

Licensing Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ**

Wednesday, 22 January 2020 at 18:00

The Licensing Committee deals with policy issues relating to licensing matters and applications and appeals concerning hackney carriage and private hire vehicles and drivers and other appeals.

Information for Members of the Public

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COLCHESTER BOROUGH COUNCIL
Licensing Committee
Wednesday, 22 January 2020 at 18:00

Member:

Councillor Dave Harris	Chairman
Councillor Mike Hogg	Deputy Chairman

Councillor Lyn Barton
Councillor Roger Buston
Councillor Helen Chuah
Councillor Simon Crow
Councillor John Elliott
Councillor Patricia Moore
Councillor Beverley Oxford
Councillor Barbara Wood
Councillor Tim Young

Substitutes:

All members of the Council who are not Cabinet members or members of this Panel.

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

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

2 Substitutions

Councillors will be asked to say if they are attending on behalf of a Committee member who is absent.

3 Urgent Items

The Chairman will announce if there is any item not on the published agenda which will be considered because it is urgent and will explain the reason for the urgency.

4 Declarations of Interest

Councillors will be asked to say if there are any items on the agenda about which they have a disclosable pecuniary interest which would prevent them from participating in any discussion of the item or participating in any vote upon the item, or any other pecuniary interest or non-pecuniary interest.

5 Minutes of Previous Meeting

The Committee will be invited to confirm that the minutes of the meeting of 06 November 2019 are a correct record.

Licensing Committee minutes 6 November 2019

7 - 10

6 Have Your Say!

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda or any other matter relating to the terms of reference of the meeting. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

7 Draft CCTV Policy for consultation

11 - 26

The Committee will consider a report proposing a draft policy on CCTV in licensed vehicles, prior to agreeing a period of public consultation for the draft policy should it be approved.

8 Caravans and Park Homes update

27 - 30

The Committee will consider a report containing information about legislation of caravan sites, the purpose of the licences and the compliance that is looked for. This report will provide an update as to any action taken against sites, together with questions around planning and wording of conditions within the licences.

9 Taxi Policy Revisions

31 - 34

The Committee are asked to consider proposed amendments to the Hackney Carriage and Private Hire Licensing Policy.

10 Licensing Committee Work Programme 2019-2020

35 - 36

The Committee will consider a report which sets out the current Work Programme 2019-2020 for the Licensing Committee.

11 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)

Licensing Committee

Wednesday, 06 November 2019

Attendees: Councillor Lyn Barton, Councillor Roger Buston, Councillor Helen Chuah, Councillor Simon Crow, Councillor John Elliott, Councillor Dave Harris, Councillor Mike Hogg, Councillor Patricia Moore, Councillor Barbara Wood

Substitutes: Councillor Tina Bourne (for Councillor Tim Young)

Also Present:

92 Licensing Committee minutes 28 August 2019

The minutes of the meeting held on 28 August 2019 were confirmed as a correct record.

93 Draft Scrap Metal Dealers Policy

The Committee considered a report by the Assistant Director (Communities) giving details of the proposed Scrap Metal Dealers Policy which, once approved, would enable a formal consultation process to take place. The policy set out how the Council proposed to exercise the powers and duties contained in the Scrap Metal Dealers Act 2013 which created a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The policy would be reviewed on a regular basis, with a full review at least once every three years.

Jon Ruder, Licensing, Food and Safety Manager, presented the report and assisted the Committee members in their discussions. He explained that there were two types of licences which could be granted under the Act, site licences and collector's licences. Site licences were required where a person traded in scrap metal from a fixed site whilst collector's licences were required where a person traded other than at a site, and regularly engaged in collecting scrap metal by means of door-to-door visits. As at 1 April 2015, three site licences and ten collector's licences had been issued, whilst currently there were eight licensed scrap metal dealer sites in the borough and one licensed collector. The proposed policy would be the subject of a public consultation exercise for a period of twelve weeks, from 1 December 2019 and 22 February 2020, the outcome of which would be reported back to this Committee, following which the policy would be referred to Cabinet for ratification.

Members of the Committee welcomed the draft strategy. One member of the Committee sought clarification on the reason behind the reduction in the number of licence holders; whether a noticeable reduction in crime had occurred since the introduction of the

legislation and whether scrap metal dealers were expected to undertake checks such as for the presence of SmartWater marking of metals.

Another member of the Committee commented on the amount of media publicity given to thefts of various metals from domestic dwellings and small businesses but that these reports appeared to have reduced more recently, whilst thefts from licenced premises seemed to have increased. Comment was also made about the deficiencies in the legislation in terms of a lack of targeting of the handling of stolen goods.

Further discussion took place regarding instances of stolen metal, the potential for scrap metal dealers to launder scrap metal, how this practice may be overcome and whether there was any mechanism to feedback on possible loopholes in the legislation.

