officers acting under delegated authority. Since many of the functions are administrative or compliance monitoring based in nature, in the interest of speed, efficiency and cost effectiveness, the Council supports the principle of delegating routine matters to Officers.
- 8.2 Applications will normally be dealt with by Officers but can be forwarded to the Licensing Sub Committee for determination (see section 6).



## **9. Conditions applicable to Street Trading Consents**

9.1 Conditions will normally be imposed in all cases specifying:-

- a) the place in which the Consent holder is permitted to trade,
- b) the days and times at which the Consent holder is permitted to trade,
- c) description of the types of articles in which the holder is permitted to trade,
- d) the nature, size and type of stall stand etc. which is to be used,
- e) the Street Trading Consent issued by the Council must be conspicuously displayed on the stall/person,
- f) if food is to be sold, the business shall be Food Safety registered,
- g) restrictions on the means the trader may use to attract custom to his stall,
- h) that the suitable receptacle for litter must be provided,
- i) that the location must be left in a clean and tidy condition at the end of the trading hours each day,
- j) that the stall must be removed each day at the end of trading hours unless agreement in writing is obtained from the Council or the owner of the land,
- k) the trader must comply with any reasonable request of a Police Officer or authorised Officer of the Council,
- l) that the trader must produce, to a Police Officer or authorised Officer of the Council, a copy of the Consent on demand,
- m) operators must cease trading immediately upon expiry of Consent.

9.2 The Council considers that each of the above conditions will be reasonably necessary in relation to the majority of Consents granted for the purposes of protecting public safety and the prevention of nuisance and annoyance to local residents, businesses in the locality and members of the public using the street concerned. The Council may also impose such other conditions as it considers reasonably necessary in each particular case and conditions may be varied at any time.

## **10. Enforcement**

- 10.1 Any enforcement action taken by the Council will be in accordance with any adopted enforcement policy, and failure to comply with the conditions may lead to revocation or non-renewal of a Consent. Any person found trading without Consent in the Borough will be subject to enforcement action by the Council.

## **11. Promotion of Racial Equality**

- 11.1 The Council recognises that the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 places an obligation on all Public Authorities to have regard to the need to eliminate unlawful discrimination, and to promote equality of opportunities and good relations between persons and different racial groups.

## **12. Human Rights Act 1998**

- 12.1 The Council implements the 1982 Act in a manner consistent with the Human Rights Act 1998.

**For enquiries regarding this policy in the Council's area, please contact:-**

**Licensing Office  
Maidstone Borough Council  
Maidstone House  
King Street  
Maidstone  
Kent  
ME15 6JQ**

**01622 602028**

**[licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk)**

## **LICENSING SUB COMMITTEE**

### **ORDER OF PROCEEDINGS**

- a) The Chairman will introduce those present and ensure that everyone understands the procedure to be followed.
- b) The Head of Housing and Community Services will briefly describe the application.
- c) The Applicant will then present his case.
- d) The Objector(s) may then ask the Applicant questions.
- e) Members will then ask the Applicant any questions.
- f) The Objector(s) will then be given the opportunity to present his/her case.
- g) The Applicant may then ask the Objector(s) any questions.
- h) Members will then ask the Objector(s) any questions.
- i) Members may then ask any further questions of clarification from any party.
- j) Both parties will then be asked to sum up, the Objector(s) first followed by the Applicant.
- k) Members will then ask the Head of Housing and Community Services if there are any further matters to be raised before the matter is considered.
- l) The Sub Committee will then decide the appeal and may ask the Applicant, the Objector(s), the Head of Housing and Community Services and any other parties to leave, the Committee Clerk will be the only person apart from Members to be allowed to remain. Any representative of Legal Services (if present) may be requested to remain by the Chairman.
- m) After consideration all parties will be invited to return and the Chairman will announce the decision.



# MAIDSTONE BOROUGH COUNCIL

## Review of Street Trading Policy 2020

DRAFT



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### INTRODUCTION

#### 1.1 Introduction

The powers to control Street Trading within the Council's area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.

This policy sets out the Council's approach for managing street trading in the district and the process for applications and making decisions.

This new revised policy was approved by the Licensing Committee on ..... and came into effect on.....

Street trading consents are processed and issued by the Council's Licensing Department.

Licensing Department  
Maidstone Borough Council  
Maidstone House  
King Street  
Maidstone  
Kent  
ME15 6JQ

Tel: 01622 602028

Email: [licensing@maidstone.gov.uk](mailto:licensing@maidstone.gov.uk)

Web: <https://www.maidstone.gov.uk/business/licensing-permits/street-trading>

#### 1.2 Objectives of this Policy

##### 1.2.1 The objectives of this policy are:

a. The Council recognises the valuable contribution that Street Trading can make to the local culture and economy, and the services that Street Traders provide to residents and visitors. Street Trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.

b. Ensure the safety of customers and other persons using the locations where street traders are located.

c. Balance the needs of the wider community, local community and street traders against the needs of those who may be adversely affected by the street trading activities.

d. Provide consistency and transparency in the way in which the Council deals with street trading.

e. Provide applicants and consent holders with advice and guidance on the Council's approach to the administration and enforcement of street trading.

