

Licensing Committee Meeting

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

Wednesday, 14 November 2018 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

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 (the list of items to be discussed at a meeting), which is usually published five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

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COLCHESTER BOROUGH COUNCIL
Licensing Committee
Wednesday, 14 November 2018 at 18:00

Member:

Councillor Julie Young
Councillor Nick Cope
Councillor Roger Buston
Councillor Simon Crow
Councillor Paul Dundas
Councillor Dave Harris
Councillor Mike Hogg
Councillor Darius Laws
Councillor Patricia Moore
Councillor Gerard Oxford

Chairman
Deputy Chairman

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 Councillors will be invited to confirm that the minutes are a correct record of the meetings held on the 29 August and 3 October 2018.
- Minutes 29 August 2018 (with amendment)** 7 - 10
- Minutes 3 October 2018** 11 - 12
- 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 **Taxi Policy Consultation Responses** 13 - 198
The Committee have been asked to consider the consultation responses received following a further period of consultation on the Policy.
- 8 **Gambling Policy** 199 - 246
The Committee have been asked to approve the Gambling Policy following the end of a consultation period.
- 9 **Pavement Permits (Street Restaurant, Café and Bar Furniture)** 247 - 268
The Licensing Committee have been asked to agree the proposed Pavement Permit Policy to enable formal adoption by Council.
- 10 **Licensing Committee Work Programme 2018-2019.** 269 - 272
The Committee have been asked to note the contents Committee's Work Programme for 2018-19.

Part B

(not open to the public including the press)

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).

LICENSING COMMITTEE

29 August 2018

Present: - Councillors Julie Young (Chairman), Roger Buston, Nick Cope, Simon Crow, Paul Dundas, Dave Harris, Darius Laws and Gerard Oxford

62. Minutes

RESOLVED that the minutes of the meeting held on 25 July 2018 be approved as a correct record.

63. Have Your Say!

Mr Green, Secretary of the Hackney Carriage Association, addressed the Committee and spoke of his concerns with regard to the CCTV Policy. Mr Green asked whether it would be possible for the Council to purchase a bulk amount to reduce the cost and questioned the time limit in which they would be required to install the CCTV system. There was discussion around the issue of sound recording and what would happen if a driver forgot to switch on the equipment or if a passenger requested that it be turned off? Mr Ruder responded that a pragmatic approach would be taken depending on the circumstances of each case.

Cllr Young, Chairman, explained that the main aim was to protect drivers as well as the customers and that there would be a six week consultation period for both drivers and members of the public to give their views. The Committee would consider the outcome of the consultation at the meeting in November.

Ms Hardy, Manager of Panther Cabs, addressed the Committee acknowledging the importance of CCTV and explaining that her main concern was cost. Many of her drivers already had CCTV in their cars that had not cost anywhere near the £300-£600 that had been quoted for a system likely to meet the Council's standard. Concerns were also expressed around the filming of children and the use of CCTV when the vehicle was being used as a private vehicle. Mr Ruder responded that the Council would only ever request to see footage if there was a complaint either by a passenger or by a driver and that drivers would have no facility to be able to review or access any footage recorded by their system.

Cllr Young explained that if a good deal could be made with a provider they're could be a big chance of the equipment being cheaper but encouraged all parties to get involved in the 6 week consultation so all areas could be looked at.

Mr Fisher, Manager of All The 8's, explained to the Committee that most of his cars already had CCTV fitted at a unit cost considerably lower than the current price being quoted. If the

CCTV policy was to go ahead it would cost him around £20,000 to make all his cars compliant. He also raised concerns regarding insurance cover; some policies required the installation of certain equipment and it was unclear how this equipment would work alongside the new CCTV that the Council required.

Cllr Young requested officers to carry out some further work in relation to the purchasing of CCTV during the six week consultation period so that the matter could be considered again at the end of the consultation period.

64. Hackney Carriage and Private Hire Licensing Policy

The Committee considered a report by the Assistant Director of Environment on the further changes to the Hackney Carriage and Private Hire Licensing Policy including the Policy in relation to CCTV and to approve a further period of consultation.

The Committee enquired about the Town Police Clauses Act 1847 and the Local (Miscellaneous Provisions) Act 1976 and the legal position regarding CCTV. Mr Ruder informed the Committee that the 1847 and 1976 Acts were not specific with CCTV but were generally about being 'Fit and Proper' and protecting drivers and the public alike. CCTV is not specifically in the legislation but legislation gives the licensing officers the ability to have a policy, which can then include the requirement to have CCTV in all licensed vehicles.

The Committee asked Mr Ruder several further questions with regard to CCTV and he informed the Committee that some other Councils already operated the system the Council was currently suggesting and recorded conversations in certain circumstances. Mr Ruder reiterated that the Council would only request the CCTV in response to a complaint and that data was only retained for 28 days.

RESOLVED that the amendments to the Taxi Policy, as set out in the report, be agreed and that there be a further six week consultation period with the results reported to the November meeting of the Committee.

65. Pavement Permits (Street Restaurant, Café and Bar Furniture)

The Committee considered a report by Mr Ruder, Licensing, Food and Safety Manager, with regard to an introduction of a pavement permits. It was hoped that the permit and conditions system would encourage a café culture in relation to bars, pubs, restaurants and cafes within the town centre. The report sought the Committee's approval of the Pavement Permit Policy prior to its referral to Full Council.

The Committee questioned the cost of a permit, which was currently a single flat rate irrespective of the size of the premises, and asked that officers look again at the fee to see if it was possible to make the fee proportionate to the size of the venue. One member expressed concern at the implications of the policy for disabled access

RESOLVED that after a formal vote, 5 members in favour and 1 against, the proposed Pavement Permit Policy be agreed and will come back to a future meeting with regards to the cost of a permit.

66. Scheme of Delegation to Officers by the Licensing Committee

Mrs White addressed the Committee on amendments to the Scheme of Delegation from the Licensing Committee to enable officers to act under delegated powers whilst bringing to Committee those matters which require its determination.

RESOLVED that the Scheme of Delegation to Officers by the Licensing Committee be approved.

67. Licensing Work Plan

Mr Ruder addressed the Committee and asked for its input with regard to the licensing work plan for the forthcoming year, after taking on the previous requests from the previous meeting.

RESOLVED that the itinerary for future meetings be agreed and the Hackney Carriage and Private Hire Licensing Policy be reported to the Committee on 14 November 2018 to allow time for the six week consultation period.

Exclusion of the Public (not Scrutiny or Executive)

68. Minutes of Previous Meeting (Confidential).

RESOLVED that the confidential minutes of the meetings held on 22 June 2018 and 26 June 2018 be approved as a correct record.

LICENSING COMMITTEE

3 October 2018

Present: - Councillors Julie Young (Chairman), Roger Buston, Nick Cope, Simon Crow, Paul Dundas, Pauline Hazell (for Patricia Moore), Theresa Higgins (for Mike Hogg), and Darius Laws

69. Minutes

Councillor Cope was of the view that minute number 64, Hackney Carriage and Private Hire Licensing Policy, did not adequately reflect the clarification he was seeking in relation to the legal stance of CCTV with regards to the Town Police Clauses Act 1847 and the Local (Miscellaneous Provisions) Act 1976.

RESOLVED that arrangements be made for minute no 64 to be redrafted and the consideration of the minutes of the meeting held on 29 August be deferred to the next meeting of the Committee.

70. Revised Statement of Gambling Licensing Policy 2019-2022

The Committee considered a report from the Assistant Director of Environment and were asked to agree the draft Gambling Policy 2019-2022 for the purposes of consultation and also agree to a commencement of a 4 week formal consultation process.

Sarah White informed the Committee that the Gambling Act 2005 required the policy to be reviewed every 3 years. The most significant change to the policy was the requirement that premises carry out a risk assessment. It was explained that work was ongoing on the creation of a Local Area Profile and welcomed comments and thoughts from the Committee with regard to mapping risk areas and other areas of vulnerability, especially with regard to gambling.

The Committee mentioned areas near places like Emmaus, YMCA's, Alms-houses, Post Offices in known vulnerable areas, North Station Road and gambling establishments near/at sporting or training grounds. The Committee also spoke about online gambling and the likely effect this would have on people applying to open a betting shop. Sarah informed the Committee that there appeared to be a downward trend in applications to open betting establishments. The Committee then went on to speak about the potential of underage gamblers/drinkers; it was acknowledged that in general premises were aware of their obligations and a lot of customers were known to them.

Jon then showed the Committee the Local Area Profile developed on C-Map which gave an idea of where gambling establishments were in the town centre and within the vicinity of churches, schools etc. He explained it was still in development and more information was to

come from Public Health. This would assist establishments in determining where to locate. Jon informed the Committee that it was intended to review the information yearly and more frequently if possible.

The Committee asked whether this could be used to assist with planning and planning applications. Jon informed the Committee that it would be something that they would need to investigate.

The Committee thanked and acknowledged the work that had gone into the report.

RESOLVED –

The Committee agreed the draft Gambling Policy 2019-2022 for the purposes of consultation and also to the commencement of a 4 week formal consultation process; with the Gambling Policy going to Full Council on 6 December 2018.

14 November 2018

Report of	Assistant Director (Communities)	Author	Jon Ruder
Title	Hackney Carriage/Private Hire Licensing Policy // Consultation Responses		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The Committee is asked to consider the consultation responses received following a further period of consultation on the Policy.

2. Recommended Decisions

- 2.1 That the Policy, excluding Appendix 1, be recommended to full Council for adoption and implementation with effect from 1 January 2019.
- 2.2 That full Council be recommended to delegate to the Licensing Committee authority to determine the provisions in relation to the installation of CCTV in hackney carriage and private hire vehicles.

3. Reason for Recommended Decision

- 3.1 To approve the necessary changes to the Licensing Policy, however further information is required from the Information Commissioners Office and other agencies to ensure a robust procedure is in place relating to CCTV, which means that the Council is not in a position to include at this stage provisions relating to CCTV in the policy.

4. Alternative Options

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

5. Representations

- 5.1 In August 2018, the Committee approved the Policy, including the provisions relating to CCTV, for the purposes of consultation with the trade.
- 5.2 A number of comments have been received, particularly in relation to CCTV, but also on other matters contained within the Policy and the responses are attached at Annex 1. There are representations in relation to cycling on which the Committee is invited to take a view. Mention is also made within the Annex of the representations submitted at the end of the last Committee meeting in August.
- 5.3 There are some broad themes which are common across the representations which relate to, amongst other matters, cost, installation, privacy, enforcement, exemptions, and data access. A meeting was held on 19 October 2018 with a number of trade representatives at which further matters were raised including ownership of data; recording if the car is being used as a private vehicle; camera viewpoints for larger vehicles; use of the panic button; access to the data by operators and whether CCTV will be required for temporary replacement vehicles.
- 5.4 The officers response to the themes raised are set out in Annex 2 to this report. It is however acknowledged that in some cases it has not been possible at this stage to give a full response and this is addressed in paragraphs 7.1 and 7.2 of the report.

6. GDPR and the control of data

- 6.1 A key consideration regarding the installation of CCTV, in licensed vehicles is the need to satisfy the requirements of the General Data Protection Regulations (GDPR) as enshrined in the Data Protection Act 2018.
- 6.2 The requirements include identifying an appropriate lawful basis for processing personal data as well as providing individuals with the information to which they are entitled under their right to be informed. The Council must assess whether the personal data collected is proportionate and necessary to the purpose for which it is collected. The Information Commissioner's Office (ICO) has produced a draft code in relation to CCTV recording and this code makes reference to a decision notice issued by the ICO in which additional audio recording in a licensed vehicle was deemed to be disproportionate. Audio recording by way of a panic button has however been permitted.
- 6.3 In relation to the installation of CCTV in licensed vehicles, the specific purpose for collecting and retaining CCTV data is to ensure public safety; it is considered that this is a specific and legitimate reason for collecting the data. The reason for CCTV must be clear to any individual entering a licensed vehicle and therefore signage is essential, this would involve providing access to key privacy information on appropriate signage placed within the vehicle. The signage in the taxi may also refer back to the Council's website where further more detailed information is held on the justification for the data collection.
- 6.4 The Council must consider whether the requirement to install CCTV is proportionate and whether it could be done a different way. The Council has examined its own recorded crime/incident records and anecdotal evidence including from its partners and is satisfied that there are sufficient concerns to warrant further detailed work on the introduction of CCTV.
- 6.5 In relation to the ownership of data, whilst the driver is collecting the footage and has the means of storing it, the Council has determined the purposes for which it is collected and the way it is processed and therefore the Council is the data controller. As such the

Council is also ultimately responsible for any breaches or non-compliance by data processors who process the data on their behalf. As data controller the Council will need to maintain records of its data processing activities, a complete record of what data is held, where it came from, and how it is processed and agree the necessary protocols for the handling of such data. It will need to exercise a significant degree of control to minimise the risk of any data being tampered with. The retention of any footage will necessitate a data retention policy. The responsibilities placed on the Council as data controller are considerable and require further detailed investigation to ensure that any system installed is fully compliant with the relevant codes.

7. Conclusions

- 7.1 Many of the concerns raised both in the representations and at the trade meeting cannot be properly addressed until the matters around data protection have been further investigated. This work is essential prior to the Committee being able to make an informed decision regarding CCTV in licensed vehicles. Further discussions are required to be undertaken and concluded with the ICO and other relevant parties. Following this a full report will be submitted to the Committee. In order to allow this important work to be undertaken whilst enabling the remainder of the Policy to be implemented, it is proposed that the Policy, with the exception of Appendix 1, be recommended to full Council for adoption and implementation.
- 7.2 The Council's commitment to the introduction of CCTV is mentioned in the Policy and it is proposed that, if the Committee wishes in principle to proceed with the introduction of CCTV into licensed vehicles, additional wording be included within the Policy to confirm that CCTV is also sought as a measure to protect the public.

8. Equality, Diversity and Human Rights implications

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

9. Strategic Plan References

- 9.1 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.

10. Publicity Considerations

- 10.1 The draft revised policy was the subject of an extensive consultation process.

11. Financial Implications

- 11.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the policy. There will be a cost for the Council being the data controller and also the Council would be financially liable in the event of a breach of the data protection requirements.

12. Community Safety Implications

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

13. Health and Safety Implications

13.1 There is no known direct public health and safety issues which might arise from the adoption of the revised Policy.

14. Risk Management Implications

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



To the Licensing Team

licensingteam@colchester.gov.uk

Colchester Travel Plan Club response to Taxi Policy Consultation

Colchester Travel Plan (CTPC) works with 39 member organisations, employing over 12,000 staff, and educating over 20,000 students. We collectively promote sustainable travel and encourage travel behaviour change to reduce traffic congestion, improve air quality, improve health and encourage more active lifestyles.

In response to the Taxi Policy consultation we make the following recommendations:

Encouraging Environmental Sustainability

Air pollution

6.4

The Council further requires that drivers of licensed vehicles turn off their engines when waiting in the Borough's Air Quality Management Areas as set out on the plan at Appendix 1. There may be exceptional circumstances when drivers are permitted to wait with their engines idling

We strongly recommend that Taxi drivers are required to turn off their engines when waiting **throughout the Borough** and not just in the air quality management area.

- We frequently notice Taxi drivers idling their engine outside schools, GP surgeries, hospitals and at the train station. School children, the elderly and people with heart and lung conditions are most at risk from air pollution.
- Colchester Borough Council and other CTPC members introduced a No Idling policy on Clean Air Day 21st June 2018. This is just the beginning of a wider campaign to encourage all drivers to turn off their engines when stationary regardless of where they are in the borough, so we feel the Taxi policy should be in line with the aims of this campaign.
- As an Ambassador for the Borough; Taxi drivers can show the community their commitment to reducing local air pollution and supporting the wider sustainability agenda
- In order for turning off when waiting to become an ingrained behaviour it needs to be consistently applied so it becomes automatic. Simply asking them to switch off when in the air quality management area and not elsewhere will not embed the habit.

Protection of the Public, Safeguarding Children and Vulnerable Persons and the Prevention of Crime

We recommend an additional subject is added into this area and/or Driving Training.

Safe distances for passing cyclists.

'Close passes' of cyclists are a major barrier to encouraging more people to cycle and research shows that 52 % of drivers are unaware of how much space they need to give when passing cyclists.

The government has made a commitment to improve education around passing cyclists especially through driving instructors and the police force.

As a growing town with an air quality management area and traffic congestion, we need to encourage more people onto bikes.

As Taxi drivers are out on the road all day, we recommend a compulsory part of gaining/renewing a licence should be education on close passes. This could be delivered by the Council's Approved Driving Assessors accompanied by:

- Compulsory Bikeability training so that Taxi drivers receive practical experience of cycling and the guidance cyclists are given for interacting with other road users.
- Cycling UK's 3 minute educational virtual reality film which gives a driver the opportunity to see what it feels like to be a cyclist when someone passes them too closely in a vehicle. It also provides information about how to pass safely.

The VR film in both [20](#) and [30](#) is available on the Cycling UK YouTube channel: <https://www.youtube.com/user/CTOnline/videos>

Colchester Travel Plan Club

Coordinators Emily Harrup & Pam Nelson

01206 506476

<https://www.taxi-point.co.uk/single-post/2018/09/10/CCTV-in-taxis-What-is-the-law-on-continuous-recording>

You may find this article helpful in regards to CCTV in taxis and private hire

Good Morning all

I have today received your letter dated 10 September regarding the above Consultation.

There are a couple of points in the Consultation that I will address formally in a further e mail, but in the meantime may I ask a couple of questions regarding CCTV specifically.

1. The specification you require is to a very high quality, may I please ask for what supplier system you based the specification on?
2. What was the quoted price for supply and fitting?
3. Was any potential discount offered for supply to the the Authority's licensed vehicle fleet?
4. Do the Council intend to subsidise the costing for equipment to this specification?

I have had a brief look on line and would anticipate the cost to each vehicle to be quite considerable. Unfortunately a lot of suppliers do not publish full specifications for their systems so it is very difficult to get a comparison between different systems.

Back in the day, after some research, the Hackney Trade were offered a CCTV system supplied and fitted for around £120.00 deposit and an ongoing charge of around £10.00 per week. For the life of me, I cannot remember the supplier but it may still be on the F drive somewhere. Have the Council looked at this option?

Hope you are all well and I look forward to hearing back from you in due course.

Dear Sir/Madam

With regards to your recent publication of a new taxi policy and conditions, I noticed that under the dress code you have added a preclusion against the wearing of baseball caps. This seems to me a bit strange, I personally wear one when driving for practical reasons, it is much more efficient in keeping the sun out of your eyes than the standard in car visor, especially because it covers side dazzling and still allows you to have full view of your mirrors. It also during the day reduces glare even when not driving into direct sunlight.

On another point, in this day and age they are an acceptable part of actual uniform for all kinds of people from postmen to fully uniformed police officers, in fact your own parking enforcement officers wear them.

I can understand if you ask that they are a simple plain colour without any logos or team emblems, same as shirts, but to ban them outright is, frankly, unreasonable.

On another point, could I please ask how to go about viewing a historical copy of the hackney carriages register from previous years? I'm particularly interested in how plate 105 became exempt from being a wheelchair accessible vehicle.

Dear Licensing team,

Thank you for the revised policy for consultation.

I refer you to my previous correspondence sent in February 2018. I see no reason to change my views following the new version. I can see no circumstances for the Executive companies to have CCTV fitted. All the passengers I carry are pre booked well in advance. I collect name, address, phone contact and email contact for all my customers. All my trips are confirmed in writing by email. The majority are pre paid two weeks prior to the date of travel so there are not any disputes over payment.

I do have a forward facing dash camera fitted in my vehicle.

As a business who encourages feedback on my website and social media, I would be unwise to create a situation whereby my actions would generate negative feedback that could be viewed by my existing, or potential new customers.

In conclusion, I can only reconfirm that I am against any form of CCTV being fitted internally in my vehicle, but do support the policy in the Hackney and Private Hire vehicles who work in town.

I would be happy to attend a meeting with the licensing team if required and provide any evidence required to substantiate my views.

Cctv Specifications

Proposed changes.

1.7

The Cctv should be active at all times. Drivers will forget to turn the system on and off and if they want to use there Car as a personal vehicle then why must they always display doors signs.

1.17

There should be no triggers to start and stop recording. One this will keep the costs lower and secondly I feel it will cause more tension during the journey if either the passenger or driver starts to record each other. This also applies to 1.26

3.6

Vehicles with shields would need 3 cameras and incur more cost. I'm not sure if the borough even has any vehicles with shields.

4.2

All units would need to be fitted within the rear luggage compartment.

4.3

Lockable sata hard drive which will be removed by the authorised personnel only to be able to download any files.

4.4

Unable to be done.

4.5

As 4.4

4.15

Vehicle Reg and plate number.

4.16

Vehicle Reg

6.2

Unable to do this. All files that need to be viewed must be done within 28 days. Or get larger hard drives to record and store for longer periods.

9.1

This will be by lights on the unit which is in the boot. There is no other way to display this on the dash.

9.2

9.3

All as 9.1

The system will not allow downloads via cables or internet. All files that need to be viewed must be done within 28 days and the hard drive will need removing from the unit located in the boot. Which will be locked by a key supplied to the authority.

As most complaints within our company and probably every other as well, are dealt with internally. Only serious and repetitive complaints are sent to the council. With this in mind operators who hire vehicles to drivers should also have access to the system and be able to view any necessary files. The operators must hold a ico licence.

My heart soared as I read the article in the county standard.

I am so pleased to see a positive measure and back the proposal wholeheartedly.

A small but welcome step towards improving our town.

Dear Sir or Madam,

I am writing to raise my objection over the proposed plans to install CCTV into private hire taxis/Hackney taxis. I object for the following reasons;

- I have already spent a significant amount money on my own CCTV in my private hire taxi and I do not wish to spend anymore on another system that does the same job
- My current CCTV system does the same job as the proposed system at the cost of £150, which is a lot less than the council's CCTV suggestion
- I have already taken out a loan to buy my car of £12000 and financing for an extra unwanted CCTV is an extra burden
- My camera/CCTV would be a wasted purchase
- My camera/CCTV can be transferred to another vehicle easily, without all the extra cost of re-wiring if I was to change my car.
- I do not want CCTV watching me when I am using my taxi for personal/family use, as I have option of turning my camera off
- also some customers, do not agree to have my camera switched on for genuine personal reasons and I use my discretion to decide when it is appropriate to turn off my camera, I will not have this choice if the council install their CCTV
- If any incidents happen such as a theft, I am able to replay the footage for identification and safety purposes for myself. However, I will not have this crucial access if it is centrally controlled and recorded elsewhere by the council
- Presently, I am completely happy to share my footage with the police or for any legal reasons etc
- Also there is a overall sense of unease with the thought that people will be watching and monitoring me all the time

I hope you will consider all my points in this matter that will affect my livelihood and that of many others in Colchester. The comments raised are shared by many taxi drivers across the town.

I am responding to the [Council consultation on taxis and the Hackney Carriage and Private Hire Licensing Policy](#). I note that "The policy sets out ... how drivers and operators are expected to operate to pursue and promote the following licensing objectives: ...Encouraging environmental sustainability."

Please could the Council enforce the law on idling wherever taxis are waiting for fares and especially at North Station? Many times, as a returning commuter in the evenings, I have found taxis at the back of the queue with engines running for no apparent reason. This is in breach of the licensing objective to encouraging environmental sustainability and I would like the Council to put a stop to this.

Note: Vehicle idling is an offence against the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002. The law states that is an offence to idle your engine unnecessarily when stationary. If you fail to turn your engine off after being spoken to you may be issued with a fixed penalty notice of £20.

See http://www.legislation.gov.uk/ukxi/2002/1808/pdfs/uksi_20021808_en.pdf

Freedom of Information request. Please could you let me know what the Council policy is on enforcing the law on idling generally and tell me how many fines have been imposed year by year since the offence was introduced?

Thank you for your attention and I look forward to hearing from you.

Dear Sirs,

I am writing to object to the proposed plans to install CCTV into private hire taxis/Hackney taxis for the following reasons;

- I have already spent a significant amount of money and installed my own CCTV in my private hire taxi.
- I do not wish to spend anymore on another system that does the same job.
- I have borrowed money from family to buy my taxi car which I am paying back slowly and do not want to be further burdened to paying for an extra unwanted CCTV.
- My camera/CCTV would be a wasted purchase
- My camera/CCTV can be transferred to another vehicle easily, without all the extra cost of re-wiring if I was to change my car.
- I do not want CCTV watching me when I am using my taxi for personal/family use, as I have option of turning my camera off
- also some customers, do not agree to have my camera switched on for genuine personal reasons and I use my discretion to decide when it is appropriate to turn off my camera, I will not have this choice if the council install their CCTV
- If any incidents happen such as a theft, I am able to replay the footage for identification and safety purposes for myself. However, I will not have this crucial access if it is centrally controlled and recorded elsewhere by the council
- Presently, I am completely happy to share my footage with the police or for any legal reasons etc
- Also there is a overall sense of unease with the thought that people will be watching and monitoring me all the time.

My suggestion would be to that all drivers install their own CCTV system of a reasonable quality and price for their own reassurance/safety as well as offer piece of mind to the public. Rather than have a expensive CCTV put in where they have no control or choice of privacy. In most cases it is the Taxi drivers who are at risk of attack and violence. There are occasions where passengers run off without paying, or drivers are abused, and having a CCTV system would provide the crucial evidence to resolve disputes.

I hope you will consider all my points in this matter that will affect my livelihood and that of many others in Colchester. The comments raised are shared by all taxi drivers across the town.

I would like object to CCTV being compulsory for all Taxis and private hire vehicles. On the Basis of the expense young drivers with families struggle to earn a living as it is can't see any positive benefits for the great expense that it is.

This should be the choice of the individual drivers and not Compulsory.

I would like to know who is going to pay to maintain these cctvs. Who do I charge my time to when I have/ if an incident in my cab and I have to take time off work while a member of the council download the footage as I would want to be present while that is happening. Who is going to pay for replacement cctv if it breaks and can not be fixed. So my concerns are for money. I can replace a £20 cctv but not a £600 plus one. Who else is going to pay for a replacement if the cctv is damaged or stolen. The police recommend that we all take electric items out of our cabs because of break ins. And as you know a lot of cabs are broken into regular by thieves.so if we leave them in our cabs we will not be covered by insurance. This is my objection. Debbie shore. Plate number I can't remember I think it's 655 not sure tho.

Hi

I'm not interested having that system fitted in my taxi firstly because it's very expensive why should I pay for it. Secondly I feel you are invading my privacy, therefore I'm not interested at this time.

I currently have my own cctv in the event should anything occur.
Sent from my iPhone

Hello

I'm not interested having that system fitted in my taxi firstly because its very expensive why should I pay for it. Secondly I feel you are invading my privacy, I therefore I'm not interested at this time.

I currently have my own cctv and I paid £160 in the event should anything occur.

Kind regards

I strongly disagree with with this idea, too intrusive, unnecessary, way to big to carry in my car I need all the space I have. Lastly way, way too expensive, with no help for my customers what so ever.I have two way camera only cast £157.00 Many to help with other car drivers.

Please call me if you disagree with this

Dear Sir/ Madham,

I am writing to you with regards the latest letter I received to the potential compulsory CCTV added to all HC & PH CBC licensed vehicles.

I would like to state my personal driving experience in the town & offer my opinion based on this (please note I have been doing this for 12 years).

The towns economy has turned flat on day & night earnings over this period & with Tuesday, Thursday & most nights falling short of a busy town 10 years ago.

Saturday night is the only real economy time earner.

This is a sign of the times with the economy suffering since the recession in 2008- customers just don't have the money they had back then.

In ANY town/city you will have small incidents & Colchester would be in be same bracket as Glasgow, Bristol, Brighton, Stoke & others across the country.

I would like as a "Freedom of Information Act 2000" numbers of policing & CBC reported incident's involving Hackney Carriage & Private Hire vehicles over the past 5 years which include....

2017

2016

2015

2014

2013

CCTV footage is a grey spot with many legal restrictions & requirements needed to operate on.

My personal view is that it should be the OWNER/DRIVER who should have the choice if they wish to install this to their vehicles, NOT the councils compulsory choice to add them (at the licence holders cost!).

I strongly disagree with the route they are taking & object to this going forward.

I could write a large dossier on the pros & cons on having this installed however the conclusion for me is simple.....

Owner/Driver's should have the choice to have CCTV dash cameras fitted.

I look forward to hearing from you with regards incident numbers over the past 5 years & if you wish to discus this further, please call or email me.

Dear Jon ruder

Why is not surprised that you would rush punish driver's of having no rank to work,instead of build a rank of 131 taxis, rather than a stand of 21 taxis

Stalking driver's

Stalking is unwanted or repeated surveillance by an individual or group towards another person. Stalking behaviors are interrelated to harassment and intimidation and may include following the victim in person or monitoring them. It is illegal may led to prosecution

Take a look at!

Traffic Management Act 2004

The Secretary of State's Statutory

Guidance to Local Authorities on the Civil Enforcement of Parking

Contraventions

1.9 Authorities must have regard to this Statutory Guidance (as stipulated by section 87 of the traffic Management Act 2004) when exercising their functions.

1.10 If enforcement authorities are themselves uncertain about any aspects of these requirements,they should get the appropriate legal advice.

Dear Sir/Madam, as a Colchester Hackney Carriage driver I'd like to object to the proposed CCTV scheme for all licensed cabs. The cost would be extremely unfair to all drivers, as would the compulsory nature of the proposal.

11/10/2018

Dear Sir,

Hackney Carriage and Private Hire Licensing - Policy Consultation, General Information and other Matters

I wish to make some observations on Representatives, Policy and Policy Consultation. I will "Bullet Point" concerns.

* Representatives.

On the CBC Web site, it gives the Private Hire Representatives as Dave Boylan, Christine Hardy and Tony Tokley; who are all owners of Private Hire Companies. There may be a time where a Private Hire Driver or a member of their staff have a problem with the owner or company. It should be made clear that Private Hire Driver

and members of Staff can report matters and raise concerns directly to Licensing Officers.

* Driver Health.

Why do drivers over 65 have to have a medical every year, what happens after 65 that drivers need a medical? Do Staff members or subcontractors who work for CBC have medicals after the age of 65. I find this very discriminatory, especially as I have just had a three-year medical at the age of 68, with no problems! Also, this will be an extra cost which will eat in to the viability of continuing to work.

* CCTV

I only do a "School Run" and do no private hire work, my income is limited. I have a "Passenger Assistant" with me at all times to look after the children's wellbeing while in my car. The car I use is owned by myself. I have been doing a "School Run" for at least

five years without any problems and as far as I know have not had any complaints made against me.

I only intend working for a further two years at the most, having to purchase, install and maintain CCTV in my car would just not be viable, which would then cause financial hard ship as I still have a mortgage.

There are nine pages of "Specifications" for the standard of CCTV, well I am a driver and have no "idea" of what these specifications mean, I left school at 16 in 1966 without any "qualifications" in a world where there were no "mobile phones" or "computers". This all could lead me to receiving "Penalty Points" if I have the wrong type of CCTV!

CCTV will not reduce crime and if a crime is committed will the police take any action, we all see in the press that no action is take by the police as they are under staffed.

* Night Time Economy

I have worked as a Licensed Driver for 17 years

I used to work late nights Thursday, Friday and Saturdays as Private Hire

Work place was all over the Borough and neighbouring areas

During my last few years of working nights, I have had many incidents of Aggression, theft, vandalism and vomiting in car.

All apart from theft were alcohol or drug related.

No incidents were reported to the police as there was no point as they would not take any action or be of any help. I was once told by a Policeman in Colchester High Street "what do you expect you are a cabby"

Do I feel safe in Colchester Town Centre "No" As I have stated I now only do a school run and I would never go out in the evening for a meal or drink in Colchester Town Centre.

* A Question

What support do CBC as a Licencing Authority give to Drivers who have been assaulted?

Your letter re above subject dated 10th September 2018.
My e-mail re above subject dated 26th February 2018.
Colchester Borough Council Licensing Committee Meeting dated 21st March 2018.

Thank you for the invitation to comment once again on Colchester Borough Council (CBC) Licensing Policy.

I have studied the changes to the policy with interest, they confirm to me the impression I formed at the Licensing Committee Meeting referenced above (where I witnessed what can only be described as a travesty of democratic discussion).

I was left with the conviction that this policy is going to be forced through by the Licensing Department and the chair of the licensing committee irrespective of objections.

Despite this, I feel obligated to offer the following points for your consideration.

1. Consultation process.

It appears that the consultation process has so far been limited to members of the licensed trade, who are obviously directly affected by the policy both administratively and financially.

However, the policy regarding the installation of CCTV in every vehicle will immediately remove from all members of the public, who use Taxis or Private Hire Vehicles registered with CBC, a fundamental right granted under the recently introduced General Data Protection Regulations (GDPR).

That is, the right to refuse consent to the collection of identifiable personal data.

As this is the case it would seem right and proper that a Public Consultation should be held, so as to avoid introducing by stealth such a removal of rights, and to make the public aware of yet another intrusion by an official body into their personal lives.

2. Costs.

At the committee meeting referenced above, a price of 'about £300' was casually mentioned as the cost for each vehicle to be equipped with CCTV. However, the system being discussed at that time was what might be described as a 'dumb' system, which was either on or off.

The changes to the technical specification in the current proposals require a much more sophisticated system. Unfortunately I have not been able to find a local supplier/installer who will offer me a quotation based on the council specification. If you could advise me of who you are recommending for this role I would be most grateful, as this will enable me to obtain an accurate costing for consideration.

There are also two further costs to the vehicle owner which have possibly not been considered.

a). On changing their vehicle, the owners will be forced to pay to have the installed system removed, and for its installation into a replacement vehicle.

The policy allows the transfer of the system, but this assumes that the components are suitable for any replacement vehicle.

I do not believe this transfer cost has been considered.

If they are not suitable then the owner will be required to pay for a completely new system.

b). The other hidden cost which the vehicle owner will be faced with is the cost of making good any damage to the interior fittings of the vehicle.

It is highly likely that there will be damage caused to the dashboard and front and rear console, plus possibly to roof or pillar linings.

To be able to sell the vehicle the owner will be required to either replace the damaged components or sell at a much lower price. Either way will have a significant financial impact on the owner.

This particular point has even greater relevance to those operators who lease their vehicles, who are required to return the vehicle at the end of the lease in an undamaged condition.

We are therefore left with the following calculation.

Cost of initial purchase and installation.	£ Unknown
Cost of removal and reinstallation into replacement vehicle.	£ Unknown
Cost of making good damage caused by installation.	£ Unknown

Total cost to vehicle owner.	£
Unknown	

3. Proportionality.

To quote Elizabeth Denham, UK Information Commissioner, "installation of CCTV should be undertaken only when it is a necessary, justified and effective solution to the problem".

I have yet to see any analysis of the scale of the problem CBC is attempting to combat, other than statements such as 'We get a lot of complaints'.

In order to rectify this shortcoming I have made a Freedom Of Information request (CBC reference 354942) for data regarding complaints made in the years 2015, 2016, 2017 and 2018 (Jan-Sept inclusive).

As I have not, as of today's date (15th October 2018), received any data I would like to request an extension of the consultation period beyond its 21st October 2018 deadline. This will enable CBC to provide the required data and for its analysis and presentation. I feel a three month extension would not be unreasonable under the circumstances.

4. Administration.

According to the Council Policy each vehicle owner will be required to register their system with the Office of the Information Commissioner.

Given that the systems will be installed at the insistence of CBC and that the owner will have no control over the collection or use of the data, which can only be accessed by the council, it would appear that under the GDPR it becomes the responsibility of CBC to administrate both the systems and the data, via the appointment of a Data Controller.

5. Loss of business.

I have discussed the proposal for the installation of CCTV with all my regular customers, most of whom are business travellers and have yet to meet one who is in favour of this proposal.

Indeed, one of my largest customers, who is also one of the largest employers in Colchester, has suggested that if necessary they could consider using vehicles registered with other boroughs as a means of short circuiting what they perceive as an unnecessary and intrusive piece of legislation.

This would have disastrous consequences not only for me but also other operators in the borough, who benefit from an annual spend running into tens of thousands of pounds from this one company.

I am also aware that other operators have received a similar response from their customers.

6. Outside recording.

By the very nature of the camera being required to capture clear images of everyone in the vehicle it seems highly likely that images will be captured through the windows of people and places not associated with the vehicle.

I have not been able to find any reference to this specific situation, though there is case law regarding household CCTV being intrusive if it overlooks other property. I would value your views on this point.

7. Conclusion.

Whilst I appreciate the thoughts behind the proposal for the installation of CCTV with regard to possibly increasing safety for both driver and passengers I feel that it should be left to each owner/operator to decide what is required for their business and that there are many other considerations which have not been properly explored.

There is also the possibility that the installation of a system matching the specification could contribute to unnecessary confrontation.

As an example. If the driver activates the audio recording, the passengers will be made aware of this by an indicator light. Depending on circumstances this could trigger a hostile and possibly physical response by the passengers, who may consider the recording unnecessary or provocative. This could turn a normal(ish) journey with rowdy and intoxicated passengers into something else entirely.

As in my previous submission to the council, I remain fully prepared to meet with members of the Licensing Dept or the Licensing Committee to discuss the points raised, and I am aware of many other operators who would also value the opportunity to have a face to face discussion.

With regards to the Licensing Policy Consultation relating to the installation of CCTV in Private Hire Vehicles and Taxis I have the following comments for your consideration.

I fully recognise and support any measures to enhance Public Safety and also that of the Private Hire drivers during transportation particularly in the evenings and as such I understand the benefits that the installation of CCTV in Taxis engaged in this work may bring.

I would however draw your attention to the guidance of the UK Information Commissioner to Councils which states "you need to go back to the start of your project and consider the problem you are seeking to resolve and whether a CCTV system would be a necessary, justified and effective solution.

Take into account whether other, potentially less intrusive solutions exist that can achieve the same aim, as well as the effect that each aspect of the CCTV may have on individuals, and whether their use is a proportionate response to the problem identified".

1. Your consultation e-mail has been circulated to Colchester Hackney Carriage, Private Hire Operators and Drivers only, however, in accordance with the GDPR regulations issued this year the other major party affected is of course the General Public so I submit that they should also be consulted regarding the collection and storage of close personal Data when considering the installation of CCTV as it is their right of consent particularly as you claim you are acting in the interests of their Safety.

2. With regards to local taxi work I am not in possession of information relating to incidents, complaints and allegations registered in the Borough (although I believe this information has been requested from you) so I am unable to make a judgement as to whether the installation of CCTV in Taxis undertaking this work might be considered to be a proportionate solution to any problems identified.

3. The Licensing Team recognise that there are distinctions between Private Hire Business's and Taxis in that discretionary exemptions are granted in certain circumstances for example where contracts exist between Companies such as my own and Business Clients whom sub-contract Chauffeur and Ambassadorial Services in respect of their Clients and Employees. I will not undertake ANY public transportation only working for those companies for whom I hold an exemption to display private hire license plates or branding using expensive Executive quality vehicles.

During the 13 years that I have been granted this exemption there has never been one single incident involving the behaviour of our Clients or myself and drivers that work for me. If there were to be any issues these would be dealt with under the Terms and Conditions of the contract.

Therefore in consideration of my Business model the imposition of CCTV installation would be clearly DISPROPORTIONATE to any potential risk to Public and Driver safety and I hope this could be included within the discretionary exemption granted to me.

4. I have discussed your proposals with the Principals of those companies with which I have contracts and the unanimous feedback is that were CCTV installations to be imposed upon my vehicles they would cease to use my Company or any other vehicles with this equipment installed and instead utilise alternative Sub-Contractors licensed by authorities whom have not adopted this policy. I have explained the Technical Specification which allows the audio recording to be switched off and deactivated by them but they are adamant they will not permit video recordings either.

Their reasons are that during journeys often for many hours travelling to business meetings around the Country or to and from Airports, confidential business documents and correspondence could conceivably be viewed and recorded when working in the Car and they would not agree to this confidential data being recorded or stored.

Those companies are prepared to provide written substantiation of the above. Indeed one of my Clients whom are a Global Company do not permit the installation

of CCTV within their buildings as a company policy for the reasons stated and also in compliance with the recent GDPR regulations introduced.