The Licensing, Food and Safety Manager explained that the reduction in collector's licences was likely to be due to a failure to renew licences but that this would be the subject of a detailed investigation and audit in due course; liaison with Essex Police had been curtailed since the discontinuance of the specialist scrap metal police contact officer and, as such, he was unaware of current scrap metal related crime rates; checks for SmartWater marking were not a requirement for dealers but was a matter for which the police would assume responsibility, whilst dealers were statutorily obliged to obtain an audit trail to verify all transactions. He agreed with the comments regarding trends in thefts of metals, commenting that copper, lead and precious metals were much sought after and, as such, sites where large quantities of these materials were stored were more likely to be targeted. However, the requirement for an audit trail had reduced the number of thefts from buildings such as churches. He explained that the penalties and enforcement associated with the relevant legislation required close co-operation from the police to determine whether a crime had taken place and he commented that the wording of the legislation was not entirely clear. He confirmed that other Councils in Essex were operating at a similar level to Colchester in relation to scrap metal enforcement. He acknowledged instances of stolen metal, explained the need for an audit trail for transactions of metal and that a priority would be given in the near future to undertake a period of enforcement and auditing of licence holders. He also acknowledged the potential for scrap metal dealers to practice illicit transactions but he was unable to comment on the extent of these practices. He confirmed the ability of feedback to be given regarding wording of legislation but he cautioned that this was unlikely to be a priority for the Government at the current time.

RESOLVED that the draft Scrap Metal Dealers Policy be approved for public consultation purposes for a period of 12 weeks, the result of which would be submitted to a meeting of this Committee and the policy would be submitted to Cabinet for ratification.


The Committee considered a report by the Assistant Director Policy and Corporate giving details of the Committee's work programme for 2019 - 2020, updated since the last meeting.

Jon Ruder, Licensing, Food and Safety Manager, explained that he had started the gathering of information to formulate a report on CCTV but he was not yet able to confirm that this work would be completed to enable the matter to be reported to the Committee at its next meeting on 11 December 2019.

Members of the Committee indicated that they were willing for their consideration of the CCTV report to be postponed should this be necessary, particularly given the timing of the next meeting, immediately prior to the forthcoming General Election.

RESOLVED that the contents of the work programme and the current situation regarding the CCTV report be noted and the Food and Safety Manager be requested to notify the Committee members in due course should it be necessary to cancel the next meeting of the Committee.

22 January 2020

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
Title	Draft CCTV Policy for consultation		 282840
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The report seeks approval, for consultation purposes, of the draft Hackney Carriage/Private Hire CCTV Policy.

2. Recommended Decisions

- 2.1 That the proposed draft CCTV Policy be approved to enable the formal consultation process to begin.
- 2.2 That a three-month consultation period be agreed.

3. Reasons for the Decision

- 3.1 The introduction of CCTV will help to address the matter of driver vulnerability and the safeguarding of passengers. It will assist in the investigation of complaints and help the Council to fulfil the enduring statutory obligation placed upon it to ensure that drivers remain fit and proper to hold a licence.

4. Alternative Options

- 4.1 Not to proceed with the implementation of CCTV in the Council's licensed hackney carriage and private hire vehicles.

5. Supporting Information

- 5.1 The Council's Hackney Carriage and Private Hire Licensing Policy came into effect in January 2019 following a period of extensive consultation. At the time of the original consultation in 2017 a draft Policy in relation to CCTV in hackney carriage and private Hire vehicles (licensed vehicles) was included.
- 5.2 In the light of the feedback from the consultation the Council determined to remove the CCTV element from the Policy to enable further investigations into its feasibility and cost to take place and to allow the rest of the Policy to be brought into effect without delay.
- 5.3 Work on CCTV has now been completed; the points raised during the last consultation exercise have been considered in the formulation of the Policy. The proposed policy and specification are attached at Appendix 1.

6. Aim and Purpose

- 6.1 In considering the proposed introduction of CCTV in its licensed vehicles the Council has drawn not only on its experience and that of its drivers and operators in the Borough but also on the framework provided by the Information Commissioner Office (ICO) and the findings of the Government's Task and Finish Group which focussed on a safer and more robust system of licensing for hackney carriage and private hire vehicles.
- 6.2 The Information Commissioner Office CCTV Code of Practice recommends completion of an impact assessment to ascertain whether the installation of CCTV is justified, and its use proportionate. The use of CCTV requires a strong justification and must be kept under regular review.
- 6.3 The Council has had regard to its own experience and the safeguarding challenges found in the Borough which support the recommendation to introduce mandatory CCTV in all its licensed vehicles. The Council completed its mandatory safeguarding training for all licensed drivers and operators in October 2019. The Council provided over 30 sessions and at each session those in attendance reported common concerns; the key theme that emerged was a licensed driver's vulnerability in carrying out their work. The concerns raised in relation to safeguarding of both drivers and passengers demonstrate that the requirement to have CCTV in all licensed vehicles is a proportionate decision when considering the risks identified.
- 6.4 The Committee will be aware from frequent reports in the press and elsewhere of the rising tide of child sexual exploitation, human trafficking, criminal exploitation, drug trafficking and domestic abuse; all of which are found in the Borough. It will also be aware of a number of high-profile safeguarding cases in other areas of the Country which has underlined the need for safeguarding issues to be formally addressed within the Council's hackney carriage/private hire licensing process of which the CCTV Policy would be a part.
- 6.5 Evidence drawn from complaints made to the Council demonstrates that sometimes complaints cannot be resolved because it is often the word of one person against another. This is an unsatisfactory outcome for all parties and makes it difficult for the Council to fulfil the enduring statutory obligation placed upon it to ensure that drivers remain fit and proper to hold a licence.