### 1.3 Review of the Policy

1.3.1 This policy will be kept under review and where any significant amendments are considered necessary these will be approved by the Committee that deals with licensing matters after appropriate and relevant consultations have taken place.

Consultees will include

- Kent Police
- Kent Fire and Rescue
- Kent Highways
- Kent Trading Standards
- Maidstone Planning
- Environmental Health
- Community Protection Team
- Economic Development
- Parish Councils
- Ward Members
- Current Street Traders
- Local businesses
- Residents
- Car parks

Minor amendments that do not impact on the aims and objectives of the policy or reflect changes in legislation will be made with the approval of the Head of Housing and Community Services.

## 2 WHAT IS STREET TRADING?

### 2.1 Definitions and Resolution

2.1.1 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling or exposing or offering for sale any article, including a living thing, in a street.

2.1.2 The Act states that a street includes any road, footway, beach, or other area to which the public have access without payment.

2.1.3 Maidstone Borough Council have designated all land within Maidstone Borough Council's boundary that falls within the above definition of "street", as consent streets. The resolution includes all highways land but will for the purpose of this policy exclude any land in the ownership and control of a public authority or a registered charity.

2.1.4 In paragraph 2.1.3 'ownership and control' means having a sufficient estate or legal interest in the area of land to enable the relevant Public Authority or registered charity to restrict and regulate the use of that area in the public interest. "Public Authority" means Kent County Council, Maidstone Borough Council or any Parish Council.

2.1.5 This change to Policy means that street trading consent is needed for trading on:

- . Streets, laybys, pavements or any land including verges controlled by Kent Highways unless there is payment for entry
- . Streets, laybys, pavements, or any land, including verges which are privately owned and the public can access, unless payment is made for entry. This includes private car parks such as superstore car parks.

### 2.2 Exemptions from needing Street Trading Consent

2.2.1 The following are exempted in the legislation and do not need street trading consent:

- a. A market that is granted through a charter or order.
- b. A news vendor selling periodicals or newspapers.
- c. Trading at a petrol station.
- d. Trading at a shop or in a street adjoining a shop as part of the business or shop.
- e. Trading as a roundsman who has defined customers and routes. It has been established in law that mobile ice cream sales are not normally deemed to be roundsmen.

### **Pedlars are not exempt in Maidstone due to the Maidstone Act 2006**

This came into force on 7 September 2006. This removed the exemption for pedlars to act with the authority of a Pedlars Certificate to trade within the Borough. Pedlars must now have a Street Trading Consent to trade on the streets within the Borough of Maidstone. There is power to seize articles, receptacles and equipment by an officer of the Council or Constable if there is reason to suspect an offence has been committed under this Act.

### 2.3 Exemption for individual charity stalls with a Street Collection Permit

2.3.1 Individual charity stalls in a street can apply for a street collection permit which allows collecting money for a charitable cause (including through the sale of items). If a street collection permit is granted there is no requirement for a street trading consent. Please contact the Licensing Team for further information on applying for street collection permits.

### 2.4 Indoor Market Areas

2.4.1 Indoor market areas do not constitute street trading as they can be classed as shops which are exempt from street trading legislation.

### 2.5 Events with an Entrance Fee

2.5.1 Events that have an entry fee do not constitute street trading and do not need street trading consent

### 2.6 Community and Charitable Events

2.6.1 Community and Charitable events on land owned by Kent County Council, Maidstone Borough Council, Parish Councils or a registered charity do not need street trading consent.

2.6.2 Community and charitable events that are held on other land or on public highways (and do not have an entrance fee) will need to apply for a street trading consent. There may be provision for the fee to be waived if criteria are met (see paragraph 7.1.5).

## 3 TYPES OF CONSENTS

The Council issues the following four types of street trading consent:

### 3.1 Static Unit Consent

3.1.1 Static street trading consents are issued for a stall or vehicle which returns to one place every day or for regular periods of time. The unit or stall must be removed each day at the end of the trading period unless planning rules allow otherwise.

3.1.2 A static street trading consent may be granted for any period not exceeding 12 months.

### 3.2 Mobile Unit Consent

3.2.1 Mobile street trading consents are issued to traders who wish to move from place to place. A mobile consent trader must not remain in one place for more than 30 minutes at a time and not return to the same site within 2 hours. A typical mobile consent would be an ice-cream van.

3.2.2 A mobile street trading consent only permits trading within Maidstone Borough Council's area. If the unit goes into areas outside of Maidstone it will also need consent from the relevant authority.