Therefore I believe there is an obligation to take into account the rights, policies and consequences of CCTV installation may have upon all parties in compliance with the Information Commissioners policy guidance and also to take account of loss of Business or Trade.

My fear though is that the proposed change in Policy will be implemented as a Mandatory requirement for everyone without giving due consideration to all those affected, indeed Mr John Ruder has recently expressed the view to one of my colleagues that Directors of Companies, CEO's, VIP's and overseas Business visitors should not be an exception and cites the example of CCTV installed in Buses, Trains, Aircraft, High Streets etc.

He seems not to understand that the term "Private Hire" is the facility for the Public or Business Man to be transported in complete privacy without the intrusive recording and storage of close up personal or sensitive data for which they choose to pay a premium.

5. This would seem to be implied by the tone of the recent correspondence issued by the Licensing Team in the statement "you should read this because it may affect your Business or Job" indicates that the Committee may impose this new policy irrespective of the cause and effect it may have upon the livelihood of Licence Holders and Operators. This echoes a comment made by John Ruder at a meeting of the Licensing Committee in March at the Town Hall when he stated that his only interest was for Public Safety and he held no interest for the impact upon Licence Holders Business or Jobs as a consequences of amendments to the Licensing Policy.

For this reason I have consulted another of my contracted Clients whom are a Company of Solicitors and Barristers. They have advised me that whilst CBC has the authority under the Licensing and Police act to implement such policy that if it is imposed retrospectively on existing Licence Holders and they suffer loss and expense as a consequence then CBC may be held liable for such costs and Legal actions for recovery could be instigated.

6. At the meeting of the Licensing Committee in March this year when amendments to the Licensing Policy were passed by the Council Members a limited no of Licence Holders were allowed to attend but were only allowed 3 minutes to make representations regarding the proposed changes with no right of redress to the Teams response. This was the most inflexible, autocratic and inconsiderate meetings I have ever intended and it was clear that the Committee had already decided the outcome and were only ticking the box by inviting us.

I have understood from a third Party that a meeting has been convened on the 18th November with the Licensing Committee to which members of some of some of the Principal Taxi Operators and Hackney Carriage Drivers have been invited to discuss their various views but whilst I accept that not all of the Independent Operators would

logistically be able to attend we have not received any invitation and are therefore unrepresented.

Therefore I suggest that it would be in the interests of everyone involved including representative members of the public to convene a meaningful meeting with the Licensing Committee and selected representatives of Operators, Private Hire and Taxis drivers to discuss the many differing views and concerns of the Public, Licence holders and all affected by this proposed Policy to give due consideration to the Legal and Technical aspects, cause and effects, Safety benefits and or consequences in order reach a considered, pragmatic and acceptable resolution to a very important and sensitive matter.

I also believe the Local Press should be invited to witness that there is fair representation, consideration and discussion and not a "fait accomplis" presented.

To the Licensing Department.

I am writing to object to the forced introduction of CCTV onto the Colchester Taxi/Private Hire trade. The main reason being cost. In this time of austerity and the Council themselves always telling us they have had to make cuts here and cuts there, closing this department etc etc. Then there trying to force the trade to pay out over 3/4 of a million pounds (£780,000) on these systems, with an unknown on going cost as well.

Charles Isbill Hackney carriage plate 54.

Chairman of Hackney carriage association.

I wish to object to the following of the new taxi policy:

CCTV

Reasons of objection

1 taxi policy page 112 1.3

To assist insurance companies in relation to motoring claims

I don't agree insurance companies having the right to access the cctv system. Most drivers already have dash cameras for this. I would suggest this needs to be removed.

2 page 115 7.3

Members of the public may make a request for the disclosure of cctv data. What right have the public to access to the cctv data in our cars, only taxi licensing and police need to access it.

Other objections

I would like to object on the fact the cctv is being made compulsory/mandatory. I think it's wrong we are being forced to have cctv.

I would like to object on the price of the cctv. £300-£600 is quite a lot and still only estimated, due to the high spec I can see the price being a lot higher, also to raise, this isn't just a one of payment, there are fees for repairs, damages, change to another vehicle. Another big expense to our costs/overheads.

Questions and situations I think it will raise.

People with learning difficulties, eg children on school runs, will press the audio button stated in the spec.

Children's parents might request cctv to be turned off, while in the car or a school run, I think they have that right.

A drunk passenger might request for the cctv to be turned off, even though it states it's legal, they won't care and create a bigger argument, also they can mute the audio before they get aggressive.

Transport For London. Have a cctv specification for there drivers to have in there cars, but it's not compulsory to have, I think we should adopt this idea.

Hi

Further to our meeting at the town hall regarding cctv, we were asked to go away and find a better quote to beat £300-£600 for the cctv system. I have been in contact with a cctv company in stanway, and they have been happy to quote me a price for the full specification. The price they've quoted is £1000-£1200. I will forward the estimate to you, with the email sent to me.

Thanks for contacting us regarding the potential requirements for taxis in the Colchester area requiring CCTV systems by the local council. We had been contacted back in June with a very similar specification and had explored the requirements and associated costs for this type of system. Based on the specification sheets and the time required for the work we would estimate a total cost per vehicle of £1000 - £1200 for the supply and installation of the hardware.

These prices are only approximate and could change depending on final specs and requirements.

I would like to object to the fact we can not buy and install our own Cctv at a much lower cost to us.

Hi,

I have been a taxi driver for last seven years and never had cctv in my cars and never felt uncomfortable .

I am objecting this cctv enforcement simply for the cost and the complication its going to course to us.

Dear Sir/Madam,

Thank you for your letter dated 10th September 2018 and the link to the licensing policy conditions dated 29th August 2018.

I do not have CCTV in my vehicle and I don't have any plans to install it in the future.

I have been working as a licensed hackney carriage driver in Colchester for the last 23 years. This has for the most part been during the day time only.

During this time and to the best of my knowledge the only vulnerable persons who have travelled with me have been children with special needs. These passengers have always been accompanied by an adult who is qualified look after and deal with any needs that they may require.

I have not in this time been the victim of or the perpetrator of any crimes. I would be grateful to know why it is now that the licensing team are considering this policy. Are more crimes being reported? Are there reports of drivers abusing their position? Are there more vulnerable people within the borough? CCTV has been available for many years, is there now a greater need to protect the public travelling in taxis and those that drive them than there was in the past? Is it proposed that CCTV is to be introduced in other forms of public transport within the borough?

Is the proposed CCTV to record both video and audio?

The hackney carriage trade has seen exponential increases in both fixed and variable costs in recent years and the implementation of CCTV would add to this if drivers and operators are expected to meet the costs. Who would meet the cost of the installation and maintenance of CCTV?

I feel that CCTV in my vehicle would be a privacy invasion both to me and my passengers.

I do not wish to have CCTV installed in my vehicle. However I would not object to it being implemented on a voluntary basis if passengers are made aware of it and it doesn't involve any cost to individual drivers or operators involved in transportation.

Air quality

We would like to see far stronger controls on idling by diesel and petrol cabs. Idling at any taxi rank or while waiting to pick up passengers at the roadside should be prohibited. Infringements should be dealt with at the next licence review, with loss of licence a possibility for repeat offenders. The ban on idling should apply to all areas, not just air quality management areas.

Good driving

Observation at the roadside and personal use of cabs suggest that some drivers exceed the speed limit, endangering cyclists and pedestrians and increasing subjective danger, so impinging upon people's desire to cycle and walk. We would welcome CBC giving consideration to compulsory [telematics insurance](#) for all hackney and private hire vehicles, with a deadline for compliance of January 1 2021. Such policies reward better driving with lower premiums and there is now a sufficient range of companies offering telematics to make quotes competitive.

Electric vehicles

We do not know if Colchester has a date in mind for the introduction of an electric cab fleet. Since January 1, all new black cabs in London have had [to be electric](#) or capable of producing zero emissions. We would encourage Colchester to set a date for the compulsory use of electric or hybrid hackney and private hire vehicles.

Bus gates

Cabs can currently use nearly all bus lanes and bus gates in Colchester. With the advent of the new Transport for Colchester, we would welcome a review on a site-by-site basis. We are aware, for instance, that cabs use Mile End Road northbound rather than the Northern Approaches to avoid the traffic lights and delays at the station junction.

Training

Cab drivers are generally safe around cyclists but we would welcome even greater awareness. All new cab drivers should have a stage 2/3 Bikeability course as part of gaining their licence, and all current drivers should attend a course before January 1

2021. All drivers should also be informed of police initiatives to help cyclists, including the Stay Wider of the Rider initiative to reduce close passing.

Colchester Cycling Campaign
October 2018

To the Licensing Team:

This feedback is in response to a letter I have received dated 10th September 2018 headed 'Hackney Carriage and Private Hire Licensing - Policy Consultation and General Information' and in particular in relation to the Licensing Committee discussing its policy in relation to CCTV.

I'll keep this short as I can. As proprietor of my Executive Private Hire company, 'Ward Executive Cars', with whom I am licensed with Colchester Borough Council operating with two executive Mercedes vehicles, I would emphatically state that:

* I do not need CCTV in either of my vehicles

* I do not require CCTV in either of my vehicles

* and even more importantly, my customers certainly do not wish to have CCTV installed and operating in either of my vehicles whilst I am transporting them on their journeys.

I have been operating as Ward Executive Cars for the last 13 years and the vast majority of my clients are regular customers, many of whom I have been driving for numerous years. I have recently taken the opportunity of explaining to customers why the Council are looking at implementing this proposal and the reasons behind it and no one that I have spoken to would wish to be recorded in the car by a CCTV system, either visually OR audibly and they feel that it would be an invasion of their privacy if this plan were to go ahead. As examples, a few days ago, I collected a regular customer from Heathrow Airport and the lady engaged in 2 separate business calls during the journey amounting to over an hour in time and because of the nature and the content of the calls, which also involved handling important and private and confidential paperwork, she emphasized that she would have been completely against the use of CCTV equipment being used during the journey because of the highly private and confidential business she was conducting.

Also, yesterday, I transported a customer on a two hour journey in which he spoke to representatives from two Daily Newspapers regarding the nature of his business and referring to official private and confidential paperwork he was handling within the car and under no circumstances would he have wished for CCTV to be operating in the car, either visually or audibly, for the same reason as stated above, the highly private and confidential business he was involved with.

Whilst I can see the benefit of normal local taxi companies possibly using CCTV for their journeys, often taking people they have not driven previously on probably very short journeys and the respective drivers feeling vulnerable with certain people in the car on certain occasions, I cannot possibly see any benefit for a Private Hire company such as mine, as I do NOT feel vulnerable with anyone I drive as I provide executive transport to customers who use my service time and time again and engage in important phone calls and also conversations with fellow colleagues within the vehicle environment.

In addition to the above, there's also the cost element of having a system installed and also uninstalled when selling or changing the vehicle. I understand that an installation cost amounting to hundreds of pounds would be required. I would emphasize that even if the system and its installation was COMPLETELY funded by Colchester Borough Council, I would still NOT wish to have a CCTV system in either of my vehicles.

Since I received the letter in the middle of September, I've given myself time to consider the situation before replying, but now want to convey my strong views to the Licensing Committee.

I am totally against the idea of having CCTV installed and in use in my vehicles. My customers are of the same opinion and have also mentioned should such a plan be implemented, they would unfortunately have no alternative but to source a Private Hire Operator in a different Licensing area for all their travel requirements, one that does not facilitate the use of CCTV in vehicles licensed with them.

If this situation occurred and I were to lose my client base, this would obviously have a severely damaging effect on my financial situation and income and would result in me ceasing to trade, thereby losing my livelihood.

In the circumstances, I would urge the Licensing Committee to consider the position after receiving my and other comments, observations and representations regarding this matter.

I would like to register my objection to the imposition of CCTV for all Hackney Carriages.

Whilst I accept there are advantages to having CCTV, if a driver would feel safer for example then fine, they should be able to have it, but why does it have to be compulsory?

Also why should we have to pay? It's not just the initial cost either, there will be maintenance of the system and more expense and time when transferring to a new vehicle.

I have been asking passengers for their comments and very few are fully OK with this invasion of their privacy.

Only a small minority of Licensing Authorities have such regulations so why do we need this huge expense to the trade in difficult economic times?

On Saturday the 15th at 11-45 am I was working on the rank at North station when a lady with her 9 year old son and 10 week old baby got into the back of my taxi and asked to go to the zoo , the baby was crying and I asked if the baby was hungry and the lady said she had fed her on the train but she was going to now feed her some more, I asked if she had made up some bottles for the day out and she replied I'm actually breast feeding her now to which I replied can I ask you a question, she said go ahead, I asked her how she would feel if I had CCTV in my vehicle to which she replied I would feel uncomfortable but I have to feed the baby or she would keep crying as she's still hungry, why should a paying passenger be made to feel uncomfortable.

Dear sir/Madame

I have held my colchester Taxi badge for around 13 years and have operated in both private hire and hackney carriage vehicles. I have not had CCTV installed in any of my taxis nor have I felt the need to as in my personal opinion I find Colchester and its surrounding areas a perfectly safe and friendly area to operate in. Where as I am aware of the POTENTIAL benefits of CCTV I also feel strongly (after speaking with many of my customers) that the installation of CCTV in all taxis/privat hire vehicles could dissuade people from using them especially with audio consented or not due to a feeling of invasion of privacy therefore having a negative impact on a already challenging trade.

If the decision was made to proceed with CCTV and after looking at the specification (which I find to be over the top and a invasion of my own personal privacy) that a fare pricing scheme should be put into place whether this be a subsidy from the council or monthly installments.

I will be scanning my night time economy review questionnaire to you.

Further to my previous submission dated 15th Oct 2018, I have received additional information which I would like to place before the Licensing Committee and Licensing Department regarding compulsory installation of CCTV in Taxis and Private Hire Vehicles.

In accordance with my Freedom of Information request (CBC reference 354942) I have been presented with partial figures which have allowed a rudimentary analysis

of the scale of the problem CBC is attempting to combat and I offer this analysis below.

In order to carry out this analysis I have been forced to use some averages which are based on my own knowledge of the industry.

These are

Average number of drivers council supplied figures). = 800 (slightly lower than

Average fare value. = £20 (possibly slightly high estimate).

Average required gross weekly take (per driver) =£1000 (pre expenses take).

To achieve the above take with the average fare it is obvious that each driver will be required to carry out 50 runs per week ($£1000/£20 = 50$).

Projecting this over a 52 week period the average total number of runs carried out by CBC registered Taxis and Private Hire vehicles per year is 2,080,000 ($50 \times 800 \times 52$).

Using these figures and the number of complains received (as supplied by CBC) we can see an average percentage of runs that have resulted in a complaint being registered.

These are

2015. 147 complaints = 0.00007%

2016. 108 complaints = 0.00005%

2017. 127 complaints = 0.00006%

For 2018 I have carried out the same calculation but have only used 39 weeks (Jan-Sept inclusive) as opposed to 52, that is, number of runs reduced to 1,560,000.

2018. 170 complaints = 0.00010%

These figures give the chance of anyone making a complaint about a journey in a CBC registered vehicle as

2015. 14,149 to 1.

2016. 19,264 to 1.

2017. 16,382 to 1.

2018. 9,176 to 1.

If we then look at the numbers of driving badges which have been revoked or suspended, which presumably reflects the numbers of 'serious' complaints, an even more ridiculous picture emerges.

Badges suspended or revoked as a percentage of total journeys undertaken.

2015. 7 badges suspended or revoked. = 0.000003%
2016. 2 badges suspended or revoked. = 0.0000009%
2017. 2 badges suspended or revoked. = 0.0000009%
2018. 6 badges suspended or revoked. = 0.000003%

A phrase often associated with number such as these is 'Statistically Insignificant'.

Although there has been no information forthcoming regarding who the council suggests the CCTV systems are purchased from, or who is to instal them and consequently we are unable to obtain proper quotes for costing purposes, I have heard 'guesstimates' of anything between £600 and £1000 per vehicle installation.

Using these figures and estimating that there are approximately 1000 Taxi and Private Hire Vehicles registered with CBC, it becomes obvious that the council is attempting to foist onto the licensed T&PHV drivers of the borough a collective initial spend of between £600,000 and £1,000,000 to solve a problem that statistically hardly exists.

This spend does not include ongoing costs such as transfer between vehicles when old stock is replaced nor the cost of making good the damage caused to the interiors of vehicles by the fitting of these systems.

I suggest that the proposed policy fails to meet the criteria laid down by the Information Commissioner for the UK, Elizabeth Denham, who states that CCTV should only be installed where their use is a 'proportionate response to the problem identified'.

Looking at the above figures and the potential costs involved I feel no sane and rational person could feel that this proposal, even without considering the impact on privacy and people's rights under current data collection regulations, can be justified as anything more than a council vanity policy, with private citizens and businesses footing the bill.

An interesting alternative question is 'If the council was paying for this proposal from public funds would it be passed by councillors'?

I feel that being forced to have CCTV installed in my taxi, is wrong for the following reasons:

It is another expense on the driver, which I feel is not needed

The system that you have specified will have to be custom built, and this is going to be very expensive.

As the passenger will be able to turn audio on and off, they will do so before they get abusive to the driver, this is wrong as most problems are verbal abuse and refusal to pay the fare.

The number of people being allowed to view/access the footage is too great, why should members of the public be allowed to request viewing of any images; it should be limited to those involved in any incident , ie police and licensing team.

It should be up to individual drivers if they wish to install CCTV in their vehicle: but it should meet with council specifications. This is what TFL have done with London black taxis.

Time off the road when changing taxis ,will incur loss of earnings, as it could take anything up to 4-5 days to have it removed from 1 vehicle and installed into another vehicle that you have purchased .

Circular letter completed by plates 2, 3, 5, 7-10, 12, 14-17, 19-21, 25, 28, 29, 33, 35, 37, 38, 41, 43- 48, 50, 51, 54-56, 58, 59, 62, 64-71, 73-75, 78, 79, 81-84, 88-93, 96-100, 102, 104, 106, 108, 109, 111, 113, 115, 117, 121, 123-125, 127, 128

I would like to register my objection to the introduction of compulsory CCTV in all Hackney Carriages.

Whilst I accept there can be advantages to having such a system, why does it have to be compulsory?

Is this not a sledgehammer to crack a nut situation? And is people trafficking in Colchester taxis really such a problem?

My objections are as follows:

1 Cost, Mr Ruder estimates that the council's procurement department should be able to obtain a "bulk purchase" discount price of £300 to £600, the majority of the cost is not the actual unit but labour fitting the wiring. This means it's not simply a one off fee but will re required individually, to transfer the system whenever the vehicle is replaced. He also said the cost is "down to the rade" but why should we be expected to pay for something we don't want?

2. What about law abiding citizens who, for all sorts of personal reasons don't wish to be on camera, shouldn't they have a choice?

3. What penalty will the driver face if he/she has forgotten to switch on the audio or the whole system on?

As we have seen from the recent case involving Ben Stokes (the England cricketer) CCTV evidence is certainly no guarantee of solving any problem.

Please give this matter some careful consideration before implementation.

Dear Sir /madam

I'm writing this letter because it has only recently been brought to my attention that the council want CCTV/Audio recording in their licensed vehicles. I was only made aware of this on Wednesday 22nd August.

I have not yet been told the specifications however I have been informed that the system will continue to record for a further two hours after the vehicle has been turned off, why? In the long run this will more than likely have an adverse effect on my stop/start vehicle, battery and alternator to name a few.

If there is such a problem in Colchester as Mr Ruder implies about people trespassing, why hasn't there been a local advertising campaign in respect to this.

I myself was involved in an incident with an off-duty police officer, and CCTV/Audio would've helped if it was needed but thankfully it wasn't. Abuse of Power.

How would this be policed? Drivers continue to smoke in their vehicles, drivers wear non-appropriate footwear (Aip-pops), drivers will wear non-tailored shirts and continue to wear football shirts, which I didn't realise was such a crime & is the reason behind having the system just to self-incriminate?

PTO

I've also heard that there will be an on/off button for the audio that customers can press if they feel that way inclined, why? Surely this defeats the purpose of having the system, so it'd be surprise to just have the CCTV.





19th September 2018

Licensing Manager
Environment
33 Sheepen Road
Colchester
CO3 9WG

Dear Licensing Team

I have recently been in touch with Jon Ruder regarding the proposed amendment to the Taxi policy for Colchester and he asked me to write a letter for the Team with my views regarding the compulsory installation of CCTV in all HC and PC vehicles.

I understand there will be a committee meeting in October and I would like to put forward my points regarding this matter.

In January 2019 I will be starting a new business in Colchester transferring the public to all Airports and ports.

I am writing to ask if there will be any exclusion regarding the installation of CCTV in all vehicles as I feel that as my vehicle will not be used for unknown clients therefore the risk of problems arising are very low.

Please see my reasons below:

All clients would have pre-booked their trip online and also paid online in advance therefore I would know who they are and where they live prior to their transfer.

As I will be an online business which will rely heavily on feedback on social media from my clients all feedback will need to be positive therefore I would behave in an appropriate manner at all times as I would not want any negative feedback to cause loss of business.

I cannot imagine that my clients would be drunk or cause problems during their trip or be inappropriate in any way.

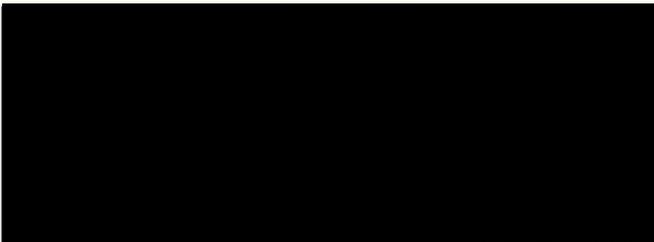
There will only be small amount of cash carried by myself for possible emergencies.

I will be transferring a lot of business clients who may be working during their journey who may feel uneasy about having their calls recorded this could have an impact on my bookings.

I will be using the vehicle for family and myself and would find an always-on system intrusive.

Thanks for you time.

Regards



Annex 2

Identified issue	Comment
<p>Cost, including maintenance and transfer System Specification Installation and transfer Size of Unit and fitting</p>	<p>Final costings are difficult to obtain until the exact specification of the CCTV required is known.</p> <p>Once the position of the ICO is known a final specification can be determined and costed. The specification is likely to have a bearing on ease of fitting and associated costs.</p>
<p>Being observed</p>	<p>There is no intention, nor ability legally, to obtain and view footage without a specific purpose. The Council will only be seeking to view footage where it has been identified in advance there is a legitimate reason to do so.</p>
<p>Customers not wanting a CCTV system to be used</p>	<p>We haven't received any direct views on the issue of CCTV from members of the public.</p>
<p>Forgetting to turn on the system</p>	<p>Whilst the points system will be amended to include points for failing to use the system, each case will be considered on its own merits.</p>
<p>Access to the data</p>	<p>Drivers will have no access to the data; if they do have access they may become data controllers with inherent responsibilities.</p>
<p>Exemptions for executive vehicles</p>	<p>There is no intention, nor ability legally, to obtain and view footage without a specific purpose. The Council will only be seeking to view footage where it has been identified in advance there is a legitimate reason to do so.</p>
<p>Recording of vulnerable persons</p>	<p>Drivers will not be able to access the data and there will be no ability to view it unless in the investigation of a complaint.</p>

	The views of Essex County Council have been sought as they are responsible for school contracts.
Disproportionate to Risk	The Council does not believe it is disproportionate to the risk but it is mindful of the requirements of the ICO and therefore its views will be sought on any proposed introduction of CCTV.
Dislike the compulsory requirement	For the protection of drivers and the general public CCTV needs to be in all vehicles.
Ownership of data	As data controller the Council would own and be responsible for the data.
Cessation of recording if the car is used for private journeys	Recording will not be required for private journeys.
Camera viewpoints for larger vehicles	This will need to be investigated when a final specification is approved.
Use of panic button may make worse an already tense situation	Drivers must make safe decisions which may mean not using CCTV in certain situations.
CCTV linked to meter	To be investigated as part of the system specification.
Operators to be able to deal with complaints by viewing footage	This has implications under GDPR which require further investigation.
Will CCTV be required in temporary replacement vehicles?	No



Hackney Carriage & Private Hire Licensing Policy

Colchester Borough Council

29 August 2018

Foreword

Welcome to the latest edition of Colchester's Hackney Carriage and Private Hire

Colchester is seeking to promote and enhance its reputation as a safe and vibrant, welcoming and prosperous borough and it recognises the importance of the licensed trade in helping to achieve this. Licensed drivers are both front line ambassadors in promoting Colchester to residents and visitors alike and a vital and integral part of Colchester's integrated transport strategy.

We recognise that drivers and operators need a licensing service which is dynamic and responsive, capable of adapting to changes in the economy in which they operate and with this in mind we have made a number of significant changes to the

The policy sets out the relevant information on how applications will be determined and how drivers and operators are expected to operate to pursue and promote the following licensing objectives:

- Protection of the public, safeguarding children and vulnerable persons; and the prevention of crime and disorder
- The safety and health of drivers
- Establishment of professional and respected hackney carriage and private hire trades
- Vehicle safety, comfort and access
- Encouraging environmental sustainability

We hope that this revised Licensing Policy is clear and easily understood and

We commend it to you and sincerely believe that it will make a positive difference

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Colchester is Britain's oldest recorded town with a unique history and heritage attracting in excess of 6 million visitors' trips a year; the evening and night time economy attracting 1.14 million visitors. It is also a vibrant, thriving, prosperous and welcoming town and home to more than 180,000 residents living in communities based not only in and around the town centre but in the coastal, rural and riverside areas of the Borough. The population is expected to rise to 233,400 by 2035 with the regeneration of key areas of the borough and the creation of new communities.

The unique geography of the town centre means that the vast majority of licensed venues and a number of visitor attractions are located within the area circled by the old roman wall whilst the town's main railway station is a mile to the north of the town centre and the bus station located to the south just outside the roman wall. Hackney carriage and private hire vehicles are an integral part in the town's integrated transportation system and in addition provide a vital service in rural areas, late at night, and for persons with specific mobility needs.

Introduction and Guide to the Policy

1.1 The Town Police Clauses Act 1847 and the Local (Miscellaneous Provisions) Act 1976 provide the broad framework for the licensing of drivers, vehicles and operators but the detail relating to how this is done and

1.2 This Licensing Policy (hereafter referred to as 'the Policy'), states how the Council will exercise its functions in the determination of applications and issuing, reviewing, suspending or revoking licences; vehicle standards and limits on vehicle numbers; other relevant licensing matters; and how drivers and

- Protection of the public, safeguarding children and vulnerable persons; and the prevention of crime
- The safety and health of drivers
- The establishment of professional and respected hackney carriage and private hire trades
- Vehicle safety, comfort and access
- Encouraging environmental sustainability
- Promoting Colchester as a vibrant, prosperous, thriving and welcoming place

1.3 The aim of the Policy is to regulate and support the licensed trade as front ambassadors in promoting Colchester to residents and visitors alike and to facilitate well operated and responsible businesses which form a vital and integral part of Colchester's integrated transport strategy. The Council will work with

1.4 Where exercising discretion in the carrying out of its functions the Council have regard to the Policy.

1.5 The Policy applies to:

- [Hackney carriages](#) - a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means it may stand at ranks or can be hailed in the street by members of the public.
- [Private hire vehicles](#) - licensed to carry no more than 8 passengers but must be booked in advance by customers through an operator and may not ply for hire in the street.
- [Drivers](#) of hackney carriage and private hire vehicles
- [Private hire operators](#).

1.6 The Policy comprises this document and the annexes and appendices set out below. The annexes and appendices contain detailed information on the Council's requirements and conditions and must be read in full alongside this document as they form part of the Policy.

- [Pre-Licensing Standards and Conditions for](#)
 - [Drivers](#)
 - [Hackney Carriage Vehicles](#)
 - [Private Hire Vehicles](#)
 - [Operators](#)
- [CCTV Policy](#)
- [Convictions Policy](#)
- [Penalty Points Scheme](#)
- [Exemption Policy](#)
- [Hackney Carriage Plate Allocation Policy and Process](#)
- [Horse Drawn Vehicles](#)
- [Stretch Limousines](#)

Applications must be made, and will be determined, in accordance with the relevant processes and procedures set out in the Policy, its annexes and appendices.

The Strategic Plan and Aspirations for the Borough

1.7 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies to create a Borough that is vibrant, prosperous and welcoming. The Council seeks to promote its vision for the Borough by focusing

1.8 The Policy aims to contribute to this vision 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.

Fees

1.9 The Council sets the fees in relation to the licensing of vehicles, drivers and operators, under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976.

Relevant Legislation and Definitions

1.10 In writing the Policy and in exercising its functions the Council has had and will continue to have regard to all relevant legislation including, but not limited to, the Town Police Clauses Act 1847 and 1889; Local Government (Miscellaneous Provisions) Act 1976 (as amended); Transport Act 1985 and 2000; Crime and Disorder Act 1998; Environmental Protection Act 1990; Equality Act 2000; Road Traffic Acts; Health Act 2006; Human Rights Act 1998.

1.11 Any reference to "Committee" in this Policy is a reference to the Licensing Committee of Colchester Borough Council or any of its Sub-Committees as the context permits.

Consultations and Implementation of the Policy

1.12 In reviewing the Policy the Council has consulted its licence holders, Essex Police, relevant Council departments, groups representing customers and the public.

1.13 The comments received in response to the consultations were considered by the Licensing Committee at its meeting on 17 January, 21 March, and 14 November 2018.

1.14 The Policy will take effect on 1 January 2019 and unless otherwise stated all the provisions contained within the Policy will come into immediate effect. 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 will be made without consultation.

Protection of the Public; Safeguarding Children and Vulnerable Persons; and the Prevention of Crime

2.1 The key consideration of the Council in licensing hackney carriage and private hire drivers, operators and proprietors is the safety of the travelling public. The protection of the public; safeguarding children and vulnerable persons; and the prevention of crime are therefore key factors in this Policy.

Fit and Proper Test

2.2 The application of the fit and proper test is essential to ensure that the Council's licensing scheme protects the public. The test requires that -

- The Council must not grant a licence unless it is satisfied that the applicant is a fit and proper person to hold a licence.
- The Council is also entitled to suspend or revoke a licence or may issue points under this Policy if there is evidence to suggest that the individual is not a fit and proper person, and specifically
 - if they have been convicted, or there has been an out of court disposal, since the grant of the licence of an offence involving dishonesty, violence or indecency.
 - for non-compliance with the licensing requirements of the relevant and related legislation.
 - for any other reasonable cause.

2.3 There is no definition within the act of 'fit and proper'. The Council and authorised officers therefore use the following tests when deciding upon the suitability of an individual -

Drivers - Would you (as a member of the Licensing Committee or other person charged with the ability to grant a private hire or hackney carriage driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care to get into a vehicle with this person alone?

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

Vehicle Proprietors - Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes.

and has regard to the following -

"Its purpose therefore is to prevent those being given to or being used by those who are not suitable people, taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers". (Leeds City Council v Hussain2002)

2.4 To assist in determining the question of whether a person is fit and proper the Council has drawn up a Convictions Policy to categorize and assess the risk to the public of a wide variety of criminal and motoring convictions. It should be noted that the convictions listed are by no means exhaustive; it is anticipated that any convictions not listed will have close enough themes to enable parallels to be drawn from other listed convictions. Also included within the Convictions Policy is the stance to be taken on other forms of intelligence which can be considered by the Committee as part of its fit and proper test.

2.5 The Convictions Policy works alongside the Council's Penalty Point Scheme and points can be given under both schemes. Where the total of these points exceeds 12 in any one year a licence holder should expect consideration to be given by authorised officers and the Committee to the suspension or revocation of their licence.

2.6 In determining whether an applicant is fit and proper, each case will be considered on its own merits and the Council will have regard to the following matters -

- Right to Work in the United Kingdom
- Convictions, cautions, penalty notices and other formal action etc. in line with the Council's Convictions Policy
- Disclosure and Barring report
- Police National Computer check where appropriate
- Penalty Points issued under the Council's Penalty Point Scheme
- Any complaints and allegations
- Any intelligence made available to the Council by the Police and other partner agencies
- Anything considered by the Courts which hasn't resulted in a conviction
- Motoring convictions and penalty notices in line with the Council's Convictions Policy
- Group 2 Medical
- Completion of the Knowledge Test
- Completion of the English language test
- Any other matter that might call into question the person's ability to meet the fit and proper person test.

2.7 The Council is empowered by law to carry out verification with the Disclosure and Barring Service to confirm the existence and content of any criminal record and any other intelligence held in the person's name. The Council may also contact other agencies such as the Home Office, Police **and benefits agencies** to verify and request information held on a person.

2.8 The evidential threshold that will be applied by the Licensing Committee is based on the balance of probabilities and not on proving 'beyond reasonable doubt' which is

the criminal standard of proof.

Protection of the Public

2.10 The protection of the public has been interpreted in its widest sense encompassing not only issues of safe driving and vehicle safety but also such matters of domestic violence and other indicators of aggression which demonstrate on the part of the perpetrator an inability to control their behaviour.

2.11 Other matters that will be considered by the Council in relation to this objective include, but are not restricted to, the failure to adhere to the Council's licensing conditions and procedures; any indicator of dishonesty; and omitting to work with the Council, Police and/or any other relevant enforcement agency.

2.12 The Council has investigated a small number of complaints concerning drivers who have used details supplied to them for the purposes of their business to contact a passenger at a later date. Drivers must not engage in sexual conversations, make inappropriate comments or have sexual contact with passengers on or after their duty, even where there is consent. Any allegation of such behaviour will result in the Council carrying out a full investigation and may result in action being taken to prevent a person from driving even where evidence has not been tested in any other arena. Licence holders must not use contact details obtained in the course of their business for any purpose other than that business, neither should they respond to overtures from customers.

2.13 These matters will be considered and regulated through the Council's application procedures, enforcement activities, Convictions Policy and Penalty Point Scheme.

Safeguarding Children and Vulnerable Persons

2.14 Everyone who comes into contact with children and vulnerable persons has a responsibility to protect them from harm. Licensed drivers, who are often working at times when other agencies are not operating or are poorly represented, can act as the eyes and ears of the town and by working in partnership with the Police, Council and other agencies can help to make a positive difference.

2.15 To support this role, and recognising the importance of licensed drivers in the local night time economy, the Council has introduced mandatory safeguarding training as part of the application process for licensed drivers wishing to obtain or renew a driver's licence. This training will address a variety of safeguarding concerns including child sexual exploitation, gangs and trafficking. Applicants who haven't completed the training will not be granted their licence and existing drivers who do not complete the training within the required timescale will be suspended unless they can prove exceptional circumstances that prevent them from complying. The Council's Code of Conduct for Working with Vulnerable Passengers is also designed to promote good safeguarding practices for drivers and the Council expects these standards to be embedded into a driver's working practice.

2.16 The Council expects drivers and operators to report their concerns. **These concerns can be emailed to the Police at 2752@essex.pnn.police.uk Matters that**

require immediate attention should be reported using 999.

2.17 The Council acknowledges that a small minority of licensed drivers across the country have abused their position of trust to sexually exploit children. Therefore, where there are safeguarding concerns that arise from intelligence, the Council will carry out a full investigation; every decision will be made with the safety of the vulnerable person foremost. This may mean that action is taken to prevent a person from driving even where evidence has not been tested in any other arena.

Probationary Licences

2.9 On occasions it may be appropriate to grant a one year probationary licence and in such cases the following condition will be applied -

If during the period of this probationary licence you receive any criminal or motoring convictions or any fixed penalty notices **or any another form of restorative justice** or do not fully comply with the Council's Hackney Carriage and Private Hire Licensing Policy, Annexes and Appendices or where **complaints or** intelligence are received which following a full investigation leads the Council to consider that a licence should not have been granted then the process to revoke the licence will commence.

Safety and Health of Drivers

3.1 The Council recognises that licensed drivers are a valuable asset to the Borough and their safety and health is a key concern.

Driver Safety

3.2 The Council's mandatory safeguarding training and its Code of Conduct for Working with Vulnerable Persons is designed not only to ensure that drivers are aware of the issues around safeguarding but also to ensure that they are aware of the steps they need to take to protect themselves from possible allegations of misconduct.

3.3 Licensed drivers provide a service to the public and there is a reciprocal aspect to this trade. In recognition of this the Council supports the use of a Driver and Passenger Charter which sets out the behaviour that drivers can expect of their passengers together with that expected of them. Drivers are encouraged to display this in their vehicles.

3.4 The Council supports the installation of security measures such as a screen between the driver and passengers however care must be taken to ensure such measures don't impede the ability of the driver and passenger to communicate.

3.5 The installation of CCTV has proved to be an essential tool for drivers in protecting themselves against allegations of misconduct and in helping to identify culprits in where problems have occurred. The Council has therefore determined that with effect from xxxxxxxx all newly licensed vehicles must be fitted with CCTV and existing vehicles must be fitted with CCTV within xxxxxxxxxxxx

3.6 The Council will continue to update the relevant parties on matters in relation to driver safety to ensure that they have the relevant information to make informed choices.

Taxi Rank Marshalling

3.7 The Council values greatly the work of the taxi marshals; their work helps to ensure the orderly management of queues, reducing the potential for conflict between drivers and passengers and helping to ensure the swift dispersal of patrons from town centre venues. **Where taxi marshalls are operating, the Council expects its licensed drivers to pay them due regard.**

Driver Health

3.10 The Council requires drivers to meet Group 2 Standards of Medical Fitness; this is the same standard applied by the DVLA to the licensing of lorry and bus drivers. The Council has taken this view because drivers are on the road for longer hours than most car drivers; they may have to assist disabled passengers and handle luggage; and carry members of the public who have expectations of a safe journey. Where a driver is not

found fit to drive by a Doctor their licence will be revoked.

3.11 In recognition of the fact that drivers report increasing difficulty in booking a doctor's appointment for their medical, and that the cost of such appointments are rising, the Council has lifted the requirement from drivers to use their own GP to carry out the medical. Drivers will now also be able to use Cotswold Medical Limited to carry out the Group 2 medical in addition to their own GP.

Age Limits

3.12 The Council does not set maximum age limits for drivers beyond the statutory periods for holding a full driver licence. Applicants and licensed drivers seeking to renew their licence will be considered on an individual basis.

3.13 Drivers seeking to renew their licence after the age of 65 will be required to have an annual medical irrespective of their renewal date.

Establishment of Professional and Respected Hackney Carriage and Private Hire Trades

4.1 The Council supports the aim of regulating and supporting the licensed trade setting clear and transparent standards and procedures and enforcing these in a consistent and fair manner. These standards and procedures are set out in Policy including its annexes and appendices.

4.2 It is important that the Policy remains a responsive document capable of change to reflect an evolving business environment. The Council is therefore committed to continued engagement with the licensed trade through a variety of mediums.

Knowledge Tests

4.3 Effective communication with passengers is essential and therefore as part of the application process the Council requires drivers to take an English language/numeracy test.

4.4 Not knowing the way or taking customers on an indirect route to a location is a common cause of dispute therefore the Council requires that all drivers have a good working knowledge of the area. Drivers must take and pass the Council's Knowledge Test which comprises questions on the topography of the area, driver conditions, and driving knowledge (similar to the theory test).

Dress Code

4.5 The Council regards its drivers as ambassadors for the Borough and therefore first impressions are important. All drivers are required to be respectably dressed, clean

Permitted clothing

- Tops, shirts, blouses, t-shirts, polo shirts or sweat tops - These should cover the shoulders and be capable of being worn inside trousers/skirts and shorts. Shirts or blouses can be worn with a tie or open necked.
- Trousers, skirts, shorts - Trousers may either be full length or shorts, if tailored. Clothing should be of sufficient length when the driver is seated as to not offend against decency.
- Footwear - This should be smart and appropriate for driving; and must fit around the heel of the foot.
- Cultural dress - This is acceptable providing it meets similar standards of decency and smartness.

Clothing not permitted - unclean or damaged clothing, clothing bearing offensive or suggestive words, graphics or logos; vests or singlets; track suit or jogging bottoms; ripped jeans; sports shirts (e.g. football, rugby or cricket tops); clothing with studs or similar adornments; beach type footwear such as mules and flip flops; baseball caps;

and any clothing that obscures the face.