- 6.6 The Council recognises that licensed drivers are a valuable asset to the Borough and the safety of its licensed drivers is a key concern; this concern must be considered alongside the overriding objective in taxi and private hire licensing of the safety of the travelling public. It must be borne in mind that no other licensing regime puts an individual in such complete control of members of the public and that once the door closes the driver is alone with members of the public of whom they have no prior knowledge of their character or propensity to violence. The introduction of CCTV will provide a safer environment for both drivers and passengers by deterring and preventing the occurrence of crime; reducing the fear of crime; assisting the Council and Police in investigating incidents of crime; and assisting insurance companies in relation to motoring claims.
- 6.7 The Institute of Licensing have commented, in their recent survey on in-vehicle CCTV, that “CCTV is a clear safety and safeguarding tool, protecting both passengers and drivers. There isn’t much if any dispute about this from local authorities or industry organisations as far as we are aware and that while only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers”. In addition,” the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the Crime Survey for England and Wales only 17% of victims report their experiences to the police, 28% of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles”.

7. Taxi and Private Hire Vehicle Licensing – Steps towards a safer and more robust system

- 7.1 Since the Committee last considered the matter of CCTV the mandatory introduction of cameras in licensed vehicles has been recommended by a Task and Finish Group commissioned by the Minister of State at the Department of Transport. The report was published on 24 September 2018 and the relevant paragraphs are set out below –

4.8 The Group received a number of submissions and heard from witnesses about the benefits of having CCTV in taxis and PHVs. There were numerous positive comments regarding the potential benefits that CCTV might provide to both passengers and drivers. The vast majority of taxi and PHV passengers receive a good and safe service but the few drivers that abuse their position of trust undermine public confidence in passenger safety. CCTV can reaffirm or increase passenger confidence.

4.9 CCTV would not just protect passengers. In England and Wales, approximately 53% of taxi and PHV drivers are non-white, a much higher than average percentage of the workforce. The Group heard from the United Private Hire Drivers that 50% of drivers it surveyed had been threatened or assaulted and that 57% had been racially abused while working.

4.10 Where both cameras and audio recording is used, those who verbally and physically abuse drivers would do so knowing that the attack would be recorded, providing invaluable evidence to enforcement agencies. There are also incidents of false allegations being made against drivers, and CCTV evidence can protect drivers from potentially losing their licence and their livelihood.

4.11 Only a small number of licensing authorities in England currently require CCTV in their licensed vehicles; however, there is a strong case for having CCTV in taxis and PHVs, and licensing authorities which do not already mandate CCTV

should do so. The concern most commonly raised is the costs of installing and maintaining CCTV systems. These do not however appear to be unreasonable for owners of licensed vehicles to bear given an assumed operational life of a system and the potential for reduced damage to the vehicle. The majority of taxis and PHV are owner driven - these could benefit from reduced abuse and assaults by passengers, reduced fare evasion and potentially increased passenger usage through greater confidence in the sector.

4.12 It is however not just the driver and passenger that CCTV can benefit. Licensing authorities are better able to make an informed decision whether to take no action, suspend or revoke a licence following a complaint. This evidence can be used at court should the driver appeal a decision, and it may even prevent the driver guilty of misconduct from launching an appeal. Society as a whole benefits from increased protection from crime.

4.13 Yet mandating CCTV in vehicles will incur extra cost for many small businesses, the vast majority of drivers currently consider as such. Recognising the benefits to society, ways of helping with individual and small business costs should be seriously explored.

7.2 The report made the following recommendations –

Recommendation 17

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards. To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.

Recommendation 18

As Government and local authorities would benefit from a reduction in crime in licensed vehicle both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

8. Audio recording

- 8.1 At this time, continuous audio recording is not supported by the Information Commissioners Office (ICO) and in the light of this the Policy is aligned with the current position of the ICO to permit the use of audio recording by way of a panic button only; this button would be at the driver's control. This would mean that the driver was able to turn off CCTV recording when using the vehicle for private use (accepting that the vehicle is never, in legal terms, a private vehicle).
- 8.2 The position in relation to audio recording is however a matter of dispute currently and therefore it is suggested that this matter be revisited in the event of a change in the stance taken on voice recording. This view is taken because, having considered all the evidence in relation to the introduction of CCTV and that fact that once licensed a vehicle is always licensed, it is considered that audio recording should take place at all times alongside the recording of images. This would provide a constant deterrent and ensure the context to disputes is always available. The privacy of the driver and family

members is protected as the Council and other enforcing authorities can only request footage in specific circumstances.

9. The Surveillance Camera Code of Practice

9.1 The code of practice requires that regard is given to the following 12 guiding principles

1. Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.

The aim is to provide a safer environment for both drivers and passengers by deterring and preventing the occurrence of crime; reducing the fear of crime; assisting the Council and Police in investigating incidents of crime; and assisting insurance companies in relation to motoring claims.

Safeguarding is a significant concern in the case of licensed vehicles and drivers. The Institute of Licensing in its recent consultation on the issue of CCTV in licensed vehicles has commented that safeguarding is not simply about children and vulnerable adults – “Take a vehicle and put 2 people inside. If either person is so inclined, the other is vulnerable – to a greater or lesser extent as the case may be. CCTV with continuous visual and audio recording and clear warning signs within the vehicle, may be the best protection / deterrent available, providing the driver cannot a) turn it off; or b) edit the recorded material, in addition, while the duty of local authorities is primarily to protect the public (and there is no other circumstances in licensing where an individual is potentially so vulnerable), the industry would argue that licensed drivers are statistically more likely to be subject to abuse / attack”.

The Council through an analysis of the complaints investigated; information requests from the Police; and the information shared at the safeguarding training sessions is satisfied that there is an overwhelming need for the introduction of CCTV in licensed vehicles.

