

# Licensing Committee - Hackney Carriage/Private Hire Appeals Meeting

**Grand Jury Room, Town Hall, High Street,  
Colchester, CO1 1PJ  
Wednesday, 06 May 2015 at 18:00**

**The Licensing Committee** hears and determines licensing applications and appeals under the Local Government (Miscellaneous Provisions) Acts for hackney carriages and private hire vehicles and drivers

# **Information for Members of the Public**

## **Access to information and meetings**

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

## **Have Your Say!**

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at [www.colchester.gov.uk](http://www.colchester.gov.uk)

## **Audio Recording, Filming, Mobile phones and other devices**

The Council audio records all its public meetings and makes the recordings available on the Council's website. Audio recording, photography and filming of meetings by members of the public is also permitted. The discreet use of phones, tablets, laptops, cameras and other such devices is permitted at all meetings of the Council, with the exception of Committee members at all meetings of the Planning Committee, Licensing Committee, Licensing Sub-Committee and Governance Committee. It is not permitted to use voice or camera flash functionality and devices must be kept on silent mode. Where permitted, Councillors' use of devices is limited to receiving messages and accessing papers and information via the internet.

## **Access**

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please use one of the contact details at the bottom of this page and we will try to provide a reading service, translation or other formats you may need.

## **Facilities**

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground floor.

## **Evacuation Procedures**

Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

Library and Community Hub, Colchester Central Library, 21 Trinity Square, Colchester, CO1  
1JB

telephone (01206) 282222 or textphone 18001 followed by the full number you wish to call

e-mail: [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk)

**[www.colchester.gov.uk](http://www.colchester.gov.uk)**

## **Licensing Committee Procedure relating to Hackney Carriage Licences and Private Hire Vehicle Licences made under the Local Government (Miscellaneous Provisions) Acts**

- (1) All questions and statements will be directed through the Chairman.
- (2) The Chairman will make opening remarks which introduce those present and ensuring that all those present understand the procedure.

### The Council's case:-

- (3) The Council's representative will begin with their opening remarks and present their case.
- (4) The Council's witnesses (if any) will give evidence in support of the Council's case.
- (5) The Council's representative and/or representative may question the Council's witness again to clarify any points which may have arisen.

### Submission from the Applicant:-

- (6) The Applicant and/or representative will begin with their opening remarks and present their case.
- (7) The Applicant's witnesses (if any) will give evidence in support of the