This list is not exhaustive and where you are unsure please contact the Licensing Team for further advice.

Training

4.6 In addition to the requirement for new drivers to undertake mandatory safeguarding training, the Council, during the lifetime of a driver's licence, may require a licence holder to undertake reasonable and appropriate training to meet the needs and demands of the job. In requiring such training the Council will set a reasonable timeframe for its completion and these requirements will be notified to the driver in writing. If the driver refuses or fails to attend or does not attain the training accreditation the driver's licence may be suspended and consideration given to its revocation. The cost of such training will be borne by the licence holder. In general it is expected that mandatory training must be completed. However, if a driver/applicant can provide evidence that they have received up to date training elsewhere, they may apply to be exempt from the training. Each case will be considered on its own merits.

4.7 The driver of any wheelchair accessible vehicle must undertake appropriate training, approved by the Council, to ensure that passengers' needs are addressed appropriately and that they are conveyed safely.

Enforcement

4.8 It is essential for the safety of the public and the reputation of the trade that licensed drivers and operators; and their vehicles comply with the terms of their licence and the requirements of the Council's Policy.

4.9 Effective hackney carriage and private hire regulation depends on partnership working and in particular the relationship between the trade, Council departments, the Police, DVLA and VOSA. The Council has an intelligence sharing protocol in place with Essex Police that enables relevant information to be shared even before an arrest or conviction is made.

4.10 The principles of enforcement are:

- Taking firm action against those who flout the law or act irresponsibly
- Assisting the trade in meeting their legal obligations
- Promptly acting on complaints and issues of concern.

Complaints

4.11 Customers are able to report complaints online using the Taxi Complaint Form or via the Council's Customer Service Centre. All complaints will be assessed by the Licensing Team and those found to be genuine will be investigated.

Penalty Point Scheme

4.12 The Council's Penalty Point Scheme provides a stepped enforcement process for those licence holders who have contravened licence conditions or associated legal provisions. This scheme does not prejudice the Council's ability to take any other action it is entitled to take under conditions, bylaws or regulation. In relevant cases, where it is considered necessary, an existing licensed driver may also be required to take the Council's knowledge test and/or driving assessment at their own expense.

4.13 There is a right of appeal against the award of penalty points.

Cross Border Working

4.14 The Council recognises that cross border hiring, whereby private hire vehicles and/or drivers which have been licensed to operate by another Council work in the Borough, is a potential problem. The driver and/or vehicle may have been licensed by an authority which has lower standards than those that apply in the Borough. The Council has no powers to take direct action where any conditions of the licence are broken or the driver provides poor service to customers; the contraventions must be referred on to the relevant local authority. This matter is being kept under review by the Essex Licensing Officers Forum.

4.15 Drivers will be expected to be able to provide proper evidence of cross border working if requested by an authorized officer.

Driver Proficiency

4.16 In line with its duty to ensure the safety of the travelling public and in order to address the persistent complaints relating to driver standards the Council requires all new drivers to complete and pass a hackney carriage/private hire driver assessment test with a Council approved driving assessor. **The standard of the test complies with the former Driver and Vehicle Standards Agency taxi driver assessment.**

4.17 If the Council receives a complaint in relation to your driving or has concerns in relation to the number of DVLA points on your licence, it may require you, at your own expense, to undertake a hackney carriage/ private hire driver's assessment with a Council approved driving assessor.

4.18 The Council's current approved driving assessors are -

- **Blue Lamp Trust**
- **Institute of Advanced Motorists**
- **Diamond Advanced Motorists**

Fares

4.19 The hackney carriage tariff for fares is determined by the trade and implemented at its request by the Council. The Council takes the view that the fees scales are best

determined by the trade itself as they have a direct relationship with the market and are also best placed to determine their costs.

4.20 The tariff is a maximum tariff and the Council welcomes competition, particularly in relation to telephone bookings, with firms offering a differentiation in services, for example off peak reductions.

4.21 The Council has no power to set fares for private hire vehicles.

Number of Vehicles

4.22 The Council restricts the number of hackney carriage vehicles licensed to 131. This figure has been established through unmet demand surveys commissioned by the Council. The most recent unmet demand survey carried out in 2015 indicated that there was no significant unmet demand.

4.23 Any vehicle to be used as a hackney carriage on plates **200 to 232 (currently plates 98 to 131 with the exception of plates 105 and 111)** must be fully wheelchair adapted; this means having the facility to load and unload wheelchairs directly into the vehicle. **All new vehicles on these plates must be adapted; this includes vehicles on renewal.**

4.24 In the event that application is made for a horse drawn hackney carriage vehicle a special identification hackney carriage plate specific to this use will be issued; applications in respect of novelty vehicles will be considered on a case by case basis.

4.25 The allocation or reallocation of a hackney carriage plate, should one become available, will be carried out in accordance with the Council's Hackney Carriage Plate Allocation Policy and Process.

Vehicle Safety, Comfort and Access

5.1 The Council has a duty of care to the public and central to this duty is the safety of licensed vehicles. To maintain standards of safety the Council has set out its requirements in terms of vehicle testing, accident reporting and the age of vehicles etc. in its Private Hire Vehicles Licensing Standards and Conditions and Hackney Carriage Licensing Standards and Conditions.

Accessibility

5.2 The Council is committed to social inclusion and therefore considers it a high priority that people with disabilities have access to all forms of public transportation.

5.3 The trade has a duty to provide a service to people with disabilities in the same way as it provides a service to any other passenger and therefore the Council is committed to work with operators and drivers to improve drivers' awareness of the needs of disabled people and to ensure best practice. Where complaints have been made in relation to the carrying of a disabled passenger any driver may be required to undertake disability awareness training at their own expense.

5.4 Tactile medical exemption certificates will be introduced for licence holders with exemptions.

Encouraging Environmental Sustainability

Air Pollution

6.1 European wide emission limits are improving air quality and the Council is therefore committed to improving, as far as possible, the efficiency of vehicles licensed by the Council.

6.2 The Council supports measures to reduce the levels of carbon dioxide, nitrogen dioxide and particulate matter emitted. Liquid Petroleum Gas (LPG) conversions are therefore acceptable if carried out by an approved converter.

6.3 Objective 4 of the Colchester Low Emission Strategy is to develop and implement measures to encourage emission reductions in Colchester. In line with the Healthier Air for Colchester Air Quality Action Plan the Council has set the following compliance dates and standards for emissions from licensed vehicles -

- Euro 5 for diesel vehicles/Euro 4 for petrol from 2018
- Euro 6 for diesel vehicles / Euro 4 for petrol from 2020
- From 2025 all new registrations to meet an LPG, low emission or electric hybrid standard

6.4 The Council further requires that drivers of licensed vehicles turn off their engines when waiting in the Borough's Air Quality Management Areas as set out on the plan at Appendix 1. There may be exceptional circumstances when drivers are permitted to wait with their engines idling.

Promoting Colchester as a vibrant, prosperous, thriving and welcoming place

7.1 Colchester is proud to be famous for being the oldest recorded town in the Country and receives visitors from all over the world. It is seeking to promote and enhance its reputation as a safe and vibrant, welcoming and prosperous borough and it recognises the importance of the licensed trade in helping to achieve this.

Ambassadors for the Borough

7.2 Licensed drivers are both front line ambassadors in promoting Colchester residents and visitors alike. The Council therefore welcomes the support of its licensed drivers in fulfilling this role and has acknowledged the importance of this role by including general questions on Borough, tourism and entertainment within the Knowledge Test.

7.3 To be such an ambassador could not be easier and quite simply comes down to the way in which passengers are treated. First impressions are generally lasting impressions and a negative attitude from a licensed driver towards visitors can have a detrimental effect on their stay and whether they return. Visitors support many local trades and businesses and therefore not only directly support many jobs, but also help in the creation of much needed employment for the Borough as a whole.

7.4 A positive, friendly and helpful manner when dealing with both residents and visitors alike promotes the trade, making it far more likely that the public will wish to use the service again in the future. Such an attitude therefore promotes both Colchester and the individual business.

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The Council issues a dual 3 year hackney carriage/private hire driver's licence; on occasions a probationary licence may be issued for a year.

Any requirement of legislation, which affects the operations being carried out under the terms of this licence, shall be regarded as if they are conditions of this licence.

Where there appears in the licence conditions a summary of any statutory provision you are advised that such summary is not exhaustive.

These conditions should be read in conjunction with the Council's Policy documents and in particular regard should be given to the Penalty Points Scheme and Convictions Policy.

Applications for the grant or renewal of a licence must be made, and will be determined, in accordance with the relevant process and procedures set out in the Policy, its annexes and appendices. There is a right of appeal against the Council's decisions, details of which are set out at the end of this document.

If you fail to comply with any of these conditions enforcement action will be taken which may result in points being awarded on your hackney carriage/private hire driver's licence and in certain circumstances this may result in the suspension or revocation of your licence.

Pre-Licensing Standards

In order to be licensed as a hackney carriage/private hire driver you must -

1. Be over 21 years of age and have held a full UK Driving and Vehicle Licence Agency (DVLA) (or equivalent) driving licence for at least three years. You must supply your licence with the application.

2. Complete the application form and supply the required fee and documentation to support your application including evidence that you may legally work in the UK.

Please note - If circumstances come to light during the lifetime of the licence that you no longer have a right to work in the UK, the licence will be revoked.

3. Be vetted by the Disclosure and Barring Service (DBS) as part of the application process and then on renewal of your badge.

Please note - Applicants for hackney carriage/private hire drivers' licences are exempt from the provisions of the Rehabilitation of Offenders Act 1974. Therefore **you must disclose all previous cautions and convictions** whether they are "spent" or not. You should have regard to the Council's Convictions' Policy. Any conviction or caution that is relevant to the determination of whether you are a fit and proper person to hold

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a licence will be taken into consideration when determining the application.

4. If you have spent six continuous months or more living outside the UK a criminal record check, or equivalent documentation, is required from the country/countries involved covering the relevant period.

5. Have completed, at your own expense, an independent medical examination to determine whether you meet the criteria set out in the 'Medical Aspects of Fitness to Drive' Group 2 standard and been found to be medically fit to hold a licence. Exceptional arrangements may be made if you have insulin treated diabetes and are able to meet a series of medical criteria. The medical must be supplied to the Council before a licence can be granted and is required on initial application for a licence and then every 3 years to the age of 65 when a medical will then be required annually irrespective of your renewal date.

6. Be found to be a fit and proper person to hold a hackney carriage /private hire driver's licence by the Council having regard to its Hackney Carriage/Private Hire Licensing Policy, its relevant annexes and appendices.

7. Have completed a hackney carriage/private hire driver assessment test with a Council approved driving assessor. This assessment is to be completed at your own expense.

8. If you will be driving a fully adapted disabled assess vehicle, (plate numbers 200 to 224) have undertaken a Passenger Assisted Transport training course at your own expense; the certificate must be produced to the Council

9. Have undertaken the Council's Mandatory Safeguarding Training.

10. Have passed the Council's English test and supplied proof of having done so to the Council.

11. Have passed the Council's knowledge test.

Please note - The test comprises questions picked at random from the Council's driver and vehicle conditions, place locations, shortest routes between two points, the Highway Code, tourism and basic arithmetic. The test paper will be marked immediately and you will be advised of the outcome; the Adjudicators decision is final and no discussion of individual questions will be entered into. If you don't pass the test you will be permitted two further attempts at a minimum of fortnightly intervals when a further fee per test will be payable; these re-tests must be completed within three months of the initial application being made/test being taken. A different question paper will be selected for each test re-sit. Failure to pass the knowledge tests after 3 attempts will deem the applicant unsuccessful.

If you re-apply after failing 3 knowledge tests you will be treated as a new driver and will be required to undertake all the tests and other requirements applicable to a new driver.

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12. Declare if you have previously held a hackney carriage and/or private hire drivers' licence whether with this authority or another local authority.

Please note - As an existing driver, if you allow your licence to lapse you will be treated as a new driver and will be required to undertake all the tests and other requirements applicable to a new driver. It is your responsibility to ensure that you have booked the necessary appointments and have the necessary paperwork to enable you to complete the renewal process before the expiry date of your existing licence.

Driver Conditions

As the holder of a hackney carriage/private hire driver's licence you must comply with the following conditions:

1. Conditions of licence

- 1.1 The combined hackney carriage/private hire driver's licence (hereinafter referred to as 'driver's licence') is valid for three years from the date of its grant **or in the case of a probationary licence, one year from the date of its grant.**
- 1.2 You must present your driver's licence or a copy thereof to the proprietor/operator at the beginning of your employment and immediately after any renewal of the licence.
- 1.3 On the request of an authorised officer of the Council or a Police officer, you must produce your licence for inspection.
- 1.4 You must keep a copy of these driver conditions in the licensed vehicle you are using.
- 1.5 You must not act as a driver without the consent of the licensed proprietor of the vehicle.
- 1.6 You must notify the Council in writing, within 7 days, of any change of name, or address.
- 1.7 At all times when your vehicle is available for hire, you must wear your driver's badge in a position where it can be seen. You must not wear your badge other than when carrying out work in connection with your business.
- 1.8 You must not allow your driver's badge to be used by any other person or cause or permit any other person to wear it. Nor permit any person to damage,

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deface, mutilate or obscure a driver's badge or any part of it.

- 1.9 Your licence and badge remains the property of the Authority at all times. They must be returned forthwith if your employment as a licensed driver ceases, or if the licence expires and is not renewed, or where the licence is suspended or revoked.
- 1.10 If your immigration status changes, for example your permission to stay in the UK has been curtailed, you have been served a deportation notice or have been convicted of an immigration offence, you must return your licence and badge to the Council within 7 days.
- 1.11 You must complete mandatory or any other training that the Council deems necessary and appropriate; this may include training required because of convictions or penalty points awarded against you or as a result of a complaint.

2. Driver Conduct

You must -

- 2.1 Behave in a civil, polite and orderly manner at all times in the course of carrying out your duties as a licensed driver. You must not behave in a way that will-
 - Cause any person to take offence at your actions.
 - Cause any person to believe your actions are inappropriate.
 - Cause any person to fear for their physical safety.
 - Cause any person to doubt your integrity.
 - Bring into disrepute the integrity of the Council for having issued a licence to you.
- 2.2 Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 2.3 Drive with the utmost care and consideration to other road users and pedestrians.
- 2.4 Convey a reasonable amount of luggage, including wheelchairs and children's pushchairs (provided they can be carried in a safe manner) and provide reasonable assistance in loading and unloading such luggage.
- 2.5 Give reasonable assistance to elderly, vulnerable or disabled persons entering or alighting from the vehicle, and any other reasonable assistance during the course of the journey
- 2.6 Not drink or eat in the vehicle nor play any radio or sound equipment, which is not connected with the operation of the business, without the hirer's consent.

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- 2.7 Ensure that the vehicle licence plates are not willfully or negligently concealed from public view.
- 2.8 If you have agreed or have been hired to be in attendance with the vehicle at an appointed time and place you must, unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at the appointed time and place.
- 2.9 Not smoke tobacco or any other like substance in a licensed vehicle nor use an electronic cigarette or similar device.
- 2.10 Not drive if you are unfit to do so because you are on legal or illegal drugs and/or you have certain levels of illegal drugs in your blood.**
- 2.11 Not drive whilst under the influence of alcohol.**
- 2.12 Whilst driving you must not use a handheld mobile phone nor any other handheld mobile device which performs an interactive communication function by transmitting and receiving data.
- 2.13 Not drive a vehicle if you no longer hold, have had suspended, or are disqualified from holding a DVLA licence for that type of vehicle.
- 2.14 When hired to drive to a particular destination, subject to any directions given by the hirer, proceed to that destination by the shortest route.
- 2.15 Not, without reasonable cause, unnecessarily prolong in distance or time, the journey for which the vehicle was hired.
- 2.16 Not solicit, by calling out, or otherwise importuning any person to hire or be carried for hire. Neither is it permitted to accept an offer for the hire of the vehicle except where it is first communicated to you by the Operator.
- 2.17 Not permit a private hire vehicle to be parked or ply for hire on a taxi rank.
- 2.18 Present the vehicle in a clean and tidy condition for each journey.
- 2.19 Not use the horn as a means of signaling that the vehicle has arrived for a hire.
- 2.20 Not convey, nor permit to be conveyed, in the vehicle more than the number of persons specified in the licence and referred to on the vehicle licence plate.
- 2.21 Not carry other persons in the vehicle when hired, without the express consent of the person hiring the vehicle.
- 2.22 Ensure compliance with any legislation relating to the length of working hours.

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3. Dress Code

3.1 You are required to be respectably dressed, clean and tidy in appearance and must adhere to the Council's dress code as set out below:

Permitted clothing

- Tops, shirts, blouses, t-shirts, polo shirts or sweat tops - These should cover the shoulders and be capable of being worn inside trousers/skirts and shorts. Shirts or blouses can be worn with a tie or open necked.
- Trousers, skirts, shorts - Trousers may either be full length or shorts, if tailored. Clothing should be of sufficient length when the driver is seated as to not offend against decency.
- Footwear - This should be smart and appropriate for driving; and must fit around the heel of the foot.
- Cultural dress - This is acceptable providing it meets similar standards of decency and smartness.

Clothing not permitted - unclean or damaged clothing, clothing bearing offensive or suggestive words, graphics or logos; vests or singlets; track suit or jogging bottoms; ripped jeans; sports shirts (e.g. football, rugby or cricket tops); clothing with studs or similar adornments; beach type footwear such as mules and flip flops; baseball caps; and any clothing that obscures the face.

This list is not exhaustive and where you are unsure please contact the Licensing Team for further advice.

4. Fares and Journeys

You must

- 4.1 If requested by the hirer, provide a written receipt for the fare paid, this may be by email. Each receipt should show the date and destination of journey, driver badge number and amount paid.
- 4.2 At the start of a hired journey, where a meter is fitted, ensure the meter is turned to the correct tariff and running and that it remains in operation until the termination of the hiring. This applies to all bookings.
- 4.3 Not cause the fare recorded thereon to be cancelled or concealed until the hirer has had reasonable opportunity of examining it and has paid the fare.
- 4.4 Ensure the dial of the taximeter is kept properly illuminated throughout any part of a hiring which is during the hours of darkness and at any other time at the

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request of the hirer.

- 4.5 Not demand a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a meter, the fare shown on the face of the meter.
- 4.6 When driving a private hire vehicle, equipped with a meter, ensure that a table of fares as issued by the Private Hire Operator/Proprietor is kept within the vehicle, displayed in a clearly visible position, and made available to any passenger or authorised officer on request.
- 4.7 Not demand a fee for carrying a wheelchair or other mobility aids.

5. Convictions, Cautions, Criminal Investigations and Penalty Points

- 5.1 You must
 - a. Notify the Authority, in writing, within a period of 7 days, of any conviction, caution or charge for a criminal offence, motoring offence, disqualification or fixed penalty notice imposed or being the subject of a criminal investigation whilst the licence is in force.
 - b. Following conviction or the issue of a fixed penalty notice which results in points being given on your DVLA licence, produce your licence to the Council within 7 days of its return from the DVLA, court of fixed penalty office following the endorsement of the offence.
 - c. In the event that you are disqualified from driving, immediately inform the Council and surrender your driver's badge and where appropriate the vehicle plate.
 - d. Make application and pay for a further DBS check, if required to do so by the Council in order that it may fully investigate any complaints or matters in which you are involved.
- 5.2 The Convictions Policy and Penalty Point Scheme will be applied as appropriate.

6. Fitness to Drive and Medical Evidence

- 6.1 You must inform the Authority, in writing, immediately, of any deterioration in health or injury that would affect your ability to drive a licensed vehicle. **Where this affects your ability to assist disabled passengers and you drive a wheelchair accessible vehicle you may be issued with a temporary exemption certificate on production of a letter from your GP or the Council's medical examiner.**

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- 6.2 Up to the age of 65 you must undergo a medical examination to DVLA Group 2 standard every 3 years, to assess your fitness to drive. The certificate of examination must be submitted to the Council. This examination must be carried out at the Surgery with whom you are registered or at a Council approved medical examiner and will be at your expense.
- 6.3 If you are suffering from a known and notifiable medical disorder or are over the age of 65, you will be required to undergo a medical examination to Group 2 standard annually. The certificate of examination must be submitted to the Council. This examination must be carried out at the Surgery with whom you are registered or at a Council approved medical examiner and will be at your expense.
- 6.4 The Council may refer you for a further medical, specifically where you suffer from a medical conditions which is diagnosed between your last Group 2 medical assessment and your next medical assessment. The certificate of examination must be submitted to the Council. Note - This examination is at the expense of the driver and must be at a clinic or hospital as directed by the Council.

7. Found Property

- 7.1 A driver shall, after the termination of each hiring or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left therein.
- 7.2 Items found in a licensed vehicle must be registered by the driver on [Essex Police's website](#). Items should be held for a minimum of 28 days.
- 7.3 The following found items must be surrendered to the Police and cannot be retained:
- Firearms / explosive material - These items are a threat to your safety. It is unlawful for you to retain them, please call 999 and Essex Police will arrange for collection.
 - Knives/offensive weapons/drugs/unidentified substances - This item is a threat to your safety. It is unlawful for you to retain this item, please call 101 and Essex Police will arrange for collection.
 - Offensive material/ items believed to be used in or in connection with a crime - It is unlawful for you to retain this item, please call 101 and Essex Police will arrange for collection.

Passports, driving licences or other government documents, for security reasons, must be sent back to the issuing authority as it is unlawful for you to retain these items.

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8. The Carriage of Animals

- 8.1 You must not carry, in a licensed vehicle whilst being hired, any animal which belongs to or is being looked after by yourself, the proprietor or operator of the vehicle.
- 8.2 Animals in the custody of passengers may be carried, at your discretion, provided they are restrained in a safe manner.
- 8.3 You cannot charge a fee for carrying an assistance dog when it is acting in its capacity as an assistance dog.
- 8.4 You must carry guide, hearing and other assistance dogs accompanying disabled people and to do so without additional charge. The dog must be allowed to remain with the passenger. Passengers must be permitted to sit in the front seat so that the guide dog can sit in the front foot well.

Assistance Dogs can be identified by their coloured harness which are as follows -

- Guide Dogs - Fluorescent strips around a white harness
- Hearing Dogs - Burgundy
- Support Dogs - Blue
- Assistance Dogs - Purple, yellow or bright red
- Medical detection dogs - Red
- Buddy Dogs - Bright blue
- Autism Dogs - Blue
- Deaf Blind Guide Dogs - Red and White squared harness

8.5 If you have a medical condition, which may be exacerbated by such dogs, you may apply to the Authority for exemption from the condition 8.3 above. A certificate of exemption will be supplied on production of suitable medical evidence.

8.6 Where a notice of exemption has been issued to you on medical grounds, it must be exhibited in the vehicle by fixing it facing outwards either to the windscreen or in a prominent position on the dashboard. You must also at all time carry a tactile exemption certificate which must be made available in appropriate circumstances.

8.7 You must not forge or alter for use a Certificate or Notice of Exemption; lend a Certificate or Notice of Exemption to any other person; allow it to be used by any other person; or make or have in your possession any document which closely resembles a Certificate or Notice of Exemption.

9. Wheelchair Accessible Vehicles

9.1 If you drive a wheelchair accessible vehicle you must be appropriately trained

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to secure and carry such passengers:

- be fully conversant with the correct method to operate ramps, lifts and wheelchair restraints that can be fitted to the vehicle.
- ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and that the brakes of the wheelchair have been applied prior to the vehicle setting off.
- ensure that any wheelchairs, equipment and passengers are carried in such a way that no danger is likely to be caused to any passenger, in accordance with the Road Vehicles (Construction & Use) Regulations 1986 and any subsequent amendment or re-enactment thereof.

10. Certificate of Motor Insurance

- 10.1 You must ensure that the vehicle driven by you is insured as a licensed vehicle and that you are personally covered to drive the vehicle.

11. Condition of the Vehicle

- 11.1 You are responsible for ensuring that the licensed vehicle you drive is in a roadworthy condition and complies with the relevant legislation and with the Council's licensing conditions for that vehicle.
- 11.2 You must report an accident or any damage to a private hire vehicle within 72 hours of the occurrence.

12. Seat Belts and Child Seats

(Please follow links in the paragraphs below)

- 12.1 You must wear your seat belt unless [exempt](#)
- 12.2 You have a responsibility to ensure that you are familiar and up to date with all relevant [legislation](#) and guidelines as issued or determined by central government in relation to the use of seatbelts, child seats, and any other relevant construction and use and safety legislation.

13. Rank Discipline

- 13.1 It is an offence to leave a Hackney Carriage unattended in a public place. Any parking, outside of agreed parameters, on the rear of a Hackney Carriage rank will therefore be dealt with by way of a fixed penalty notice or penalty points.

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- 13.2 You are expected to obey rank discipline; vehicles should immediately move forward when the vehicle at the front of the rank leaves.

14. Trailers

- 14.1 You may tow a trailer on a licensed Hackney Carriage vehicle provided that you hold the appropriate category on your DVLA licence, which must be produced to the Council.

15. Probationary Licences

- 15.1 If you are granted a Probationary Licence you must comply with the following condition in addition to those attached to the grant of the driver's licence.

If during the period of this probationary licence you receive any criminal or motoring convictions or any fixed penalty notices **or any another form of restorative justice** or do not fully comply with the Council's Hackney Carriage and Private Hire Licensing Policy, Annexes and Appendices or where **complaints or** intelligence are received which following a full investigation leads the Council to consider that a licence should not have been granted then the process to revoke the licence will commence.

- 15.2 Any breach of the probationary condition will result in the Council taking action to revoke your licence.

15.3 The revocation process is as follows •

- a. **A member of the Licensing Team will investigate the facts of the breach which may include interviewing you under caution. The Council may also, as part of its investigation request a Police National Computer Check (PNC) from the Police to ensure it has all the evidence necessary to properly investigate the matter or a new DBS check. This may mean that matters that formed part of a previous decision are reconsidered in the light of new evidence and may result in a licence, previously granted, being revoked.**
- b. **You be notified of the outcome of the investigation, and any resulting revocation, in writing.**
- c. **There is a right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.**

Annex 1 • Driver Licensing Standards and Conditions

Appeal against the conditions

If you are aggrieved by any of the conditions attached to the licence you may appeal to the Magistrates Court within 21 days of the service of the licence and the attached conditions on you. Any appeal must be made in writing to the Magistrates Court, Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 SPF.

Application and Renewal Processes

Application process for a new Driver's Licence

1. Call the Customer Service Centre to make a new driver appointment. Please bring with you the following documentation -
 - The completed application form
 - The correct fee.
 - A valid passport or birth certificate.
 - Your DVLA licence registered to your current address.
 - 2 x proof of address (letter from a doctor/utility bill etc.) these must be dated within the last three months.
 - If you have spent six continuous months or more living outside the UK a criminal record check or equivalent documentation is required from the country/countries involved covering the relevant period.
 - If you have changed your name either by marriage or deed poll, the change of name document is required.

At this appointment you will be required to take an oral test; complete the application form for Disclosure and Barring Service check and the Intelligent Data Service (IDS) mandate which enables the Council to check if you have any driving convictions.

2. You will receive a letter from the Council inviting you to book your knowledge test once the Council has received the IDS report.
3. Once you have passed the knowledge test you need to arrange a medical; you are advised to book this only after you have received the results of your DBS check unless you are confident that the DBS will be clear.

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4. Once the medical has been completed, please book an appointment through the Customer Services Centre. Please bring the following documentation -

- DBS report
- Completed medical (please ensure you have both the medical and the covering declaration from the GP/medical examiner stating that you are fit to work).
- The remaining fee payment.

S. The badge will be given to you at this appointment if the application process has been completed to the Council's satisfaction.

Renewal process for a Driver's Licence

1. Call the Customer Service Centre to make a driver renewal appointment. Please bring with you the following documentation -

- The completed application form.
- The correct fee.
- A valid passport or birth certificate.
- Your DVLA licence registered to your current address.
- 2 x proof of address (letter from a doctor/utility bill etc.) these must be dated within the last three months.
- If you have spent six continuous months or more living outside the UK a criminal record check or equivalent documentation from the country/countries covering the relevant period.
- If you have changed your name either by marriage or deed poll, the change of name document/marriage certificate.
- A completed medical (please ensure you have both the medical and the covering declaration from the GP/medical examiner stating that you are fit to work).

At this appointment you will be required to complete the application form for Disclosure and Barring Service check and the IDS mandate which enables the Council to check if you have any driving convictions.

2. The badge will be given to you at this appointment assuming the application process has been completed to the Council's satisfaction.

PLEASE NOTE - you must bring your completed DBS to the Council on receipt. Failure to do so may result in the suspension or revocation of your licence.

Annex 1 • Driver Licensing Standards and Conditions

Determination of New and Renewal Applications and the Appeal Process

The Council will deal with applications as follows •

1. The application will be reviewed by a member of the Licensing Team and if any issues are identified you will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those identified are resolved, the application will be granted provided that the process has been complied with to the satisfaction of the Council.
3. If issues are identified and not resolved a report will be prepared for the Licensing Manager setting out the facts of the matter to be considered.
4. The Manager will review the case file and, where appropriate, will interview you and make his determination. The decision will be conveyed to you in writing.
5. You have a right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the notification of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.
6. Where an appeal has been made in the case of the renewal of a licence, you may continue to drive until the appeal has been determined.

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.

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

Only those vehicles which comply with the specifications set out below can be granted a hackney carriage vehicle licence by Colchester Borough Council.

Introduction

A hackney carriage vehicle licence remains in force for a year.

Any car to be used as a hackney carriage must be -

- Capable of carrying at least four passengers, but no more than eight including any passenger in a wheelchair.
- Side loading and of a type approved by the Council.
- Capable of carrying a wheelchair in the boot.
- Meet the European Whole Vehicle type approval or British National Type approval
- Meet all other pre-licensing standards set out below.

In addition -

- any vehicle to be used as a hackney carriage on plates **200 to 232 (currently plates 98 to 131 with the exception of plates 105 and 111)** must be fully wheelchair adapted; this means having the facility to load and unload wheelchairs directly into the vehicle. **All new vehicles on these plates must be adapted; this includes vehicles on renewal.**

PLEASE NOTE: Always make sure that any vehicle you intend to license meets all the conditions before you pay for it or enter into any credit agreement. The Council is not liable if you purchase a vehicle which cannot be licensed because it does not meet the pre-licensing conditions. If you have any doubts about whether your particular vehicle is acceptable, contact the Licensing Team.

Applications for the grant, renewal or transfer of a licence must be made, and will be determined, in accordance with the relevant process and procedures set out in the Policy, its Annexes and Appendices.

Once your vehicle has been licensed it cannot be driven by anyone else unless they hold a hackney carriage/private hire driver's licence and , in the case of a wheelchair accessible vehicle, a valid PATS certificate. This means that your spouse, partner or children will be unable to drive the vehicle at any time, even on holiday, unless they hold a current hackney carriage/private hire driver's licence. Such use could invalidate your insurance cover.

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

Pre Licensing Standards

Only those vehicles which comply with the specification detailed below can be granted a hackney carriage vehicle licence by Colchester Borough Council.

1. Vehicle Age and Condition

1.1 An application for a hackney carriage will not be accepted if the vehicle is five years or older. The age of the vehicle will be taken from the date of first registration on the log book and therefore this must be submitted with the application.

1.2 The vehicle will continue to be licensed until it reaches 12 years of age or 15 years of age for a purpose built taxi.

1.3 The vehicle must pass an inspection undertaken at a Council approved testing station. The current approved garage is the Riverside Workshop, Unit 7, Westside, Stanway CO4 3QE.

1.4 All vehicles licensed as hackney carriages and which are, from the date of first registration, over one year old must have a VOSA MOT test certificate.

2. General Specification

2.1 Where vehicles have not been manufactured in the UK or imported by the manufacturer, they must have an appropriate "Type Approval" which is either an EC Whole Vehicle Type Approval (ECWVTA) or British National Type approval. Vehicles must not have been altered since that approval was granted. An Individual Vehicle Approval (IVA) may be accepted for wheelchair accessible vehicles. Vehicles presented for approval, and while in use, must comply with the Road Vehicles (Construction and Use) Regulations 1986 and any subsequent amendment or re-enactment thereof.

2.2 No fittings, other than those approved in this Policy or required in the examination and test by the Council's authorised testing station, may be attached to or carried on the inside or outside of the vehicle.

2.3 All newly registered or re-registered vehicles must run on unleaded fuel, diesel or an alternative environmentally friendly fuel such as LPG, (Liquid Petroleum Gas) or be hybrid or fully electric. Where petrol or diesel vehicles are used they must comply with the following compliance dates and standards for emissions from taxis -

- Euro 5 for diesel vehicles | Euro 4 for petrol from 2018
- Euro 6 for diesel vehicles | Euro 4 for petrol from 2020

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

- From 2025 all new registrations to meet an LPG, low emission or electric hybrid standard

2.4 All vehicles must be of a size to have adequate luggage accommodation with suitable restraints to prevent items in non-saloon vehicles becoming unsecured. All vehicles must be capable of carrying a wheelchair, as luggage, in a reasonable manner.

3. Colour

3.1 Hackney Carriages must have a black full body livery.

4. Body of the Vehicle

4.1 The vehicle must have no untreated or unrepaired body defect or significant signs of corrosion. Corrosion includes visible rust and signs of rust by virtue of the paintwork being blistered. All rust spots and repairs in excess of 100 millimetres diameter are to have been prepared and repainted with matching colour up to insurance finishing standard

4.2 The paintwork must be of a professional finish and be one consistent colour over the whole of the vehicle's bodywork.

5. Wheels and Tyres

5.1 The vehicle must have four road wheels unless agreed by the Licensing Committee.

5.2 Any spare wheel must conform to construction and use regulations.

5.3 A wheel brace and jack to enable the effective change of a tyre and wheel must be carried, except where Paragraph 5.4 applies.

5.4 Where an aerosol inflation and sealant device is supplied with the vehicle as standard by the manufacturer, a spare tyre need not be carried.

5.5 If a vehicle is fitted with 'run flat' tyres, the vehicle must be fitted with a tyre pressure sensor I warning device.

5.6 All tyres, including the spare tyre, must comply with the vehicle manufacturer's specification.

5.7 Re-cut tyres are not acceptable for vehicles that are internationally classified as M1 passenger vehicles and remould tyres must only be acceptable if they carry a recognised approval marking (BSAU144e) and display:

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

- Nominal size
- Construction type (e.g. radial ply)
- Load capacity
- Speed capability

5.8 A vehicle must not be presented for examination and test with a space saver spare tyre in use.

6. Steering

6.1 The vehicle must be right hand drive.

7. Doors

7.1 The vehicle must have a minimum of 4 opening doors unless it is a minibus type vehicle (multi seat vehicle) in which case the minimum opening of the side door must be at least 864mm.

7.2 All vehicles must have doors that open sufficiently wide to allow easy access and egress from the vehicle.

7.3 All doors must be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism.

7.4 The interior door handle must be clearly visible and easily accessible to passengers.

8. Seats

8.1 Each passenger must have a minimum of 432mm of personal sitting space, for the rear seats this will be measured in a straight line lengthways across the front edge of the seat.

8.2 Each seat must be fitted with fully operational seat belts, compliant with British Standards, except where the law specifically provides an exemption.

8.3 Where seat covers are used they must be properly affixed to the seat so as not to become loose during use. They must be clean and undamaged.

9. Windows

9.1 Opening windows must be provided in the rear of the vehicle capable of being opened by the rear seat passengers.

9.2 Factory fitted tinted windows are permitted in the rear of the vehicle only.

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

9.3 The vehicle must not be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.

10. Heating and ventilation

10.1 Vehicles must have an efficient heating and ventilation system.

11. Wheelchair carrying facilities

11.1 Any vehicle that has the facility for the carriage of wheelchair(s) and wheelchair passengers must comply with current equality act requirements and must be inspected by a Council approved garage to determine its suitability. It must -

- a. Have the facility to load and unload wheelchairs directly into the vehicle.
- b. Be fitted with approved anchorages that must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and passengers must be independent of each other. Anchorages must also be provided for the safe storage of a wheelchair, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- c. Be fitted with appropriate equipment for the loading of a wheelchair and passenger. Provision must be made for any removable device used for loading to be stored safely in the vehicle when not in use.

11.2 The vehicle must be equipped with a manufacturer's user manual guide on the safe loading and unloading and security of wheelchair passengers.

11.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations immediately prior to being first licensed and at each subsequent twice yearly test and be so certified. The certification must be submitted at the time of first license and on renewal.

12. CCTV Systems

12.1 CCTV surveillance systems, which must comply with the Council's CCTV Policy (see Appendix 1), must be installed in vehicles with effect from xxxxxxxx as follows -

- On first licensing for new vehicles.
- Within xxxxxxxxxxxx for existing licensed vehicles

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

13. Electrical Equipment

13.1 Any additional electrical installation to the original equipment must be adequately insulated and be protected by suitable fuses.

14. Seat Belts

(Please follow the electronic links in the paragraphs below for the current law on seat belts)

14.1 The vehicle must be compliant with all relevant [legislation](#) and guidelines as issued or determined by central government in relation to the use of seatbelts.

As the holder of a hackney carriage vehicle licence you must comply with the following conditions. These conditions should be read in conjunction with the Policy, its Annexes and Appendices. Any requirement of legislation, which affects the operations being carried out under the terms of this licence, should be regarded as if they are conditions of this licence.

Where there appears in the licence conditions a summary of any statutory provision you are advised that such summary is not exhaustive.

The Convictions Policy and Penalty Point Scheme will be applied as appropriate in respect of any breaches of the conditions.

Conditions of licence

1. Vehicle Testing

1.1 Once licensed, the vehicle must be presented for inspection as follows -

- Up to 5 years old - once during each 12 month licensing period.
- 5 to 12 years old - twice during each 12 month period.

1.2 Licensed vehicles that fail an authorised examination and test will be issued with a suspension notice in order to prevent the vehicle being used to carry passengers until the defect(s) is/are remedied. The suspension will not be lifted until the vehicle has been repaired; undergone a further test at your expense; has been passed as fit for use by a Council approved testing station; and the Authority has received the appropriate notification.

1.3 If the defect is not repaired within 28 days from the date of the service of the suspension notice, the vehicle licence will be revoked by the Council. Where it is

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anticipated that repairs will take longer than 28 days you must apply to the Council to extend the period.

1.4 Any damage to a licensed vehicle must be reported to the Licensing Team in writing by email within 72 hours.

1.5 A vehicle must always be inspected after it has been involved in a road traffic accident or where damage has been caused to it, however minor or limited the damage appears to be. You must also present the vehicle for inspection, at a Council approved testing station, after it has been repaired. **A copy of the Pass Certificate must be given to the Council before the vehicle can be used again to carry passengers.**

1.6 The licence of any vehicle failing to attend a required inspection will be suspended until such time as the vehicle has been inspected and passed

2. Licence Identification Plates

2.1 You must fix to the vehicle licence identification plates of the size, colour, design and type supplied by the Council; these plates must relate to the vehicle on which they are displayed. No other vehicle licence identification plates should be displayed on the vehicle. **The plates should be displayed on the front and the rear of the vehicle.**

2.2 You must ensure that the licence identification plates are securely fixed to the outside exterior of the hackney carriage vehicle, adjacent as possible, to the number plate and in such a manner as to ensure that the vehicle registration plate is not obscured and the plate is clearly visible from the highway and by other road users. A plate must not be placed on the rear window of the vehicle.

2.3 You must ensure that a vehicle licence identification card, as supplied by the Authority, is displayed in a position for all passengers to clearly see.

2.4 The licence plates must remain the property of the Council and must be returned within seven days, following the service on you of an appropriate notice by the Authority and/or in the event of the hackney carriage vehicle licence ceasing to be in force in respect of the vehicle.

3. Luggage

3.1 Luggage must be conveyed in such a way that ensures it is protected from damage and is properly secured.

4. Furnishing and maintenance of vehicle

4.1 You must ensure that the vehicle and all its fittings and equipment is, at all

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

times when the vehicle is in use or available for hire as a hackney carriage, kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements are complied with fully. **Please note** - It is not sufficient to wait until a compliance test to find out if the vehicle is still roadworthy.