2. The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.

CCTV data will not be requested unless there is a suggestion of crime or other concern warranting investigation having taken place. The Police and any other investigating authority will only be able to view the footage by submitting a written request to the Council (as the data controller) for the purpose of investigating the offence/allegation.

The entire Hackney Carriage/Private Hire Licensing Policy, of which the CCTV Policy, is a part will be regularly reviewed to ensure its continued relevance.

3. There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.

All vehicles fitted with CCTV will carry signs to notify passengers of its use. The Licensing Team will be the published point of contact for access to information and complaints.

4. There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.

The Council is the data controller and as such is responsible for the collection and storage of all data.

5. Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them

The Council's Policy on CCTV sets out the rules governing its installation. This will be made available to all parties with an interest and also made available on the Council's website.

6. No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged

Images will be erased on a rolling 28-day programme. Information will only be stored where it is needed for evidence purposes and once the investigation/case has been disposed of, the images will be destroyed.

7. Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.

Access will only be given to the members of the Licensing Team and any other requests to view footage will have to satisfy the tests the Council has put in place. All requests to view footage must be made in writing in advance.

8. Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.

The Council is satisfied that its Policy and accompanying technical specification is specific to, and meets the needs of, its aim to provide a safer environment for drivers and passengers.

9. Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.

The Council, as the data controller, will be the only body able to download data via an encrypted cable. The computer on which the data will be used will be a standalone computer without internet access and suitably encrypted.

10. There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.

The CCTV Policy, which forms part of the main Hackney Carriage/Private Hire Licensing Policy, and its implementation will be subject to periodic monitoring at no more than 4 monthly intervals for the first year of its implementation and thereafter at 6 monthly intervals.

11. When the use of a surveillance camera system is in pursuit of a legitimate aim, and there is a pressing need for its use, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.

The Council is satisfied that its Policy and accompanying technical specification meet the needs of this requirement.

12. Any information used to support a surveillance camera system which compares against a reference database for matching purposes should be accurate and kept up to date.

The Council will match the vehicle identification mark and plate number to the CCTV to ensure that any footage recorded can be accurately attributed to the correct vehicle and driver. This will be subject to constant update.

10. Essex County Council

- 10.1 Questions were raised in the initial consultation on the taxi policy regarding the use of CCTV in vehicles used for school transport. The view of Essex County Council, within whose remit passenger transport lies, has been sort and it has responded that it supports the use of CCTV in taxis provided it is done within the guidelines of the ICO Code of Practice.

11. Data Controller

- 11.1 The Council will be the Data Controller for all the footage recorded by CCTV in its licensed vehicles. All requests to view footage, including subject access requests, must be submitted to the Council. Drivers and operators will not be able to download or view and footage recorded.

12. Procurement

- 12.1 Once the consultation process has been completed, if the Committee determine to go ahead with the introduction of CCTV in its licensed vehicles, the specification will be made available to enable any suppliers of such systems to approach the Council with a view to being placed on a list of providers which can then be used by the trade to source an appropriate system.

13. Implementation

- 13.1 For the purposes of consultation, the following programme is suggested for the installation of CCTV in licensed vehicles
- The Council will identify a date on which the requirement for taxi cameras will become effective – this date will be known as the ‘CCTV requirement effective date’. After this date, a licence will only be granted to new vehicles (put on existing plates) and new plates for vehicles, if the vehicle is fitted with a CCTV system that meets the council’s requirements.
 - This requirement will not apply to vehicles that had a licence in effect on the day before the ‘CCTV requirement effective date’.

- Licensed vehicles with licences that expire at a point up to six months from the 'CCTV requirement effective date' will be required to have a suitable taxi camera fitted within six months of the effective date.
- Vehicles that are aged over 11 years on the date that the renewed licence takes effect are exempt from this requirement (14 years in the case of purpose-built wheelchair accessible vehicles) – although a taxi camera may be fitted if the vehicle proprietor wishes to do so.
- Licensed vehicles with licences that expire at a point between six and twelve months from the 'CCTV requirement effective date' will be required to have a suitable taxi camera fitted by the date that the vehicle licence expires. Vehicles that are aged over 11 years on the date that the renewed licence takes effect are exempt from this requirement (14 years in the case of purpose-built wheelchair accessible vehicles) – although a taxi camera may be fitted if the vehicle proprietor wishes to do so.
- The Council is adopting this approach in order to reduce the impact on taxi camera system suppliers and installers, and also to ensure that licence holders have sufficient time to source, purchase and install a system prior to the requirement taking effect.
- It is expected that suppliers and installers will be able to meet demand, however this will be monitored and the approach reviewed if necessary.

14. Penalty Point Scheme

14.1 The following points are to be made to the Council's Penalty Point Scheme –

- | | | |
|-----|--|----------|
| 113 | Failure to comply with the requirements of the Council's Policy on CCTV in Licensed vehicles | 6 Points |
|-----|--|----------|

15. Financial Implications

- 15.1 The installation of cameras in licensed vehicles will be an additional cost to the licence holders. The systems vary in price but can be claimed back as a business expense through HMRC. In view of the safeguarding matters identified, the Council is investigating match funding to help offset the costs.
- 15.2 The Council is already registered as a Data Controller with the Information Commissioner, and there are no additional registration costs that would be required to be paid by the Council. There will be additional costs in the region of £2,000 for the 2 computers and encrypted cable required for the viewing and download of data.