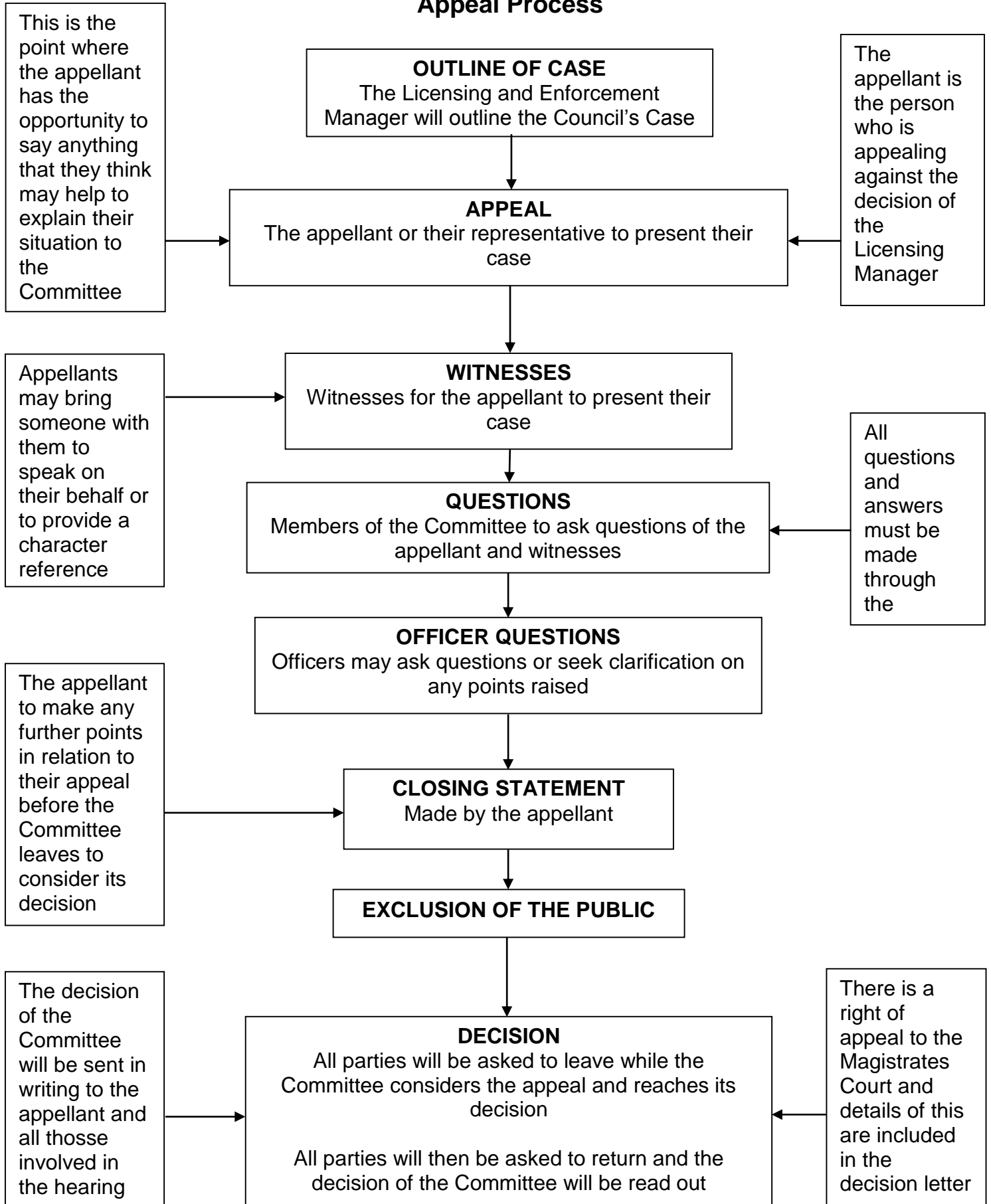
### Applicant's case:-

- (8) The Applicant and/or representative may question the Applicant's witness again to clarify any points which may have arisen.
- (9) Each party and their witnesses may be questioned by the Chairman and members of the Committee.
- (10) Each party may question their witness again to clarify any points which may have arisen.
- (11) If the Applicant or the objectors wish to question each other, questions may be directed through the Chairman.
- (12) Closing Statements may be made by the Council and/or representative.
- (13) The Chairman will ask the Legal Advisor whether there is anything else to be raised or settled before the proceedings are closed.

### Determination of the application by the Committee

- (14) The Applicant and/or representative, the objectors, Ward Councillors, the representatives from the Council and the members of the public and the press will leave the room to allow the Committee to determine the application. During this process the Committee members may ask for legal advice from the Legal Advisor.
- (15) The Applicant and/or representative, the objectors, Ward Councillors, the representatives from the Council and the members of the public and the press will be invited to return to the room when the Committee's decision will be announced. Written details of the decision and the grounds upon which it is based will be sent to all parties concerned as soon as possible.

## The Hackney Carriage/Private Hire Drivers' Appeal Process



**COLCHESTER BOROUGH COUNCIL**  
**Licensing Committee - Hackney Carriage/Private Hire Appeals**  
**Wednesday, 06 May 2015 at 18:00**

**Members:**

Michael Lilley - Member, Nick Cope - Member, Julia Havis - Member

**Substitutes:**

All members of the Council who are not Cabinet members or members of this Sub-Committee and who have completed the relevant training.

**AGENDA - Part A**  
(open to the public including the press)

**Members of the public may wish to note that Agenda items 1 to 5 are normally brief.**

**1 Welcome and Announcements**

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
  - action in the event of an emergency;
  - mobile phones switched to silent;
  - the audio-recording of meetings;
  - location of toilets;
  - introduction of members of the meeting.

**2 Substitutions**

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

**3 Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

#### 4 **Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

#### 5 **Have Your Say!**

a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

#### 6 **Minutes**

To confirm as a correct record the minutes of the meeting held 25 March 2015.

9 - 10

- 7 **Exclusion of the Public (not Scrutiny or Executive)**  
In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

## **Part B**

(not open to the public including the press)

- 8 **Appeal Report**  
Not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual)

See report by the Head of Professional Services

e-mail: [licensing.committee@colchester.gov.uk](mailto:licensing.committee@colchester.gov.uk)  
website: [www.colchester.gov.uk](http://www.colchester.gov.uk)





## **LICENSING COMMITTEE**

### **25 March 2015**

*Present: -* Councillor Nick Cope (Chairman)  
Councillors Roger Buston, Ray Gamble, Dave Harris,  
Pauline Hazell, Mike Hogg, Michael Lilley, Richard  
Martin, Philip Oxford and Lesley Scott-Boutell.