3.2.3 A mobile street trading consent may be granted for any period not exceeding 12 months.

### 3.3 Short Term Consent

3.3.1 Short Term Single Traders - Short term consents are issued to traders who only want to trade in a particular location for a few days. The consent will normally only be granted for a period between 1 and 12 days.

3.3.2 Short Term Events – Short term consents will cover a number of stalls/traders and may be granted if the following apply:

1. The trading stalls are part of an organised event with an organising group committee/individual and;
2. The event is no more than 7 days.

### 3.4 Multi User Consent

3.4.1 Multi User consents are issued to specific individuals managing an event.

3.4.2 A Multi User consents can cover a number of stalls.

3.4.3 The Multi User must meet the criteria set below.

- . It has a nominated organiser.
- . It has the approval of the local public authority/landowner.
- . It adds value to the town's trade through the provision of specialist products.
- . It does not operate in detriment to the local community.

3.4.4 If the application is made by an organisation they must nominate a named individual who will be responsible for managing use of the consent.

3.4.5 The consent will be issued for a maximum of 12 months and can be renewed.

3.4.6 The consent holder will be responsible for ensuring compliance with times and location permitted by the consent and the conditions attached at all times whilst the consent is being used to facilitate street trading as well as any relevant bylaws.

3.4.7 The consent holder will be responsible for ensuring that any local residents, businesses or shops are not obstructed by the stall/stalls and that all emergency exits to buildings are kept clear. The consent holder must ensure that stalls can be moved quickly in the event that access is needed for emergency vehicles.

3.4.8 The consent holder will be required to keep records of all traders that trade under the consent which will include:

Event date

Company Name

Individuals Name

Trader Name

DOB

N.I number

Address

Food registration certificate number

Vehicle registration if relevant

Contact details.

Type of goods sold

This information will be required by the Licensing Department

3.4.9 As part of the application process the Council will consult all businesses in the vicinity of the Multi User consent . If, at any point after the grant of the consent, any existing or new occupiers of businesses or residential properties make objection to stalls being located outside of their premises the consent may be reviewed which could result in it being varied or amended.

3.4.10 It should be noted that Multi User Consents may incur other fees and charges from Maidstone Council if the land used belongs to Maidstone Borough Council. This will be in addition to the street trading consent fees.

#### 4 CHOOSING A TRADING LOCATION/PITCH

4.1.1 Before applying for a street trading consent, applicants must first identify a suitable trading pitch or site. It is for the applicant to identify a suitable pitch having regard to the requirements in this policy and their business needs. The Council does not hold a list of available trading pitches.

4.1.2 A suitable pitch must meet the following criteria:

- . Be safe for other street users including traffic and pedestrians.
- . Be safe for customers using the street trading unit.
- . Not cause any potential for obstruction, interference, inconvenience or nuisance to other street users including other traders, traffic and pedestrians.
- . Not cause any potential for nuisance to residents and other businesses for example noise and/or smell.
- . The goods being sold complement and do not conflict with the goods sold by other established retailers within vicinity.

4.1.3 In particular account must be taken of the following:

- . Access roads on industrial estates, where heavy lorries manoeuvre, are generally unsuitable places for static units.
- . Locations close to residential properties are unlikely to be suitable due to the

potential noise and smell nuisance to residents.

- . Lay-bys on main roads must have good visibility to ensure the safety for traffic entering and leaving the trading site/lay-by.
- . There should be suitable parking spaces for customer and trading vehicles.
- . Units should not cause loss of parking spaces to residents or businesses.
- . Units in town centres must not impede the movement of pedestrians or delivery vehicles or block the frontage of shops or access to existing premises.

### 5 OTHER MATTERS TO CONSIDER BEFORE MAKING AN APPLICATION

#### 5.1 Suitability of the Applicant

5.1.1 Applications cannot be considered from anyone under the age of 17.

5.1.2 When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a consent including:

(a) Whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.

(b) Refusal or neglect in paying fees due to the council in relation to a street trading consent.

5.1.3 Where the criminal conviction certificate provided by the applicant shows current offences (i.e. those that are unspent under the Rehabilitation of Offenders Act 1974, the Council will consider the following:

- . whether the conviction is relevant;
- . the seriousness of the offence;
- . the length of time since the offence occurred;
- . whether there is a pattern of offending behaviour;
- . whether that person's circumstances have changed since the offence occurred;
- . the circumstances surrounding the offence and the explanation offered by that person.

5.1.4 Annex B is a list of the offences that the Council considers relevant to a street trading consent application.

#### 5.2 Goods For Sale

5.2.1 Food - Traders wishing to sell food items must be registered as a food business with the Council in whose area the trading unit is stored when it is not at the trading site. Or, if food is pre-prepared before the unit goes to the trading site, you must be registered with Council in whose area the food preparation is undertaken.