16. Consultation

- 16.1 It is intended to consult with licence holders, Essex Police, and other interested parties and to enable the public to comment by publishing notification on the Council's website.
- 16.2 At the end of the 3-month consultation period the representations received will be considered by the Licensing Committee. In the event that the Committee determine to introduce CCTV for all licensed vehicles, the Policy will be submitted to full Council for approval.

17. Strategic Plan References

- 17.1 The Policy aims to contribute to the Council's vision of the Borough by ensuring that the licensed trade plays a significant role not only in the Borough's transport strategy but also in helping to promote Colchester and thereby enhancing our reputation as a destination and encouraging further investment.

18. Publicity Considerations

- 18.1 If Members approve the proposed draft Policy, it is intended that this will be the subject of a three-month public consultation and the Policy will be available to view and download from the Council's website.

19. Equality, Diversity and Human Rights Implications

- 19.1 The draft Policy has been developed in accordance with and taken account of, all relevant legislation and national and local strategies.

20. Community Safety Implications

- 20.1 The policy deals with the protection of children and vulnerable adults.

21. Health and Safety Implications

- 21.1 There are no known direct public health and safety issues which might arise from the adoption of the revised Policy.

22. Risk Management Implications

- 22.1 A flexible yet robust revised Policy will continue to provide both the Council with a sound basis for decision making.

23. Environmental and Sustainability Implications

- 23.1 There are no known direct environmental and sustainability implications which might arise from the adoption of the revised Policy.

Appendix 6 - CCTV Policy

Introduction

1.1 The Council recognises that licensed drivers are a valuable asset to the Borough and the safety of its licensed drivers is a key concern. This concern must be considered alongside the overriding objective in taxi and private hire licensing of the safety of the travelling public.

1.2 The aim and purpose of the introduction of CCTV in all its licensed hackney carriage and private hire vehicles is to provide a safer environment for both the driver and passengers by -

- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- Assisting the Council and Police in investigating incidents of crime
- Assisting insurance companies in relation to motoring claims.

1.3 This Policy is designed to ensure that CCTV systems fitted in the Council's licensed vehicles are properly installed and the data recorded is secure and accessible only in specified circumstances by authorised officers.

1.4 Vehicle owners, who may also be the driver and/or operator, installing CCTV systems, must fully comply with the requirements set out in this Policy. They must take all reasonable steps to ensure that the driver of the vehicle is made aware of every condition in relation to the CCTV system installed in the vehicle and has been given adequate instruction in its use and the requirements in relation to image retrieval.

General principles

2.1 For the purposes of this document the term "CCTV" includes any electronic recording device attached to the inside of vehicle having the technical capability of capturing and retaining visual images and audio recording from inside or external to the vehicle. In addition to the standard CCTV camera system these may include such devices as events, incident, and accident data recording devices.

2.2 Any CCTV to be fitted must, as a minimum, meet all the requirements in relation to safety, technical acceptability and operational/data integrity set out in this document and the accompanying technical specification.

2.3 CCTV systems will be inspected as part of the annual licensing inspection to ensure they do not pose a risk to the safety of the passengers or the driver and are fitted safely and securely.

2.4 The installation and operation of CCTV must comply with the requirements of the Information Commissioner's CCTV Code of Practice.

Appendix 6 - CCTV Policy

2.5 All equipment must comply with any legislative requirements in respect of Motor Vehicle Construction and Use Regulations.

2.6 All equipment must be designed, constructed and installed in such a way and in such materials as to present no danger to the passengers, driver, or other road users including impact with the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear.

2.7 The CCTV system fitted will be matched to the vehicle identification mark and plate number. A certificate confirming these details will be issued to the licence holder by the approved installer and must be presented to the Council within 7 days of the fitting of the CCTV system.

Automotive Electromagnetic Compatibility Requirements (EMC)

3.1 CCTV equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite, card payment device or radio system in the vehicle.

3.2 Any electrical equipment such as an in-vehicle CCTV system fitted after the vehicle has been manufactured and registered, is deemed to be an Electronic Sub Assembly (ESA) under the European Community Automotive Electromagnetic Compatibility Directive and therefore must meet with requirements specified in that Directive.

3.3 CCTV equipment should be e-marked or CE-marked. If CE marked, confirmation by the equipment manufacture as being non-immunity related and suitable for use in motor vehicles is required.

System Specification and Operation

Installation

4.1 The installed CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.

4.2 All equipment must be fitted by an approved installer and installed safely and securely in such a manner so as not to increase risk of injury and/or discomfort to the driver and/or passengers and in a manner that does not cause a distraction or nuisance to the driver or passengers or obscure the view of the road through the windscreen.

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4.3 All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger or driver area or impact on the luggage carrying capacity of the vehicle.

4.4 The equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags/air curtains or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems

4.6 Viewing screens within the vehicle for the purposes of viewing captured images are not permitted.

4.7 All wiring must be fused, as set out in the manufacture's technical specification, and be appropriately routed.

4.8 The location/installation of cameras within the vehicle must be specific for the purposes for which they are being installed i.e. to improve the safety and security of drivers and passengers.

4.9 All equipment must be checked regularly and maintained to operational standards, including any repairs after damage. Any system components requiring calibration in situ should be easily accessible. Written records should be kept of the maintenance and any work carried out. The records must be made available on request to an authorised officer of the Council or Police.

4.10 Each CCTV installation will be subject to the conditions of vehicle licensing as set out in the Council's Hackney Carriage and Private Hire Licensing Policy.