4.2 Where a separate compartment is provided for passengers, you must provide sufficient means by which any person in the compartment may communicate with the driver.

4.3 You must at all times provide adequate lighting, heating and ventilation for the interior of the vehicle.

5. Auxiliary equipment

5.1 Where apparatus for the operation of a two-way radio system is fitted to a vehicle, no part of the apparatus must be fixed in the passenger compartment or in the rear boot compartment if LPG or CNG tanks or equipment are in use.

5.2 Any radio apparatus must be so positioned and properly secured so as not to interfere with the safe operation of the vehicle.

5.3 Any auxiliary equipment that is fitted to a vehicle must not impede the driver in any way or hinder his/her view, impede or cause hazard to passengers or other road users.

6. Notification of Changes affecting the Licence

6.1 You must notify the Council, in writing of any change in circumstances affecting the licence within 7 days of such a change taking place.

6.2 A copy of any new MOT certificate must be submitted to the Council within 7 days of the date of issue.

6.3 Any new insurance certificate/cover note must be submitted to the Council within 7 days of date of issue. Insurance Brokers may send a copy direct to eps.support@colchester.gov.uk but it is your responsibility to ensure that this has been done. The full insurance certificate must be sent direct to eps.support@colchester.gov.uk within 28 days of its issue.

7. Signs, Notices, etc.

7.1 No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or electronic advertising devices whatsoever can be displayed on, in, or from the vehicle, except as may be required by any statutory provision (including by-laws), or required or permitted by these conditions, provided however that this condition shall not apply to any indication on a taximeter fitted to the vehicle.

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7.2 You must cause to be fixed and maintained to the front of the roof of the vehicle a sign which reads "Taxi" and must be able to be lit when available for hire and turned off at other times. The illuminated roof sign must be the standard size of 61cm and say Colchester. This condition does not apply when the vehicle is a London style cab such as for example, a TX1, FX4, Metrocab or any other type of vehicle that has a built in 'Taxi' sign at roof level. All other livery conditions apply to London style cabs unless they are actively displaying promotional advertising on the vehicle, permission for which must have been sought from the Council or other authorised supplier. The roof sign will be supplied by the Council at cost price. Roof signs indicating the tariff may be introduced at a later date.

7.3 Door signs as supplied or authorised by the Council, must be affixed and maintained on the top of the nearside and offside front doors of the vehicle.

7.4 The use of the Borough Coat of Arms is exclusive to Colchester Borough Council, therefore prior permission for the use of these signs or this symbol must be obtained in writing from the Licensing Manager. No other use of this door signage or the Borough Coat of Arms will be considered or allowed.

7.5 You must fix and maintain the rear door signage on the inside of the vehicle facing outwards in such a position that it can be seen by any passenger opening the rear doors. These signs will be supplied by the Council and will show the plate number of the vehicle.

7.6 You must fix and maintain the appropriate no smoking signage required by the relevant regulations.

7.7 You must fix and maintain in the vehicle any signs or notices required by the Council.

7.8 You may display on the rear doors of the vehicle signs that give your business name and contact number. You must obtain prior approval from the Council in writing before they are used. Any signage should be the same size as the front door signs supplied by the Council.

8. Taximeters

8.1 A licensed hackney carriage vehicle must be fitted with a taximeter, of a type approved by the Council and this must be fixed to the vehicle in such a way that it will not be practical for any person to tamper with it except by breaking, damaging or permanently displacing the seals or other appliances.

8.2 The taximeter must be positioned so that all letters and figures on its face must be at all times illuminated and plainly visible to any passenger.

8.3 The taximeter when standing at a rank or plying for hire must be kept locked in a position in which no fare is recorded on its face.

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8.4 When the taximeter is operating there must be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that must be charged for a journey.

8.5 If the taximeter has been altered for whatever reason, the proprietor of the vehicle must forthwith make arrangements for resetting with the approved meter agent.

8.6 The vehicle taximeter must be used for every fare without exception and the fare demanded by the driver must not be greater than that shown on the meter. In the event of a hire ending outside the Authority's boundary, the fare that may be charged for the journey is the fare or rate of fare that was made at the start of the journey; the fare to be charged should be no greater than that that would have been shown on the taximeter. If a fixed fare is negotiated, the taximeter must be used in order to confirm that any negotiated fare is less than the metered fare.

9. Table of fares

9.1 The proprietor must ensure that the current table of fares for that vehicle is available on request at all times.

10. CCTV

10.1 The CCTV surveillance system provided within the vehicle must comply with the Council's CCTV Policy (see Appendix 1).

11. Named Driver(s) on the Licence

11.1 You are permitted, either at the time the licence is granted or during the lifetime of the licence, to allow another licensed driver(s) to drive your vehicle. You are responsible for insuring the vehicle with any additional driver(s) noted on the policy as a named driver. In every case you must notify the Council of the name of the driver(s) and supply the Council with a copy of the insurance certificate showing the named driver(s) within 7 days. You will continue to be responsible either individually, severally or jointly for compliance with the licence conditions, statutory requirements and byelaw provisions.

Please note • Any agreement between you and a third party in relation to the use of the vehicle is of no concern to the Council and you should obtain your own legal advice.

12. Livery

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

12.1 The vehicle must, at all times, conform to the livery requirements unless the vehicle is one that has been supplied to you by an insurance company or similar business as a result of an accident to your vehicle and it is supplied as a short term replacement only and while repairs are being carried out to your vehicle. Any such replacement vehicle must still display an approved roof light and door signs.

12.2 London style taxis must conform to the prescribed full body livery (except for the display of the uniform roof light) at all times except when they are actively displaying full body livery promotional advertising on the vehicle, permission for which has been obtained from the Council.

12.3 Any hackney carriage vehicle found not complying with the Council's livery is liable to immediate suspension.

13. Insurance

13.1 A fully paid up insurance policy in respect of the vehicle covering the carriage of passengers for hire or reward and complying with the requirements of Part VI of the Road Traffic Act 1988, must be in force during the vehicle licence period. The certificate of this policy must be produced to the Council, or any other authorised officer at all such times and places as may reasonably be required. Failure to provide a copy of a valid insurance certificate will result in the immediate suspension of the licence.

14. Temporary Replacement Vehicles

14.1 Where a vehicle cannot be used because it is being repaired, you may apply for a temporary plate for the replacement vehicle which will enable you to continue to operate. The temporary plate may be used for up to a month; this period may be extended in exceptional circumstances following the approval of the Council.

14.2 The temporary replacement vehicle, which can be any colour, should be under five years old. If the vehicle is over five years old it must pass an inspection undertaken at a Council approved testing station. The current approved garage is the Riverside Workshop, Unit 7, Westside, Stanway C04 3QE.

15. Return of Plates

15.1 Hackney carriage vehicle licence plates remain at all times the property of the Council and must be returned to the Council or other authorised officer if you fail to renew the licence, the licence is revoked or on the death of a sole proprietor or upon giving up the business.

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16. Additional specifications for wheelchair accessible vehicles.

16.1 The vehicle must have been manufactured or properly adapted to carry at least one person seated in their wheelchair (which includes electrically driven wheelchairs) and have an approved wheelchair clamping system installed. The system of clamping a wheelchair must be of a proprietary type and been installed to manufacturers specifications. A certificate of professional fitting by a competent person must be produced.

16.2 Each wheelchair user conveyed must be capable of being properly secured with a lap and diagonal seat belt made available through the vehicle's adaptation or design and separate from the system holding the wheelchair. A certificate of professional fitting by a competent person must be produced. Belts attached to a wheelchair in order to assist a person to remain in it whilst the wheelchair is in use will not be sufficient.

16.3 All devices used and carried in the vehicle in connection with access to and egress from the vehicle must be carried in such a way as not to impede access or egress of passengers or otherwise compromise their safety. All such devices to be clearly marked with the vehicle's registration number.

16.4 When a designed or adapted vehicle is presented for testing, all seat configurations shall be made known and the interior layout of the seating will be noted. When presented, each vehicle must have a designated space to accommodate at least one wheelchair user. This space will be included in the total number of persons permitted to be carried.

16.5 Whilst available for hire, if such a vehicle is not being used for a passenger in a wheelchair, only a foldaway seat which complies with current construction and use regulations may be used to substitute the wheelchair space.

16.6 Any seats replacing the wheelchair space which have to be bolted or locked into place will not be accepted since these present problems of storage of the displaced seats when wheelchair passengers are being carried.

16.7 Any hackney carriage licence granted specially for the provision of a London style cab or Mini Bus type wheelchair converted vehicle, shall only remain valid and in force for as long as a vehicle of this type is provided. Should any proprietor wish to dispose of a vehicle with the benefit of such a licence, this condition will continue to apply to any new proprietor.

16.8 All drivers, whether proprietor or lessee, who use a wheel chair accessible vehicle must attend a Passenger Assistance Training course and lodge the attendancepass certificate with the Licensing Team.

16.10 Refusal to accept a wheelchair user as a fare paying passenger, **without an appropriate exemption**, for any reason, will not be tolerated and a prosecution may follow.

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

16.11 Any damage to the equipment to facilitate access and egress by a wheelchair user must be reported immediately to the Council and must be repaired within 7 days.

16.12 Any wheelchair accessible vehicle found to be not carrying the necessary equipment to facilitate access and egress or found to be carrying damaged equipment will be immediately suspended. On a second offence of this kind, the Council may refer the matter to the Licensing Committee with a view to revoking the vehicle and driver licence.

17. Trailers

17.1 A trailer can be towed by a licensed Hackney Carriage vehicle provided that:

- a. The vehicle towing is suitable for towing the intended trailer in accordance with the relevant regulations.
- b. The trailer to be towed by the licensed vehicle complies with all legal requirements and the following conditions.
 - i. It is presented for and passes inspection by the Council's approved garage prior to its use and again at each inspection of the vehicle by which the trailer is towed. The cost of such an inspection to be borne by you.
 - ii. No advertising is permitted on any part of the trailer without the written agreement of the Council.
 - iii. When the trailer is used with the vehicle, the additional licence plate issued by the Council specifically for that trailer must be clearly displayed on the rear of the trailer. Such licence plate number must correspond to the plate number of the towing vehicle. The cost of the additional plate will be borne by you.

18. Alteration of Vehicle

18.1 No material alteration or change in the specification, design, condition or appearance of the vehicle can be made without the approval of the Council, at any time when the hackney carriage vehicle licence is in force.

19. Liquid Petroleum Gas (LPG)

19.1 The following conditions apply to vehicles which are made or adapted to run on LPG. The vehicle must comply with all other pre licensing standards and conditions.

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

19.2 You must notify the Council if you change your vehicle to run on LPG and you must comply with the following:

- a. The installation of an LPG tank must be undertaken by an LPG approved installer, as recommended by the Liquid Petroleum Gas Association, and the certificate of compliance presented to the Council.
- b. The vehicle must display on the front and rear windscreen a sticker stating that the vehicle has been fitted with an LPG tank; this is to alert the emergency services in the event of an accident.
- c. You must notify the DVLA at Swansea of the change.
- d. The vehicle must be serviced annually by a person competent in LPG powered vehicles and a certificate of compliance must be presented to the Council.

20. Wheels

20.1 Space-saver spare tyres, where supplied as standard equipment to the vehicle, will be accepted for use in an emergency. However, they may only be used to enable passengers to be taken, at an appropriate speed, to their destination. The vehicle may not then be used to convey passengers until the appropriate repairs have been made. Provision must be made for a standard road wheel to be secured in the vehicle should a space saver tyre be used in an emergency. [Please note](#) - a vehicle presented for examination and test with a space saver spare tyre in use as a road wheel will fail the test.

21. Seat Belts

(Please follow the electronic links in the paragraphs below for the current law on seat belts)

21.1 The vehicle must be compliant with all relevant [legislation](#) and guidelines as issued or determined by central government in relation to the use of seatbelts and children's car seats.

22. Disclosure and Barring

21.1 You must, as the licenseelowner of a hackney carriage vehicle, have a basic Disclosure and Barring Service report issued within the previous 3 months. This report is required every three years or on the transfer of a vehicle licence to a new owner and thereafter every three years. If you are also a licensed driver with the Council this DBS is not required.

Please note: This requirement will come into effect from the next renewal of your vehicle licence.

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23. Convictions and Penalty Points

23.1 The Convictions Policy and Penalty Point Scheme will be applied as appropriate.

Appeals

If you are aggrieved by any of the conditions attached to the licence you may appeal to the Magistrates Court within 21 days of the service of the licence and the attached conditions on you. Any appeal must be made in writing to the Magistrates Court, Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 SPF.

Application and Renewal Process

Application Process

- 1. Call the Customer Service Centre to make an appointment for the vehicle to be inspected at a Council approved garage, currently Riverside. An inspection is not required if the vehicle is brand new.**
- 2. Call the Customer Service Centre to make an appointment with an appropriate member of staff to check the required documentation which is -**
 - Vehicle registration document • the full log book must be presented. If you do not currently hold the full log book, the green new keeper slip will only be considered if accompanied by a comprehensive Bill of Sale showing the vehicle type, registration number, purchase details, colour of vehicle, make and model, number of passengers and the date the vehicle was first registered.**
 - A current insurance certificate or cover note showing compliance with part vi of the Road Traffic Act 1988 and the use of the vehicle for public/private hire and reward. Please note that any named person on the policy must hold a Colchester Borough Council hackney carriage/private hire driver's badge.**
 - A current MOT Certificate if the vehicle has been registered for one year or more.**

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

- Your DVLA driving licence (a copy is not acceptable) the address shown on the driving licence must correspond with that shown on the registration document.
- The Pass Slip from the garage inspection.
- The correct fee.
- The completed application form.
- A basic Disclosure and Barring Service report issued within the previous 3 months.

3. Once the application process has been completed to the Council's satisfaction, it will issue the licence plate.

Plate Renewal Process

1. Call the Customer Service Centre to make an appointment for the vehicle to be inspected at the Council approved garage, currently Riverside. An inspection is not required if the vehicle is brand new.

2. Call the Customer Service Centre to make an appointment with an appropriate member of staff to check the required documentation which is -

- Vehicle registration document • **the full log book must be presented.**
- A current insurance certificate or cover note showing compliance with part vi of the Road Traffic Act 1988 and the use of the vehicle for public/private hire and reward. Please note that any named person on the policy must hold a Colchester Borough Council Hackney Carriage/Private Hire Drivers badge.
- A current MOT Certificate if the vehicle has been registered for one year or more.
- Your DVLA driving licence (a copy is not acceptable) the address shown on the driving licence must correspond with that shown on the registration document.
- The correct fee.
- The Pass slip from the garage inspection (currently Riverside)
- The completed application form.
- **A basic Disclosure and Barring Service report issued within the previous 3 months (required every three years only).**

3. Once the renewal process has been completed to the satisfaction of the Council, it will issue the licence plate.

Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

Determination of an application for a new licence or renewal

The Council will deal with applications as follows -

1. The application will be reviewed by a member of the Licensing Team and if any issues are identified the applicant/licence holder will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those that are identified are resolved, the application will be granted. In all other cases a report will be prepared for the Licensing Manager setting out the facts of the matter to be considered.
3. The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
4. There is a right of appeal to the Magistrates Court and any such appeal must be made in writing, within 21 days from the date of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.

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.

Annex 3 • Private Hire Licensing Standards and Conditions

Only those vehicles which comply with the specification detailed below can be granted a private hire vehicle licence by Colchester Borough Council.

Introduction

A private hire vehicle licence remains in force for a year.

Any car to be used for the purposes of private hire must be -

- Capable of carrying at least four passengers, but no more than eight including any passenger in a wheelchair.
- Side loading and of a type approved by the Council.
- Capable of carrying a wheelchair in the boot.
- Meet the European Whole Vehicle type approval or British National Type approval
- Meet all other pre-licensing standards set out below.

PLEASE NOTE: Always make sure that any vehicle you intend to license meets all the conditions before you pay for it or enter into any credit agreement. The Council is not liable if you purchase a vehicle which cannot be licensed because it does not meet the pre-licensing conditions. If you have any doubts about whether your particular vehicle is acceptable, contact the Licensing Team.

Applications for the grant, renewal or transfer of a licence must be made, and will be determined, in accordance with the relevant process and procedures set out in the Policy, its annexes and appendices.

Once your vehicle has been licensed it cannot be driven by anyone else unless they hold a hackney carriage/private hire driver's licence. This means that your spouse, partner or children will be unable to drive the vehicle at any time, even on holiday, unless they hold a current hackney carriage/private hire driver's licence. Such use could invalidate your insurance cover.

Pre Licensing Standards

Only those vehicles which comply with the specification detailed below can be granted a private hire vehicle licence by Colchester Borough Council.

1. Vehicle Age and Condition

Annex 3 • Private Hire Licensing Standards and Conditions

1.1 An application for a private hire will not be accepted if the vehicle is five years or older. The age of the vehicle will be taken from the date of first registration on the log book and therefore this must be submitted with the application.

1.2 The vehicle will continue to be licensed until it reaches 12 years of age.

1.3 The vehicle must pass an inspection undertaken at a Council approved testing station. The current approved garage is the Riverside Workshop, Unit 7, Westside, Stanway CO4 3QE.

1.4 All vehicles licensed as private hire vehicles and which are, from the date of first registration, over one year old must have a VOSA MOT test certificate.

2. General Specification

2.1 Where vehicles have not been manufactured in the UK or imported by the manufacturer, they must have an appropriate "Type Approval" which is either an EC Whole Vehicle Type Approval (ECWVTA) or British National Type approval. Vehicles must not have been altered since that approval was granted. An Individual Vehicle Approval (IVA) may be accepted for wheelchair accessible vehicles. Vehicles presented for approval, and while in use, must comply with the Road Vehicles (Construction and Use) Regulations 1986 and any subsequent amendment or re-enactment thereof.

2.2 No fittings, other than those approved in this Policy or required in the examination and test by the Council's authorised testing station, may be attached to or carried on the inside or outside of the vehicle.

2.3 All newly registered or re-registered vehicles must run on unleaded fuel, diesel or an alternative environmentally friendly fuel such as LPG, (Liquid Petroleum Gas) or be hybrid or fully electric. Where petrol or diesel vehicles are used they must comply with the following compliance dates and standards for emissions from taxis -

- Euro 5 for diesel vehicles | Euro 4 for petrol from 2018
- Euro 6 for diesel vehicles | Euro 4 for petrol from 2020
- From 2025 all new registrations to meet an LPG, low emission or electric hybrid standard
-

2.5 All vehicles must be of a size to have adequate luggage accommodation with suitable restraints to prevent items in non-saloon vehicles becoming unsecured. All vehicles must be capable of carrying a wheelchair, as luggage, in a reasonable manner.

3. Colour

3.1 Private hire vehicles **must not** be black **and black wrapping of vehicles is not permitted**. Existing licensed private hire vehicles which are black will continue to be licensed until they are 12 years of age when they must be replaced by a vehicle which is not black.

Annex 3 • Private Hire Licensing Standards and Conditions

4. Body of the Vehicle

4.1 The vehicle must have no untreated or unrepaired body defect or significant signs of corrosion. Corrosion includes visible rust and signs of rust by virtue of the paintwork being blistered. All rust spots and repairs in excess of 100 millimetres diameter are to have been prepared and repainted with matching colour up to insurance finishing standard

4.2 The paintwork must be of a professional finish and be one consistent colour over the whole of the vehicle's bodywork.

5. Wheels and Tyres

5.1 The vehicle must have four road wheels unless agreed by the Licensing Committee.

5.2 Any spare wheel must conform to construction and use regulations.

5.3 A wheel brace and jack to enable the effective change of a tyre and wheel must be carried, except where Paragraph 5.4 applies.

5.4 Where an aerosol inflation and sealant device is supplied with the vehicle as standard by the manufacturer, a spare tyre need not be carried.

5.5 If a vehicle is fitted with 'run flat' tyres, the vehicle must be fitted with a tyre pressure sensor I warning device.

5.6 All tyres, including the spare tyre, must comply with the vehicle manufacturer's specification.

5.7 Re-cut tyres are not acceptable for vehicles that are internationally classified as M1 passenger vehicles and remould tyres must only be acceptable if they carry a recognised approval marking (BSAU144e) and display:

- Nominal size
- Construction type (e.g. radial ply)
- Load capacity
- Speed capability

5.8 A vehicle must not be presented for examination and test with a space saver spare tyre in use.

6. Steering

Annex 3 • Private Hire Licensing Standards and Conditions

6.1 The vehicle must be right hand drive.

7. Doors

7.1 The vehicle must have a minimum of 4 opening doors unless it is a minibus type vehicle (multi seat Vehicle) in which case the minimum opening of the side door must be at least 864mm.

7.2 All vehicles must have doors that open sufficiently wide to allow easy access and egress from the vehicle.

7.3 All doors must be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism.

7.4 The interior door handle must be clearly visible and easily accessible to passengers.

8. Seats

8.1 Each passenger must have a minimum of 432mm of personal sitting space, for the rear seats this will be measured in a straight line lengthways across the front edge of the seat.

8.2 Each seat must be fitted with fully operational seat belts, compliant with British Standards, except where the law specifically provides an exemption.

8.3 Where seat covers are used they must be properly affixed to the seat so as not to become loose during use. They must be clean and undamaged.

9. Windows

9.1 Opening windows must be provided in the rear of the vehicle capable of being opened by the rear seat passengers.

9.2 Factory fitted tinted windows are permitted in the rear of the vehicle only.

9.3 The vehicle must not be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.

10. Heating and ventilation

10.1 Vehicles must have an efficient heating and ventilation system.

11. Wheelchair carrying facilities

Annex 3 • Private Hire Licensing Standards and Conditions

11.1 Any vehicle that has the facility for the carriage of wheelchair(s) and wheelchair passengers must comply with current equality act requirements and must be inspected by a Council approved garage to determine its suitability. It must -

- a. Have the facility to load and unload wheelchairs directly into the vehicle.
- b. Be fitted with approved anchorages that must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and passengers must be independent of each other. Anchorages must also be provided for the safe storage of a wheelchair, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- c. Be fitted with appropriate equipment for the loading of a wheelchair and passenger. Provision must be made for any removable device used for loading to be stored safely in the vehicle when not in use.

11.2 The vehicle must be equipped with a manufacturer's user manual guide on the safe loading and unloading and security of wheelchair passengers.

11.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations immediately prior to being first licensed and at each subsequent twice yearly test and be so certified. The certification must be submitted at the time of first license and on renewal.

12. CCTV Systems

12.1 CCTV surveillance systems, which must comply with the Council's CCTV Policy (see Appendix 1), must be installed in vehicles with effect from xxxxxxxxxxxx as follows

- On first licensing for new vehicles
- Within xxxxxxxx for existing licensed vehicles

13. Electrical Equipment

13.1 Any additional electrical installation to the original equipment must be adequately insulated and be protected by suitable fuses.

14. Seat Belts

(Please follow the electronic links in the paragraphs below for the current law on seat belts)

Annex 3 • Private Hire Licensing Standards and Conditions

14.1 The vehicle must be compliant with all relevant [legislation](#) and guidelines as issued or determined by central government in relation to the use of seatbelts and children's car seats. This will however ordinarily exclude limousines and vintage cars.

As the holder of private hire vehicle licence you must comply with the following conditions. These conditions should be read in conjunction with the Policy, its annexes and appendices. Any requirement of legislation, which affects the operations being carried out under the terms of this licence, should be regarded as if they are conditions of this licence.

Where there appears in the licence conditions a summary of any statutory provision you are advised that such summary is not exhaustive.

The Convictions Policy and Penalty Point Scheme will be applied as appropriate in respect of any breaches of the conditions.

Conditions of Licence

1. Vehicle Testing

1.1 Once licensed, the vehicle must be presented for inspection as follows -

- Up to 5 years old - once during each 12 month licensing period
- 5 to 12 years old - twice during each 12 month period

1.2 Licensed vehicles that fail an authorised examination and test will be issued with a suspension notice in order to prevent the vehicle being used to carry passengers until the defect(s) is/are remedied. The suspension will not be lifted until the vehicle has been repaired; undergone a further test at your expense; has been passed as fit for use by a Council approved testing station; and the Authority has received the appropriate notification.

1.3 If the defect is not repaired within 28 days from the date of the service of the suspension notice, the vehicle licence will be revoked by the Council. Where it is anticipated that repairs will take longer than 28 days you must apply to the Council to extend the period.

1.4 Any damage to a licensed vehicle must be reported to the Licensing Team in writing by email within 72 hours.

1.5 A vehicle must always be inspected after it has been involved in a road traffic accident or where damage has been caused to it, however minor or limited the damage appears to be. You must also present the vehicle for inspection, at a Council

Annex 3 • Private Hire Licensing Standards and Conditions

approved testing station, after it has been repaired. **A copy of the Pass Certificate from the garage must be given to the Council before the vehicle can be used again to carry passengers.**

1.6 The licence of any vehicle failing to attend a required inspection will be suspended until such time as the vehicle has been inspected and passed

2. Licence Identification Plates

2.1 You must fix to the vehicle licence identification plates of the size, colour, design and type supplied by the Council; these plates must relate to the vehicle on which they are displayed. No other vehicle licence identification plates should be displayed on the vehicle. **The plates should be displayed on the front and the rear of the vehicle.**

2.2 You must ensure that the licence identification plates are securely fixed to the outside exterior of the vehicle, adjacent as possible, to the number plate and in such a manner as to ensure that the vehicle registration plate is not obscured and the plate is clearly visible from the highway and by other road users. A plate must not be placed on the rear window of the vehicle.

2.3 You must ensure that a vehicle licence identification card, as supplied by the Authority, is displayed in a position for all passengers to clearly see.

2.4 The licence plates remain the property of the Council and must be returned within seven days, following the service on you of an appropriate notice by the Authority and/or in the event of the vehicle licence ceasing to be in force in respect of the vehicle.

2.5 If you have been granted an exemption from the requirement to display an external vehicle identification, you must carry the dispensation in the vehicle at all times and produce this on request to any officer of the Council or the Police (see Appendix 2 for information on Plate Exemptions).

3. Luggage

3.1 Luggage must be conveyed in such a way that ensures it is protected from damage and is properly secured.

4. Furnishing and maintenance of vehicle

4.1 You must ensure that the vehicle and all its fittings and equipment is, at all times when the vehicle is in use or available for hire, kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements are complied with fully.

Annex 3 • Private Hire Licensing Standards and Conditions

Please note - It is not sufficient to wait until a compliance test to find out if the vehicle is still roadworthy.

4.2 Where a separate compartment is provided for passengers, you must provide sufficient means by which any person in the compartment may communicate with the driver.

4.3 You must at all times provide adequate lighting, heating and ventilation for the interior of the vehicle.

5. Auxiliary equipment

5.1 Where apparatus for the operation of a two-way radio system is fitted to a vehicle, no part of the apparatus must be fixed in the passenger compartment or in the rear boot compartment if LPG or CNG tanks or equipment are in use.

5.2 Any radio apparatus must be so positioned and properly secured so as not to interfere with the safe operation of the vehicle.

5.3 Any auxiliary equipment that is fitted to a vehicle must not impede the driver in any way or hinder his/her view, impede or cause hazard to passengers or other road users.

6. Notification of Changes affecting the Licence

6.1 You must notify the Council, in writing of any change in circumstances affecting the licence within 7 days of such a change taking place.

6.2 A copy of any new MOT certificate must be submitted to the Council within 7 days of the date of issue. This should be sent to eps.support@colchester.gov.uk

6.3 Any new insurance certificate/cover note must be submitted to the Council within 7 days of date of issue. Insurance Brokers may send a copy direct to eps.support@colchester.gov.uk but it is your responsibility to ensure that this has been done. The full insurance certificate must be sent direct to eps.support@colchester.gov.uk within 28 days of its issue.

7. Signs, Notices and Advertisements, etc.

7.1 Vehicles must not display roof signs. Other signs or advertising below roof height cannot be displayed without the prior approval of the Authority.

7.2 Advertising material or decorative stickers on the windows of the vehicle, including the rear window, are strictly prohibited.

Annex 3 • Private Hire Licensing Standards and Conditions

7.3 Vehicles, when working, must display on the front doors of the vehicle a sign stating the trade **name, address and telephone number of the Private Hire Operator. This sign must contain the words 'pre-booked only' and 'private hire'**. It must not contain the words 'taxi' or 'cab' or any word of a similar meaning or appearance which may be taken to indicate that the vehicle is a hackney carriage which is licensed to ply for hire.

7.3 Vehicles are permitted, subject to prior approval of the Council, to display signs, advertisements, notices or other markings on the outside of their vehicle subject to compliance with the following -

- a. Product advertising is permitted on the rear doors subject to the Council giving authority and retaining the right to request the removal of any particular advertisement, which is felt to be unsuitable.
- b. Colour copies of artwork showing the advertising as it is intended to appear on the vehicle must be sent to the Licensing Team for prior approval and any change to the advertisement must not be made without the further approval of the Council.
- c. Each application for approval of advertising material will be considered on an individual basis, but advertisements must -
 - Comply with the UK's Advertising Standards Authority's Advertising Codes; it is the responsibility of the private hire proprietor to make sure that they do so (available at www.cap.org.uk)
 - Not advertise or promote age restricted products, such as tobacco, alcohol
 - Not contain pictures, text or graphics of a religiously discriminatory, political, racist, sexist or controversial nature
 - Not display nude, semi-nude or other figures in a sexually provocative manner or in a manner that would be considered to be objectionable
 - Not advertise any racist group or organisation that intends to promote such a group or such organisation and/or any of its activities
 - Only advertise one product or service at a time.
- d. All product advertising must be applied by a professional company and no reflective materials may be used.

Annex 3 • Private Hire Licensing Standards and Conditions

- e. Wheelchair accessible vehicles may display the disability symbol on the wheelchair access door(s) only.
- f. Advertising material or decorative stickers on the inside of the vehicle (i.e. on the flip seat) will be permitted, subject to the Council giving authority and retaining the right to request the removal of any particular advertisement, which is felt to be unsuitable.
- g. Any damaged or disfigured advertisement signs must be removed immediately.

7.3 You must fix and maintain the rear door signage on the inside of the vehicle facing outwards in such a position that it can be seen by any passenger opening the rear doors. These signs will be supplied by the Council and will show the plate number of the vehicle.

7.4 You must fix and maintain the appropriate no smoking signage required by the relevant regulations.

7.5 You must fix and maintain in the vehicle any signs or notices required by the Council.

8. Meters

8.1 If the vehicle is fitted with a meter for recording the fare it shall display and maintain the statement of fares inside the vehicle in such a position as to be clearly visible at all times to the hirer. The statement of fares must include the minimum hire charge, the rate charged per mile and any additional charges.

8.2 If a private hire vehicle is fitted with a meter for recording a fare it must be of a type approved by the Council, and this must be fixed to the vehicle in such a way that it will not be practical for any person to tamper with it except by breaking, damaging or permanently displacing the seals or other appliances.

8.3 If a pre-booked journey for which the fare has been agreed is carried out in a private hire vehicle with a meter, the meter must be running for the duration of the journey. If the metered fare is cheaper than the agreed fare, the metered fare must be charged.

8.4 The taximeter must be positioned so that all letters and figures on its face must be at all times illuminated and plainly visible to any passenger.

8.5 When the taximeter is operating there must be recorded on the face of the meter in clearly legible figures a fare not exceeding that stated in the statement of fares as displayed in the vehicle unless a rate has been separately agreed between the hirer and the licensed private hire operator at the time of booking and prior to the journey commencing.

Annex 3 • Private Hire Licensing Standards and Conditions

9. CCTV

9.1 The CCTV surveillance system provided within the vehicle must comply with the Council's CCTV Policy (see Appendix 1)

10. Insurance

10.1 A fully paid up insurance policy in respect of the vehicle covering the carriage of passengers for hire or reward and complying with the requirements of Part VI of the Road Traffic Act 1988, must be in force during the vehicle licence period. The certificate of this policy must be produced to the Council, or any other authorised officer upon request. Failure to provide a copy of a valid insurance certificate will result in the immediate suspension of the licence.

11. Temporary Replacement Vehicles

11.1 Where a vehicle cannot be used because it is being repaired, you may apply for a temporary plate for the replacement vehicle which will enable you to continue to operate. The temporary plate may be used for up to a month; this period may be extended in exceptional circumstances following the approval of the Council.

11.2 The temporary replacement vehicle, which can be any colour, should be under five years old. If the vehicle is over five years old it must pass an inspection undertaken at a Council approved testing station. The current approved garage is the Riverside Workshop, Unit 7, Westside, Stanway C04 3QE.

12. Return of Plates

12.1 Private Hire vehicle licence plates remain at all times the property of the Council and must be returned to the Council or other authorised officer if you fail to renew the licence, the licence is revoked or on the death of a sole proprietor or upon their giving up the business.

13. Additional specifications for wheelchair accessible vehicles.

13.1 The vehicle must have been manufactured or properly adapted to carry at least one person seated in their wheelchair (which includes electrically driven wheelchairs) and have an approved wheelchair clamping system installed. The system of clamping a wheelchair must be of a proprietary type and been installed to manufacturers specifications. A certificate of professional fitting by a competent person must be produced.

Annex 3 • Private Hire Licensing Standards and Conditions

13.2 Each wheelchair user conveyed must be capable of being properly secured with a lap and diagonal seat belt made available through the vehicle's adaptation or design and separate from the system holding the wheelchair. A certificate of professional fitting by a competent person must be produced. Belts attached to a wheelchair in order to assist a person to remain in it whilst the wheelchair is in use will not be sufficient.

13.3 All devices used and carried in the vehicle in connection with access to and egress from the vehicle must be carried in such a way as not to impede access or egress of passengers or otherwise compromise their safety. All such devices to be clearly marked with the vehicle's registration number.

13.4 When a designed or adapted vehicle is presented for testing, all seat configurations shall be made known and the interior layout of the seating will be noted. When presented, each vehicle must have a designated space to accommodate at least one wheelchair user. This space will be included in the total number of persons permitted to be carried.

13.5 Whilst available for hire, if such a vehicle is not being used for a passenger in a wheelchair, only a foldaway seat which complies with current construction and use regulations may be used to substitute the wheelchair space.

13.6 Any seats replacing the wheelchair space which have to be bolted or locked into place will not be accepted since these present problems of storage of the displaced seats when wheelchair passengers are being carried.

13.7 All drivers who use a wheelchair accessible vehicle must attend a Passenger Assistance Training course and lodge the attendancelpass certificate with the Licensing Team.

13.8 Refusal to accept a wheelchair user as a fare paying passenger, **without an appropriate exemption**, for any reason, will not be tolerated and a prosecution may follow.

13.9 Any damage to the equipment to facilitate access and egress by a wheelchair user must be reported immediately to the Council and must be repaired within 7 days.

13.10 Any wheelchair accessible vehicle found to be not carrying the necessary equipment to facilitate access and egress or found to be carrying damaged equipment will be immediately suspended. On a second offence of this kind, the Council may refer the matter to the Licensing Committee with a view to revoking the vehicle and driver licence.

14. Trailers and Roof Carriers

14.1 A trailer can be towed by a licensed private hire vehicle provided that:

Annex 3 • Private Hire Licensing Standards and Conditions

- a. The vehicle towing is to be suitable for towing the intended trailer in accordance with the relevant regulations
- b. The trailer to be towed by the licensed vehicle complies with all legal requirements and the following conditions:
 - i. It is presented for and passes inspection by the Council's approved garage prior to its use and again at each inspection of the vehicle by which the trailer is towed. The cost of such an inspection to be borne by you.
 - ii. It is of a type and weight, when laden, recommended by the vehicle manufacturer as being suitable for the weight capacity of the intended towing vehicle i.e. not more than 50% of the kerb side weight of the towing vehicle.
 - iii. No advertising is permitted on any part of the trailer without the written agreement of the Council.
 - iv. When the trailer is used with the vehicle, the additional licence plate issued by the Council specifically for that trailer must be clearly displayed on the rear of the trailer. Such licence plate number must correspond to the plate number of the towing vehicle. The cost of the additional plate will be borne by you.
 - v. If the trailer is towed by a multi seat type vehicle i.e. a minibus, there must be sufficient distance between the rear of the vehicle and the load carrying area of the trailer to allow the rear doors of the towing vehicle to be opened and used in times of an emergency.
 - vi. The trailer will be fitted with a properly maintained parking brake which when the trailer is in use and standing uncoupled from a vehicle must be activated.

14.2 A roof box is not to be used without the prior approval of the Council.

15. Alteration of Vehicle

15.1 No material alteration or change in the specification, design, condition or appearance of the vehicle can be made without the approval of the Council, at any time when the vehicle licence is in force.

16. Liquid Petroleum Gas (LPG)

16.1 The following conditions apply to vehicles which are made or adapted to run on LPG. The vehicle must comply with all other pre licensing standards and conditions.

16.2 You must notify the Council if you change your vehicle to run on LPG and you

Annex 3 • Private Hire Licensing Standards and Conditions

must comply with the following:

- a. The installation of an LPG tank must be undertaken by an LPG approved installer, as recommended by the Liquid Petroleum Gas Association, and the certificate of compliance presented to the Council.
- b. The vehicle must display on the front and rear windscreen a sticker stating that the vehicle has been fitted with an LPG tank; this is to alert the emergency services in the event of an accident.
- c. You must notify the DVLA of the change.
- d. The vehicle must be serviced annually by a person competent in LPG powered vehicles and a certificate of compliance must be presented to the Council.

17. Wheels

17.1 Space-saver spare tyres, where supplied as standard equipment to the vehicle, will be accepted for use in an emergency. However, they may only be used to enable passengers to be taken, at an appropriate speed, to their destination. The vehicle may not then be used to convey passengers until the appropriate repairs have been made. Provision must be made for a standard road wheel to be secured in the vehicle should a space saver tyre be used in an emergency. [Please note](#) - a vehicle presented for examination and test with a space saver spare tyre in use as a road wheel will fail the test.

18. Seat Belts

(Please follow the electronic links in the paragraphs below for the current law on seat belts)

18.1 The vehicle must be compliant with all relevant [legislation](#) and guidelines as issued or determined by central government in relation to the use of seatbelts and children's car seats.

19. Convictions and Penalty Points

19.1 The Convictions Policy and Penalty Point Scheme will be applied as appropriate.

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Appeals

If you are aggrieved by any of the conditions attached to the licence you may appeal to the Magistrates Court within 21 days of the service of the licence and the attached conditions on you. Any appeal must be made in writing to the Magistrates Court, Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 SPF.

Application and Renewal Process

Application Process

1. Call the Customer Service Centre to make an appointment for the vehicle to be inspected at the Council approved garage, currently Westside. An inspection is not required if the vehicle is brand new.
2. Call the Customer Service Centre to make an appointment with an appropriate member of staff to check the required documentation which is -
 - a. Vehicle registration document - the full log book must be presented. **If you do not hold the full log book, the new green registered keeper slip will only be considered if accompanied by a comprehensive bill of sale showing the vehicle type, registration number, purchase details, colour of vehicle, make and model, number of passengers and the date the vehicle was first registered.**
 - c. A current insurance certificate or cover note showing compliance with part vi of the Road Traffic Act 1988 and the use of the vehicle for public/private hire and reward. Please note that any named person on the policy must hold a Colchester Borough Council hackney carriage/private hire drivers badge.
 - d. A current MOT Certificate if the vehicle has been registered for one year or more.
 - e. Your DVLA driving licence (a copy is not acceptable) the address shown on the driving licence must correspond with that shown on the registration document.
 - f. The Pass slip from the garage inspection (currently at Westside).
 - g. The correct fee.
 - h. The completed application form.
3. Once the application process has been completed to the Council's satisfaction, it will issue the licence plate to the vehicle licence holder.