5.2.2 Vehicles on the side of the road -This refers to vehicles placed on the highway and advertised for sale and includes any vehicle displaying signs that name an



individual or business; or displays notices/signs intended to sell the vehicle. This authority may take enforcement action against person who are advertising vehicles for sale on the public highway, currently it is the crime waste team that deal with these matters. For the purposes of this part of the policy public highway includes footpaths and adjacent verges and public open land as well as the road itself. It does not include private land. Where any vehicle is offered for sale on the highway that is not taxed and insured, the Police may also refer it to the DVLA Enforcement Team. Enforcement also may be taken under the Highways Act 1980 and the Clean Neighbourhoods and Environment Act 2005.

5.2.3 Alcohol - If you intend to sell alcohol you will need authorisation under the Licensing Act 2003 in addition to street trading consent. Please contact the Licensing Section for further advice.

### 5.3 Assistants/Employees

5.3.1 You will be required to check the right to work of any persons you employ to assist you under your street trading consent. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked.

5.3.2 The Council will require the name, address, date of birth, national insurance number, a basic criminal check (not more than 1 month old) and a photograph of all persons assisting on a regular basis. The basic criminal check must be updated every 3 years. For the purposes of this policy we would consider any person who works on the unit, without the consent holder being present, for more than 14 days a year, as assisting on a regular basis.

### 5.4 Waste

5.4.1 A street trading consent holder is responsible for disposal of refuse and must not use Council, highway or other public waste bins unless there is a specific arrangement in place. The consent holder has a duty of care to dispose of commercial waste lawfully.

5.4.2 There must be no disposal of liquid waste down the drains or onto the pavement, road or grassland. This includes waste cooking oil.

### 5.5 Trading Hours

5.5.1 An application should specify what hours the applicant wishes to trade. Evening and night time hours are likely to have more impact on local residents in terms of noise and disturbance. Applications for later times are more likely to raise objections which may lead to those times being refused or conditions imposed.

5.5.2 The consent holder will be permitted 30 minutes preparation time prior to the start of their trading hours in order to set up the trading vehicle and there will be 30

minutes to close down and pack up. Consent holders are not permitted to trade during set up and closing times. Multi User consent holders will be permitted 90 minutes prior and after trading times to set up and close down the stalls.

5.5.3 Trader's who wish to serve hot food and drink between 23:00 and 05:00 will also need a licence for late night refreshment under the Licensing Act 2003. Please contact the Licensing Team for further information.

### 5.6 Planning Permission

5.6.1 A street trading consent is given to units where the unit is removed every day at the end of the trading period. If a unit is permanently located at a site it is unlikely to require street trading consent but will require planning permission. Units that are removed every day may also require planning permission in addition to street trading consent. This will be dependant on the amount of time and days that the unit is located at the site. Please contact the Planning Section for further advice.

5.6.2 If a unit that holds street trading consent is not removed every day at the end of the trading period and it is considered that the unit is in fact permanently located in one position, then street trading consent may be revoked.

## 6 HOW TO APPLY FOR STREET TRADING CONSENT (All consent types)

### 6.1 Advice for New Applicants

6.1.1 On receipt of an application the Council will undertake a consultation exercise in order to seek the views of other agencies and, if relevant, neighbouring businesses and residents. There is a non-refundable fee to cover the cost of administering the consultation.

6.1.2 The consultation process will normally take at least 14 days and a decision will then be normally made within 7 days of the consultation ending.

6.1.3 Once a decision is made to grant a street trading consent there is a consent fee. This must be paid before trading can commence.

### 6.2 Submitting an Application

6.2.1 The following must be submitted with the initial application:-

- a. Application form.
- b. Notice of Intention.
- c. Proof of eligibility of the applicant to work in the UK (where applicable).
- d. Plan showing the proposed trading location with position of the unit(s) shown in

red. (Not required for mobile units).

e. Written permission from a landowner if the street trading activity is to be carried out on any land owned privately.

f. Payment of a non-refundable consultation fee to cover initial administration and consultation costs (not required for short term consents).

6.2.2 If, following consultation the location is deemed suitable, the following must be submitted before a final decision is made:

a. Third party public liability insurance up to £10,000,000.

b. A Basic Criminal Disclosure check that is not more than 1 month old for the applicant and any person/s that will be assisting on a regular basis. Basic Criminal Disclosure checks can be obtained from the Disclosure and Barring Service. Information can be found online at: <https://www.gov.uk/request-copy-criminal-record> or by calling 03000 200 190. (Not applicable to short term consents).

c. One passport sized photograph of the applicant and any person/s that will be assisting with the trading on a regular basis. (Not applicable to multi user and short term consents).

### 6.3 Consultation

#### Consultation Static Consents and Multi User Consents

6.3.1 On receipt of a valid static or multi user application the Council will consult with the following:-

- . Kent Constabulary.
- . Kent Highways.
- . The relevant Parish Council(s).
- . The Maidstone Borough Councillor(s) for the Ward(s) concerned.
- . Environmental Health Officers at Maidstone Borough Council.
- . Planning Officers at Maidstone Borough Council.
- . Where appropriate local residents and businesses within 100 metres of the proposed site.
- . the relevant department/individual when it's in relation to public owned land.