4.11 Once purchased, a system may be transferred from one vehicle to another (for example if a new car is purchased) subject to its proper installation.

CCTV Activation

5.1 The CCTV system must be active and recording at all times. that the vehicle is being used as a licensed vehicle (i.e. for the carriage of fare paying passengers). The system can be switched off when it is being used for domestic purposes and when the driver is on a break.

5.2 The CCTV must be configured in such a way as to continue to record visual images (and voice recording where activated) for 15 minutes after the CCTV system or engine has been switched off.

5.3 Activation of the equipment via a direct wired link to the vehicle's taximeter is not permitted.

Audio recording

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6.1 There are limited circumstances in which audio recording may be justified, e.g. when a panic button is utilized in response to a threat of physical violence or where there is a genuine belief that a crime is being committed.

6.3 Activation of audio recording may be triggered by the driver pressing a panic button. Audio recording will continue until such time as the button / switch is pressed again.

6.4 At the end of journey when the passenger leaves the vehicle, audio must be deactivated before another passenger enters the vehicle.

6.5 If for any reason the camera is deactivated by the driver whilst the vehicle is in use as a licensed vehicle, the driver must notify the Council's licensing team by the end of the next working day. The Council may then view the recorded images in order to assess the circumstances that immediately preceded the deactivation of the camera (in order to verify that the deactivation was appropriate).

6.6 In the limited circumstances where audio recording is justified, signs must make it clear that audio recording may be carried out.

Image Security

7.1 Data captured must remain secure at all times.

7.2 The captured images must be protected using approved encryption software which is designed to guard against compromise of the stored data, for example, in the event of the vehicle being stolen.

7.3 CCTV data must be retained for a rolling period of 28 days from the date of capture.

Retention of CCTV Images

8.1 The CCTV equipment selected for installation must have the capability of retaining images either within its own secure, encrypted hard drive; using a fully secured and appropriately encrypted detachable mass storage device, for example, a compact flash solid state card; or, where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS (GSM telephone) signaling to a secure sever within the service provider's monitoring centre.

8.2 Data must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle.

8.3 CCTV equipment selected for installation must include an automatic overwriting function, so that data is only retained within the installed system storage device for a

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period of 28 days from the date of capture. Where a service provider is used to store data on a secure server, the specified retention period must also only be for a period of 28 days from the date of capture. Data may be retained for longer periods in exceptional circumstances i.e. insurance claims, criminal investigations etc. However, once a relevant case is concluded all data must be deleted.

Download and Disclosure of Images

9.1 The Council, as data controller, is responsible for complying with all relevant data protection legislation, as well as being legally responsible for the use of all images including any breaches of privacy and data protection legislation.

9.2 Any data recorded should only be used for the purposes set out in paragraph 1.2 of this Policy.

9.3 The Council is the only authority authorised to access the system and retrieve data from it. Downloads from the system will only be undertaken in specific circumstances. Upon request to view data from the system made by an officer of the Council or Police Officer, the licence holder/driver must ensure that the CCTV system is made available to the Council as soon as is reasonably practicable and in any event within 7 days. Any delay in making the system accessible, which results in data not being available, may be regarded by the Council as a deliberate intention to pervert the course of an investigation and may result in the driver or vehicle licence being revoked.

9.4 Where the licence holder/driver is aware that they will be absent for a period of longer than 3 weeks and therefore the retrieval of data, if necessary, will be affected, they must notify the Council who may then download the data for the preceding 28 days. This data will not be viewed unless there is a legitimate cause.

9.5 Requests by the Police or other statutory law enforcement agencies/ organisations to view CCTV data may be submitted in writing; any such requests must set out the reasons why the disclosure is required.

9.6 Members of the public may make a request for the disclosure of CCTV data where they have been the subject of a recording. This is known as a 'Subject Access Request'. Such requests must be made in writing and include proof of identity (which may include a photograph to confirm they are in fact the person in the recording). Failure to give specific details may result in the matter not being investigated.

9.7 Requests to view CCTV data will be determined on a case by case basis.

Signage

10.1 All licensed vehicles fitted with a CCTV system must display the Council

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approved sign, which includes the name and contact details for the Council as data controller, in a prominent position stating that the vehicle carries CCTV. The driver may also draw the passenger's attention to the fact that CCTV equipment is in operation.

10.2 Signage must be displayed in such positions to make it as visible as possible to passengers, whilst minimising obstruction of vision, both before and after entering the vehicle.


Exemptions

11.1 Exemption from the requirement to have CCTV fitted in the vehicle is made for the following –

- Horse drawn hackney carriages
- Novelty vehicles where passengers are not carried within the vehicle.
- Any other similar circumstances that may be approved by the Council following a request made to it in writing.

Implementation of the Policy - The Policy will be monitored and reviewed on a regular basis. Any proposed significant changes will be subject to full consultation; minor amendments which do not affect the substance of the Policy may be made without consultation.

22 January 2020

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
Title	Caravan sites Mersea Island		 282840
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Committee has asked for an update on the licensing of Caravan sites in relation to the previous report of March 2019.

2. Recommended Decision

- 2.1 That the information contained within the report be noted.

3. Reasons for the Decision

- 3.1 The report of March 2019 detailed information about legislation of caravan's sites, the purpose of the licences and the compliance that is looked for. This report is an update as to any action taken against sites, questions around planning and wording of conditions within the licences

4. Alternative Options

- 4.1 Not applicable.