Annex 3 • Private Hire Licensing Standards and Conditions

Plate Renewal Process

1. Call the Customer Service Centre to make an appointment for the vehicle to be inspected at the Council approved garage, currently Westside. An inspection is not required if the vehicle is brand new.
 2. Call the Customer Service Centre to make an appointment with an appropriate member of staff to check the required documentation which is -
 - a. Vehicle registration document
 - b. A current insurance certificate or cover note showing compliance with part vi of the Road Traffic Act 1988 and the use of the vehicle for public/private hire and reward. Please note that any named person on the policy must hold a Colchester Borough Council hackney carriage/private hire drivers badge.
 - c. A current MOT Certificate if the vehicle has been registered for one year or more.
 - d. Your DVLA driving licence (a copy is not acceptable) the address shown on the driving licence must correspond with that shown on the registration document.
 - e. The correct fee.
 - f. The Pass slip from the garage inspection (currently at Westside)
 - g. The completed application form.
 3. Once the renewal process has been completed to the satisfaction of the Council it will issue the licence plate to the vehicle licence holder.
-

Determination of Application for the Grant or Renewal of a Licence and the Right of Appeal

The Council will deal with applications as follows -

1. The application will be reviewed by a member of the Licensing Team and if any issues are identified the applicant/licence holder will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those that are identified are resolved, the application will be granted. In all other cases a report will be prepared for the Licensing Manager setting out the facts of the matter to be considered.
3. The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.

Annex 3 • Private Hire Licensing Standards and Conditions

4. There is a right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 SPF.

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.

Annex 4 • Operator Licensing Standards and Conditions

1.1 The key consideration of the Council in licensing private hire operators is the safety of the travelling public. This encompasses those using an operator's premises and the vehicles and drivers arranged through them.

1.2 Whilst hackney carriage vehicles are allowed to ply and rank for hire, a private hire vehicle must be pre-booked.

1.3 If you are taking a booking, through a booking office, telephone booking line, website or App, you must have an operator's licence issued by the Council

Applications for the grant, renewal or transfer of a licence must be made, and will be determined, in accordance with the relevant process and procedures set out in the Policy, its annexes and appendices.

Pre-Licensing Standards

In order to be licensed as a private hire operator you must -

- Complete the application form and supply the required fee and documentation to support your application including evidence that you may legally work in the UK.
- Be found to be a fit and proper person to hold a private hire operator's licence by the Council having regard to its Hackney Carriage/Private Hire Licensing Policy.
- If you accept bookings only via a website or App you must have an operator's licence issued by the Council

Planning Consent - To operate a private hire business from a residential dwelling, planning permission for such business use may be required. All applications for an operator's licence are forwarded to the Planning Department. It is your responsibility to ensure that any necessary planning permissions are in place.

CONDITIONS OF LICENCE

As the holder of an operator's licence you must comply with the following conditions at all times:

1. Records

1.1 You must keep **a rolling record of bookings data for five years**, in a suitable form that does not permit backdating, and in a format that can be easily inspected

Annex 4 • Operator Licensing Standards and Conditions

and/or downloaded at the request of a licensing officer/police officer.

Bookings

1.2 In respect of every booking for hire, **howsoever booked**, you must record and keep the following details -

- date and time of the booking
- name of the hirer
- time and date of the pick-up
- address of the point of pick-up
- destination
- whether the hirer has any special requirements
- any fare quoted at the time of booking **including a breakdown of any additional charges to be levied for additional drop offs/ baggage etc.**
- **the final fee charged where this is different from the original fare quoted**
- the licence number of the vehicle assigned to the booking
- the licence number of the driver assigned to the booking
- the details of the hiring operator (if the booking was made as a result of it being sub-contracted to you)

Drivers

1.3 In respect of drivers working for you, you must record and keep the following details -

- proof of the name and address of the driver, their right to work documentation, their licence number and its expiry date, and a copy of the licence issued to them by the Council. [Please note](#) - you must keep records of the checks completed in relation to the verification of the above matters
- the call sign allocated to the driver
- copies of relevant insurance documentation
- the date of when a new driver begins service
- the date of when a driver ceases service

Vehicles

1.4 In respect of all vehicles operated under your licence you must record and keep the following details -

- name and address of the licensed proprietor of the vehicle
- make and registration number of the vehicle
- date the vehicle commenced operating under your operator's licence
- the vehicle plate number and its expiry date
- make and colour
- the year of manufacture
- name and address of licensed driver(s) of the vehicle and the badge number(s)

Annex 4 • Operator Licensing Standards and Conditions

- a copy of licenses issued by the Council, for the private hire vehicles you operate.
- copies of the current licences of drivers and vehicles must be retained by you whenever they are working for you
- the date the vehicle ceased to accept work under your operator's licence

2. Duties as a licence holder

2.1 As the holder of an operator's licence you must maintain a current, consecutively dated, legible manual or computerised record of -

- the DVLA drivers' licence held by every driver accepting work and ensure that, at all times, the licence is valid.
- all alterations made to that driver's licence (i.e. endorsements, disqualification and medical conditions) and inform the Council immediately or in any case within seven days of any alterations.
- documents that provide you with proof of the driver's immigration status and their right to work in the UK.
- the current insurance certificate/cover note of all vehicles accepting work under your operator's licence and ensure that, at all times, they are consecutive and comply with the statutory requirements and licensing conditions.
- the continuous test certificates of all vehicles accepting work under your operator's licence and the action taken where a vehicle has failed its MOT or is not considered roadworthy.

2.2 You must take all reasonable steps to ensure that, at all times, vehicles operating under your operator's licence comply with the statutory requirements and licensing conditions appertaining to the mechanical and body condition of the vehicle including cleanliness. You must ensure that the vehicle complies with all the licensing conditions in relation to the door stickers, vehicle licence plate, livery and advertising.

2.3 You must not cause or permit the words 'taxi' or 'cab' on any private hire vehicle operated by or operating under your operator's licence.

2.4 You must not purchase a black vehicle to be used as a private hire vehicle with effect from 1 January 2019.

2.5 Ensure that all proprietors and drivers operating under the operator's licence, when carrying passengers for hire or reward, are dressed in accordance with the conditions attached to the drivers' licence issued by the Council to drive hackney carriage and private hire vehicles. (These are set out in the Council's Policy).

2.6 On the request of an authorised officer of the Council or any police constable produce your operator's licence for inspection.

2.7 Be responsible for the conduct, appearance and actions of controllers and other staff employed by you in respect of the licensable activities.

Annex 4 • Operator Licensing Standards and Conditions

2.8 Ensure that details of all bookings accepted are recorded in such a way that the contract between the operator and the hirer can be honoured either by you or by the operator to whom the booking has been subcontracted

2.9 You are responsible for reimbursement to the hirer in the event of a contract not being satisfactorily honoured where the Council finds in favour of the complainant after a full investigation.

2.10 Notify the Council of all cars and drivers operating under your licence and provide an updated list every six months.

2.11 Produce evidence that you have in force a current public and employers' liability insurance policy.

2.12 Have completed the Council's safeguarding training and ensure that your drivers and other staff are aware of and adhere to the Code of Conduct for Working with Vulnerable Persons. **In the case of App based operators it is expected that the business will be able to demonstrate that the appropriate area managers have completed the necessary safeguarding training and ensure that their drivers and other staff are aware of and adhere to the Code of Conduct for Working with Vulnerable Persons.**

2.13 Ensure that those drivers using fully wheelchair adapted vehicles have undertaken a Passenger Assisted Transport training course.

3. Standards of Service

3.1 You must at all reasonable times provide a prompt, efficient and reliable service to members of the public. In particular you should ensure that -

- when a vehicle has been hired, it arrives punctually at the appointed place and time unless unexpectedly delayed or prevented from satisfying the booking by sufficient cause.
- telephone facilities, app programmes and radio equipment are maintained in good working order.
- all vehicles operated by you are maintained in a satisfactory and road worth condition.
- without prejudice to any other liabilities imposed under the act, that all drivers of vehicles owned, controlled or operated in association with you observe and perform to the conditions of their licence.
- the premises provided for the purpose of hiring or waiting are kept clean, adequately lit, heated and ventilated and that any waiting area provided has adequate seating facilities.

Annex 4 • Operator Licensing Standards and Conditions

4. Notifications to the Council

4.1 If you become aware that any driver is suffering from any illness, disability or a condition which may affect their ability to drive you must inform the Council immediately.

4.2 You must notify the Council in writing of any change affecting your licence, including a change of address (including any address from which you operate or otherwise conduct your business). This notice must be given, within 7 days of the change.

4.3 You must report to the Council, in writing within seven days, any convictions, cautions, arrests or fixed penalty notices you have received since the completion of the application form for your licence. If you operate as a company or partnership, this requirement applies if any of the directors or partners receives a conviction or fixed penalty notice.

4.4 Report to the Council immediately or in any case within 72 hours, details of ANY accident or other damage sustained by a vehicle operating under your operator's licence.

4.5 You must notify the Council of any complaints received.

5. Sub-Contracting and Cross Border Working

5.1 Where you accept a booking and then are subsequently unable to honour it, or if you do not have a vehicle immediately available, the booking may be sub-contracted to another operator either in Colchester or elsewhere. It is against the law for you to pass bookings directly to a private hire vehicle or driver who is not licensed by the same Council as you.

5.2 If you have offices or bases in multiple council areas (for which you will need licences from each Council concerned) you can pass bookings between your offices/ bases, but cannot give jobs directly to drivers licensed by the other council(s). You will also need to maintain separate records for each council area, which also show every job that has been contracted to or from another office. In these circumstances you must -

- a) charge the fare agreed at the time of booking.**
- b) keep a record of the initial booking details for audit purposes.
- c) contact the hirer to advise that the booking can no longer be honoured and to ask whether or not they wish the booking to be sub-contracted to an alternative private hire operator.
- d) identify an alternative private hire operator and advise the original hirer of that operator's details.
- e) provide full details of the booking to the alternative private hire operator and keep a record of the private hire operator to whom the booking was sub-

Annex 4 • Operator Licensing Standards and Conditions

contracted.

f) keep a record of the alternative private hire operator's licence details as follows-

- i) name of the issuing authority
- ii) licence number
- iii) grant date of the licence
- iv) expiry date of the licence.

g) make all records available for inspection on request of an authorized officer of the Council or Police officer.

5.3 You may sub-contract jobs to hackney carriage proprietor, although this must remain a minority part of the overall work undertaken by the hackney carriage vehicle.

6. Other staff

6.1 In relation to other staff employed by you at the premises you must-

a) **Prior to employment**, carry out sufficient checks on the background of your control room staff to ensure they are a fit and proper person to carry out their tasks and duties in a professional and confident manner. These checks **must** include the following -

- A basic Disclosure and Barring Service report issued within the previous 3 months
- Proof of Right to work documentation

And may include the following -

- A Certificate of Good Conduct for the relevant foreign nationals
- Character references from previous employer(s)

b) Provide appropriate training, including safeguarding training, and maintain training records of all staff in customer service and data protection.

c) Have an appropriate policy in place in respect of alcohol, illegal substances or the abuse of prescription drugs in respect of control room, office and drivers whilst at work.

d) If it comes to your notice, that a driver of one of your vehicles may be under the influence of alcohol, illegal substances or abusing prescription drugs, you must not allow the driver to continue on duty and must inform the driver accordingly. You must then inform the Council within 72 hours of the incident.

e) Ensure that you comply with all legislation regarding the employment of staff, health & safety etc., and provide adequate staff facilities.

Annex 4 • Operator Licensing Standards and Conditions

7. Complaints

7.1 You must/are advised to have a published complaints procedure that deals with Customer and Employee complaints. Copies of this document must be provided to the Council and available at the operator's office for reference by customers and staff. The complaints procedure must be used when dealing with any complaint and a member of staff must be named as the complaints officer responsible for ensuring the procedure is satisfied.

8. Display of Terms and Conditions

8.1 You must keep a copy of these conditions at all premises used for your business and make them available for inspection by customers and on request by Authorised Officers of the Council and Police officers.

9. Licence Duration

9.1 Your operator's licence will last for 5 years from the date of its grant. In certain circumstances a licence may be granted for a shorter period of time.

10. Operator Category

10.1 If, during the lifetime of your licence, you wish to change your operator category you must pay the relevant fee to effect the change plus the new category fee calculated on a pro-rata basis.

Category A 1 vehicle
Category B 2-5 vehicles
Category C 6 + vehicles

11. Use of Website and Booking Apps

11.1 Any Website or Booking Apps used in the operation of the business must be capable of recording all the information required under these conditions (specified in Condition 1).

12. Convictions and Penalty Points

12.1 The Convictions Policy and Penalty Point Scheme will be applied as appropriate.

Annex 4 • Operator Licensing Standards and Conditions

Appeals

If you are aggrieved by any of the conditions attached to the licence you may appeal to the Magistrates Court within 21 days of the service of the licence and the attached conditions on you. Any appeal must be made in writing to the Magistrates Court, Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 SPF.

Application Processes New, Renewal and Transfer Process

1. You must pay the required fee and complete the relevant application form supplying the following documentation -

- A current Passport or Birth Certificate
- Evidence that you may legally work in the UK
Please note - If circumstances come to light during the lifetime of the licence that you no longer have a right to work in the UK, the licence will be revoked.
- A basic Disclosure and Barring Service Check. The disclosure must be less than three months old when the application is made. Thereafter a DBS must be submitted every three years. If you are also a licensed driver with the Council this requirement does not apply
- Insurance certificate showing public liability of £2 million or more

In the case of a new application you will also need to provide -

- Insurance certificates for any vehicle already owned

In the case of the renewal of an application you will also need to provide -

- List of the drivers working for you.
- List of cars operating under your licence.

In the case of the transfer of a licence you will also need to provide -

- Insurance certificate for each vehicle to operate under your licence

2. Your operator's licence will be granted if the paperwork has been completed to the satisfaction of the Council and no matters of concern have been identified.

Annex 4 • Operator Licensing Standards and Conditions

Determination of Application for the Grant or Renewal of a Licence and the Right of Appeal

The Council will deal with applications as follows -

1. The application will be reviewed by a member of the Licensing Team and if any issues are identified the applicant/licence holder will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those that are identified are resolved, the application will be granted. In all other cases a report will be prepared for the Licensing Manager setting out the facts of the matter to be considered.
3. The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
4. There is a right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 SPF.

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.

Annex 5 • Convictions Policy

1. Introduction

1.1 The key consideration of the Council and the overriding objective in the licensing of hackney carriage and private hire vehicles, drivers, and operators is the safety of the travelling public. The Council therefore considers its robust approach to convictions and motoring convictions to be fully justified.

1.2 Licensed drivers, proprietors and operators have close regular contact with the public who entrust their personal safety to licensed members of the trade whenever they take a journey. Users of licensed vehicles have a right to expect that their driver is not an individual with a predisposition towards or a propensity for violent behaviour at any level. The public also have a right to expect that licensed drivers, **proprietors** and operators are trustworthy with no propensity for dishonesty.

1.3 In line with these considerations the Council has a statutory obligation to ensure the applicant is a 'fit and proper' person. This requirement remains with the Council throughout the lifetime of a licence and at the point of renewal. Therefore, the Council's Convictions Policy (the Policy) will apply to new and renewal applications, **and where applicable transfers, for drivers and operators**, when reviewing an existing licence and decisions to suspend or revoke a licence. The Council will also have regard to the Policy when determining its own pre-licensing conditions.

1.4 Any decision, taken by officers of the Council and/or the Licensing Committee, needs to be justified, proportionate and consistent. The Policy has been drawn up to assist licence holders, officers and members of the Licensing Committee and ensure that the decision making process is open and transparent for all users.

1.5 In the Policy the Council has categorized and assessed the risk to the public of a wide variety of criminal and motoring convictions. The convictions listed are by no means exhaustive however it is anticipated that any convictions not listed will have close enough themes to enable parallels to be drawn from other listed convictions. Also included within the Policy is the stance to be taken on other forms of intelligence which can be considered by the Council as part of its fit and proper test.

2. Relevant legislation

2.1 Hackney carriage and private hire licences are issued by the Council, pursuant to the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. The 1976 Act prohibits the Council granting a licence to a person unless it is satisfied that the person is 'a fit and proper person'. Section 57 of the Act gives the Council the power to require a person to submit information about themselves so the Council can be satisfied that they are 'a fit and proper person'.

2.2 There is an ongoing responsibility under the 1976 Act for the Council to ensure that licence holders continue to meet the 'fit and proper' test for the duration of the

Annex 5 • Convictions Policy

licence period and Sections 61 & 62 of the '1976 Act', gives the Council the power to suspend, revoke or to refuse to renew a driver or operator licence.

3. General principles

3.1 In this Policy any reference to offences should be taken to include convictions, cautions, fixed penalty notices, and any other form of restorative justice. Such determinations can be regarded as being similar in terms of culpability, evidence and the admission of guilt. The categories include attempts, incitement, aid and abet, cause and/or permit, counsel or procure or conspiracy to commit an individual offence which can attract the same penalty.

3.2 Reference to 'applicants and 'licence holders' in this policy includes drivers, proprietors and operators as appropriate.

3.3 By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 'taxi' drivers are an exempt occupation for the purposes of the 1974 Act and convictions are therefore never spent. The Council is therefore able to take into account spent convictions but will do so in a fair and proportionate way. Operators are not an exempt occupation.

3.4 The Policy also deals with any civil actions including injunctions, breaches of licensing conditions or byelaws, complaints, allegations, cautions and intelligence made available to the Council by the Police or other partner agencies, and anything considered by the Courts that hasn't resulted in a conviction.

3.5 Anecdotal evidence can be taken into account and may, on occasions, be the sole reason for the refusal, suspension or revocation of a licence. Where allegations are presented as evidence further information must be sought from the applicant.

3.6 The investigating officer/Licensing Committee cannot go behind the existence of a conviction in an attempt to re-try the case. The conviction will be considered in so far as it relates to whether the applicant/licence holder is a fit and proper person to hold a licence.

3.7 Each case will be considered on its own merits and discretion may be exercised where appropriate and the appropriate weight attached to the evidence under consideration. The Council will consider -

- the nature of the offence and any penalty imposed
- the length of time since the offence
- the individual's age when the offence was committed
- the history and pattern of offending
- whether the matter has previously been considered
- the intent or harm that was or could have been caused
- any other relevant matter

Annex 5 • Convictions Policy

3.8 The Council may depart from the policy however it will only do so in exceptional circumstances **where genuine and mitigating circumstances have been demonstrated**. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3.9 The tables included within the Policy set out the number of points that will be attached for each offence when determining an application or when a licence is renewed or reviewed. The points may be applied to new applicants and existing licence holders. The points will remain on the licence as specified in the table.

4. Investigation, Determination and Appeal Procedure

4.1 The Council will deal with offences as follows -

- On receiving a disclosure from the DBS or other notification a member of the Licensing Team will assess whether any of the convictions and/or any of the additional information received has any relevance as to whether the applicant/licence holder is a fit and proper person to hold a licence,
- A member of the Licensing Team will investigate the facts, which may include interviewing the applicant/licence holder under caution. The Council may also, as part of its investigation request a Police National Computer Check (PNC) from the Police to ensure it has all the evidence necessary to properly investigate the matter. This may mean that matters that formed part of a previous decision are reconsidered in the light of new evidence and this may result in a licence, previously granted, being revoked.
- A report will be made to the Licensing, Food & Safety Manager (the Manager).
- The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
- In the first instance the applicant/licence holder has a right of appeal against the award of points to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of suspension/revocation.
- If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.
- The Committee may exercise its discretion to **increase or** reduce the number of points that are applied for a conviction. **The number of points may be**

Annex 5 • Convictions Policy

reduced where it considers that the case has been proved by the applicant that there were genuine and mitigating circumstances in relation to the conviction.

- There is a further right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision/notification of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.
- Where an appeal has been made the implementation of any suspension or revocation will be held until the appeal has been determined.

5. Application of Points

5.1 In addition to setting out the points to be applied for each offence the tables are colour coded to indicate the Council's stance in relation to a new or renewal application or to the review of a licence.

Red (9 to 12 points) • Where the convictions of an applicant result in the accumulation of 12 or more points an applicant should expect their application to be refused. If a licence holder's conduct is such that, were they to be applying for a new licence, their application would be refused, they should expect consideration to be given to the revocation of their licence.

Orange (5 to 8 points) • Where the convictions of an applicant result in the accumulation of between 8 and 5 points an applicant should expect their application to be referred to the Licensing Committee for determination. If a licence holder's conduct is such that, were they to be applying for a new licence, their application would be referred to the Licensing Committee for determination, they should expect their case to be referred to the Licensing Committee for consideration where it may be suspended or revoked.

Green (0 to 4 points) • Where the convictions of an applicant result in the accumulation of 4 or less points the application is likely to be granted. A licence holder should expect that the points will be applied to their licence but no further action is likely to be taken unless circumstances indicate that consideration by the Licensing Committee is appropriate.

Please note - In addition to points for convictions, licence holders may also receive penalty points for breaches of policy etc. under the Council's Penalty Points Scheme. These points will be added to those for convictions and where the total exceeds 12 in any one year the licence holder should expect consideration to be given to the suspension or revocation of their licence.

Annex 5 • Convictions Policy

Examples of how the scheme will operate

New Applicants

An applicant with a 5 year old conviction for shoplifting and an 8 year old one for driving with no insurance will have 4 and 3 points respectively. This places the application in the orange zone and they should expect it to be referred to the Licensing Committee for determination. In the event that a licence is granted 7 points will remain on the driver's record. These points will continue to decrease during the course of the licence in accordance with the Convictions Policy for example when the licence is 2 years old there will be 5 points on the licence. If a driver then receives penalty points for smoking in a vehicle the points will be added to the 5 points already on their licence. These penalty points only last for a period of 12 months.

Existing Licence Holders

Existing licence holders must declare any convictions etc. at the point at which they are convicted. A driver with a new convictions for a Breach of the Peace will be given 3 points on their licence. These points will reduce over the course of the licence. If the conviction were for Possessing Controlled Drugs 12 points would be given and in line with the Policy consideration given to the revocation of the driver's licence. Any penalty points awarded during the course of the licence will be added to the existing conviction points.

Annex 5 • Convictions Policy

5.2. Criminal Convictions

Level 1 • Serious crime including sexual offences

Offences (including but not limited to) -

Serious Crime including Sexual Offences	
Type of offence	Number of Points (Points are doubled for a term of imprisonment)
Murder	Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for any of the offences listed in this table
Manslaughter	
Manslaughter or culpable homicide while driving	
Causing death by dangerous or careless driving	
Gross indecency with a female	
Gross indecency with a male	
Indecent assault on a female	
Indecent assault on a child under 16 years	
Buggery	
Rape	
Indecent exposure	
Indecent exposure to the annoyance of residents	
Indecent exposure with intent to insult a female	
Unlawful sexual intercourse	
Importuning	
Living of immoral earnings	
Prostitution	
Possessing or distributing obscene material	

Annex 5 • Convictions Policy

Level 2 • Offences usually associated with violence or high value crime

Offences (including but not limited to) -

Offences usually associated with violence or high value crime										
Years since conviction received (or part year)	1	2	3	4	5	6	7	8	9	10
Type of offence	Number of Points (Points are doubled for a term of imprisonment)									
Possessing Controlled Drugs	12	12	12	12	8	6	4	2	1	0
Possessing Controlled Drugs with intent to supply	12	12	12	12	12	12	10	8	6	4
Producing Controlled Drugs	12	12	12	12	12	10	8	6	4	2
Importing drugs	12	12	12	12	12	12	10	8	6	4
Burglary & Theft - Aggravated	12	12	12	12	12	12	8	6	4	2
Robbery	12	12	12	12	12	12	12	12	8	6
Aggravated vehicle taking (causing death)	12	12	12	12	12	12	12	12	8	6
Arson	12	12	12	12	12	12	12	12	12	12
Grievous Bodily Harm, s20	12	12	12	12	12	12	8	6	4	2
Grievous Bodily Harm, s18	12	12	12	12	12	12	12	12	8	6
Possess Offensive Weapon	12	12	12	8	6	4	2	0	0	0
Possession of Firearm with intent	12	12	12	12	12	8	6	4	2	0
Possession of a Firearm	12	12	12	8	6	4	2	0	0	0
Criminal Damage	12	12	12	8	6	4	2	0	0	0
Violent Disorder	12	12	12	8	6	4	2	0	0	0
Riot	12	12	12	12	8	6	4	2	0	0
Affray	12	12	12	6	5	4	3	2	1	0
Assault on Police Officer	12	12	12	8	6	5	4	3	2	1
Common Assault	12	12	12	8	6	5	4	3	2	0
Hate crime	12	12	12	12	8	6	4	3	2	0
Resisting Arrest	12	12	12	8	6	4	2	0	0	0
Using threatening, abusive words or behaviour	5	4	3	2	1	0	0	0	0	0
Battery	12	12	12	8	6	5	4	3	2	0
Breach of the Peace	3	2	1	0	0	0	0	0	0	0
Drunk and Disorderly	3	2	1	0	0	0	0	0	0	0
Obstruction	12	12	12	6	4	2	0	0	0	0
Indecent/nuisance telephone calls	12	12	12	12	12	8	6	4	2	1

Annex 5 • Convictions Policy

Level 3 • Dishonesty crime

Offences (including but not limited to) -

Dishonesty Crime										
Years since conviction received (or part year)	1	2	3	4	5	6	7	8	9	10
Type of offence	Number of Points (Points are doubled for a term of imprisonment)									
Theft	12	12	12	6	4	2	1	0	0	0
Theft - Shoplifting	12	12	12	6	4	2	1	0	0	0
Theft - Employee	12	12	12	6	4	2	1	0	0	0
Theft - from vehicle	12	12	12	6	4	3	2	1	0	0
Burglary & Theft - Dwelling	12	12	12	12	8	6	4	2	1	0
Burglary & Theft - Non Dwelling	12	12	12	6	4	3	2	1	0	0
Fraudulent Use	12	12	12	6	4	3	2	1	0	0
Handling/receiving	12	12	12	6	4	3	2	1	0	0
Forgery	12	12	12	6	4	3	2	1	0	0
Conspiracy to defraud	12	12	12	6	4	3	2	1	0	0
Obtaining money by deception	12	12	12	6	4	3	2	1	0	0
Obtaining money by forged instrument	12	12	12	6	4	3	2	1	0	0
Deception	12	12	12	6	4	3	2	1	0	0
False Accounting	12	12	12	6	4	3	2	1	0	0
False Statement to obtain benefit	12	12	12	6	4	3	2	1	0	0
Going equipped	12	12	12	6	4	3	2	1	0	0
Taking/driving or attempting to steal vehicle	12	12	12	6	4	3	2	1	0	0
Allow to be carried in a stolen vehicle	12	12	12	6	4	3	2	1	0	0
Perverting the course of justice	12	12	12	12	8	6	4	2	0	0

Level 3 • Smoking offences

Offences (including but not limited to) -

Smoking										
Years since conviction received (or part year)	1	2	3	4	5	6	7	8	9	10
Type of offence	Number of Points (Points are doubled for a term of imprisonment)									
Smoking in a licensed vehicle	3	3	3	2	1	0	0	0	0	0

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5.3 Road Traffic/Motoring Convictions

Level 1 • Driving offences involving the loss of life

Code	Offence	Number of Points
BA40	Causing death by driving while disqualified	12 for all offences listed in this table Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for such an offence. A current licence would be revoked in all but the most exceptional circumstances
BA60	Causing serious injury by driving while disqualified	
CD40	Causing death through careless driving when unfit through drink	
CD50	Causing death by careless driving when unfit through drugs	
CD60	Causing death by careless driving with alcohol level above the limit	
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	
CD80	Causing death by careless or inconsiderate driving	
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	
DD60	Manslaughter or culpable homicide while driving a vehicle	
DD80	Causing death by dangerous driving	
DG60	Causing death by careless driving with drug level above the limit	

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Level 2 • Driving under the influence of alcohol/drugs and other serious driving offences

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
AC10	Failing to stop after an accident	12	12	12	12	12	8	6	4	2	1
BA10	Driving while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
BA30	Attempting to drive while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
CU80	Breach of requirement as to control of the vehicle, mobile phone etc.	12	12	12	12	12	8	6	4	2	1
DD10	Causing serious injury by dangerous driving	12	12	12	12	12	8	6	4	2	1
DD40	Dangerous driving	12	12	12	12	12	8	6	4	2	1
DD90	Furious driving	12	12	12	12	12	8	6	4	2	1
DG10	Driving or attempting to drive with drug level above the specified limit	12	12	12	12	12	8	6	4	2	1
DG40	In charge of a vehicle while drug level above a specified limit	12	12	12	12	12	8	6	4	2	1
DR10	Driving or attempting to drive with alcohol level above the limit	12	12	12	12	12	8	6	4	2	1
DR20	Driving or attempting to drive while unfit through drink	12	12	12	12	12	8	6	4	2	1
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	12	12	12	12	12	8	6	4	2	1
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	12	12	12	12	12	8	6	4	2	1
DR40	In charge of a vehicle while alcohol level above limit	12	12	12	12	12	8	6	4	2	1

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DR50	In charge of a vehicle while unfit through drink	12	12	12	12	12	8	6	4	2	1
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	12	12	12	12	12	8	6	4	2	1
DR61	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	12	12	12	12	12	8	6	4	2	1
DR70	Failure to provide a specimen for breath test	12	12	12	12	12	8	6	4	2	1
DR80	Driving or attempting to drive when unfit through drugs	12	12	12	12	12	8	6	4	2	1
DR90	In charge of a vehicle when unfit through drugs	12	12	12	12	12	8	6	4	2	1
AC20	Failing to give particulars or report an accident within 24 hours	12	12	12	12	12	8	6	4	2	1
AC30	Undefined accident offences	12	12	12	12	12	8	6	4	2	1
IN10	Using a vehicle uninsured against third party risks	12	10	8	7	6	5	4	3	2	1
LC20	Driving otherwise than in accordance with a licence	12	10	8	7	6	5	4	3	2	1
MS50	Motor racing on the highway	12	10	8	7	6	5	4	3	2	1
MS90	Failure to give information as to the identity of a driver etc.	12	10	8	7	6	5	4	3	2	1
UT50	Aggravated taking of a vehicle	12	12	12	6	4	3	2	1	0	0

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Level 2 • Convictions relating to Personal Health

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
LC30	Driving after making a false declaration about fitness when applying for a licence	12	12	12	12	8	6	4	2	1	0
LC40	Driving a vehicle having failed to notify a disability	12	12	12	12	8	6	4	2	1	0
LC50	Driving after a licence has been revoked or refused on medical grounds	12	12	12	12	8	6	4	2	1	0
MS70	Driving with uncorrected defective eyesight	12	12	12	12	8	6	4	2	1	0
MS80	Refusing to submit to an eye test	12	12	12	12	8	6	4	2	1	0

Please note - Where a licensed driver receives a conviction relating to personal health it will be regarded as a high risk to public safety and immediate suspension will be considered until all safety issues have been resolved and in any other case consideration should be given to revocation.

Where there is a second conviction relating to personal health or any failure to comply with any reasonable request from an authorised officer of the Council in respect of their enquiries into the matter, consideration should be given to the immediate suspension of the licence, its revocation, or a refusal to renew.

Level 3 • Intermediate Road Traffic Offences • Speeding, careless driving, construction and use offences

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
AC10	Failing to stop after an accident	12	12	12	12	12	8	6	4	2	1
BA10	Driving while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
CU10	Using a vehicle with defective brakes	3	3	3	3	2	1	0	0	0	0

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CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3	3	3	3	2	1	0	0	0	0
CU30	Using a vehicle with defective tyre (points given per tyre)	3	3	3	3	2	1	0	0	0	0
CU40	Using a vehicle with defective steering	3	3	3	3	2	1	0	0	0	0
CU50	Causing or likely to cause danger by reason of load or passengers	3	3	3	3	2	1	0	0	0	0
CD10	Driving without due care and attention	10	9	8	7	6	5	4	3	2	1
CD20	Driving without reasonable consideration for other road users	10	9	8	7	6	5	4	3	2	1
CD30	Driving without due care and attention or without reasonable consideration for other road users	10	9	8	7	6	5	4	3	2	1
SP10	Exceeding goods vehicle speed limits	6	6	6	6	5	4	3	2	1	0
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	6	6	6	6	5	4	3	2	1	0
SP30	Exceeding statutory speed limit on a public road	6	6	6	6	5	4	3	2	1	0
SP40	Exceeding passenger vehicle speed limit	6	6	6	6	5	4	3	2	1	0
SP50	Exceeding speed limit on a motorway	6	6	6	6	5	4	3	2	1	0

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Level 4 • Minor Road Traffic Offences • Motorway, pedestrian crossing, traffic direction and signs and miscellaneous offences

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
MS10	Leaving a vehicle in a dangerous position	3	3	3	3	2	1	0	0	0	0
MS20	Unlawful pillion riding	3	3	3	3	2	1	0	0	0	0
MS30	Play Street Offences	2	2	2	2	1	0	0	0	0	0
MS60	Offences not covered by other codes (as appropriate)										
MW10	Contravention of special roads regulations (excluding speed limits)	3	3	3	3	2	1	0	0	0	0
PC10	Undefined contravention of pedestrian crossing regulations	3	3	3	3	2	1	0	0	0	0
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3	3	3	3	2	1	0	0	0	0
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3	3	3	3	2	1	0	0	0	0
TS10	Failing to comply with traffic light signals	3	3	3	3	2	1	0	0	0	0
TS20	Failing to comply with double white lines	3	3	3	3	2	1	0	0	0	0
TS30	Failing to comply with 'stop' sign	3	3	3	3	2	1	0	0	0	0
TS40	Failing to comply with direction of constable/warden	3	3	3	3	2	1	0	0	0	0
TS50	Failing to comply with traffic sign (excluding 'stop' signs)	3	3	3	3	2	1	0	0	0	0
TS60	Failing to comply with school crossing patrol sign	3	3	3	3	2	1	0	0	0	0
TS70	Undefined failure to comply with traffic directions sign	3	3	3	3	2	1	0	0	0	0

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6. Totting Up

6.1 If the number of current points on the DVLA licence exceeds 12 points a new application will be refused or a current licence suspended or revoked. A further application will not be approved until the DVLA licence demonstrates that the number of current points on the licence is below 12 points.

6.2 When disqualified from driving under the 'totting up' procedures, the licence will remain suspended until the driver has achieved a pass in 'driving skills' training with a nationally recognised and accredited driving assessment programme.

6.3 Where a licence shows 12 points or more but no disqualification was imposed because of 'exceptional hardship'; the requirement to undertake 'driving life skills' development and be successful will apply and must be achieved within 3 months of the Court decision or the licence will be suspended and not restored or renewed until successful in a 'driving life skills' programme with a nationally recognised and accredited driving assessment programme.

6.4 If there is a further period of disqualification the licence will be revoked and not considered for renewal for a minimum period of 12 months from the end of the disqualification period. Where there is a third period of disqualification the minimum period is 3 years. In both cases the licence will remain suspended and not restored or renewed until successful in a 'driving life skills' programme with a nationally recognised and accredited driving assessment programme.

7. Repeated convictions

7.1 Repeated convictions on a DVLA licence for the following offences or combination of offences will result in a licence being refused, suspended or revoked and not restored until the number of active occasions for those types of offence has reduced to one or less.

Code	Offence
CU10	Using a vehicle with defective brakes
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU80	Breach of requirement as to control of the vehicle, mobile telephone etc.
IN10	Using a vehicle uninsured against third party risks

8. Failure to report a disqualification

8.1 It may be that by the time the Council becomes aware of a disqualification, the period has passed and the driver is able to drive again. By being dishonest the intentions of the policy have been evaded.

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8.2 In such circumstances the failure to report such a disqualification would normally result in the driver licence being suspended or revoked. The period of suspension or revocation would not normally be less than would have been effective if the disqualification had been properly reported to the Council.

8.3 A licence would not normally be granted or a suspension lifted until the completion of a 'driving life skills' training with a nationally recognised and accredited driving assessment programme.

8.4 Where false declarations have been made at the time of application or renewal these will be considered under the 'fit and proper' person assessment.

9. Immediate Suspension or revocation

9.1 The Council will immediately suspend or revoke a licence if it considers it necessary to do so in the interests of public safety.

10. Police Bail and Release Under Investigation

10.1 The release of a driver on police bail or under investigation for an alleged offence is likely to call into question whether the driver is a fit and proper person to hold such a licence and the Council will carry out an investigation as it would in the case of a conviction.

11. Police intelligence

11.1 Any applicant or licence holder who in the view of the Police may be a threat to the public, can expect the Council to carry out a full investigation. This intelligence may be provided by the police or other agencies and may include circumstantial evidence.

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.

Annex 6 • Penalty Point Scheme

1. Introduction

1.1 The key consideration of the Council and the overriding objective in licensing of hackney carriage and private hire vehicles, **proprietors**, drivers and operators is the safety of the travelling public. The protection of the public; safeguarding children and vulnerable persons; and the prevention of crime are key factors of its Policy in relation to the licensing of hackney carriage and private hire vehicles, drivers, proprietors and operators.

1.2 The aim of the Penalty Point Scheme (the Scheme) is to work in with other enforcement measures to provide a stepped enforcement process for licence holders. It bridges the gap between the warning and suspension/revocation options provide by the legislation and creates a record of a licence holder's conduct thereby enabling the Council to make an informed decision as to whether a licence holder is a fit and proper person to hold a licence. The primary objective of the Scheme is to improve levels of compliance and standards within the trade to ensure the safety of the travelling public.

2. Relevant legislation

2.1 Hackney carriage and private hire licences are issued by the Council, to the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. The 1976 Act prohibits the Council granting a licence to a person unless it is satisfied that the person is 'a fit and proper person'. Drivers, operators and vehicles are also subject to the Council's own licence conditions and policies.

2.2 There is an ongoing responsibility under the 1976 Act for the Council to that licence holders continue to meet the 'fit and proper' test for the duration of the licence period and Sections 61 & 62 of the '1976 Act', gives the Council the power to suspend, revoke or to refuse to renew a driver or operator licence.

3. General Principles

3.1 The Scheme applies to all hackney carriage and private hire drivers and proprietors and operators.

3.2 Where an offence or breach of the rules is committed or alleged, or a received, the investigation process set out in this document will be followed and may

3.3 The provisions set out in 3.2 above do not apply where a one Probationary Licence has been granted and the following condition applied

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If during the period of this probationary licence you receive any criminal or motoring convictions or any fixed penalty notices **or any another form of restorative justice** or do not fully comply with the Council's Hackney Carriage and Private Hire Licensing Policy, Annexes and Appendices or where **complaints or** intelligence are received which following a full investigation leads the Council to consider that a licence should not have been granted then the process to revoke the licence will commence.

Any breach of this probationary condition will result in the Council taking action to revoke the licence; the suspension process under this Penalty Point

3.4 The penalty point process will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation and regulations.

3.5 Points issued under this Penalty Point Scheme will remain current for months from the date they are issued. At the conclusion of a period of suspension 6

3.6 The penalty points issued will be at the discretion of the investigating officer in accordance with the penalty points'

3.7 If a licence holder fails to report a conviction 4 points will be applied the licence plus those that would be applied under the Council's Convictions Policy. If the conviction is reported only those points for the conviction will be applied to the licence

Please note • the failure to respond to an investigating officer's repeated attempts to make contact, in order to properly investigate a matter, may result in points being applied without having had the licence holder's input.

3.8 The imposition of penalty points against a driver who is an employee will necessarily result in the imposition of points to their employer. However points may be issued to one or more parties for a single contravention if the circumstances

3.9 Licence holders may see their penalty point record at any time. proprietors and licensed operators may make a written request to view the penalty point record of their employees; any such request must give full reasons for the request. All such requests are subject to approval by the Licensing, Food &

3.10 The Council may as part of its investigations into an offence/complaint or similar matter request a Police National Computer check (PNC) to ensure that it has all the evidence necessary to properly investigate the matter; this evidence will be made available to the Committee to assist it in reaching its decision. This may mean that matters that formed part of a

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previous decision are reconsidered in the light of new evidence and may result

Please note • In addition to penalty points licence holders may also receive points for convictions etc. under the Council's Convictions Policy. These points will be added to those given under this Scheme and where the total exceeds 12 in any one year the licence holder should expect consideration to be given to

the suspension or revocation of their licence. Points will not be given under both Policies for the same offence. Points given under the Convictions

4. Investigation, Committee and Appeal

4.1 The Council will deal with all genuine complaints or witnessed/alleged of the legislation, licence conditions and/or policy as follows

- a. On receipt of a complaint or where there is an alleged breach of the Council's conditions or other relevant statutory provisions, a member of the Licensing
- b. If it is considered there is a case to answer, a member of the Licensing Team will investigate the facts which may include interviewing the relevant individuals under caution.
- c. Upon completion of the investigation, penalty 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
- d. The Licensing Manager will consider the matter and confirm his decision in writing to the licence holder. There is a further right of appeal to the Licensing Committee within 21 days of being notified of the decision. The Licence holder can attend this meeting and address the Committee. The Committee will make a decision based on evidence. The determination of the Licensing Committee

Please note • it is important to exercise the right of appeal if the licence holder

does not believe the points should have been awarded and wishes to challenge the evidence that resulted in the award of points. If further points are awarded and the 12 point threshold is reached, the impositions of points cannot be challenged at a later suspension hearing. Points must be challenged in line with the process set out above. It is important to note that the Licensing

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Committee, in addition to dismissing or upholding the appeal, have the discretion to award a lesser or greater number of points than displayed on the Penalty Point Table.