6.3.2 The Council will allow up to 5 working days to begin the 14 days consultation for people/relevant bodies to make comments in relation to the application.

#### Consultation - Mobile and Short Term Consents

6.3.3 On receipt of a valid mobile or short term consent application the Council will consult with the following:-

- . Kent Constabulary.
- . The relevant Parish Council.
- . Relevant Ward Councillor(s).
- . Environmental Health Officers at Maidstone Borough Council.
- . the relevant department/individual when it's in relation to public owned land.

6.3.4 The Council will allow up to 5 working days to begin the 14 days consultation for people/relevant bodies to make comments in relation to the application.

### 6.4 Determining Applications

6.4.1 The Head of Housing and Community Services has delegated powers to issue or refuse an application following the consultation period.

6.4.2 Account will be taken of objections and/or letters of support made during the consultation period. The authority will consider the suitability of the site and the applicant taking account of, but not exclusively, the criteria in this policy.

6.4.3 Each application will be decided on its own merits.

### 6.5 Street Trading Badges

6.5.1 On grant of a street trading consent a street trading identification badge (except for short term consents and multi user consents) will be issued. The badge must be worn by the person it relates to where it can be clearly seen by the public at all times the person is trading. If the badge is lost or damaged the consent holder must contact the Council as soon as possible. A charge will be made for a replacement badge.

### 7 FEES AND CHARGES

7.1.1 A list of the current street trading consent fees and charges is available by contacting the Licensing Team.

7.1.2 Initial applications (apart from short term consents) must be accompanied by payment of a non-refundable administration fee to cover initial administration and consultation to determine suitability of the site. The consultation exercise will not commence until this payment is made.

7.1.3 Once a decision is made to grant a consent the full consent fee must be paid before the consent will be issued.

7.1.4 The fees will normally be reviewed on an annual basis.

7.1.5 Street trading fees may be waived in relation to charitable or community events at the discretion of the Head of Housing and Community Services. Each event will be judged on its own merits. However the following criteria will be considered:

- . The street trading is part of an organised event with an organising group/committee/individual.
- . The primary purpose of the event is fundraising for a charitable cause or is for the benefit of the community.
- . The event does not take place any more than once a year.
- . Stalls are pre-booked.

### 7.2 Payment Methods

- . Cheque - made payable to "Maidstone Borough Council".
- . Debit or credit card – Can used at the Council Offices or by telephone to the Licensing hub between normal office opening hours on 01732 227001.

### 8 RESPONSIBILITIES OF THE CONSENT HOLDER

8.1.1 The consent holder must act in accordance with the conditions attached to the consent.

8.1.2 A street trading consent entitles the applicant to trade lawfully in the location(s) specified in the consent. Please note there are many other users of streets and the consent does not grant exclusive rights of occupation or ownership of a specific location.

8.1.3 A street trading consent is not a permit to disregard other laws or usual restrictions. For example:

- . Always observe parking restrictions and do not obstruct the highway or entry or exit roads to private property.
- . Other relevant legislation such as the Food Hygiene (England) Regulations 2006, Safety At Work etc Act 1974 and Part II, section 34 of the Environmental Protection Act 1990 (disposing of waste) must be complied with.
- . A consent holder must not cause a nuisance to the occupants of neighbouring properties from noise, litter, disposal of waste or any antisocial activity.

### 8.2 Changes to The Unit

8.2.1 You must contact the Licensing Section if you want to change your unit. You may need to make a new application or a variation application if the change is significant and impacts on the objectives of this policy.

### 8.3 Changes of Assistants

8.3.1 A consent holder must provide the Licensing Section with a photograph and basic criminal record disclosure that is not more than 1 month old for any new persons that assist on a regular basis. See paragraph 5.3.2 for definition of assisting on a regular basis.

## 9 RENEWAL

9.1.1 Applications to renew an existing street trading consent must be made at least 21 days prior to the expiry of the existing consent.

9.1.2 A renewal application may be refused if the renewal application is made late.

9.1.3 The following must be submitted with a renewal application

- . Renewal Application Form
- . Renewal Fee
- . Copy of current third party liability insurance up to £10,000

9.1.4 Additional Requirements at Renewal:

. A Basic Criminal Disclosure for the consent holder and any persons that assist on a regular basis from the Disclosure and Barring Service that is not more than 3 years old.

. 1 recently taken passport size photograph of the consent holder and any persons that assist on a regular basis.(Not required for Multi User Consents)

### 10 TRANSFER OF CONSENTS

10.1.1 Street trading consents are non transferable. If there is an agreement between a current consent holder and a proposed new consent holder to take over an existing unit and location, the original consent holder must surrender their consent and the proposed new consent holder must submit a new application. The proposed new consent holder, who has made the agreement with the existing consent holder, will be given priority in applying for the location provided that the new application is submitted within 5 working days after the current consent holder surrenders their consent. The applicant will need to follow the process for submitting a new application.