5. Background Information

- 5.1 The Caravan and Control Development Act 1960 allow for authorised officers to attend the site to inspect, observe, audit and to ensure the sites are complying with the conditions and standards laid out in the licence. If there is evidence of non-compliance at holiday sites this can result in prosecution and ultimately revocation of the licence.
- 5.2 The purpose of the licence is to regulate standards and to ensure that they are maintained. The standards are taken from the Model Standards 1989 and encompass such matters as site boundaries, adequate space between the caravans, hard standings, fire precautions, and amenities.

Conditions are attached to the licence which relate to the running of the site. The conditions will mirror those prescribed in the planning permission with further additional conditions being attached to specify –

- that the site remains a holiday park.
- the site cannot be the occupier's main residence.
- the number and type of caravans permissible on the site.
- the documentation and information that must be kept in order to evidence that the conditions are being adhered to.

6. Compliance

- 6.1 The latest Planning checks show that all sites below have the correct Planning permission in place in what is currently on site. The licence is issued based on the planning permission granted.

Name & Address	Current caravans/Log cabins	
HOLIDAY PARKS Mersea Island	Static	Tourers
Firs Chase Caravan Park Firs Chase, West Mersea, Essex CO5 8NW	230	0
Waldergraves Holiday Park, Waldergraves Lane, West Mersea, Essex CO5 8SE	264	298
Seaview Holiday Park, Seaview Avenue, West Mersea, Essex CO5 8DA	293	120
Coopers Beach, Church Lane, East Mersea, Essex CO5 8TN	723	0
Fen Farm Caravan Site, Moore Lane, East Mersea, Essex CO5 8UA	94	153
Mersea Island Holiday Park, Fen Lan, East Mersea, Colchester, ESSEX CO5 8UA	230	0

Planning issues are not a consideration for the licensing of the sites. As such traffic, doctors' surgeries and schools cannot be taken in to account when issuing the licence. This is a matter for planning and the local plan. In relation to utilities such as water and

sewage caravans are exempt under the act and as such do not require Building Regulation approval. They would however, require permission to be connected to the main sewer system. Where connection is not agreed the site will sometimes have their own treatment works.

- 6.2 In relation to information received regarding the possibility of two families living on the sites in Mersea an audit inspection was carried out in July of all the sites. Outcome was that one family were found to be residing on a site. The site owners were informed and acted to evict the family and remove the caravan from site. It should be noted that people are legally entitled to stay on some of the sites for 11 months of the year where they are licenced to be open for that time.

Following this inspection, several Caravans were randomly picked from all six sites to inspect in the months of January to March 2020. As well as these inspections Licensing have been in contact with Park Dean resorts and are currently reviewing their updated Action Plan for residential misuse. The site has also been allocated funds to install an ANPR system to their site in order to track vehicles. Specifically, during the winter months.

Finally, Seaview is under new ownership and will shortly be issued with a new licence. The new company is Park Holidays UK Ltd.

- 6.3 A request has been made around explanation of conditions attached to a licence. In general, the licence as a minimum must have the conditions that are attached to the planning approval. As mentioned in the introduction further conditions can be attached that require further compliance. As the sites on Mersea have been in place for several years the conditions are already on the licence and as such will be transferred from Owner to Owner or whenever there is a change in the planning and approval of a site.

Conditions can be introduced to licenses; but there must be a good reason to add them. All conditions introduced can be met by Challenge in a magistrate's court. Currently the conditions on the licence are satisfactory in dealing with general issues on the sites.

7. Consultation

- 7.1 Consultation on these proposals is not considered necessary.

8. Strategic Plan References

- 8.1 Not Applicable

9. Publicity Considerations

- 9.1 Not Applicable

10. Equality, Diversity and Human Rights Implications

- 10.1 There are no known equality, diversity or human rights implications.

11. Community Safety Implications

- 11.1 The policy deals with the protection of children and vulnerable adults

12. Health and Safety Implications

12.1 There are no known direct public health and safety issues.


13. Risk Management Implications

13.1 Not Applicable

14. Environmental and Sustainability Implications

14.1 There are no known direct environmental and sustainability implications

22 January 2020

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
Title	Taxi Policy Revisions		 282840
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Committee is asked to consider further changes to the Hackney Carriage and Private Hire Licensing Policy.

2. Recommended Decisions

- 2.1 To consider and approve the proposed amendments to the Policy, as set out in the report.

3. Reasons for the Decision

- 3.1 Further amendments to the Policy are suggested in response to matters that have arisen since the implementation of the new Policy in January 2019.

4. Alternative Options

- 4.1 To leave the policy unchanged but this would leave it unfit for purpose.

5. Background Information

- 5.1 The Council's Hackney Carriage and Private Hire Licensing Policy came into effect in January 2019 following a period of extensive consultation. Since it has been brought into operation a number of small changes, to improve its clarity and consistency of approach, have been identified; a further change is suggested in relation to the appeal process for new drivers with convictions. This change will not require consultation as it simply seeks to clarify the existing position.
- 5.2 It is further suggested that the Council includes within the Policy, guidelines in relation to the installation and use of card payment devices which are now being used in a number of hackney and private hire vehicles. The Council has formulated a draft policy which will be discussed with the trade and brought to a future meeting of the Committee for consideration. Some interim measures are suggested until the Guidelines can be brought before Committee for approval.
- 5.3 Further details on the proposed changes are set out in Paragraphs 6 to 8 of this report.