4.2 Where a licence holder accumulates 12 or more points the suspension periods apply •

- **28 consecutive days for the first occasion**
- **56 consecutive days for the second occasion**
- **Revocation for any third accumulation of 12**

4.3 In cases where the licence holder has reached the threshold for revocation the licence holder will be notified in writing that their licence is

4.4 There is a right of appeal to the Magistrates Court. Appeals against suspension/revocation of a licence 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. Where an appeal has been made the implementation of any suspension or revocation will be held over until

Revocation

4.5 If following completion of the investigation (set out in 5.1a and b above) are matters of significant concern requiring urgent action, which the Policy indicates

- a. The matter will be reported to the Licensing, Food & Safety Manager (the
- b. The Manager will consider the matter and confirm his decision in writing to the licence holder. Depending on the nature of the offence the decision may be either to revoke the licence but allow the licence holder to operate until the appeal has been determined or revoke with immediate effect and not
- c. There is a right of appeal to the Magistrates' Court as set out in Paragraph above

Annex 6 • Penalty Point Scheme

Examples of how the scheme will

- a. A driver may be given 6 points for failing to report an accident within hours. These points will stay on their hackney carriage/private hire driver's licence for 12 months from the date they are given. If the driver also has 3 points on their licence from a previous conviction they will carry 9 points for the duration of that year. After this time the 6 points will be removed and the points for the conviction will reduce in line with the Convictions Policy.
- b. If a driver already has 3 points under the convictions policy and receives 9 points for plying for hire without a hackney carriage licence the driver

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Penalty Point Table

No.	Offence/Breach of Conditions	Points Applicable	Driver	Vehicle Owner	Operator
1*	Giving false information a licence application	6	x	x	x
2*	Failure to notify the Council of a change of address 1 st offence 2 nd offence	3 6	x x	x x	-
3*	Plying for hire without a hackney carriage licence 1 st offence 2 nd offence	9 12	x x	- -	- -
4*	Driving a licensed vehicle without a hackney carriage I private hire driver's licence	12	x	-	-
5*	Lending or parting with a hackney carriage I private hire driver's licence.	9	x	-	-
6*	Employing or permitting an unlicensed driver to drive a licensed vehicle	12	x	x	x
7*	Failure of a proprietor to retain in his/her possession copies of any hackney carriage driver's licence that permits them to drive their	3	-	x	-
8*	Failure of a proprietor to produce on request by an authorised officer any hackney carriage driver's licence for whom he has permitted to drive his/her vehicle	3	-	x	-

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9*	Failure to display a hackney carriage or private hire identification plate	4	x	-	-
10*	Refusal to take a fare without a reasonable excuse	4	x	-	-
11*	Charging more than the agreed or legal fare	6	x	-	-
12*	Obtaining more than the legal fare (including failure to refund)	6	x	-	-
13*	Travelling less than the lawful distance for an agreed fare	6	x	-	-
14*	Failure to wait after a deposit has been paid	6	x	-	-
15*	Carrying persons other than with the consent of the hirer	6	x	-	-
16*	Driving a licensed vehicle without the proprietor or operator's consent	12	x	-	-
17*	Allowing a person to drive a licensed vehicle without the proprietor or operator's consent	12	x	-	-
18*	Driver leaving a hackney carriage unattended	4	x	-	-
19*	Hackney carriage driver obstructing other hackney carriages	4	x	-	-
20*	Breach of Byelaws	4	x	x	-

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21*	A licensed driver using an unlicensed vehicle for private hire purposes	12	x	-	-
22*	Operating a private hire vehicle without a private hire operators' licence	9	-	-	x
23*	Operating an unlicensed vehicle as a private hire vehicle	12	x	x	x
24*	Operating a private hire vehicle when the driver is not licensed as a private hire driver	12	x	x	x
25*	Failure to notify the transfer of a vehicle licence	3	-	x	x
26*	Failure to present a hackney carriage or private hire vehicle for inspection upon request	6	x	x	x
27*	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3	x	x	x
28*	Failure to report an accident to the Council within seventy two hours	6	x	x	x
29*	Failure to produce the vehicle and/or insurance upon request	6	x	x	x
30*	Failure to produce a driver's licence upon request	6	x	-	-
31*	Failure to wear a driver's badge	3	x	-	-
32*	Failure of a private hire operator to keep proper records of all bookings and driver and vehicle licences,	4	-	-	x

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	failure to produce them upon request of an authorised officer of the Council or a police officer within reasonable time I or time specified				
33*	Failure of a private hire operator to produce his licence upon request	4	-	-	X
34*	Making a false statement or withholding information to obtain a hackney carriage/private hire driver's	12	X	-	-
35*	Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence	6	X	X	X
36*	Failure to surrender a driver's licence or badge on or after suspension, revocation, or refusal to renew	6	X	-	-
37*	Permitting a private hire vehicle to wait on a hackney carriage rank	6	X	-	-
38*	Hackney Carriage charging more than the meter fare for a journey ending outside the District, without prior agreement	8	X	-	-
39*	Hackney Carriage charging more than the meter fare when a hackney carriage is used as a private hire vehicle	8	X	-	-
40*	Unnecessarily prolonging a journey	8	X	-	-

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41*	Interfering with a private hire taxi-meter with intent to mislead	12	x	x	x
42*	Obstruction, failure to give information or assistance or failure to comply with a requirement of an authorised officer of the Council or a police officer	6	x	x	x

Matters marked with a * are direct contraventions of either the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 and

Licensing Policy					
No.	Offence/Breach of Conditions	Points applicable	Driver	Vehicle Owner	Operator
43	Failure to ensure the safety of passengers	12	x	x	x
44	Concealing or defacing a vehicle licence plate	6	x	x	x
45	Failure to attend or attend on time for a pre-arranged appointment at the request of the Council without reasonable cause	4	x	x	x
46	Conveying a greater number of passengers than permitted	6	x	-	-

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47	Failure to give reasonable assistance with passengers luggage	3	x	-	-
48	Private Hire soliciting for hire or accepting a fare that is not pre-booked	6	x	-	-
49	Operating/using a vehicle that is not properly maintained internally externally 1 st offence 2 nd offence	6 12	x	x	x
50	Driving without the consent of the proprietor	12	x	-	-
51	Drinking or eating in the vehicle whilst carrying passengers	3	x	-	-
52	Smoking in the vehicle, including the use of electronic cigarettes, at any time 1 st offence 2 nd offence 3 rd offence	3 + FPN 12 + FPN 12 + P	x	-	-
53	Causing excessive noise from any radio or sound-reproducing equipment which annoys anyone either in or outside the vehicle	3	x	-	-
54	Playing of a music radio or other sound producing equipment without the express permission of the passenger(s)	3	x	-	-
55	Sounding the horn to signal that the vehicle has	3	x	-	-

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	and so causing a potential disturbance				
56	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6	x	-	-
57	Parking a hackney carriage vehicle or private hire vehicle illegally so as to cause an obstruction to other road users	4	x	-	-
58	Using a non-hands free mobile telephone whilst driving I engine running 1 st offence 2 nd offence	6 + FPN 12 + FPN	x	-	-
59	Failure to advise of a relevant medical condition	12	x	-	-
60	Failure to provide a receipt for a fare when requested	3	x	-	-
61	Failure to operate the meter from the commencement of the journey and/or charging more than the fixed charge for hire of a hackney carriage	8	x	x	-
62	Failure to notify the Council of relevant change to licence details within the time specified in the associated licence conditions	3	x	x	x
63	Failure to produce a hackney carriage or private hire licence upon	3	x	x	x

Annex 6 • Penalty Point Scheme

64	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	3	x	-	-
65	Failure of a private hire operator to request and keep a copy all driver's licence in his employ at the beginning of employment	3	-	-	x
66	Failure of a licence holder to disclose convictions within 7 days of the conviction	4 plus the points for the actual offence as set out in the Convictions Policy	x	x	x
67	Failing to deal with lost property in an appropriate manner 1 st offence 2 nd offence	6 12	x	-	-
68	Failure to report an accident within 72 hours	6	x	-	-
69	Failure to comply with requirements for the safe carrying of a wheelchair	6	x	x	-
70	Operating a vehicle that does not comply with the Council's licensing policy or relevant legislation where such a breach of policy/legislation is not otherwise specified herein	3-12	-	x	x

Annex 6 • Penalty Point Scheme

71	A Private Hire driver using a Hackney Carriage vehicle without a Hackney Carriage driver licence	12	x	-	-
72	Failure to carry and/or maintain an approved operational fire extinguisher, where fitted	3	x	x	-
73	Modifying a licensed vehicle without the consent of the Council	6-12	-	x	x
74	Failure to display or maintain external plates as issued by the Council or displaying them incorrectly	4	x	x	-
75	Affixing or displaying a roof sign on a private hire vehicle or failure to affix a roof sign to a Hackney Carriage Vehicle	4	x	x	-
76	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Council	6	-	x	x
77	Using a taxi-meter that does not conform to Council requirements	6	x	x	x
78	Using a licensed vehicle with no insurance or inadequate insurance for the vehicle	12	-	x	x
79	Permitting the vehicle to be used for any illegal or immoral purposes	12	x	x	x

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80	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3	-	-	x
81	Failure of a private hire operator to keep the operating premises in accordance with Council requirements	3	-	-	x
82	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	9	-	-	x
83	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	6	-	-	x
84	Driving or allowing a hackney carriage vehicle to be driven with tinted windows which do not conform to licence conditions	3	x	x	-
85	Driving or allowing a hackney carriage or private hire vehicle to be driven without displaying the door signs or attaching the signs other than in accordance with the Council's Policy	3	x	x	x
86	Allowing a hackney carriage vehicle to be driven with a top sign that is in breach of the licence conditions	3	-	x	-

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87	Illegal ranking	6	x	-	-
88	Failure to comply with Council Livery	6	x	x	x
89	Smoking or allowing smoking in an operator's premises 1 st offence 2 nd offence	6 12	- -	- -	x x
90	Driver allowing a customer to smoke, including the use of an electronic cigarette, in a licensed vehicle	6	x	-	-
91	Failure to carry an assistance dog without an exemption certificate	12	x	x	x
92	Failing to conform to statutory road signs	4	x	-	-
93	Illegal or inappropriate parking such as to cause an obstruction to pedestrians and lor other road users	4	x	-	-
94	Failing to accept travel tokens for a legitimate journey	3	x	x	x
95	Unacceptable standard of driving, witnessed by authorised officer or police officer	6	x	-	-
96	Late application for the renewal of a licence	6	x	x	x
97	Failure to display internal licence plates	4	x	x	x
98	Failure to produce the tariff				

Annex 6 • Penalty Point Scheme

	or advise of charges when requested by the hirer	3	x	x	x
99	Unsatisfactory appearance of the driver or not conforming to the dress code	4	x	-	-
100	Providing false or misleading information on a licence application form, or failing to provide relevant information	6	x	x	x
101	Failure of private hire operator I driver to honour a booking without a reasonable excuse	6	-	-	x
102	Dropping off or picking up a fare in an inappropriate place such as to cause an obstruction or nuisance to other road users	4	x	-	-
103	Failure to carry plate exemption notice in the vehicle	6	x	-	-
104	Failure to notify the Council of having being arrested, cautioned or charged for an offence or being the subject of a criminal investigation within 7 days of the said action	6	x	x	x
105	Failure to comply with the Highway Code	6	x	-	-
106	Failure to have a valid MOT	6	x	x	x
107	Failure to notify the Council of a change in contact details where such failure results in the				

Annex 6 • Penalty Point Scheme

	unable to contact you directly				
	1 st offence	3			
	2 nd offence	6	x	x	x
	3 rd offence	9			
108	Allowing an engine to idle in one of the Borough's air quality	3	x	•	•
109	Failure to provide a DBS when requested	6	x	x	x
110	Charging more than the agreed fare	6	x	x	x
111	Failure to notify the Council of a named driver	6	•	x	•
112	Failure to supply to the Council insurance for a named driver	6	•	x	•
113	Refusing a wheelchair fare without reasonable cause	4	x	•	•
114	Failure to comply with the requirements of the CCTV Policy	6	x	x	x

Please note -

FPN - Fixed Penalty Notice

P - Prosecution

Authorised Officer • means a member of the Council authorised under its scheme of delegation to carry out matters relating to the enforcement of legislation and the Council's policy in relation to hackney carriage and private hire drivers,

Implementation of the Scheme • The Scheme 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 Scheme may be made

Annex 6 • Penalty Point Scheme

Appendix 1 • CCTV Policy

Introduction

1.1 The Council recognises that licensed drivers are a valuable asset to the Borough and drivers' safety and health is a key concern. This concern must be considered alongside the overriding objective in the licensing of hackney carriage and private hire vehicles, drivers and operators of the safety of the travelling public.

1.2 In considering the installation of CCTV in licensed vehicles, the Council has had regard to the number and nature of complaints made by the public in relation to licensed drivers and to recent high profile cases which have highlighted not only the vulnerability of passengers to wrong doing but also the vulnerability of drivers to unfounded allegations. There are often significant difficulties in investigating such complaints, to the satisfaction of all parties, because of the lack of an independent witness.

1.3 The Council has determined that with effect from xxxxx all newly licensed vehicles should be fitted with CCTV. Vehicles that are already licensed on the date on which the policy become effective must be fitted with CCTV within xxxxxxx. This is in order to address the objectives set out above, and for the following reasons -

- To enable drivers to protect themselves against allegations of misconduct.
- To help identify culprits in where problems have occurred.
- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- To assist the Council and Police in investigating incidents of crime
- To assist insurance companies in relation to motoring claims.

General principles

2.1 For the purposes of this document the term "CCTV system" 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 for example, such devices as events, incident, and accident data recording devices.

2.2 The Council's specification does not prohibit the use of cameras that record images external to the vehicle. Therefore if the vehicle proprietor wishes to install a camera which captures images from outside the vehicle they may do so (subject to the installation and capture of images being lawful), particularly if the installation is carried out for insurance purposes.

2.3 CCTV systems installed in hackney carriage and private hire vehicles 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.

Appendix 1 • CCTV Policy

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

2.5 All equipment must be designed, constructed and installed in such a way and in such materials as to present no danger to passengers or driver, 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.

System Specification and Operation

3.1 The CCTV system to be fitted must meet or exceed the requirements set out in technical schedule to this Appendix.

Installation

4.1 All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions and in a manner that does not cause a distraction or nuisance to the driver or passengers, obscure the view of the road through the windscreen or impact on the luggage carrying capacity of the vehicle.

4.2 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. 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

4.3 All equipment must be secure from tampering.

4.4 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.

4.5 All equipment must be checked regularly and maintained to operational standards. Any system components requiring calibration in situ should be easily accessible.

4.6 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.

Appendix 1 • CCTV Policy

CCTV Activation

5.1 The CCTV system must be operational 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. However, CCTV must be active if the vehicle is parked on the rank.

5.2 Video recording must be active at all times. Audio recording must be active in any of the following circumstances:

- An unaccompanied child (i.e. under 18) or vulnerable adult is being carried in the vehicle
- Where the driver and customer are involved in a dispute or the driver or passenger feels threatened.

5.3 Activation of audio recording must be triggered by the driver pressing a switch I button. Audio recording will continue until such time as the button I switch is pressed again. This switch will activate I deactivate audio recording independent of the passenger's audio activation button I switch.

5.4 There must also be the facility for the passenger to activate audio recording (independent of the driver) should the passenger wish to do so. Activation of audio recording must be triggered by the passenger pressing a switch I button.

5.5 Audio recording will continue until such time as the button I switch is pressed again. This switch will activate I deactivate audio recording independent of the driver's audio activation button I switch.

5.6 Once activated (by either passenger or driver), the audio recording must continue for an uninterrupted period until it is deactivated.

5.7 There must be an indicator located within the vehicle that is clearly visible to the passenger and clearly shows that audio recording is taking place.

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

5.9 Members of the public objecting to the use of the cameras should be advised that it is a Council requirement and that the driver is required to have the system active whilst carrying passengers. If, in exceptional circumstances, 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). A request from the member of the public that the camera be deactivated would not ordinarily be considered to be exceptional circumstances.

Appendix 1 • CCTV Policy

Security and Retention of data

- 6.1 Data captured must remain secure at all times in line with the council's technical specifications.
- 6.2 It must be stored in such a way as to prevent unauthorized persons from gaining access to the data.
- 6.3 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.
- 6.4 CCTV data must be retained for a maximum period of 28 days from the date of capture.

Use of recorded data

- 7.1 The Council will be the only authority that is authorised to access the system and retrieve data from it. Downloads from the system will only be undertaken in specific circumstances.
- 7.2 Requests by other organisations to view CCTV data may be submitted in writing; any such requests must set out the reasons why the disclosure is required. Data from the camera system will only be released to other organisations in specific circumstances. In most cases consent will be obtained beforehand, however, in some cases the data will be disclosed even if consent is not obtained (for example in the case of an investigation being undertaken by a UK law enforcement agency)
- 7.3 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).
- 7.4 The requests to view CCTV data will be determined on a case by case basis.
- 7.5 Viewing screens within the vehicle for the purposes of viewing captured images are not permitted.

Signage

- 8.1 All licensed vehicles fitted with a CCTV system must display a sign 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. The signage must be displayed in such a position(s) as to be visible to passengers before entering the vehicle. The signage must not obstruct the vision of the driver.

Appendix 1 • CCTV Policy

Conditions

The following conditions are attached to the vehicle licence -

- 9.1 You must register with the Information Commissioner's Office.
- 9.2 The CCTV system, including must meet or exceed the requirements set out in the technical specification attached to this Policy.
- 9.3 A sign must be displayed in at least one prominent position, visible to passengers before entering the vehicle, stating that the vehicle carries CCTV. The sign must be clearly visible and readable and must not obstruct the vision of the driver.
- 9.4 You must ensure that the system is properly and regularly maintained and serviced in accordance with the manufacturer's instructions by a suitably qualified person and keep written records of such work. The records must be made available on request to an authorised officer of the Council or Police.
- 9.5 Upon request for CCTV footage audio recording made by an officer of the Council or Police Officer, you must ensure that the CCTV system is made available to the system administrator as soon as is reasonably practicable and in any event within 7 days.
- 9.6 You 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.

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.

CCTV Policy • Technical Specification

In order to be considered suitable for installation in a licensed vehicle, a taxi

1. Operational Technical Specification

Ref	Specification	Details
1.1	100% solid state design or a proven vibration and shock resistant system	The system should not have any fan and the recording should be vibration and shock proof, i.e.: <ul style="list-style-type: none"> - Flash-based SSD (100% industrial grade), Hard disk with both mechanical anti-vibration and anti- shock mechanism and self-recovery and self-check file writing system.
1.2	8 to 15 Volts DC	Operational between 8 and 15 volts DC
1.3	Reverse polarity protected	System to be protected against reverse voltage.
1.4	Short circuit prevention	System to be protected against short circuits
1.5	Over voltage protection	System to be protected against high voltage transients likely to be encountered in the vehicle electrical system.
1.6	Automotive Electromagnetic Compatibility Requirements	The in-vehicle taxi camera system must be compliant with : <ul style="list-style-type: none"> - 2004/108/EC on Electromagnetic Compatibility (CISPR 22/EN55022), - 2004/104/EC on Radio Interference (sections 6.5, 6.6, 6.8 and 6.9) The taxi camera equipment should therefore be e-marked or CE-marked with confirmation by the equipment manufacturer as being non-immunity related and suitable for use in motor vehicles.
1.7	System activation (on / off) switch to be located in a position where it is not accessible from inside the vehicle (i.e. in the boot / engine compartment).	The system is required to be active at all times that the vehicle is being used as licensed vehicle. This will allow the facility for the system to be deactivated during times when the vehicle is being used for private purposes (e.g. domestic use). The switch that deactivates the system must be located within the vehicles boot or engine compartment (i.e. it must only be possible to deactivate the system from outside of the vehicle).

CCTV Policy • Technical Specification

1.8	First-in/first-out buffer recording principle	
1.9	Built-in, automatic logging of all access actions, including date and personnel names	
1.10	Security, duration and auto- clearing of log files	
1.11	Image export formats and media	Images must be exported in commercially available formats.
1.12	Image protection during power disruption	Images must be preserved in the event of loss of power. Battery back-up will not be permitted
1.13	Unit must operate without the ignition being turned on.	The Unit must have the ability to operate for at least 2 hours without power from the ignition.
1.14	Image and audio data shall be recorded and stored in a unit separate from the camera head.	
1.15	GPS capability	System must be compatible to allow for GPS capability.
1.16	The system must be capable of recording audio time synchronized to the recorded images.	
1.17	The system shall not to record audio except when audio recording is activated by means of an approved trigger.	<p>The system should have the ability to start recording audio data by means of at least two trigger buttons (see also 1.26 below).</p> <p>One trigger button must be capable of being activated by the driver. Once the trigger is activated the system must begin to record audio data. The system will continue to record audio until the same trigger is activated again. The second activation of the trigger must result in the cessation of audio recording</p> <p>The second trigger button must be capable of being activated by the passengers in the vehicle independently of the driver. Once the trigger is activated the system must begin to record audio data. The system will continue to record audio until the same trigger is activated again.</p> <p>Both audio activation triggers must be independent of each other - this means that audio recording can only be</p>

CCTV Policy • Technical Specification

		deactivated by means of the same trigger (driver or passenger) that was used to activate the audio recording.
1.18	The audio playback, when triggered, shall be in 'real time' and synchronised with the images that are captured.	
1.19	Digital sampling of the audio signal must exceed 8KHz	
1.20	Digital resolution of the audio samples must exceed 10 bits.	
1.21	The audio microphone shall be integrated within the camera head.	
1.22	Audio data and image data must be stored together, not in separate files, and must be protected against unauthorised access or tampering.	
1.23	The system must support testing of the audio function for installation set-up and inspection purposes.	
1.24	The system must 'go to sleep' to reduce battery drain during prolonged idle time. It must be capable of immediate reactivation	
1.25	Images recorded by the system shall not be displayed within the vehicle.	
1.26	The system must include a visual indicator that will clearly show when audio recording is taking place. This indicator must be visible to all passengers within the vehicle.	This may take the form of an indicator LED built into the audio activation switch, or a remote LED that can clearly be seen by passengers.

CCTV Policy • Technical Specification

2. Storage Capacity

2.1	Minimum of 28 days of recording capacity	The camera system must be capable of recording and storing a minimum of 28 days of images of HD1 (720/288) size or better.
2.2	Images must be clear in all lighting conditions	System to provide clear images in bright sunshine, shade, dark and total darkness. Also, when strong back light is

3. Camera Head

3.1	Camera installation non-obstructive	The camera and all system components shall be installed in a manner that does not interfere with the driver's vision or view of mirrors or otherwise normal operation of the vehicle.
3.2	Protected camera disconnect	The camera head shall be designed to disconnect for ease of removal and replacement by maintenance personnel.
3.3	Special tools for adjustment/removal	To prevent inappropriate interference only tools supplied to authorised fitters should be capable of carrying out adjustments or removal.
3.4	Field of view to capture all passengers in the vehicle	The lens of the camera must be of a type that captures the driver and all passengers of the vehicle on the recorded image. The lens must be of a style not to create a "fishbowl" effect.
3.5	Images must be clear	System to provide clear images in all lighting conditions and allow different skin tones to be detected
3.6	Compatible for use in vehicles with a partition (shield)	The camera system must be adaptable to provide clear images when a vehicle is equipped with a shield. This may be accomplished with the use of multiple camera heads.
3.7	Multiple cameras	The unit shall be capable of supporting up to four (4) cameras. Four cameras may be required to provide adequate coverage in larger vehicles and/or certain purpose built vehicles.

CCTV Policy • Technical Specification

4. Storage Device

4.1	Impact and shock resistance	The recorder shall be impact resistant, sufficient to withstand a typical car accident, or striking with a large, heavy object such as a suitcase.
4.2	Controller in concealed location	The storage unit shall be concealed from view and effectively inaccessible except by authorised personnel.
4.3	Download port provision	The recorder shall be equipped with a communication port for downloading by authorised personnel.
4.4	Download port shall be located in an easily accessible location such as a glove compartment.	The recorder download port shall be located in the glove box if practicable, if not then in a location that does not require the removal of panels and is
4.5	Download port cable length (1 foot minimum)	Download port shall be at least one foot in length for ease of download.
4.6	Recorder to be securely affixed to the vehicle	
4.7	Log to register each user access	
4.8	Log to register camera system parameter modifications	
4.9	Log to register each image download session	
4.10	Log to register modification/manipulation of downloaded images	
4.11	Log to register exporting of downloaded images	
4.12	Log to register exporting of downloaded clips	
4.13	Log file protected against unauthorised access	
4.14	Time/date stamp	All stored images must be time and date stamped.
4.15	Vehicle ID number stamp	All stored images must have two fields for vehicle identification (VIN & number plate).
4.16	Controller non-modifiable ID code stamp	Each recorded image shall be automatically stamped with a unique and non-modifiable code that identifies the controller that was used to record the image.

CCTV Policy • Technical Specification

4.17	Controller (Storage Recorder)	Manufacturer to supply Colchester Borough Council with a supply of specialised tools to allow for removal of the controller and download of data when required.
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5. Video and Audio Recording Rate

5.1	Video image recording on system activation (when audio is not activated).	The system shall record images at the rate of four images per second.
5.2	Video image recording when audio is activated.	The system shall record images at the rate of twenty five images per second during periods when audio recording is activated (either due to time requirement, or through activation by the driver trigger switch or passenger panic button).
5.3	When activated, audio recording must be in real time and synchronised with the video recording.	
5.4	System to continue to record images (and audio when applicable) when engine is off.	System must continue to record images (and audio when applicable) for 30 minutes after engine ignition is switched off.

6. Activation via driver or passenger trigger/panic buttons

6.1	The activation of a trigger button must provide for overwrite-protected image storage when activated by driver or passenger.	The system must be fitted with at least two trigger buttons that once activated will trigger the protected recording of audio and video (see also 1.17 above).
6.2	Emergency image overwrite protection capability	Image sequences resulting from emergency activation shall be recorded in an area of memory which is protected from being overwritten
6.3	Overwrite protection capacity for at least 3 activations	
6.4	Overwrite protection self-clear on 96 hr timer	

CCTV Policy • Technical Specification

7. Downloading

7.1	Time to download complete memory not to exceed 30 minutes	Time to download to be accomplished in 30 minutes or less.
7.2	Provision of necessary software, cables, security keys to Colchester Borough Council Licensing Team.	
7.3	Windows compatible	
7.4	Downloaded images stored in non-volatile media	
7.5	Downloaded images stored in secure format	
7.6	Verifiable image authenticity	Each image shall be stamped with controller ID and vehicle ID and be tamperproof.
7.7	Provision of technical support to Colchester Borough Council Licensing team when necessary.	To assist in accessing system in case of damage to the vehicle or to the system in case of accident within 1 hour during normal working hours and within 8 hours otherwise.
7.8	Wireless Download Prohibited	Unit must not allow for wireless downloads. Wireless diagnostic may be used. All wireless hardware to be disabled.
7.9	Filter the specific images for events and times for the approximate time of the crime committed.	

8. Requirements in Relation to System Information

8.1	Provision of service log sheet with each unit shipped	The unit manufacturer shall have a service log shipped with the unit. The manufacturer shall also enclose detailed instructions for the drivers with each unit shipped. An installation manual shall also be furnished to authorised installers and fleet operators.
8.2	Serial number indication on service log	The unit will be marked with a serial number
8.3	Installation date indication on service log	The provision for the installer to indicate the installation date

CCTV Policy • Technical Specification

8.4	Provision of driver instruction card with each unit shipped	
8.5	Provision of installation manual to installers and fleet operators	
8.6	Clarity of operating instructions	The system shall be provided with clear and concise operation instructions which are written with due consideration to varying levels of literacy.
8.7	Installation by authorised agents	The unit shall be installed by manufacturer's authorised agents.
8.8	Provision of authorised agents list to Colchester Borough Council Licensing Team	The manufacturer shall provide a list of all authorised agents to Colchester Borough Council Licensing Team.
8.9	Documentation	The manufacturer must provide clear and concise operating instructions which are written in layman's terms. (Details on how the system records the images)
8.10	Image Protection	All captured images must be protected using encryption software that meets or exceeds the current FIPS 140-2 (level

9. Inspections

9.1	Provision of system status/health indicator	The driver shall have an indicator showing when the system is operational and when there is a malfunction.
9.2	Mounting location of system status/health indicator to be seen	The indicators shall be mounted/installed for the driver's vision only. The indication system must be in accordance with section 9.3 and 9.4 below.
9.3	Additional indicator requirement	Where a system is fitted with an indicator to show that the system is on, this indicator shall be separate to those listed above or of a different colour to avoid any possible confusion on the part of the drivers using the system.
9.4	Designed / installed to be testable by Colchester Borough Council Licensing Team (or persons acting on behalf of the council - such as vehicle inspectors)	The system shall be designed and installed such that the system may be easily tested to ensure that all features are operating and that images are being recorded as prescribed.

CCTV Policy • Technical Specification

10. General System Requirements

10.1	Vandal and tamper resistance	
10.2	Provision of statement of compliance	In addition to a formal test of all aspects of this requirement specification, a statement of compliance shall be provided and signed by an officer of the company.
10.3	Reliability in operational and environmental conditions	The system shall provide reliable and full functionality in all operational and environmental conditions encountered in the operation of taxis.
10.4	Programmability of image timing parameters	It shall be possible to change timing and parameters without the requirement to change components.
10.5	Training and Technical Support and Equipment	Manufacturer must provide Colchester Borough Council Licensing Team with a Training and Technical Manual. Supply a working unit to Colchester Borough Council Licensing for testing purposes.
10.6	Software and Hardware	Manufacturer to supply Colchester Borough Council Licensing Team with a supply of cables and software.

Appendix 2 - Policy for the exemption from the requirement to display an external vehicle identification plate

Introduction

1.1. The aim of this policy is to set out how the Council will exercise its discretionary powers to allow 'executive type vehicles' to operate without displaying external licence plates.

1.2 The Local Government (Miscellaneous Provisions) Act 1976 (the Act) requires identification plates to be displayed on licensed private hire vehicles. The display of such plates indicates to the public that the vehicle has been properly licensed.

1.3 There are occasions when the requirement to display external identification plates may adversely affect customer safety by allowing the vehicle to be more readily identified. The display of plates may also on occasion have a detrimental commercial impact on the business by deterring some corporate customers from using the service.

1.4 The Act enables the Council to exercise discretion and issue a dispensation from displaying the identification plate on a licensed private hire vehicle and, where that exemption applies, the requirement for the driver to wear a private hire driver's badge. There is however no 'right' to a plate exemption.

1.5 The Council will only exercise its discretionary powers where it is satisfied that there is a genuine operational business need and where it is certain that the safety of the public will not be compromised as a result.

1.6 The Council may issue a temporary or general plate exemption. A temporary exemption may be issued for a period of time not exceeding one week. A general exemption lasts for the duration of the vehicle's current private hire licence, unless it is otherwise surrendered or revoked.

Application process

2.1 The following process must be followed -

- An application for an exemption must be made in writing by the vehicle proprietor to licensing.team@colchester.gov.uk or to the Licensing, Food

Appendix 2 • Policy for the exemption from the requirement to display an external vehicle identification plate

& Safety Manager, Rowan House, 33 Sheepen Road, Colchester, C03 3WG (add details)

- The reason for the exemption must be clearly set out.
- Any supporting evidence should be submitted with the application, this includes written evidence of bookings/contract work.
- The application must be accompanied by the relevant, non-refundable, fee.

Please note - An application can only be made in respect of individual vehicles. Applications relating to a fleet of vehicles are not permitted.

Determination of Application

The Council will deal with applications as follows -

- 3.1 The application will be assessed on its own merits by a member of the Licensing Team and any points clarified with the applicant.
- 3.2 The vehicle will be inspected to ensure it is fit for purpose and the Officer will assess whether or not there is a genuine operational business need and whether or not the vehicle is considered to meet the following criteria -
 - Work undertaken is exclusively "chauffeured" in nature and there is written evidence to prove such bookings. The chauffeur and vehicle are specifically hired to provide transport to a company or person, and/or where the display of a licence plate may affect the dignity or security of the persons carried.
 - Vehicles must be of a standard of comfort and equipped to a level equal or above luxury models.
 - The safety of the travelling public will not be compromised by the exemption.
- 3.3 If the Council is satisfied that there is a genuine operational business need and the vehicle is considered to meet the criteria it will issue either -

Appendix 2 • Policy for the exemption from the requirement to display an external vehicle identification plate

- A temporary exemption - a plate exemption notice for a specific licensed private hire vehicle to exempt it from displaying an identification plate on a specified date for a period of time not exceeding one week.
 - A general exemption - a plate exemption notice for a specific licensed private hire vehicle to exempt it from displaying an identification plate for the duration of the vehicle's current private hire licence, unless it is otherwise surrendered or revoked.
- 3.4 In the event of an applicant being dissatisfied with the decision they may in the first instance appeal to the Licensing Manager. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, C03 3WG within 21 days from the date of notification of the decision. The Manager will review the case file and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
- 3.5 There is a further right of appeal to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, C03 3WG within 21 days from the date of notification of the decision.
- 3.6 If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.
- 3.7 If the Licensing Committee is satisfied that the criteria for a plate exemption are met the plate exemption notice will be issued for the specified vehicle. The Licensing Committee can specify the dates and times the exemption will apply or exempt the vehicle for the whole period the vehicle licence is in force and attach any conditions to the exemption.
- 3.8 If the Licensing Committee considers no genuine operational business need exists for a plate exemption the vehicle proprietor will be notified of the refusal and advised there is no statutory right of appeal against the decision.
-

Appendix 2 • Policy for the exemption from the requirement to display an external vehicle identification plate

Conditions attached to the Notice

4.1 The initial exemption notice will expire on the same day as the expiration of the vehicle's current private hire licence, unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will run concurrently with that vehicle's private hire licence unless either the licence or notice is otherwise surrendered or revoked.

4.2 The exemption notice must be renewed annually. Documentation to confirm that the exemption notice is still necessary must be supplied at the time of the renewal.

4.3 All vehicles must comply with the Council's Driver and Private Hire Vehicle conditions except where to do so would conflict with the requirements of this policy.

4.4 The identification plate and exemption notice provided by the Council shall remain the property of the Council.

4.5 The exemption notice must be carried in the vehicle at all times and produced upon request to an authorised officer of the Council or any Police Officer.

4.6 When issued with an exemption notice, the vehicle will not be required to display any other signs (including the internal licence plate) which the Council may at any time require private hire vehicles to display.

4.7 The proprietor will not display in, on or from the vehicle any advertisement, signage, logos or insignia advertising the operating company or the vehicle's status as a private hire vehicle.

4.8 During the period of the exemption notice, the driver is not required to wear the private hire driver's identification badge but must have it available for immediate inspection by an authorised officer of the Council or any Police Officer on request.

4.9 Before any journey covered by the exemption notice, the hirer must be advised that the vehicle dispatched to collect them will not be displaying the identification plate or any other Council approved notices etc.

Appendix 2 • Policy for the exemption from the requirement to display an external vehicle identification plate

4.10 The proprietor must within 48 hours notify the Council of any change in the use of the vehicle.

4.11 The proprietor shall not use the vehicle for private hire purposes other than for chauffeur use (i.e. not for normal airport journeys or daily private hire use) unless it is plated.

4.12 The exemption will cease to have effect on selling or transferring the vehicle to another party. The person to whom the exemption is granted must inform the council of the sale/transfer of ownership immediately and in writing, and provide details of the new owner. The exemption notice must be returned to the Council along with the private hire vehicle identification plate unless being sold to another private hire operator licensed by the Council; in which case, only the exemption notice must be returned.

4.13 A taximeter must not be installed in the vehicle.

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.

Appendix 3 - Horse Drawn Carriages - Licensing and Conditions

Introduction

1.1. The aim of this policy is to set out how the Council will exercise its powers in the licensing of horse drawn carriages and the conditions to be applied. No horse drawn carriage may be used without a licence issued by this Council.

Application process

The following process must be followed -

2.1 An application for a licence for a horse drawn carriage must be made to the Licensing Team in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, C03 3WG.

2.2 Any supporting evidence should be submitted with the application.

2.3 The application must be accompanied by the relevant, non-refundable, fee.

Determination of Application

The Council will deal with applications as follows -

3.1 The application will be assessed by a member of the Licensing Team and any points clarified with the applicant.

3.2 The Officer will assess whether the criteria set out in this Policy are met.

3.3 If the Council is satisfied that all the requirements have been met a licence will be issued.

3.4 In the event of an applicant being dissatisfied with the decision they may in the first instance appeal to the Licensing Manager. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, C03 3WG within 21 days from the date of notification of the decision. The Manager will review the

Appendix 3 • Horse Drawn Carriages • Licensing and Conditions

case file and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.

3.5 There is a further right of appeal to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, C03 3WG within 21 days from the date of notification of the decision.

3.6 If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.

Criteria for Licensing

4.1 The horse used to draw the carriage must not be less than 14.2 hands in height and shall be of a suitable conformation.

4.2 Details of all the horses to be used for the purposes of the licence must be lodged with the Council and all the horses must be individually identifiable by freeze brand, microchip or by using a marking chart.

4.3 A Certificate of Fitness, issued by an Equine Veterinary, must be produced for each horse to be used for the purposes of this Licence. The Certificate of Fitness may take the form of a letter written by the Vet and must have been issued within 28 days of the proposed grant of any licence or its renewal.

4.4 The applicant is deemed to be a properly qualified, 'fit and proper' person to hold such a licence.

Conditions attached to the Grant of a Licence

5.1 The driver of the carriage must be licensed by the Council and fully qualified to drive any carriage of the type in use.

Appendix 3 • Horse Drawn Carriages • Licensing and Conditions

- 5.2 All drivers must comply with the relevant requirements contained within the Council's Hackney Carriage and Private Hire Driver Conditions except where to do so would conflict with the requirements of this policy.
- 5.3 No horse may be permitted to work in inclement weather, except in the case of a short summer downpour.
- 5.4 At all times when drawing the carriage, the Horse must be well groomed, properly shod and fit.
- 5.5 Any horse shall be taken out of use immediately if any Police Officer, RSPCA Inspector or Authorised Officer of the Council have reason to suspect that it is unfit. It must remain so until it has been examined and found fit by an Equine Veterinary, the cost of such examination being borne by the licensee. Written confirmation that it is fit to work must be supplied to the Council.
- 5.6 Every part of a harness used in the course of drawing a carriage shall be kept fully maintained to ensure the comfort of any horse used and shall be properly attached to the carriage.
- 5.7 Details of the hours worked by the horse and the rest periods must be recorded in a log which shall be made available on request to an authorised officer of the Council, Police office, Veterinary appointed by the Council or RSPCA Inspector.
- 5.8 No horse shall be permitted to draw a carriage or be harnessed to or otherwise attached to a carriage for more than six hours in total in any one day and if it has been so used it cannot be further used in the course of that day for any other purpose.
- 5.9 If the horse is so harnessed to a carriage for a period of three consecutive hours, the proprietor or driver shall ensure that the animal is rested for a period of not less than one hour, during which time the animal must be fed and watered.
- 5.10 No horse shall be used if it is in such a condition so as to expose any person being conveyed in such a carriage, or any pedestrian, on any street, or thoroughfare to risk of injury.
- 5.11 The carriage must be suitable in type, size and design for the purposes of public hire and must be fitted with rubber rimmed wheels.