#### **13. Minutes**

*RESOLVED* that the minutes of the meetings held on 19 November and 21 January 2015 were confirmed as a correct record of the meetings.

#### **14. Public Fundraising Regulatory Association Presentation**

The Committee received a presentation from Mr Service, Outreach Officer and Mr Rosenfeld, Compliance Officer of the Public Fundraising Regulatory Association (PFRA) on its work in managing the activities of face to face fund raisers collecting direct debit details, commonly referred to as 'chuggers'.

The PFRA was established in 2012 following a review of the Charity Act and concerns raised regarding the behaviour of some fundraisers. As a charity led self-regulatory membership body for charities and agencies involved in street and doorstep direct debit fundraising it acted as a bridge between the charities and Councils; balancing the duty of charities to ask the public to support them with the right of the public not to be put under undue pressure to agree. It worked to promote and maintain professional standards in charity fundraising and to ensure the fair allocation of fundraising on the ground.

Mr Service explained that the PFRA worked through the establishment of a co-regulatory agreements with Councils. The Site Management Agreement defined where and when fundraising could take place in a Council's area and this was a flexible document designed to accommodate the area's specific requirements. It was enforced through a combination of co-regulation by Council officers, mystery shoppers and spot checks. Mr Rosenfeld outlined how compliance was achieved and outlined the importance of the PFRA's rule book which, together with the Institute of Fundraising's Code of Fundraising Practice and associated guidance, regulated the work of collectors. The rule book formed the basis of the penalty point scheme under which charities were awarded points for infringements and fined £1,000 in the event that their points totalled 1,000 in a financial year. The level of points awarded for each infringement reflected its relative severity. In accordance with the rule book collectors could not follow a person for more than three steps; stand within 3 metres of a shop doorway, cashpoint, pedestrian crossing or station entrance; or knowingly sign up anyone to direct debit who was not able to give informed consent. The success of the scheme was measured and a recent survey indicated a 91% of respondents felt said that the SMA had been very or fairly successful in regulating street fundraising with 58% of Councils saying there had been a reduction in complaints related to street fundraising. It was confirmed that there were no costs to the Council of entering into an agreement with the PFRA but that there would be costs associated with enforcement although the PFRA was the primary enforcing body. The

Council's enforcement role was essentially to witness and report to the PFRA on any breaches of the agreement. The resolution of most problems could be expected within an hour.

A number of the issues raised would form part of the Council's work in negotiating a SMA, if the Committee determined to pursue this matter. There was discussion around the issue of funding and how the 75p levy, paid by charities to the PFRA for each direct debt mandate, was made known to the donors. It was explained that this information was included in the disclosure statement read out prior to people signing the agreement. The money from the direct debits went direct to the charity concerned and they used last year's funding to pay the PFRA; money was not re-directed to the PFRA at source as was the common misconception. Mr Service and Mr Rosenfeld answered questions on a wide variety of matters and confirmed that fundraisers were trained by the charities. The rule book covered the issue of approaching vulnerable persons and this included intoxicated persons. Direct debits could be cancelled at any time and money repaid if the direct debit mandate was found to have been acquired inappropriately. In response to questions from the Committee Mr Service gave details of the structure of the organization and its funding and agreed to circulate further information on these matters and on its data protection protocol.

*RESOLVED* that a further report on entering into a site management agreement with the PFRA be brought to the Committee in due course.

## **15. Public Fundraising Regulatory Association Presentation**

The Committee considered a report by the Head of Professional Services on the adoption of a policy for the re-allocation of a hackney carriage plate in the event that one should become available. This policy would not apply to the distribution of any new plates that may be recommended following an unmet demand survey; the criteria for the distribution of such plates would be determined by the Committee at the appropriate time.

The suggested policy for re-allocation required existing registered owners and drivers to register their interest; a notice would also be placed in a local newspaper giving the general public the opportunity to register their interest. All expressions of interest would then be entered into a randomly generated draw which would be carried out at a meeting of the Licensing Committee.

There was considerable discussion on whether this form of draw taking place at a Committee meeting was appropriate and on the merits of this as opposed to a simple first past the post policy. Mr Ruder explained the administrative problems presented by the later method and that the general public would be unlikely to know when a plate would be available; this knowledge however, being widely known by members of the trade and therefore giving them an advantage in being the first to register their interest.

*RESOLVED* that the Head of Professional Services be requested to give further consideration to the method of the re-allocation of a hackney carriage plate and report back to the Committee in due course.