6. Clarification on appeal for new drivers with convictions

- 6.1 It is suggested that the amendments shown in bold be made to the policy to clarify the slightly different process/procedure for new licence holder compared to the process for existing licence holders.
- c. **Upon completion of the investigation, if the points on the convictions policy places the applicant in the red zone, the applicant will be informed that their licence has been refused on the grounds that they are not fit and proper to hold a licence. The right of appeal against this decision is to the Magistrates Court. Appeals must be made in writing to the Clerk of the Court, Essex Magistrates' Court's, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford CM2 5PF within 21 days of having been notified of the Licensing Manager's decision.**
 - d. **In the case of existing licence holders**, upon completion of the investigation, points may be applied. Notification that points have been given will be sent in writing to the licence holder and, where appropriate, a copy will be sent to their vehicle proprietor or operator within 7 days of the decision. The award of points can be appealed to the Licensing Manager in the first instance and this should be done within 21 days of being notified of the award of points. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester CO3 3WG.

7. Card Payment Devices

- 7.1 The Council recognises that some companies and individual drivers may wish to or already use card payment devices in their licensed vehicle. In recognition of this and in order to protect the public the Council wishes to implement a set of guidelines in relation to the installation and use of such devices. The guidelines would ensure that those electronic payment devices, such as pin entry devices, contactless payment systems (near field communications) and mobile devices, (smart phones, tablets, laptops etc.)

meet the current banking security standards, payment transaction processes and protocols.

7.2 Draft Guidelines will be discussed with representatives of the trade and will be brought to the Committee for consideration in due course. In the meantime, it is suggested that the following additions be made to the Hackney Carriage and Private Hire vehicle conditions

- Where the vehicle is fitted with or carries a card payment device the Council considers this to be part of the vehicle and as such it must be working at all times.
- If the card payment device is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the card machine is again operational.
- If there is concern that the payment device may not work at the destination point, a fare may be agreed and paid in advance for the journey. This is permitted on condition that the meter is used and, in the event that the metered charge is less than the agreed payment for the journey, the overpayment is refunded to the customer.

7.3 It is suggested that the following change is made to the Council's Penalty Point Scheme-

- Failure to notify the Council that a payment device is not functioning – 4 points
- Failure to accept a fare because of a payment device not functions – 6 points

7.4 Consultation on the change is not considered necessary as payment devices are already in use and require regulation. Operators and hackney carriage proprietors will be notified of the changes however and expected to inform their drivers where relevant.

8. Soiling

8.1 It is suggested that the following paragraph be included within the Policy under the Driver Conditions.

4.8 You may charge a customer if, during the duration of their journey, the vehicle is soiled in any way i.e. through vomiting in the vehicle.

8.2 This matter is already reflected with the Driver/Passenger Charter but for completeness it is suggested that this be included in the Driver Conditions.

9. Consultation

9.1 Consultation on these proposals is not considered necessary.

10. Strategic Plan References

10.1 The Policy aims to contribute to the Council's vision of the Borough by ensuring that the licensed trade plays a significant role not only in the Borough's transport strategy but also in helping to promote Colchester and thereby enhancing our reputation as a destination and encouraging further investment.

11. Publicity Considerations

- 11.1 The amended Policy will be available to view and download from the Council's website.

12. Equality, Diversity and Human Rights Implications

- 12.1 The draft Policy has been developed in accordance with and taken account of, all relevant legislation and national and local strategies.

13. Community Safety Implications

- 13.1 The policy deals with the protection of children and vulnerable adults.

14. Health and Safety Implications

- 14.1 There are no known direct public health and safety issues which might arise from the adoption of the revised Policy.

15. Risk Management Implications

- 15.1 A flexible yet robust revised Policy will continue to provide both the Council with a sound basis for decision making.

16. Environmental and Sustainability Implications

- 16.1 There are no known direct environmental and sustainability implications which might arise from the adoption of the revised Policy.

22 January 2020

Report of	Assistant Director of Corporate and Improvement Services	Author	Matthew Evans
Title	Licensing Committee Work Programme 2019-2020		☎ 8006
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2019-2020 for the Licensing Committee. This provides details of the reports that are scheduled for each meeting during the municipal year.

2. Recommended Decision

- 2.1 The Committee is asked to note the contents Committee's Work Programme for 2019-20.

3. Alternative Options

- 3.1 This function forms part of the Committee's Terms of Reference and, as such, no alternative options are presented.

4. Background Information

- 4.1 The Committee's work programme will evolve as the Municipal Year progresses and items of business are commenced and concluded.

5. Standard References

- 5.1 There are no particular references to publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety, environmental and sustainability implications or risk management implications

6. Strategic Plan References

- 6.1 The Policy aims to contribute to the Council's priorities for the Borough and in particular to support the Growth, Wellbeing and Opportunity priorities by working with the licensed trade to promote the town and make it a safer place.

Licensing Work Plan May 2019 – April 2020

12 June 2019	All day Licensing Training Session Grand Jury Room, Town Hall. 10am – 4pm
24 July 2019	Overview of the Licensing Service
28 August 2019	Taxi Policy
2 October 2019	CCTV
6 November 2019	Scrap Metal
11 December 2019	Licensing Policy review
22 January 2020	CCTV in licensed vehicles – policy for consultation Update to Taxi Licensing Policy Caravans and Park Homes – update
25 March 2020	Responses to scrap metal dealer policy consultation