Appendix 3 • Horse Drawn Carriages • Licensing and Conditions

- 5.12 The carriage must display the Council's identification plate upon the rear of the carriage, such plate must not to be concealed from public view.
- 5.13 The proprietor or driver of the carriage shall not carry or permit to be carried in that carriage any greater number of passengers than the number of passengers which the carriage is licensed to carry.
- 5.14 The carriage shall be produced for examination and inspection by an authorised Officer of the Council, or such other agency as the Council may think fit, and the cost of such inspection shall be borne by the Licensee.
- 5.15 The Council shall be notified of any proposed alteration to any part of the carriage before such alteration is carried out.
- 5.16 The carriage shall be fitted with a sufficient drag-chain and slipper or other sufficient brake.
- 5.17 The floor of the carriage shall be covered with mats of a suitable material.
- 5.18 The seats of the carriage shall be properly cushioned or covered, fittings and furniture shall be kept clean and adequate for the convenience of persons conveyed therein.
- 5.19 Where the carriage is fitted with a roof or means of protection against the weather, such roof or means of protection must be watertight and there must be a means of opening and closing any windows fitted.
- 5.20 The proprietor or driver of the carriage must keep all of its fittings and equipment in a clean and safe condition, well maintained and in every way fit for public service.
- 5.21 The proprietor or driver of the carriage must not at any time when the carriage is plying for hire or used to carry passengers, drive or allow it to be driven wantonly or recklessly.
- 5.22 In addition to a fully paid up policy of Insurance in respect of Hire and Reward, insurance relating to public liability must be in force during the period of the Licence covering the carriage when it is being used for the purposes of hire and reward in the sum of £5m. Such Insurance must be produced to a Police Officer or an Authorised Officer of the Council at such times and at such places as may be reasonably required.
- 5.23 The proprietor or driver of the carriage must not, in any street within the Borough, feed or allow to be fed any animal whilst harnessed or otherwise

Appendix 3 • Horse Drawn Carriages • Licensing and Conditions

- attached to the carriage, except with food contained in, a proper nose bag suspended from the head of the animal, from any centre pole of the carriage, or which is in a proper container or which is being held and delivered with the hand of the person feeding the animal.
- 5.24 The proprietor or driver of the carriage must have available the means of providing adequate water and hay for any horse used to draw the carriage and the said horse shall have access to such water I hay at regular intervals.
- 5.25 The licence holder shall be responsible, when in charge of the vehicle, for the collection and satisfactory hygienic disposal of horse excrement, as soon as is reasonably practicable, after the excrement has been deposited.
- 5.26 The proprietor or driver of a carriage must display clearly the charges for the journey and ensure that the schedule of charges is legible at all times.
- 5.27 The driver of the carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, entering or alighting from the carriage.
- 5.28 The proprietor or driver of the carriage when standing or plying for hire shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purposes.
- 5.29 The proprietor or driver, or any person travelling on or using the carriage shall not blow or play upon any horn or other musical instrument, or ring any bell.
- 5.30 The Council reserves the right to suspend or revoke a Licence at any time should the proprietor or driver fail to kept within these conditions or fails to operate the carriage on a regular basis during the period of the Licence.
- 5.31 The Council shall give 21 days' notice of their intention to revoke or suspend a Licence.
- 5.32 In the event that the Licence holder wishes to appeal against the Council's intention to revoke or suspend a licence they may, within 21 days from the date of the Council's letter, appeal in writing to the Licensing Manager by writing to the licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, C03 3WG .

Appendix 3 • Horse Drawn Carriages • Licensing and Conditions

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.

Appendix 4 - Stretched Limousines, Vintage/Classic Vehicles and Fire Engines - Licensing and Conditions

Introduction

1.1. These conditions made under the Local Government (Miscellaneous Provisions) Act 1976 are specific to a stretched limousine. A stretch limousine is usually a saloon type vehicle that has undergone an increase in length by extending the wheelbase after manufacture. The purpose of these conditions is to protect public safety; they apply in addition to the Councils standard vehicle conditions

General Conditions

2.1 Seating capacity must be limited to eight passengers even if the vehicle is capable of carrying more than eight passengers.

2.2 All Operators will be required to sign a declaration stating that the vehicle will not carry more than eight passengers and at the time of the booking, this restriction will be explained to the hirer.

2.3 No passengers will be carried in the front compartment

2.4 Every seat shall be at least 400mm in width measured along the seat base.

2.5 Every seat shall have fitted a suitable seat belt or restraint.

2.6 It is the driver's responsibility to ensure that passengers use seat belts provided when the vehicle is moving.

2.7 Passengers must remain seated when the vehicle is moving.

2.8 Children under the age of 14 years shall not be carried in a stretched limousine unless accompanied by a responsible adult, excluding the driver.

2.9 No alcohol shall be provided in the vehicle unless there is in force an appropriate licence permitting the sale or supply of same.

Appendix 4 • Stretched Limousines, Vintage/Classic Vehicles and Fire Engines • Licensing and Conditions

Vehicle Conditions

- 2.1 A valid SVA (single vehicle approval) certificate must be provided for the vehicle.
 - 2.2 A valid certificate of conversion by an approved USA converter (either a Qualified Vehicle Modifier (QVM) or a Cadillac Master Coachbuilder (CMC) must be provided for the vehicle.
 - 2.3 A DVLA V5 or equivalent shall be produced to confirm registration. A plate affixed to the door pillar shall confirm the weight of the vehicle.
 - 2.4 The vehicle shall be equipped with a minimum of four road wheels and a full sized spare wheel.
 - 2.5 The vehicle will be equipped with tyres designed and manufactured to support the maximum permitted axle weight for the axle when the vehicle is driven at the maximum speed.
 - 2.6 Seat belts must be fitted in accordance with the current Road Vehicle (Construction and Use) Regulations.
 - 2.7 Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction and Use) Regulations.
 - 2.8 A stretch limousine will be subject to a twice yearly vehicle inspection, at intervals to be specified by the Council, at an authorised testing station. A third test may be required, if deemed appropriate.
-

Vintage/Classic Cars

These conditions apply in addition to the Council's standard vehicle conditions -

- 3.1 A Single Vehicle Approval (SVA) certificate or equivalent for the vehicle is to be submitted.
- 3.2 Seat belts complying with current legislation must be fitted in respect of each passenger seat.

Appendix 4 • Stretched Limousines, Vintage/Classic Vehicles and Fire Engines • Licensing and Conditions

3.3 The vehicle will be equipped with tyres designed and manufactured to support the maximum permitted axle weight for the axle when the vehicle is driven at the maximum speed. The full size spare wheel that is required, must also be fitted with the same class of tyre.

3.4 Vehicles licensed under these conditions will be subject to a twice yearly vehicle inspection, at intervals to be specified by the Council, at its authorised testing station. A third test may be required if deemed appropriate.

Fire Engines/Novelty Engines

These types of vehicle are licensed in general accordance with the standard Hackney Carriage I Private Hire vehicle and Driver conditions. The conditions that follow also apply to these types of vehicle-

4.1 The vehicle will be examined and issued with a certificate of fitness (in the form of an MOT or a HGV equivalent) prior to licensing. A further test, at the discretion of the Council, will be then be required during the twelve month validity of the certificate.

4.2 The driver shall hold a full driving licence suitable for the vehicle concerned.

4.3 Seating capacity must be limited to eight passengers even if the vehicle is capable of carrying more than eight passengers.

4.4 All Operators will be required to sign a declaration stating that the vehicle will not carry more than eight passengers and at the time of the booking, this restriction will be explained to the hirer.

4.5 Children under the age of 14 years shall not be carried in the vehicle unless accompanied by a responsible adult, excluding the driver.

4.6 Suitable steps will be carried on the vehicle to assist access and egress from the passenger compartment.

4.7 All passengers must enter or leave the vehicle by the passenger doorway adjacent to the pavement.

Appendix 4 • Stretched Limousines, Vintage/Classic Vehicles and Fire Engines • Licensing and Conditions

4.8 Seating is to be secured anchored to the floor and seatbelts complying with current legislation must be fitted in respect of each passenger seat.

4.9 Suitable signage shall be displayed in the passenger compartment advising passengers to wear seat belts.

4.10 An audible alarm system shall be fitted to the passenger compartment doors, to alert the driver should the door be opened, and shall be in a tested working condition whenever the vehicle is carrying passengers.

4.11 The floor area of the vehicle must be kept unobstructed at all times.

4.12 All external lockers on utility vehicles must be kept locked at all times.

4.13 In the case of the use of a fire engine all reflective tape and lettering is to be removed. Blue lights and the siren are to be disabled. No person involved in the operation of the vehicle is to wear a uniform or hat which may give the public the impression that the individual is a member of the fire service.

4.14 No alcohol shall be provided in the vehicle unless there is in force an appropriate licence permitting the sale or supply of same.

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.

Appendix 5 - Hackney Carriage Plate Allocation Policy and Process

Introduction

1.1. This policy sets out the Council's proposed approach to the allocation and reallocation of Hackney Carriage Plates.

1.2 In line with legislative requirements an unmet demand survey was carried out in 2015 to review the number of hackney carriage vehicle plates to be available in the Borough of Colchester. The current limit is set at 131 plates. This is unlikely to change until an unmet demand survey highlights the need to add numbers or until the limit is removed by legislation.

1.3 The overall objective of the policy is to enable the Council to allocate or reallocate a hackney carriage plate in a fair and open manner, should a plate become available.

Eligibility

2.1 In order to qualify for the allocation process the following eligibility criteria must be met:

- The applicant must not already hold a hackney carriage plate.
- The applicant must not have had a licence suspended or revoked during a five year period immediately prior to the start of the process.
- The applicant must be compliant with all conditions within the Council's current policy and have not received penalty points within one year prior to the start of the process.

Vehicle Specification

3.1 The vehicle must be compliant with the Council's vehicle conditions for a hackney carriage licence.

3.2 The vehicle must be adapted for wheelchair/disabled accessibility.

Appendix 5 • Hackney Carriage Plate Allocation Policy and Process

- 3.3 The vehicle must meet the Council's current policy in terms of age and specification at first registration.
-

Process

- 4.1 All persons who have indicated an interest will be notified of a plate becoming available and the relevant process. A notice will be placed on the Colchester Borough Council website. This will detail the process and indicate a closing date for registration to apply and be entered in a randomly generated draw.
- 4.2 Those who apply and meet the relevant criteria detailed above will be entered into a draw that will consist of an excel based programme to randomly pick an applicant.
- 4.3 To avoid any ambiguity the draw will be carried out at a meeting of the Licensing Sub-Committee at a specified date and time.
- 4.4 The number of draws will depend on the number of plates available.
-

Timescales

- 5.1 The Licensing Team will notify the successful applicant within one week of the draw.
- 5.2 The successful applicant will need to carry out the full application process within 28 days of the notification. Failure to do so will result in another draw being held at the next Licensing Sub-Committee meeting.
-

Conditions

- 6.1 The plate that is newly re-issued cannot be sold or transferred for a period of five years from issue.

Appendix 5 • Hackney Carriage Plate Allocation Policy and Process

6.2 The vehicle licence granted remains a wheelchair accessible licence in perpetuity.

6.3 The vehicle provided must be accessible to customers seated in either in either a manual or electric wheelchair

6.4 The outcome of the draw is final.

Declaration

7.1 Any individual wishing to register an interest in the allocation process will be required to complete a statutory declaration confirming that they meet the requirements of this policy.

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.

Code of conduct for working with vulnerable persons

Who is vulnerable?

A vulnerable person is one whose age, disability or health, both physical and mental, means that they are more susceptible to harm than a typical passenger. Passengers may also be vulnerable if their condition renders them more susceptible to harm than would normally be the case, for example through the consumption of alcohol and /or drugs.

Taking a booking

At the point of booking the needs of the vulnerable person must be risk assessed and a record kept whether the booking is to be accepted or refused. If appropriate measures are not in place that would allow the vulnerable person to use the services of a licensed vehicle/driver without risk to themselves or the driver, the booking should not be taken.

As a licensed driver you must -

- Treat the vulnerable person with respect and courtesy and ask if they need help rather than making this assumption.
- Carry your identification badge and when collecting the vulnerable person produce it to the carer or, where appropriate, to the individual concerned.
- If there is no chaperone, obtain the contact details of the carer.
- If service is refused, inform a carer/responsible person so that alternative arrangements can be made.
- Be aware that your interaction with a vulnerable person may be interpreted by them in a different way to that which you intended.
- Report to the Council any unacceptable behaviour from a vulnerable person or any approaches, verbal or physical, made by the vulnerable person to you, as soon as is reasonably practicable after it occurs.
- Report any safeguarding concerns to the relevant authority.

You must not -

- Double up on bookings without the prior consent of all parties involved.
- Touch the vulnerable person unnecessarily or in an inappropriate way.
- Make inappropriate or offensive comments, this includes swearing.
- Behave in a way that could be construed to be threatening.
- Use personal details obtained in the course of carrying out your business for any other reason whatsoever.
- Promise to keep any information disclosed to you confidential, when by doing so the wellbeing of the vulnerable person would be compromised.
- Respond to any approach made by the vulnerable person that is outside of your normal working relationship with the passenger.

- Accept any abuse, verbal or physical, from any vulnerable person, such abuse must be reported to the Council.
- Give any personal information to the vulnerable person.

The Council

Will take robust action under its Policy to deal with any issues that arise from contraventions of this code of conduct.

Driver and Passenger Charter

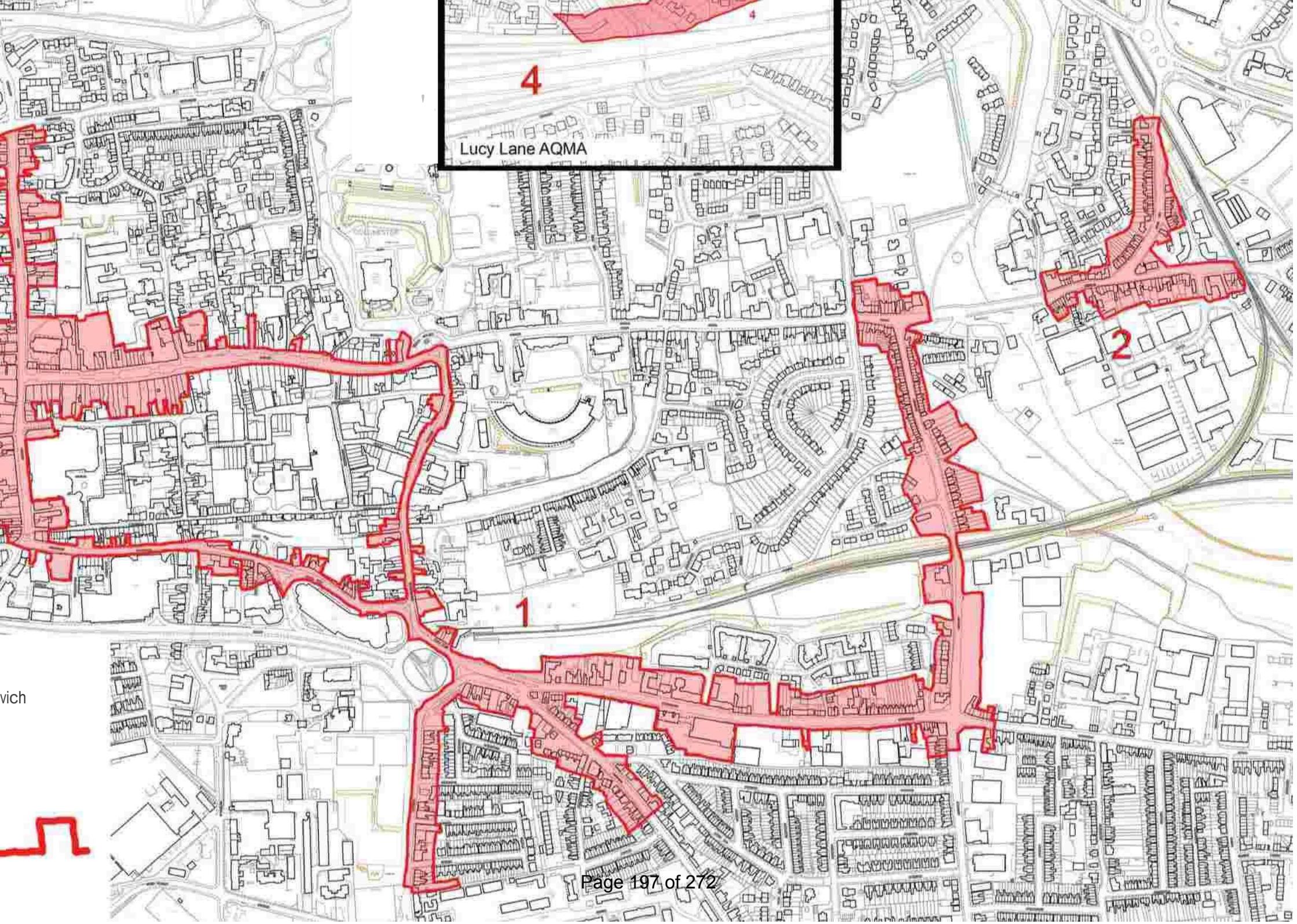
This Charter sets out what you can expect from the driver and what the driver can expect from you.

As a Passenger you can expect the driver to -

- Wear their identification badge at all times and produce it on request.
- Be polite and courteous.
- Take you to your destination by the most direct route unless you ask to take an alternative route.
- Charge no more than the fare on the meter or the agreed fare.
- Provide a receipt on request.
- Refuse to allow other people to share your taxi without your agreement.
- Ask your permission before eating, drinking or playing music in the vehicle.
- Carry your assistance dog without charge.
- Abide by the Code of Conduct for Carrying Vulnerable Persons.

The Driver can expect you -

- To be polite and courteous at all times and behave appropriately in the vehicle; you may be refused travel or be asked to leave the vehicle if you behave in an inappropriate manner.
- To be punctual.
- To pay the correct fare; drivers can ask for the fare or a proportion of the fare in advance.
- Not to eat or drink in the vehicle.
- Not to smoke or consume alcohol in the vehicle; this is an offence.
- To wear your seat belt.
- To ensure children travelling with you are secured appropriately.
- Not to request that more people are carried than is permitted by the licence.
- To pay if you soil the vehicle in any way i.e. through vomiting in the vehicle.



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Lucy Lane AQMA

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Licensing Committee

Item

8

14 November 2018

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
Title	Gambling Policy		 282840
Wards affected	All wards		

1. Decision Required

- 1.1 The Committee is asked to approve the Gambling Policy following the end of the consultation period.

2. Recommended Decision

- 2.1 To agree the draft Policy and propose its adoption to full Council on 6 December 2018.

3. Reason for Recommended Decision

- 3.1 The Council has consulted on the draft gambling policy for implementation with effect from 31 January 2019. No representations have been received.

4. Alternative Options

- 4.1 There is no alternative option; the Policy must be reviewed and readopted in order to be compliant with current legislation.

5. Detailed Considerations

- 5.1 The Gambling Act 2005 places a statutory responsibility on all Local Authorities to be responsible for the issuing of various permissions, permits and notices relating to the use of premises for gambling activities.
- 5.2 The Council is required by law to formulate its own Gambling Licensing Policy Statement which must be reviewed and republished every three years. The reviewed policy sets out the principles that the Council, as licensing authority, will generally apply to promote the licensing objectives when making decisions on applications for licences made under the Act for the period the policy is in force.
- 5.3 The consultation period on the new draft policy, attached at Annex 1, ended on 4 November 2018 and no representations were received.

6. Equality, Diversity and Human Rights implications

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

7. Strategic Plan References

- 7.1 This Policy aims to contribute to the Council's strategic plan through the efficient and effective regulation of gambling premises thereby ensuring that the local risks identified.

8. Publicity Considerations

- 8.1 The draft revised policy was the subject of an extensive consultation process. A copy of the finalised policy will be placed on the Council's website.

9. Financial Implications

- 9.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the policy. However, having consulted extensively it is thought such a challenge is unlikely.

10. Community Safety Implications

- 10.1 The Policy, through the creation of the Local Area Profile, identifies local risks including community safety and public health implications.

11. Health and Safety Implications

- 11.1 There is no known direct health and safety issues which might arise from the adoption of the revised Policy.

12. Risk Management Implications

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



GAMBLING LICENSING POLICY STATEMENT

2019-2022

Colchester Borough Council

31 January 2019

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FOREWORD

Welcome to the latest review of the Council's Licensing Policy for Gambling. The policy sets out how the Council will regulate gambling activities within the Borough.

Whilst for the majority of the general public gambling is an enjoyable and often social experience, it is for some individuals a largely hidden addiction which taken to excess has an adverse impact on their finances, health, wellbeing and relationships.

The wellbeing of our residents is a key priority for the Council and the Gambling Policy has a role to play in supporting this priority through its control of gambling premises. To this end the revised policy requires all gambling premises and new applicants to have appropriate risk assessments in place for all their activities. To assist in the completion of these risk assessments the Council has drawn up a local area profile which provides a comprehensive assessment of local risks.

We hope that the new revised policy is clear and easily understood and that the local area profile will be of significant use to the Council, its partners and operators when considering gambling matters.

Mike Lilley

Portfolio Holder for Planning, Public Safety and Licensing

PART A – INTRODUCTION

1.1 This Statement of Licensing Policy sets out the principles by which the Council, as the Licensing Authority (referred to in this document as ‘the Licensing Authority’) under the Gambling Act 2005 (referred to in this document as ‘the Act’), intends to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an “Interested Party”;
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting proceedings for offences under the Act.

2. Declaration

2.1 In this Policy the Licensing Authority declares that it has had regard to the licensing objectives, formal Guidance issued to Licensing Authorities and any responses received during the consultation process, and will adopt the Principles of Better Regulation.

2.2 Appendices and information relating to this statement providing further information and guidance are intended only to assist readers, and should not be interpreted as legal advice or as part of the Council’s policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, or the Guidance or regulations issued under the Act.

3. The Licensing Objectives

3.1 In exercising most of its functions under the Act, the Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

4. Strategic Plan

4.1 The Council’s strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies. The Council’s focus is on -

- **Growth** – Ensuring all residents benefit from the growth of the borough
- **Responsibility** – Encouraging everyone to do their bit in making our Borough even better
- **Opportunity** – Promoting and Improving Colchester and its environment
- **Wellbeing** – Making Colchester an even better place to live and supporting those who need the most help.

4.2 This Policy aims to contribute to this vision through the efficient and effective regulation of gambling premises thereby ensuring that the local risks identified are addressed.

5. Description of the District

- 5.1 Colchester is Britain's oldest recorded town. It was the administrative centre of Roman Britain and has a heritage of national importance dating back over 2000 years. The modern borough of Colchester has a thriving town centre with a vibrant and diverse night-time economy, attractive villages and important natural landscapes. Because of its strategic position and the availability of brownfield sites it has, in recent years, seen considerable growth and is now one of the fastest growing towns in the Country; the existence of the Garrison and University contribute to the overall diversity of the area.
- 5.2 The town is strategically positioned just 45 minutes away by road from London's third airport at Stansted and is close to the Haven Ports of Harwich International and Felixstowe. With excellent rail links to London and the A12/M25 road networks so accessible, Colchester is close enough to London to provide good business opportunities at an economic rate. Colchester is the natural centre for the surrounding rural areas of north Essex, south Suffolk and beyond.
- 5.3 The number of licensed premises under the Act has fallen by a third since its introduction. The last two years have seen some small growth in the adult gaming centre with the opening of two new premises.
- 5.4 A map of the Borough can be found at www.colchester.gov.uk/licensing

6. Responsibilities under the Act

- 6.1 The Act introduced a licensing regime for commercial gambling, to be operated by the Gambling Commission and/or by Licensing Authorities, depending on the matter to be licensed.
- 6.2 The Council is the Licensing Authority for the Borough of Colchester and its responsibilities must be discharged by a Licensing Committee created under Section 6 of the Licensing Act 2003.
- 6.3 The Gambling Commission is responsible for issuing operating and personal licences to persons and organisations who:-

- operate a casino;
- provide facilities for playing bingo or for pool betting;
- provide betting or act as intermediaries for betting;
- make gaming machines available for use in Adult Gaming Centres and licensed Family Entertainment Centres;
- manufacture, supply, install, adapt, maintain or repair gaming machines;
- manufacture, supply, install or adapt gambling machine software; or
- promote a lottery.

6.4 The Council as the Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are included, other than spread betting (regulated by the Financial Services Authority) and the National Lottery (regulated by the National Lottery Commission). It is responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt small society lotteries.

6.5 The Council cannot become involved in the moral issues relating to gambling and must aim to permit the use of premises for gambling in so far as it thinks it is:-

- a. in accordance with any relevant Codes of Practice under Section 24 of the Act;
- b. in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
- c. reasonably consistent with the licensing objectives (Subject to paragraphs a and b above, and
- d. in accordance with the Council's Statement of Licensing Policy (subject to paragraphs a and c above.

6.6 Before the Licensing Authority can consider an application for a premises licence, an operating licence and a personal licence must have been obtained from the Gambling Commission.

7. Statement of Licensing Policy

7.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy every three years. This Policy must be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.

7.2 This Policy takes effect on 31 January 2019 and replaces the Policy previously in force.

8. Consultation

8.1 In producing this Policy, the Council consulted with those bodies listed in Annex A, the statutory consultees, local groups and other interested parties. In particular it

consulted with those organisations working with people who are problem gamblers; the Citizens Advice Bureau and Public Health.

8.2 The Act requires that the following parties are consulted by the Licensing Authority:-

- the Chief Officer of Police for the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

8.3 The consultation will take place between 8 October and 4 November 2018.

9. Approval of the Policy

9.1 This Policy will be approved by full Council on 12 December 2018. This Policy takes effect on 31 January 2019.

9.2 It should be noted that this Policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence; each case will be considered entirely on its own individual merits and in accordance with the requirements of the Act

10. Responsible Authorities

10.1 A full list of the Responsible Authorities designated under the Act and their contact details are given on the Council's website and attached at Annex B. It should be noted that, under the Act, the Licensing Authority is designated as a Responsible Authority.

10.2 The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-

- the competency of the body to advise the Licensing Authority;
- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
- the need for the body to be answerable to democratically elected persons rather than any particular invested interest group etc.

10.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Council has designated the Essex County Council Children's Safeguarding Service for this purpose.

11. Interested Parties

11.1 Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:-

'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person

- lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- has business interests that might be affected by the authorised activities,
- represents persons who satisfy paragraphs (a) or (b)'.

11.2 Interested parties can be persons who are democratically elected, such as Borough, Town and Parish Councillors and MPs. They can also be trade associations, trade unions, residents' associations and tenants' associations. Providing these people represent those living or having business interests in the area which might be affected, no specific evidence of authorization is required.

11.3 Colchester Borough Councillors, who are members of the Licensing Committee, may also qualify to act as an 'interested party'. In order to resolve any potential conflict of interest, these members will not be eligible to sit on a Sub-Committee to determine an application for any premises within their own Ward. However, a Member of the Licensing Committee or any other Ward Councillor with a prejudicial interest in an application although not permitted to sit on a Licensing Sub Committee, may appear before it to make a representation in the capacity of an 'Interested Party'.

11.4 Other than persons mentioned in paragraphs above, the Licensing Authority will generally require some form of written confirmation that a person is authorised to represent an interested party.

11.5 In determining whether a person lives or has business interests sufficiently close to the premises, that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- the catchment area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

11.6 The Licensing Authority will decide if a representation made in respect of an application is valid based on the following factors:

- It is not frivolous or vexatious.
- It raises issues that relate to Guidance issued by the Gambling Commission.
- It raises issues that relate to this policy.
- It relates to the licensing objectives.

12. Exchange of Information

12.1 In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-

- the provisions of the Act, which include the provision that the Data Protection Act 1998 and the **General Data Protection Regulation 2016** will not be contravened;
- the Guidance issued by the Gambling Commission;
- relevant Legislation and Regulations

12.2 In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers
- Any other person or body designated by the Secretary of State in accordance with the Act.

12.3 The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime, but we will only share any personal details for this purpose **if** required to do so by law.

13. Public Register

13.1 The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

14. Compliance and Enforcement

14.1 In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Council will follow best

practice. This requires that actions should be

Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.

Accountable – The Authority must be able to justify decisions and be subject to public scrutiny.

Consistent – Rules and standards must be joined up and implemented fairly.

Transparent – Enforcement should be open and regulations kept simple and user friendly.

Targeted – Enforcement should be focused on the problems and minimise side effects.

- 14.2 The Council will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme. All enforcement action is taken having regard to the Regulatory Services Enforcement policy.
- 14.3 The main enforcement and compliance role of the Licensing Authority in terms of the Act, is to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission is the enforcement body for Operating and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines are not dealt with by the Council but will be notified to the Gambling Commission.
- 14.4 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities, and will have regard to best practice.
- 14.5 Where appropriate, complaints will be investigated in accordance with the stepped approach outlined in the Colchester Borough's Enforcement Policy. A copy of this document is available on the Council website. In the first instance we encourage complaints to be raised directly with the licensee or business concerned.
- 14.6 As part of its ongoing inspection regime, The Council may carry out test purchasing to ascertain if a licensee has robust policies in place to prevent underage gambling. Operators will always be advised of the outcome of the test. Where operators carry out their own test purchasing, The Licensing Authority expect to be advised of the results. Should the results show a failure then the Licensing Authority will, in the first instance, work with the operator to review and improve their policies and procedures.**
- 14.7 Where there is a Primary Authority Scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action on matters covered by that scheme. At the time of the publication of this policy there were four Primary Authority arrangements with host local authorities:

Coral - London Borough of Newham
Ladbrokes - Milton Keynes
Paddy Power - Reading
William Hill - City of Westminster

15. Delegation of Powers

- 15.1 The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act.

16. Definitions

- 16.1 See Annex C.

17. Fees

- 17.1 Non statutory fees are reviewed by the Licensing Authority on an annual basis in accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Details of current fees can be obtained by contacting licensing.team@colchester.gov.uk or alternatively by viewing the Council's Website www.colchester.gov.uk

18. Useful Contacts

- 18.1 The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website www.gamblingcommission.gov.uk some of these organisations provide codes of practice on their particular interest area.

PART B – PREMISES LICENCES

1. General Principles

- 1.1 Premises Licences are subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is thought appropriate.
- 1.2 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
 - casino premises
 - bingo premises
 - betting premises, including tracks and premises used by betting intermediaries
 - adult gaming centre premises (for category B3, B4, C and D machines)
 - family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).
- 1.3 Each case will be decided on its merits, and will depend upon the type of gambling that is proposed, as well as taking into account how the applicant proposes that the Licensing Objective concerns can be overcome.
- 1.4 The Licensing Authority is required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks it:-
 - a) in accordance with any relevant Code of Practice under Section 24 of the Act;
 - b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
 - c) reasonably consistent with the Licensing objectives (Subject to paragraphs a) and b))and
 - d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

2. Definition of Premises

- 2.1 In the Act 'premises' is defined as including 'any place'. It is for the Licensing Authority (having due regard for the Gambling Commission Guidance) to determine on the merits of each application whether different parts of a building can be regarded properly as separate premises.

- 2.2 The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

3. Demand

- 3.1 Demand is a commercial consideration and is not an issue for the Licensing Authority.

4. Location

- 4.1 Location will only be a material consideration in the context of the licensing objectives.
- 4.2 **The Act is clear that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.**
- 4.3 **In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.**
- 4.4 **The LCCP also states that licensees must review (and update as necessary) their local risk assessments:**
- a) **to take account of significant changes in local circumstance, including those identified in this policy;**
 - b) **when there are significant changes at a licensee's premises that may affect their mitigation of local risks;**
 - c) **when applying for a variation of a premises licence; and**
 - d) **in any case, undertake a local risk assessment when applying for a new premises licence.**
- 4.5 **The Licensing Authority expects the local risk assessment to consider as a minimum:**
- **whether the premises is in an area of deprivation**

- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area, and how game rules, self-exclusion leaflets etc. are communicated to those groups
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

4.6 In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

4.7 Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines.

4.8 The Licensing Authority expects all licensed premises' to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.

4.9 Such information may be used to inform the decision the Council makes about whether to grant a licence, to grant a licence with special conditions or to refuse an application.

4.10 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

5. Local Area Profile

- 5.1 Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Licensing Authority has published a local area profile (LAP). The LAP is published as a separate document to this policy and does not form part of it. The LAP may be reviewed by the Licensing Authority at any time. Such a review would not constitute a review of this Policy.
- 5.2 The LAP should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the LAP and assessment, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent Licensing Sub-Committee when they determine an application that has received representations. The LAP should not be taken as the definitive overview of a particular area and applicants are encouraged to use their own local knowledge in addition to the content of the LAP to inform their local risk assessments.
- 5.3 The Licensing Authority recognises that it cannot insist on applicants using the local area profiles when completing their risk assessments. However, an applicant who decides to disregard the LAP should be alert to the risk that they may face additional representations and the expense of a hearing as a result. A template of a suggested local risk assessment form for is included at Annex E. Applicants and licence holders may use this template or create their own.

6. Duplication with other Regulatory Regimes

- 6.1 Duplication with other statutory/regulatory regimes will be avoided where possible. The Licensing Authority will not consider whether a licence application is likely to be granted Planning Permission or Building Control consent.

7. The Licensing Objectives

- 7.1 Premises Licences granted must be reasonably consistent with the three Licensing objectives. With regard to these Objectives, the following will be considered:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime**

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

Whilst the Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this Licensing Objective.

Where an area has known high levels of organised crime, the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of Door Supervisors.

- **Ensuring that gambling is conducted in a fair and open way**

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. However, the Licensing Authority will familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other matters as set out in the Gambling Commission's Licence Conditions and Code of Practice.

- **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or substance misuse of alcohol or drugs.

The Licensing Authority will consider very carefully whether applications for Premises Licences in respect of gambling premises located close to schools, centres for gambling addicts, or residential areas where there may be a high concentration of families with children, should be granted, and will fully scrutinise the control measures outlined in an operator's local area risk assessment in this regard.

The Licensing Authority will consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

8. Conditions

- 8.1 The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems

associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing objectives.

Any conditions attached to Licences will be proportionate and will be:-

- relevant to the need to make the proposed premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

8.2 In addition, the Licensing Authority will examine how applicants propose to address the Licensing objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:-

- Proof of age schemes;
- Closed Circuit Television;
- Door Supervisors;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entrances;
- Notices and signage;
- Specific opening hours; and
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare;

8.3 It is recognised that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

- Any conditions on the premises licence which make it impossible to comply with an operating licence condition
- Conditions relating to gaming machine categories, numbers or method of operation
- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, and the winning of prizes.

9. Plans

9.1 **In all applications where a plan is required to be submitted, The Licensing Authority expectation is that, it will be in a scale of 1:100 unless otherwise agreed in writing and that, as a minimum, it will show the following (as appropriate to the type of application):**

- **The extent of the proposed licensed area**
- **All entry and exit points (including fire exits)**

- **CCTV camera positions**
- **Positions of betting terminals, high pay out machines (including fixed odds betting terminals) and ATM's**
- **Any fixed or permanent structures including counters**
- **Privacy screens**
- **All unlicensed areas under the control of the licensee including any 'sterile area's' and toilet and kitchen facilities be they for staff or public use.**

10. Credit

- 10.1 Credit facilities are prohibited in casinos and premises licensed for bingo; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines, for example by requiring adequate separation from areas used for gambling.

11. Betting Machines

- 11.1 In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching reasonable and necessary conditions to a Betting Premises Licence or to a Casino Premises Licence (where betting is permitted in the Casino).
- 11.2 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, should take into account:-
- the size of the premises;
 - the number of counter positions available for person to person transactions
 - the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons; and
 - steps that the applicant has taken, or is offering, to positively and proportionately promote the licensing objectives.
- 11.3 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of Codes of Practice or Guidance issued under the Act.

12. Provisional Statements

- 12.1 It is noted that the guidance from the Gambling commission states that 'It is a question of fact and degree whether the premises are finished to an extent that they can be considered for a Premises Licence rather than a Provisional Statement. The Licensing Authority will consider such applications on this basis but will not take into account other permissions that may be required such as Planning Consent.

13. Reviews

- 13.1 Representations and applications for review of a Premises Licence may be made by responsible authorities and interested parties.
- 13.2 The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is reasonable and necessary. For the purpose of exercising its discretion in these matters, the Authority has designated the Council's Planning and Licensing Service Manager as being the proper person to act on its behalf.
- 13.3 The Licensing Authority will decide if a representation or application for a review is to be carried out on the basis of whether or not the request is:
- frivolous or vexatious.
 - made on the grounds that will certainly not cause the Authority to wish to alter/revoke/suspend the Licence or remove, amend or attach conditions to the licence.
 - substantially the same as previous representations or requests for a review.
 - in accordance with any relevant codes of practice issued by the Gambling Commission.
 - in accordance with any relevant guidance issued by the Gambling Commission.
 - reasonably consistent with the licensing objectives.
- 13.4 There is no appeal against the Authority's determination of the relevance of an application for review.

14. Adult Gaming Centre

- 14.1 An Adult Gaming Centre is defined in Appendix C of this policy. Entry to these premises is age restricted. The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

15. Licensed Family Entertainment Centre

- 15.1 A Licensed Family Entertainment Centre is defined in Annex C of this policy. Entry to these premises is not generally age restricted, although entry to certain areas may be restricted dependent on the category of machines available for use.
- 15.2 The Licensing Authority will have specific regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It will encourage the applicant to satisfy the Authority that they have taken reasonable and proportionate measures to ensure that under 18 year olds do not gain access to any area of the premises that may contain adult only gaming machines and that vulnerable persons should not be exploited on the premises.

15.3 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises, but would also encourage applicants to voluntarily offer their own measures to promote the licensing objectives. Such measures may include:

- Proof of age schemes
- CCTV
- Supervision of entrances and machine areas
- Physical separation of areas
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Self-barring schemes
- Measures/training for staff on how to deal with suspected truant school children on the premises
- Measures/training for staff by way of written procedures covering how staff would deal with unsupervised and obviously very young children being on the premises, or unsupervised children causing problems on or around the vicinity of the premises.
- Specific opening hours

16. Casinos

16.1 The Licensing Authority has not passed a resolution under Section 166(1) of the Act which would allow it to grant a Casino licence. Any future decision to pass or not pass such a resolution would be made by the Council's Licensing Committee and would need to be endorsed by the full Council, but would only be taken after a full consultation process has been undertaken within its area.

16.2 The Licensing Authority is aware that where a Licensing Authority's area is enabled to grant a Premises Licence for a new style casino, there are likely to be a number of operators which will want to run a casino. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State.

16.3 Conditions may be imposed in relation to betting machine in line with Paragraphs 24.1 – 24.3 above.

16.4 Credit facilities are prohibited in casinos; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

17. Bingo Premises

17.1 A Bingo premises is defined in Annex C of this policy. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

- 17.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 17.3 Credit facilities are prohibited in premises licensed for Bingo; however, this does not prevent the installation of ATMs on the premises, although the Licensing Authority may attach conditions as to the siting of such machines, for example by requiring adequate separation from areas used for gambling.