### 11 VARIATION OF CONSENTS

11.1 A street trading consent may be varied to change the conditions attached to the consent. This includes conditions relating to trading times and periods. This does not include a change of consent holder or a change of location. A variation application should be submitted with the following:

- a. Variation Application form.
- b. Notice of Intention.
- c. Written permission for the proposed change from the landowner if the street trading activity is carried out on any land owned privately.
- d. Photograph of the new/changed unit if applicable.
- e. Payment of the non-refundable consultation fee.

11.2 Consultation will be in accordance with the new application process. However if the variation is minor the consultation may be reduced at the discretion of the Head of Housing and Community Services.

### 12 CONDITIONS ATTACHED TO CONSENTS

12.1 When granting or renewing a street trading consent the Council may attach such conditions to it as they consider reasonably necessary.

12.2 Street trading consents will usually be granted subject to the standard conditions detailed in Annex A to this Policy.

12.3 Where appropriate, additional conditions may be added to a specific consent.

### 13 REFUSAL, REVOCATION AND APPEALS

13.1 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

13.2 The Act does not provide an applicant or a consent holder with any direct right of appeal against a decision to refuse the grant, variation or renewal of a street trading consent, the revocation of a street trading consent, or against any restrictions or conditions imposed on a street trading consent.

13.3 If an applicant or any relevant party wishes to make representations in respect of a decision to grant, refuse or revoke a street trading consent the applicant/consent holder/relevant party should put this in writing with the reasons to the Licensing Section within 28 days of being notified of the decision. The request will be reviewed by the Head of Housing and Community Services, who will consider whether it is reasonable and proportionate for an appeal to be heard by the Licensing Sub Committee. The review of the decision will take account of the reasons for the original decision and the representation or any further evidence put forward by the applicant/consent holder/other party.

### 14 COMPLAINTS AND ENFORCEMENT

#### 14.1 General Principles

14.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

14.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

14.1.3 Consent Holders must allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

#### 14.2 Offences

14.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relevant to the Maidstone area:-

- . Engaging in street trading in a consent street without Consent.
- . Breaches of a condition in relation to trading location or unit or trading period.
- . Breaches of a condition attached to the granted Consent.

14.2.2 A person guilty of the above offences may be liable on conviction to a fine of up to £1000.



### 14.3 Complaints

14.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

14.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:

- . Verbal warning.
- . Written warning.
- . Simple caution.
- . Prosecution.
- . Revoke the Consent.

### ANNEX A

#### STANDARD CONDITIONS APPLICABLE TO HOLDERS OF A STREET TRADING CONSENT THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

It is important that the consent holder should understand and at all times observe these conditions. Any breach of any Condition could result in revocation of the street trading consent.

1 Street trading can only take place in accordance with the times and permissions of the consent.

2 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation the holder in respect of such revocation.

3 The consent holder shall return this consent to Maidstone Borough Council immediately on revocation or surrender of the Consent.

4 Any consent holder found to be employing persons who do not have the right to work in the UK will have their consent immediately revoked.

5 A consent cannot be sub-let.

6 Consent holders shall permanently and clearly display on the street trading unit, in a conspicuous position readily visible to the public, the valid consent that has been issued by the Council. (Static and Mobile Consents only).

7 The consent holder and any assistants shall sell/offer for sale only such goods or types of goods as may be specified in the street trading consent granted to the consent holder.

8 The consent holder shall at all times maintain a valid Third Party Public Liability Insurance Policy of at least £10,000,000 to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.

9 The consent holder shall keep his trading site and immediate adjacent area in a clean and tidy condition during permitted trading hours and also leave the site in a clean and tidy condition and unobstructed at the end of each period of use under the terms of this consent. For these purposes the term 'immediate adjacent area' refers to all public land within a 50 metres radius from the trading location over which the public have access.

10 No waste matter shall be discharged into or allowed to enter any highway drain or water course.

11 Every static street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of the day. The unit must not be left on site when not in use unless explicit written consent has been given by the Head of Housing and Community Services

12 The consent relates only to the unit described in the application or as defined on the certificate of consent.

13 The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are also prohibited without the written permission of the Head of Housing and Community Services.

14 The display of advertising signs, other than on the unit itself, is prohibited without the written permission of the Head of Housing and Community Services. Signage may also require planning permission.

15 Holders of a mobile street trading consent must not trade in one place for more than 30 minutes at a time and must not return to the same location within 2 hours.

16 No street trading unit shall be located and no street trading activity shall be carried on so as to cause obstruction of any street or endanger persons using the street.

17 The consent holder shall not trade in such a way as to cause a statutory or public nuisance to persons using the street, public place, or occupiers of premises in the vicinity. Noise from equipment (including amplified audio equipment) used in connection with the consented street trading activity shall also not give rise to a statutory or public nuisance.