18. Betting Premises

- 18.1 Betting is defined in Annex 'C'. Entry to these premises is age restricted.
- 18.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 18.3 In relation to betting machines, conditions may be imposed, in accordance with paragraphs 24.1-24.3 above.
- 18.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.
- 18.5 Fixed Odds Betting Terminals (FOBT's)**
In respect to nationally expressed concerns that exist in relation to the potentially adverse impact FOBT's may have on vulnerable groups of adults, The Licensing Authority will give due consideration to the need to apply conditions to betting shop premises licences including, but not limited to, setting out minimum staffing levels to ensure sufficient staff are on the premises to enable staff to comprehensively promote responsible gambling, adequately protect players, particularly in relation to players who are deemed to be vulnerable and to prevent under 18 year olds accessing gambling facilities.
- 18.6 The Licensing Authority expects FOBT's to be positioned in such a way that they can be appropriately monitored by staff particularly where those staff are positioned at a counter away from the machines. In general the Authority is of the view that 'privacy screens' will hamper this and will expect the local area risk assessment to take this into account where applicants intend to construct such screens. Particular attention should be paid to the Gambling Commission's Social Responsibility Codes in this regard, especially code 9.11.1. Where an existing licensee adds 'privacy screens' a variation application will be required**

19. Tracks

- 19.1 A Track is defined in Annex C of this policy. Entry to these premises is generally age restricted. Please refer to the Gambling Commission Guidance.
- 19.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.
- 19.3 In relation to Betting Machines, conditions may be imposed, in accordance with paragraphs 24.1 to 24.3 above.
- 19.4 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act

20. Travelling Fairs

- 21.1 It is for the Licensing Authority to determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use.

PART C - PERMITS

- 1.1 The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.

2. Unlicensed Family Entertainment Centre Gaming Machine Permits

- 2.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted, however, that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 2.2 **The Licensing Authority requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Authority.**
- 2.3 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic criminal record check for staff or equivalent criminal records check for the applicant and the person(s) having day to day control of the premises;
 - Proof of age schemes;
 - How the applicant proposes to ensure that children will be protected from harm whilst on the premises;
 - Safeguarding training;
 - Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on, or around, the premises, and
 - Suspected truant children

3. (Alcohol) Licensed Premises Gaming Machine Permits

- 3.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises (under the Licensing Act 2003) to automatically have two gaming

machines, of Categories C and/or D, via a notification to the Local Authority.

- 3.2 Gaming machines can only be located on licensed premises that have a bar for serving alcohol to their customers. Premises restricted to selling alcohol only with food will not be able to apply for a permit.
- 3.3 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:
- adult machines being in sight of the bar;
 - adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
 - appropriate notices and signage; and
 - with regard to the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information and leaflets/help-line numbers for organisations such as GamCare; and
 - relevant codes of practice issued by the Gambling Commission.
- 3.4 The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.
- 3.5 Where the Licensing Authority is satisfied that the applicant has provided sufficient measures to protect children and vulnerable persons from harm, or from being exploited by gambling, the Licensing Authority will grant permits allowing up to a maximum of four machines per premises without the need for the application to be considered and determined by the Licensing Sub Committee.

4. Prize Gaming Permits

- 4.1 The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children and vulnerable adults from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic criminal record check for staff or equivalent criminal records check for the applicant and the person(s) having day to day control of the premises;
 - Proof of age schemes;
 - How the applicant proposes to ensure that children will be protected from harm whilst on the premises;
 - Safeguarding training;
 - Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,

- children causing perceived problems on, or around, the premises, and
- Suspected truant children

4.2 In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing objectives, but must have regard to any Gambling Commission guidance.

5. Club Gaming and Club Machine Permits

5.1 Members' clubs and miners' welfare institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines, and to equal chance gaming and games of chance.

5.2 Commercial clubs may apply for a club machine permit, subject to restrictions

5.3 The gambling provided under the authority of a club gaming permit must also meet the following conditions:

- a. in respect of gaming machines:
 - no child or young person may use a category B or C machine on the premises
 - that the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines.
- b. the public, children and young persons must be excluded from any area of the premises where the gaming is taking place.

5.4 Section 273 of the Act sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

PART D - OCCASIONAL AND TEMPORARY PERMISSION

1. Temporary Use Notices (TUN)

- 1.1 A TUN is defined in Annex C.
- 1.2 A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations have been issued by the Secretary of State prescribing the activities to be covered. At present a temporary use notice can only be granted for equal chance gaming.
- 1.3 For the purpose of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 1.4 The definition of “a set of premises” will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of “a set of premises” the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 1.5 The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

2. Occasional Use Notices (OUN)

- 2.1 Occasional Use Notices are defined in Annex C of this licensing policy.
- 2.2 The Licensing Authority has very little discretion concerning these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 2.3 The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.

3. Small Society Lotteries

- 3.1 The definition of a Small Society Lottery is contained in Appendix C of this licensing policy and these require registration with the Licensing Authority.

ANNEX A

List of Consultees

The draft policy was placed on the Council Website and in accordance with the Act the following organisations and individuals were consulted as part of the formal consultation exercise on the Statement of Gambling Licensing Policy.

- All responsible Authorities for the Gambling Act (as specified in Appendix B).
- Holders of Premises Licences and Permits under the Gambling Act 2005
- Gamblers Anonymous,
- The Licensing Committee
- Public Health

ANNEX B

Responsible Authorities

The following table shows the Responsible Authorities designated under the Act and their relevant contact details.

RESPONSIBLE AUTHORITY	CONTACT DETAILS
Licensing Authority	Licensing, Food & Safety Manager Colchester Borough Council Environment Services PO Box 889 Rowan House 33 Sheepen Road Colchester CO3 3WG e-mail address: licensing.team@colchester.gov.uk
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP e-mail address: info@gamblingcommission.gov.uk
Essex Police	The Licensing Department (Alcohol) Essex Police Braintree CM7 3DJ e-mail address: licensing.applications@essex.pnn.police.uk
Essex County Fire & Rescue Service	Community Commander Colchester & Tendring Community Command Block C Park Road Colchester CO3 3UL e-mail address: colchestersdp@essex-fire.gov.uk
Planning Services	Principal Planning Officer Colchester Borough Council PO Box 889 Rowan House 33 Sheepen Road Colchester CO3 3WG e-mail address: duty.planner@colchester.gov.uk
Environmental Protection	Environmental Protection Manager Colchester Borough Council PO Box 889 Rowan House

	33 Sheepen Road Colchester CO3 3WG e-mail: environmentalprotectionteam@colchester.gov.uk
The Body Responsible for the Protection of Children from Harm	Head of Child Protection (Licensing Applications) DG06 D Block Schools, Children and Families Service Essex County Council PO Box 11 Chelmsford CM1 1QH Email: licenceapplications@essexcc.gov.uk
HM Revenue & Customs	Proper Officer H M Revenue & Customs HMRC Banking St Mungos Road Cumbernauld Glasgow G70 5WY e-mail: nrubetting&gaming@hmrc.gsi.gov.uk

In relation to vessels only, the Navigation Authority having functions in relation to any place where the vessel is or is likely to be while activities are carried on in reliance on a premises licence. For this purpose, correspondence should be sent to:

Surveyor-in-Charge
Maritime & Coast Guard Agency
Marine Office
Central Court
1B Knoll Rise

Any further enquiries or assistance can be obtained from the Licensing Authority using the contact details above. These addresses were correct at the time of going to press but are subject to change without notice. Any change made will not form part of a review of the Council's Statement of Licensing Policy

ANNEX C

Definitions/Glossary of Terms

In this Policy the definitions contained in Appendix c are included to provide an explanation of certain terms included in the Act and this Policy. In some cases they are an abbreviation of what is stated in the Act or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Act.

Adult	An individual who is not a child or young person.
Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect (Premises limited to entry by adults making Category B, C and D gaming machines available to their customers).
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting Machines	A machine designed or adapted for use to bet on future real events (not a gaming machine).
Bingo	A game of equal chance.
Casino	An arrangement whereby people are given an opportunity to participate in one or more Casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming	Equal chance gaming and games of chance in members' clubs and miners' welfare institutes (but not commercial clubs).
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines (3 machines of Categories B,C or D).
Code of Practice	Any relevant code of practice under Section 24 of the Act.
Conditions	Conditions to be attached to licences by way of:- Automatic provision Regulations provided by Secretary of State Conditions provided by Gambling Commission Conditions provided by Licensing Authority Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.

Default Conditions	Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
Delegated Powers	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
Disorder	No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants
Exempt Lotteries	Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types: Small Society Lottery (required to register with Licensing Authorities). Incidental Non Commercial Lotteries. Private Lottery (Private Society, Work or Residents lottery). Customer Lotteries.
External Lottery Manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the Lottery.
Gaming	Prize Gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.
Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events.
Guidance to Licensing Authorities	Guidance issued by the Gambling Commission 3rd edition dated May 2009.

Human Rights Act 1998 Articles: 1,6,8 and 10	Article 1: Protocol 1 The right to peaceful enjoyment of possessions. Article 6: The right to a fair hearing. Article 8: The right of respect for private and family life. Article 10: The right to freedom of expression.
Incidental Non Commercial Lottery	A Lottery promoted wholly for purposes other than private game, and which are incidental to non-commercial events (commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance).
Exchange of Information	Exchanging of information with other regulatory bodies under the Gambling Act.
Interested Party	A person who:- lives sufficiently close to the premises to be likely affected by the authorised activities; have business interests that might be affected by the authorised activities, or represents persons in either of these two groups. See paragraph 10.6 for the criteria the Licensing Authority will apply in determining who lives or has business interests sufficiently close to the premises that they are likely to be affected by any authorised activities.
Licensing Authority	Colchester District Council acting under Section 2 of the Act.
Licensed Family Entertainment Centre	Premises offering Category C gaming machines that are restricted to adults and offering Category D machines to children and young persons in segregated areas.
Licensed Lottery	A Large Society Lottery or a Local Authority Lottery. They require registration with the Gambling Commission.
Licensing objectives	Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. Ensuring that gambling is conducted in a fair and Open way. Protecting children and other vulnerable persons From being harmed or exploited by gambling.
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.

Lottery Tickets	Tickets that must:- identify the promoting society; state the price of the ticket, which must be the same for all tickets; state the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and State the date of the draw, or enable the date of the draw to be determined.
Mandatory Conditions	Specified conditions provided by Regulations under Section 176 of the Act to be attached to Premises Licences.
Members' Club	A Club that must:- have at least 25 members; be established and conducted 'wholly or mainly' for purposes other than gaming; be permanent in nature; not be established to make commercial profit; and be controlled by its members equally.
Occasional Use Notice	Betting may be permitted on a 'track' for eight days or less in a calendar year without the need for a full Premises Licence.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting - Tracks	Betting that takes place on a track while races are taking place.

Operating Licence	<p>Issued by the Gambling Commission. Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling</p> <p>Casino Operating Licence Bingo Operating Licence General Betting Operating Licence Pool Betting Operating Licence Betting Intermediary Operating Licence Gaming Machine General Operating Licence (for an Adult Gaming Centre Operator or a Family Entertainment Centre) Gaming Machine Technical Operating Licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine) Gambling Software Operating Licence (to manufacture, supply, install or adapt gambling software) Lottery Operating Licence</p>
Permits	<p>Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises. Issued by the Licensing Authority (for Unlicensed Family Entertainment Centres, Prize Gaming, Gaming Machines, on alcohol related premises, Club Gaming and Club Gaming Machines).</p>
Personal Licence	<p>Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.</p>
Pool Betting - Tracks	<p>Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track.</p>
Premises	<p>Defined as 'any place', including a vehicle, vessel or moveable structure. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.</p>
Premises Licence	<p>Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres.</p>

Private Lotteries	<p>There are three types of Private Lotteries:</p> <p>Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society;</p> <p>Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises;</p> <p>Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.</p>
Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional Statement	<p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:-</p> <p>Expects to be constructed.</p> <p>Expects to be altered.</p> <p>Expects to acquire a right to occupy.</p>
Regulations	Regulations made by the Secretary of State under the Gambling Act 2005.
Relevant Representations	Representations that relate to the Gambling Licensing objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.

Responsible Authorities	<p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <p>Colchester District Council acting as the Licensing Authority The Gambling Commission The Chief Officer of Police (Essex Police) Essex County Fire and Rescue Service Local Planning Authority, ie Colchester District Council Planning Department The authority having functions in relation to the environment or harm to human health, i.e. Colchester District Council Environmental Health Essex Local Safeguarding Children’s Board HM Revenue and Customs Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency Other persons prescribed by the Secretary of State</p>
Small Society Lottery	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
Society	The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Temporary Use Notice	To allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
The Act	The Gambling Act 2005.
The Council	Colchester Borough Council
The Commission	The Gambling Commission.
The Policy	The Statement of Licensing Principles published by the Licensing Authority under Section 349 of the Act.
Tote [or Totalisator]	Pool betting on tracks.

Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Travelling Fair	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
Unlicensed Family Entertainment Centre	Premises offering Category D machines only with unrestricted entry.
Vehicles	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- gamble more than they want to gamble beyond their means who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs
Young Person	An individual who is not a child but who is less than 18 years old.

ANNEX D

Map of Colchester



ANNEX E

Local Area Risk Assessment Example Template

1: Local Area			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
1.1			Systems
			Design
1.2			Systems
			Design
1.3			Systems
			Design

			Physical

2: Gambling Operation			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
2.1			Systems
			Design
			Physical
2.2			Systems
			Design
			Physical
3.3			Systems

			Design
			Physical

3: Internal and External Premises Design			
No	Local Risks:	Licensing objective(s) at risk: (CD, FO or CV)	Control Measures
3.1			Systems
			Design
3.2			Physical
			Systems
3.2			Design

			Physical
3.3			Systems
			Design
			Physical

Actions following assessment:			
1: Local Area			
Action	Person/Dept tasked	Date tasked	Date completed
2: Gambling Operation			
Action	Person/Dept tasked	Date tasked	Date completed
3: Internal and External Premises Design			
Action	Person/Dept tasked	Date tasked	Date completed

Signed:		Date:	
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Print Name:	
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Notes: In addition to the requirement for existing licence holders to have a local area risk assessment, this risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

Risks: Area of consideration that may impact on one or more of the licensing objectives
Local Risks: These are the identified factors that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises

Licensing objectives: these are the three licensing objectives under the Gambling Act 2005 to which the risk factors have been identified as potentially impacting. For ease of reference within this assessment the objectives have been given codes that should be used to replace the full objective. These codes are CD for the Crime and Disorder objective, FO for the Fair and Open objective and CV for the protection of children and the vulnerable.

Control Measures: These are measures that the operator can put in place to mitigate the risk to the licensing objectives from the risk factors. These control measures are split into three categories, systems, design and physical.

The fact that there are three subsections in each section of the template should not be taken to suggest that you should limit your assessment to three risks for each section. The above template is an example only. You are at liberty to use your own design.

14 November 2018

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder ☎ 282840
Title	Pavement Permits (Street Restaurant, Café and Bar Furniture)		
Wards affected	Potentially all		

1. Executive Summary

- 1.1 The purpose of introducing a permit procedure for the safe layout of movable street furniture in the town is to encourage a café culture in relation to bars, pubs, restaurants and cafes, whilst controlling the layout of the public highway in relation to tables, chairs and barriers. The aim is to use a permit and conditions system to ensure ease of access, safety and improve visual impact in an efficient, fair and controlled way. The proposed policy is intended to help businesses understand where street cafes might be encouraged, where they will not be permitted, and the specific requirements in relation to their licensing.

2. Recommended Decision

- 2.1 To approve the Policy and recommend to full Council that it be adopted with effect from 1 January 2019.

3. Reason for Recommended Decision

- 3.1 The Licensing Committee is asked to agree the proposed Pavement Permit Policy to enable formal adoption by Council.

4. Alternative Options

- 4.1 Not to introduce a Pavement Permit Policy. .

5. Background Information

- 5.1 The Committee considered the introduction of a Pavement Café Policy at its meeting in August 2018 and requested that further information be provided on the costs of the licence. The Policy is attached at Appendix A.
- 5.2 The following fees have been calculated based on the premises frontage.

Pavement Permit	Fee
New Pavement Permit (Café Furniture Licence) Under 5m ²	205.00
New Pavement Permit (Café Furniture Licence) 5-10m ²	295.00
New Pavement Permit (Café Furniture Licence) 10-15m ²	380.00
New Pavement Permit (Café Furniture Licence) Over 15m ²	470.00
Transfer/Alteration of Pavement Permit.	75.00
Renewal Pavement Permit (Café Furniture Licence) Under 5m ²	102.00
Renewal Pavement Permit (Café Furniture Licence) 5-10m ²	145.00
Pavement Permit (Café Furniture Licence) 10-15m ²	190.00
Renewal Pavement Permit (Café Furniture Licence) Over 15m ²	235.00

6. Equality, Diversity and Human Rights implications

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

7. Standard References

- 7.1 There are no particular references to the Strategic Plan; consultation or publicity considerations or financial; community safety; health and safety or risk management implications.

7. Strategic Plan References

- 7.1 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies
- 7.2 This Policy aims to contribute to this vision through promoting a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the town. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy

8. Consultation

- 8.1 Consultation on the policy was carried out prior to the previous Committee meeting when the introduction of the policy was considered.

9. Publicity Considerations

- 9.1 Affected businesses will be advised if the policy is approved.

10. Financial implications

- 10.1 The costs associated with the issuing of permits will be recovered by the relevant fee.

11. Health, Wellbeing and Community Safety Implications

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

12. Health and Safety Implications

- 12.1 There are no known negative public health and safety issues which might arise from the adoption of the Policy. The policy will regularise the provision of street furniture to promote safe use of the public highway.

13. Risk Management Implications

- 13.1 The Policy will continue to provide the Council with a sound basis for decision making.



**Pavement Permits in Colchester
Policy, Procedure and Process
2018–2021**

DRAFT

Colchester Borough Council

January 2018

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DRAFT

Forward

Colchester is Britain's oldest recorded town with a unique history and heritage attracting in excess of 6 million visitors' trips a year. It is also a vibrant, thriving, prosperous and welcoming town and the existence of a large University and Garrison contribute to its overall diversity. The Borough is home to more than 180,000 residents living in communities based not only in and around the town centre but in the coastal, rural and riverside areas of the Borough. The population is expected to rise to 233,400 by 2035 with the regeneration of key areas of the borough and the creation of new communities.

The day time, early evening and night time economy in the Borough, attracts 6.3 million visitors a year to Colchester and is worth £79.7 million, is predominantly centred in the town of Colchester. The unique geography of the town centre means that the vast majority of licensed venues are located within the area circled by the old roman wall; within this area and close by are a number of residential communities. The challenge for the Council as the Licensing Authority is to balance the sometimes opposing demands of this sector with those of residents.

A recent survey of the day, evening and night-time economy commission by the Council and carried out in May/June 2015 identified that those surveyed wanted to see a greater variety of things to do; anti-social behaviour addressed; and action taken to reduce excessive drinking. This supports the Council's view that to attract businesses, visitors and residents the town needs to offer a variety of venue choices and to move away from a night-time economy centred on high volume drinking establishments. The survey results showed that whilst 31.3% indicated they visited the town for the purposes of clubbing, a broadly similar number, 30.5%, visited in order to eat out and that couples and families accounted for 40.5% of the users of this economy; as such introducing a Café style scheme for bars and restaurants across the borough will encourage those who come in to eat may wish to stay later and encourage more families to stay and enjoy what the night time has to offer.

The Strategic Plan

The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies to create a Borough that is -

Growth – Ensuring all residents benefit from the growth of the borough

Responsibility – Encouraging everyone to do their bit in making our Borough even better

Opportunity – Promoting and Improving Colchester and its environment

Wellbeing – Making Colchester an even better place to live and supporting those who need the most help

This Policy aims to contribute to this vision through promoting a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the Borough. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy.

Links to Other Strategies, Policies and Initiatives

In preparing this Policy, the Council has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development. The Policy therefore integrates, as far as is reasonably practicable, with other key Council policies to ensure the promotion of the Council's strategic plan and with key initiatives to improve the night time economy

Local Development Framework

The Council's adopted Local Plan emphasizes the importance of the Town Centre and regeneration. Planning policies direct development towards the most accessible and sustainable locations and plans for the provision of transport, employment and community facilities to support the growth areas of the Borough. This Policy supports these development aims; it recognises the need to ensure that licensed premises are suitable for the area in which they are situated and encourages a diverse range of entertainment facilities to meet the needs of growing communities.

Introduction

Colchester Borough Council supports the provision of street café furniture in the town Centre's and surrounding Borough Street cafes can make a positive contribution to the street scene and add vitality to town and village Centre's bringing life, colour and interest onto the street.

This policy is intended to help businesses understand where street cafes might be encouraged; and whilst the provision of street cafes is encouraged, it is important that they are properly administered and managed to ensure that they meet the legal requirements and the high standards expected by the Colchester Borough Council and Essex County Council

Should you wish to make use of the paved area in front of your bar, restaurant and café for siting of an enclosed area for chairs and tables. Then please read the guidance that accompanies the application and criteria (listed below) before making an application.

Although each application will be considered on its own merits this policy contains key points that must be considered in every case.

General information regarding Design or furniture and Visual impact.

The following information should be considered; Seating, tables and, if required, umbrellas and heaters (together with a secure base) as well as any proposed barriers to the enclosed seating area must comply with the British Standards. The Heaters must be to BS EN 60529:1992 (Electric Heaters) and BS EN 14543:2005 (Gas Heaters). **Where barriers are used any adverts that businesses wish to put on to them must first apply for Advertisement consent under the Advertisement Regulations.**

The positioning of tables, chairs and barriers outside your premises should relate to the existing street-scene and movement of pedestrians. Ideally it should be designed as an

integral part of the main café, restaurant, public house or other catering establishments rather than an unrelated after-thought. Whilst regard should be given to the function of street furniture – in other words: will your customers be comfortable? Will you be able to deliver a sufficiently high standard? – The visual impact will be crucially important especially in historic Centre's.

The choice of tables and chairs for use outside your premises should reflect the quality of the furniture inside and the character of the street environment outside. In the latter case your choice of furniture should enhance the street environment.

Colchester Borough has invested in and is committed towards maintaining a high-quality environment. Choosing the 'right' furniture is in your choice of furniture, you should have regard to the surface on which your furniture will stand. An uneven surface, for example cobbles, may require a sturdier style of furniture than would be necessary on a more even or paved surface. Furniture should not be too heavy to be thrown or lifted by the wind.

You may be required to provide a movable means of enclosure for any furniture sited outside your premises, Colchester Borough Council considers wind break-like canvas structures, substantial planters or a combination of both, in tubular steel with a stretched canvas banner to be functional and attractive means of enclosure. Structures should have a minimum overall height of 800mm and a gap of no more than 100mm – 150mm between the base (or tapping rail) and the ground.

General Criteria

The area for which a pavement permit is sought must be highway as defined by S115A Highways Act 1980, namely:

- a highway in relation to which a pedestrian planning order is in force;
- a restricted byway;
- a bridleway;
- a footpath (including a walkway as defined in section 35(2) of the Highways Act 1980);
- a footway;
- a subway constructed under section 69 of the Highways Act 1980;
- a footbridge constructed under section 70 of the Highways Act 1980;
- a highway whose use by vehicular traffic is prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order; and
- to a local Act walkway.

Applicants for pavement permits are required to confirm with Essex County Council (Highway Records) the highways status of the application site before making their application see guidance notes.

Before considering a pavement permit Colchester Borough Council must carry out consultations and publish a Notice in accordance with the Highway Act 1980. The Council must take into consideration all representations made to them when considering an application for a pavement permit The Council is also required by the Highways Act 1980

to obtain the consent of the Highway Authority, frontages with an interest and if appropriate obtained walkway consent.

The Council will not permit any objects to be placed on the highway, which will cause a hazard or an obstruction to the free flow of pedestrians, prevent the normal access to premises adjoining the highway, access by emergency or service vehicles or to prevent statutory undertakers and operators of electronic communications code network having access to any apparatus in, on or over the highway.

Pavement Permits will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises and employ sufficient staff to provide table service to the outside area and have sufficient provision of sanitary conveniences for use by the public.

In considering such applications the Council will give particular consideration to Section 17 of the Crime and Disorder Act 1998 therefore prior to granting any consent for tables and chairs within the highway, the Council will pay particular regard to any potential for crime or disorder arising either directly or indirectly from the consent and will give significant weight to the views of the local police

The Council will ensure before issuing a pavement permit that Health & Safety, Food Hygiene and other Environmental legislation are not compromised.

To protect the attractiveness of the streets, the council will require:-

- The appearance of the tables and chairs must ideally enhance, or at least not be detrimental to the street scene.
- The tables and chairs and their associated activity must not cause environmental problems or detract from the amenities of adjacent retailers/occupiers. For example, there must be no litter problem, smells from food sales, or noise, so as to cause nuisance or annoyance.

The Council will ensure that the layout of the furniture will provide adequate access and circulation space for all customers including wheelchair users and those with push chairs, buggies, and members of the public with mobility problems etc.

The Council will generally apply hours of operation between 07.00 to 18.00 from Monday to Sunday for all consents. Applications for pavement permits will be accepted beyond 18:00 hours and up to 23:00 hours. The Licensing Team in approving such applications will have regard to an applicant's previous track record of compliance with the conditions attached to any previous consent or compliance with other associated conditions controlling their trade.

The Council will require that all glasses, crockery and other ancillary items used in the permitted area, are made of a toughened material. All glass-bottled drinks, including alcoholic drinks must be served in toughened drinking glasses. Glass bottles are not allowed in the permitted area.

The Council will not permit music to be broadcast on to the permitted area.

The Council will not accept an application unless the following have been provided:

- A completed application form
- Correct fee
- Plans
- Confirmation from the Highway Records of the status of the application site
- Evidence of public liability insurance
- Other associated permissions i.e. Planning & any appropriate licences under the Licensing Act 2003.

Colchester Borough Council and Essex County Council standard conditions will be applied to all “Pavement Permits”. In addition to the standard conditions the Council’s may also impose special conditions on individual pavement permits where necessary.

Enforcement

Tables and chairs placed on the highway without permission are an obstruction of the Highway. Any person who has placed tables and chairs on the highway without a valid pavement permit issued by Colchester Borough Council will be referred to the Licensing Team for enforcement action.

NON-COMPLIANCE with any Condition of the permission resulting in any complaint to the Council or to the Police will render the holder(s) liable to a written Notice under Section 115K of the Highways Act 1980 and failure to comply with such Notice immediately AND ANY SUBSEQUENT breach or non-compliance as aforesaid shall render the holder(s) liable to a written Notice under Condition 20 hereof REVOKING this permission forthwith

Conditions to be attached to the Permit

The following standard conditions shall apply to all licenses. Further additional conditions may be applied to licenses. Site Specific conditions will also be found on the permit. That relate to layout, Barriers, dimensions and storage.

1. This permission is not transferrable.
2. The tables, chairs and umbrellas shall only be placed outside the premises between the hours of 7.00 am and 6.00 pm. unless otherwise indicated.
Permitted days Monday – Sunday
3. Duration of permission:- Permits are valid for 1 year from the date of issue and only for the area of the highway applied for.
4. Permitted furniture or equipment – Tables, chairs and umbrellas and barriers to form enclosure
5. the holder(s) shall not assign underlet or part with any interest or possession given by this Permission or any part thereof but the holder(s) may surrender it at any time.
6. The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway
7. The area so permitted to be used solely for the purpose of consuming food and drink purchased on the premises. It is strictly forbidden to prepare any food and drink in the area so permitted by this permit.
8. The holder(s) shall ensure that customers who purchase food or drink for consumption on the premises shall not consume such items outside of the permitted area. The holder(s) shall ensure that all drinking glasses in which drinks are served shall be of strengthened glass or plastic and that no drink shall be served in a glass bottle from which it is intended or likely that a customer will drink
9. The table's chairs and umbrellas shall be of such a design as may be approved by the Council in writing and be kept in good repair and condition at the Permit Holder's expense.
10. The holder(s) shall not use the highway for any other purpose whatsoever nor at any time other than during permitted hours, other than during permitted hours, other than lawfully passing or repassing thereover as (a) member(s) of the public.
11. Nothing contained in this permit gives the holder permission to make fixtures to or excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
12. The Permit Holder shall make no claim or charge against the Council in the

event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause

13. The Permit Holder shall indemnify the Council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use of the chairs & tables & other objects and for this purpose must take out at the Permit Holder's expense a policy of insurance approved by the Council in the sum of at least £5,000,000 (FIVE MILLION POUNDS) in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.
14. No charge shall be made by the Permit Holder for the use of the chairs and tables and other objects
15. **Waste from the Permit Holder's operations must not be disposed of in the permanent litterbins provided by the Council.**
16. **All businesses shall provide receptacles for the disposal rubbish and where necessary smoking material. To fit inside the boundary of the planned site**
17. **Refuse and litter deposited on the highway in the vicinity of the chairs and tables and other objects must be removed each day by the Permit Holder at the their expense or at more frequent intervals as may be required by or under the Environmental Protection Act 1990**
18. The Permit Holder shall remove the tables, chairs and windbreaks from the highway outside the hours permitted by Clause 2 hereof and immediately if required to do so as to permit works in or the use of the highway by:
 - 1) The Council, County Council, the police, fire & ambulance services, any utility operator, or
 - 2) Builders' vehicles, hearses and furniture removal vans
19. The Permit Holder shall be responsible for any rates, taxes and other outgoing which may be charged
20. **The permission shall run from the date of the Permit for a term of one year.**
21. The Council reserves the right to revoke this Permit forthwith if the Permit Holder breaches any of the conditions contained herein.
22. **No form of fencing or obstruction or structure to protect the Planters other than that agreed to by the County Council will be permitted within the public highway and the County Council, as highway authority, is empowered to take action under Section 143 to remove any structure which is deemed to be a nuisance.**
23. **If umbrellas are used all parts of the umbrella must be above an absolute**

minimum of 2.2 metres from the hard surface of the footway

24. **If the area to be licensed is contained within a Public Space Protection Order Zone then the area shall be clearly delineated by the use of barriers of a suitable nature to be agreed with the Licensing Authority.**
25. The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the Council.
26. The holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission
27. The holder(s) shall ensure that a copy of these conditions and licence is at all times on prominent display within the permitted location
28. The holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the end of each daily period of use and at the expiry, surrender or revocation of this Permission
29. The licence is non transferable
30. Colchester Borough Council reserves the right to change or amend these Terms and Conditions without prior notice. **This includes the right to increase the level of fees or charges referred to herein in order to reimburse the Council its reasonable expenses in connection with granting this Permission.** Any changes will be notified and will apply with immediate effect. If you do not wish to accept the updated Terms and Conditions you should not continue to use this licence.
31. Without prejudice to the ability of the County Council to remove the tables & chairs by reason of Statute, common law, and/or for breach of any of the terms and conditions of this consent, this consent shall remain in force until such time as the applicant seeks to amend its proposal, including, but not limited to, the location and/or number of the tables & chairs to be placed in the highway and/or such time as the Borough refuse to issue the related permission
32. Exemption for permit area to be used for smoking area after 23.00 must be approved by Colchester Borough Council. Within this exemption barriers can remain but no tables, chairs or heaters can remain on site. The area must be monitored by licensed security and the barriers are to be removed at the close of the business.

Notes:

1. Section 115K of the Highways Act, 1980 provides as follows:-
 - (1) If it appears to a Council that a person to whom they have granted a Permission under Section 115E of this Act has committed any breach of the terms of that permission, they may serve a notice on him requiring him to take such steps to remedy the breach as are specified in the notice within such time as is so specified.

- (2) If a person whom a notice is served under sub-section (1) of this Act fails to comply with the notice, the Council may take the steps themselves.
 - (3) Where a Council have incurred expenses in the exercise of the power conferred on them by sub-section (2) of this Act, those expenses, together with interest at such reasonable rate as the Council may determine from the date of service of a notice of demand for the expenses, may be recovered by the Council from the person on whom the notice under sub-section 91) of this Act was served.
2. Failure to comply with any Condition of the Permission and/or the issuing of any Notice under Conditions 5 or 22 hereof will require the Council to consider whether any subsequent Permissions should be granted to the holder(s) of this Permission.
3. Any Notice hereunder shall be deemed to be sufficiently served if handed to holder personally or left addressed to him at the address given on page 1 of the attached permission.

DRAFT



GUIDANCE NOTES FOR MAKING AN APPLICATION FOR A PAVEMENT PERMIT

(E.g. Tables, chairs, Barriers and heaters)

Under the Highways Act 1980 – Part VIIA (Provision of Amenities on Certain Highways)

Please also be advised that these guidance notes are only intended to assist with the making of an application for a permit under the Highways Act 1980 and to bring certain information/obligations to the applicant's attention.

It is not intended to be legal advice to the Applicant.

Applicant is advised to take independent legal advice from their own Solicitor

WARNING: If you currently have tables and chairs on the highway without a permit issued by the Council, you may be committing an offence and are liable to prosecution and should be removed immediately.

The submission of an application for a permit does not entitle you to place or retain tables & chairs on the highway whilst your application is being considered

Introduction

Under the Highways Act 1980 (Part VIIA), Colchester Borough Council may grant a permit for the use of tables, chairs and associated furniture on the public highway for the purpose of providing refreshments.

Any person wishing to make an application for a permit is advised to read these guidance notes before completing and submitting an application.

Before considering making an application to Colchester Borough Council, you should make enquires of Essex County Council's Highway Records to confirm the highway status of the land, for which you are seeking a Permit for as permits granted under the Highways Act 1980 do not apply to private land or land which is **not** the following highway:

- to a highway in relation to which a pedestrian planning order is in force;
 - to a footpath (including a walkway as defined in section 35(2));
 - to a footway;
 - to a highway whose use by vehicular traffic is prohibited by a traffic order; and
 - to a local Act walkway.
- **Note: where you apply for a permit CBC will consult with Essex County Council**

Guidance Notes

following address enclosing an Ordnance Survey base plan showing the land in question:

Essex Highways
Essex County Council County Hall
Duke Street
Chelmsford CM1
1QH

E-mail: HighwayRecords@essexhighways.org

Please be advised that should you fail to include evidence of the status of the Highway the Council will return your application for you, the applicant to confirm the status of the Highway.

IMPORTANT NOTE:

It is essential in all cases that minimum width of unobstructed highway is kept free for safe and convenient pedestrian movement. This will depend on the location and existing width of the footway and what you apply for.

In all cases dropped kerbs must be kept clear to allow unhindered access at all times.

Where an application cannot provide the minimum width of unobstructed highway in compliance with the above will be refused.

Permits

The starting times for the placing of tables and chairs will vary according to the individual circumstances. The earliest time that the Council will consider is 7am, with a finishing time of 6pm Monday to Sunday.

Applications for hours beyond 6pm but no later than 11pm will be accepted. However the Licensing Team in approving such an application will have regard to an Applicant's previous record and what type of business they are. The council will not grant permits for hours beyond 11pm.

Permits are valid for 1 year from the date of issue and only for the area of the highway as applied for. Once granted and until the permit is revoked or surrendered the business will be invoiced on an annual basis

Permits will be granted with standard conditions, and any further conditions Essex County Council or Colchester Council considers necessary. All conditions need to be complied with in order to retain the permit.

Application Process

The forms to make an application for a Pavement Permit can be found on Colchester Councils website.

Guidance Notes

Any person wishing to make application for a permit must submit a completed application together with the correct fee, plans, other permissions and evidence of insurance to the Council's Licensing Department.

Payment must be made before considering an application, The Council is required by the Highway Act 1980 to:

Seek to the consent of:

The Highway Authority – Essex County Council;
Frontages with an Interest – if a highway; Network Rail (is maintained by them).
If Highway is a walkway – the Council must also seek walkway consent.

Consult with:

Planning Authority;
Building Control;
Environmental Health - Health & Safety Team;
Environmental Health - Pollution Team;
Ward Member;
Essex Police;
Essex Fire & Rescue Service;
Those materially affected by the application

There is a 28 day period for seeking consent and consultation.

CONSENT MUST BE OBTAINED BEFORE CONSIDERING THE APPLICATION FURTHER

Consent may be given with reasonable conditions. Any question of whether consent is unreasonable, withheld or given with unreasonable conditions, the Council must refer the matter to Arbitration for determination. Arbitration is the magistrates court.

To publish a Public Notice by:-

Affixing it in a conspicuous position at or near the place to which the application relates; and

Serving a copy of the Notice on the owner and occupier of any premises appearing to the Council to be likely to be materially affected and frontage with an interest.

The Public Notice must contain details of the application and give 28 days to allow representations to be made to the Council.

If representations are made within the specified period and subject to the appropriate consents being given, the application will be referred to the Licensing, Food and Safety Manager or Council's Licensing Committee for determination. The Council is obligated by the Highway Act 1980 to take into consideration all representation when determining an application.

Permit Area and Furniture

You must include a plan with the application clearly showing the boundary of the area for which you are seeking the permit. The plan accompanying the application must be Ordnance Survey based – scale 1:1250. The plan should show the location of the furniture within the application site.

Details should be provided of all the furniture intended to be used within the permitted area. Furniture cannot be stored on the highway and Applicants must ensure that there is sufficient storage for the furniture off the highway.

Planning Permission

Planning permission is a separate legal matter and applicants are advised to contact the Council's Planning Department to be advised if planning consent is required.

The granting of a permit under the Highway Act 1980 is not proof that planning permission has been granted. If you wish to put information on your barriers consent will be required from the planning department. Generally only the name of the business are acceptable.

Applicants are advised that granting of the permit to use the highway does not alter your premises license. If any licensable activity i.e. the sale of alcohol is to take place within the permit area the Applicant should contact the Council's Licensing Department to make appropriate application to vary the existing Premises License to include the permit area.

If there is no premises licence, the Applicant is advised that they must apply for a Premises License in accordance with the Licensing Act 2003.

Public Space Protection Orders (PSPO's)

Public Space Protection Orders (PSPO's) are a tool that can be used by local Authorities to deal with the problems of anti-social behaviour including but not limited to alcohol drinking in public places.

Once a PSPO is in place the police and local authority can use their confiscation powers to enforce the restriction. It is not an offence to consume alcohol within a designated area, but failure to comply with officer's requests to stop drinking and surrender alcohol without reasonable excuse is an offence.

PSPO's are available in areas that have experienced alcohol-related anti-social behaviour problems. They have been used across the country in areas ranging from a single street or park, to town centre or city-wide areas. Currently there is a PSPO operating in Colchester Borough. Specifically Castle Ward Area which included the town centre area.

If a premises licence issued under the Licensing Act 2003 covers the area outside the premises or a pavement licence has been granted then a PSPO does not apply to that section of the highway which is clearly delineated for the consumption of alcohol.

Environmental Health

Applicants are advised to contact the Council's Environmental Services Department to receive guidance/information for the compliance of Environmental Health legislation and considerations they must have when providing facilities for customers for the consumption of food and drink. e.g. provision of a toilet and hand washing facilities.

The granting of a permit under the Highway Act 1980 is not proof that Environmental Health legislation/considerations have been satisfied.

Crime and Disorder

In considering such applications the Council will give particular consideration to Section 17 of the Crime & Disorder Act, 1998. Therefore, prior to granting any consent for tables and chairs within the highway, the Council will pay particular

Guidance Notes

regard to any potential for crime or disorder arising either directly or indirectly from the consent and will give significant weight to the views of the local police.

Insurance

It is a requirement that Applicants for Pavement permits hold Public Liability Insurance which would indemnify both the Council and Essex County Council as Highway Authority against all actions, proceedings, demands and liability, which may at any time be taken, made or incurred arising out of the grant of the permit. The policy must be for a sum of at least £5million. A copy must be supplied to the Council at the time of application.

A condition of the permit will require a copy of the Public Liability Insurance. Completed application should be sent to:
Colchester Borough Council

Should you have any further queries please email the Licensing Department at licensing.team@Colchester.gov.uk

14 November 2018

Report of	Assistant Director of Environment	Author	Licensing Officers/Zoe Gentry
			☎ 506055
Title	Licensing Committee Work Programme 2018-2019		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2018-2019 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 2018-19.

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 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 November 2018 – Apr 2019

14 November 2018	<ol style="list-style-type: none">1) Hackney Carriage & Private Hire Licensing Policy2) Gambling Act3) Pavement Permits (Street Restaurant, Café and Bar Furniture) <p>(requires agreement from full Council)</p>
12 December 2018	<ol style="list-style-type: none">1) Caravans and Park Homes – Summary2) Unmet demand survey for Hackney Carriages
23 January 2019	<ol style="list-style-type: none">1) Post-Christmas summary2) Licensing Team, Officer roles and enforcement information3) Member Training Discussion
27 March 2019	<ol style="list-style-type: none">1) Temporary Event Notice (TENs) report and Prevention of Crime

Animal Boarding/Breeding Summary - New legislation.