18 The consent holder shall make adequate arrangements to ensure that all persons connected with the operation of the unit have the means and opportunity to visit suitable toilet facilities when necessary. The consent holder shall ensure that the facilities available are made use of.

19 The consent holder shall comply with the requirements of Part II, section 34 of the Environmental Protection Act 1990 with respect to waste resulting from his/her trading. The consent holder will make available the relevant documentation as proof of compliance at the request of an authorised officer of the Council.

20 If, and when required, the consent holder shall present the street trading unit to an officer of the Council for inspection.

21 The Council reserves the right to refuse to renew a static street trading consent if the applicant has not, without reasonable cause, traded at the site on a regular basis in the previous 6 months. In such circumstances the street trading consent may be granted to another applicant.

22 Street trading shall not be carried on at any time unless the appropriate fee for the street trading consent has been duly paid to the Council.

23 The consent Holder shall at all times conduct business in a clean, honest, civil and business like manner without interfering with the business of other traders and consent holders.

24 Nothing contained in these conditions shall relieve the consent holder or their employees or agents from any legal duty or liability and the consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this consent.

25 The Council may vary or make additions to the Conditions applying for any or all street trading consents, at any time.

### ANNEXE B

#### RELEVANT OFFENCES WHEN DETERMINING SUITABILITY OF AN APPLICANT FOR A STREET TRADING CONSENT

##### a. Dishonesty

A street trading consent will not be granted unless 3 - 5 7 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

##### b. Violence

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted.

In other cases a street trading consent will not be granted unless 3 – 10 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

##### c. Drugs

A street trading consent will not be granted unless 5 - 10 10 years have lapsed since a conviction relating to the supply or importation of drugs or completion of any sentence imposed whichever is the later.

A Street trading consent will not be granted unless 3 - 5 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

##### d. Sexual and Indecency Offences

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

##### e. Exploitation

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

##### f. Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious

nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 3 - 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

### g. Street Trading Legislation

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction unless 5 years have lapsed.

### h. Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

### i. Existing Consent Holders Convicted Of An Offence

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

# Agenda Item 17

**NOT FOR PUBLICATION**

By virtue of Paragraphs 1, 2 and 3 of Part I of Schedule 12A  
to the Local Government Act 1972

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING ACT 2003 SUB COMMITTEE**

#### **MINUTES (PART II) OF THE MEETING HELD ON FRIDAY 6 DECEMBER 2019**

##### 8. DRIVER - APPEAL AGAINST PENALTY POINTS

The Chairman asked everyone present to introduce themselves as follows:-

Councillor Denise Joy – Chairman  
Councillor Patrik Garten – Sub-Committee Member  
Councillor Margaret Rose – Sub-Committee Member

Robin Harris – Legal Officer  
Billy Attaway – Legal Assistant (Observing)  
Caroline Matthews – Principal Democratic Services Officer

Mr Fazil Hakimzai – Licence Holder

The Chairman asked those present if they understood the procedure to be followed.

The Senior Licensing Officer advised the Sub-Committee that the office had received emails on two occasions (17<sup>th</sup> and 18<sup>th</sup> April) reporting a private hire vehicle (P47 EA65 KRZ) allegedly plying for hire.

On checking with the database, Officers identified that the vehicle in question was owned by Express Cabs. Emails were sent to Express requesting that they provided operator records for the vehicle and the identity of the driver(s) during those times and dates.

A further email was received on 24<sup>th</sup> April 2019 reporting the same vehicle in Mill Street and the bottom of the High Street where the driver was again allegedly plying for hire.

The driver in all four incidences was identified as Mr Hakimzai. An email was sent to Mr Hakimzai on 24<sup>th</sup> April 2019 requesting that he attended a meeting with Officers to discuss matters. He responded on the same day to advise that he was out of the country and was not sure when he would be back.

As there was no indication as to when Mr Hakimzai would return and when the matter could be resolved, it was decided that 24 penalty points be issued (6 per occasion) and on 10<sup>th</sup> May 2019 a letter was sent to Mr Hakimzai advising him of the 24 penalty points and as he had exceeded the maximum of 12 penalty points, the matter would be referred to a

By virtue of Paragraphs 1, 2 and 3 of Part I of Schedule 12A  
to the Local Government Act 1972

Licensing Sub-Committee to determine whether he remained 'fit and proper' to hold a private hire driver's licence.

On 11<sup>th</sup> June 2019 Express cabs, as the operator, were asked if they were aware of Mr Hakimzai's return date, to which they indicated that it would be September.

Mr Hakimzai attended a meeting with the Licensing Officer on 23<sup>rd</sup> September 2019 and stated that he felt that being issued 24 penalty points straightaway without being given a warning first was harsh.

Following the meeting on 23 September 2019 the Licensing Officer met with the Senior Licensing Officer to review the points raised by Mr Hakimzai and it was decided that he be given the opportunity to take the Maidstone knowledge test and pass four categories which were Compulsory, Safeguarding, Maidstone private hire policy and law and generic policy and law.

Mr Hakimzai was given 3 attempts to pass the knowledge test, with a deadline of 23 October 2019. He failed to achieve the pass marks in the categories required.

As Mr Hakimzai had failed to pass the relevant sections of the topography test and was in disagreement with the issuing of 24 penalty points, the matter had been referred to the Licensing Sub-Committee to consider the matter of either suspending or revoking Mr Hakimzai's private hire driver's licence.

Members were asked if they had any questions to ask the local authority's representative to which they replied they did not.

The licence holder was asked to present his case as follows:-

- He stated that he had only received one email in regard to the penalty points issued.
- He felt it was unfair to get 24 penalty points straight away without receiving a warning first.

In responses to questions from Members, Mr Hakimzai responded as follows:-

- He did not receive the letter sent by recorded delivery until he returned home from his holiday as although his brother had signed for it, he had not informed him that it had been received.
- That rules and regulations were in place for safety reasons and for taxi drivers to do the right thing.
- He should not have had to carry out the Knowledge tests as he had family problems at the time so was very stressed.

By virtue of Paragraphs 1, 2 and 3 of Part I of Schedule 12A  
to the Local Government Act 1972

- The incidences were a long time ago and he was not sure he was the driver of the vehicle as the vehicle is driven by more than one driver.
- That he usually stopped for food in the town centre in the early hours of a morning when working as it was the only place to get hot food.
- That he had been a private hire driver for over three and a half years.
- If parked up in the town centre and was approached by a member of the public, he would say that they needed to ring up Express cabs to ask for him to take them to their destination or he would just say that he was on a break.
- That the vehicle was insured for the whole shift, including when he was on a break.

The local authority's representative, in summing up, advised the Sub-Committee that having heard all the evidence, they could either remove the penalty points, take no action, issue a warning, suspend the driver's licence, revoke the driver's licence or consider any other action deemed appropriate.

Mr Hakimzai, in summing up, advised that he wanted to keep his licence and felt the penalty was unfair as he has not previously committed any other offences during the last 6 years since he obtained his licence.

The Sub-Committee adjourned to make their decision.

**RESOLVED:** That the individual's Private Hire Driver's Licence, as identified in the exempt report, be suspended until 27<sup>th</sup> March 2020 or until he passes one Maidstone Knowledge Test before the 27<sup>th</sup> March 2020.

#### 9. OPERATOR - APPEAL AGAINST PENALTY POINTS

The Sub-Committee considered that in the absence of the licence holder, Mr Robert Dyer that there was sufficient evidence to proceed in their absence.

The local authority's representative briefly described the case for Members of the Sub-Committee to consider.

During night time enforcement on the 24<sup>th</sup> August 2019, Licensing Officers witnessed private hire vehicle P3 (MM13 NFK) pulling into Station Road opposite the Entertainment Exchange in Week Street at 2.19 a.m. The driver was approached by Officers and asked if he had a booking. The driver advised that he had had a booking but had refused the job from Ashford to Staplehurst as it was only for £20 and he considered it was not worth doing.



The Officers advised him that as he did not have a booking, then he should not be waiting where he was and to either return to base or find somewhere more suitable to wait.

On checking the database on return to the office, they found that the driver in question worked for R.W.D. Transport (trading as Cavalier Cars). A request was made to the operator on 5<sup>th</sup> September 2019 for them to provide their operator records for P3 (MM13 NFK) so that they could confirm whether the driver had legitimate reason to be at the place and time seen by Officers.

On 11<sup>th</sup> September 2019 an email was received from R.W.D Transport. However the records supplied were not of a sufficient standard to establish whether the driver did have a legitimate reason to be at the time and place in question and a further request was made to the operator to provide the full details of all bookings as per the conditions of their operator's licence.

The operator was unable to provide any further detail and it became clear from the documents provided that they had not been complying with condition 1 of their Operator's licence. For example:-

1. The name of the passenger/hirer was only partially defined
2. It was not clear how the booking had been made (e.g. by telephone, personal call etc)
3. The name of the driver was not evident
4. The registration number of the vehicle allocated for the booking and the private hire vehicle plate number was not evident
5. The time at which the driver was allocated to the booking was not evident
6. Any remarks (including details of any sub-contract) were not evident

However, the records did show the time and location of the pick up.

The Sub-Committee were advised of the options open to them, for example, remove the penalty points, retain the penalty points that had been issued, increase the number of penalty points, take no action, issue a warning, suspend the operator's licence, revoke their operator's licence or take any other action deemed appropriate.

The Sub-Committee adjourned to consider what action should be taken.

**RESOLVED:** That the decision to issue six penalty points be retained.