

Licensing Committee Meeting

**Council Chamber, Town Hall, High Street,
Colchester, CO1 1PJ**

Wednesday, 28 September 2022 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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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

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www.colchester.gov.uk

COLCHESTER BOROUGH COUNCIL
Licensing Committee
Wednesday, 28 September 2022 at 18:00

Members:

Councillor Roger Buston
Councillor Michelle Burrows
Councillor Helen Chuah
Councillor Jeremy Hagon
Councillor Dave Harris (Chairman)
Councillor Mike Hogg (Deputy Chair)
Councillor Roger Mannion
Councillor Patricia Moore
Councillor Steph Nissen
Councillor Beverley Oxford
Councillor Tim Young

Substitutes:

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

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

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

1 Welcome and Announcements

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

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on (insert date) are a correct record.

Licensing Committee draft Minutes 20 July 2022

7 - 8

6 Have Your Say! (Hybrid meetings)

Members of the public may make representations to the meeting. This can be made either in person at the meeting, or by joining the meeting remotely and addressing the Council via Zoom. Each representation may be no longer than three minutes. Members of the public wishing to address the Council remotely may register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date. In addition, a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

There is no requirement to pre-register for those attending the meeting in person.

7 Card Machines in Licensed Vehicles

9 - 12

The Committee will consider a report seeking its approval, for the purposes of consultation, to a change to the Council's Hackney Carriage and Private Hire Licensing Policy to require licensed vehicles to be fitted with the means to accept electronic payments in addition to cash.

8 Licensing Committee Work Programme 2022-2023

13 - 14

The Committee will consider a report setting out its work programme for the current municipal year.

Exclusion of the Public (not Scrutiny or Executive)

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

Part B

(not open to the public including the press)

Licensing Committee
Wednesday, 20 July 2022

Present: Councillor Burrows, Councillor Buston, Councillor Chuah, Councillor Harris, Councillor Hogg, Councillor Mannion, Councillor Nissen, Councillor B. Oxford, Councillor T. Young

Substitutes: Councillor Wood for Councillor Hagon
Councillor Tate for Councillor Moore

155. Declarations of Interest

Councillor Hogg declared a non-pecuniary interest in agenda item 7, Statement of Licensing Policy for Sex Establishments, by virtue of the fact that he was the holder of a personal licence in respect of a registered charity.

156. Minutes of the previous meeting

RESOLVED that: the minutes of the meeting held on 1 June 2022 be confirmed as a correct record.

157. Statement of Licensing Policy for Sex Establishments

Jon Ruder, Licensing and Food Safety Manager attended the meeting to present the report and assist the Committee with its enquiries. The Committee hear that Colchester Borough Council (the Council)'s Statement of Licensing Policy for Sex Establishments (the Policy) had been updated to reflect the fact that a lot of the Council's services were now available online. There had been no other substantive changes made, save for corrections in respect of spelling or grammatical mistakes which had been spotted in the document. The Policy would be considered again in the light of a full review of the Council's Licensing Policy which was currently being undertaken by Officers.

In response to a question from a Committee member, it was confirmed that the Council's Policy was similar in content and scope to policies adopted by other Local Authorities.

A Committee member wondered whether the majority of business activities which would be carried out in accordance with the Policy were now carried out online, and it was confirmed that there was currently only one licensed sex establishment in the borough which was trading, and it could be inferred that online activities may have

contributed to a reduction in the number of physical licensed premises. In the past, Colchester had four licensed sexual entertainment premises, two shops and two clubs, however, it was always possible that further applications would be received in the future.

The Committee heard that the Policy was maintained under constant review, and no restrictions on the number of licenses which would be issued was proposed at the current time. Such a restriction may be possible in the future, should evidence supporting the need for this be presented.

A Committee member pointed out a number of typographical errors in the proposed Policy, and the Committee was assured that these would be corrected prior to the Policy being implemented.

It was noted that the Policy stated that each application would be judged on its own merits, however, discretion was permitted if a premises should be sited near to schools, parks, religious centres or other potentially sensitive areas, and the Council would be permitted to consider the character and locality of a proposed site for a sex establishment premises. The Committee was assured that this would allow applications to be subject to a suitable level of scrutiny.

A committee member recalled the operation of a 'swingers club' in the borough a number of years ago, which had caused public consternation. At the time it had not been possible for either the Licensing Authority or the Planning Authority to take enforcement action against the club; would the Policy now allow for action to be taken against such a club in the future? Jon Ruder explained to the Committee that was a broad agreement across the Licensing Authorities in the County that such clubs probably did require a licence, and should a similar club become active in the future, its legality would be carefully considered.

RESOLVED that: subject to the correction of typographical errors in the document, the proposed Statement of Licensing Policy for Sex Establishments be recommended to Full Council for adoption.

158. Work Programme 2021-2022

Matthew Evans, Democratic Services Officer, introduced the work programme 2022-2023.

RESOLVED that: the contents of the work programme be noted.

Report of	Assistant Director of Communities	Author	Jon Ruder
Title	Card Machines in Licensed Vehicles		☎ 282840
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report seeks the approval of the Committee, for the purposes of consultation, to a change to the Council's Hackney Carriage and Private Hire Licensing Policy to require licensed vehicles to be fitted with the means to accept electronic payments in addition to cash.

2. Recommended Decision

- 2.1 To approve for the purposes of consultation a change to the Hackney Carriage and Private Hire Licensing Policy to include the requirement that vehicles must be fitted with the means to accept electronic payments in addition to cash.
- 2.2 That this matter be the subject of a six-week consultation with the trade.

3. Reason for Recommended Decision

- 3.1 The Council has committed to keeping the Hackney Carriage and Private Hire Licensing Policy under review to ensure that it remains fit for purpose and is responsive to the changing licensing environment.
- 3.2 Card payments have become the norm for a large percentage of the population, and it is considered that the requirement to have card facilities should be included within the Policy, subject to the outcome of the consultation.

4. Alternative Options

- 4.1 To leave the Hackney Carriage and Private Hire Licensing Policy unaltered.

5. Background Information

- 5.1 The Council's Hackney Carriage and Private Hire Licensing Policy came into effect in January 2019 and has been revised in subsequent years to ensure it remains up to date and relevant.
- 5.2 The Council has received complaints that licensed vehicles have not been able to take electronic payments and these complaints have become more frequent recently following the general move to card payments across society occasioned by the pandemic.
- 5.3 Many drivers/operators already make provision for electronic payments but there is disparity across the trade which is causing problems for some customers and in the case of hackney carriage vehicles, compromises the principle that the taxi at the head of the rank, takes the next fare. The refusal of fares by the driver at the head of the rank because they are unable to take card payments is another source of complaint to the Council.

6. Current provision

- 6.1 The Council's current policy deals only with the operation of a card payment device if it is fitted/carried and states –

21. Card Payment Devices

21.1 Where the vehicle is fitted with or carries a card payment device, the Council considers this to be part of the vehicle and as such it must be working at all times.

21.2 If the card payment device is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the card machine is again operational.

21.3 If there is concern that the card payment device may not work at the destination point, a fare may be agreed and paid in advance for the journey. This is permitted on condition that the meter is used, and in the event that the metered charge is less than the agreed payment for the journey, the overpayment is refunded.

7. Proposed amendments

- 7.1 To address the complaints that are being received and to ensure the Policy remains current, it is proposed to consult with the trade on the following change to Paragraph 21 of the Policy to read -

21.1 Vehicles must be fitted with the means to accept electronic payments in addition to cash. The vehicle must have a Colchester Borough Council approved card payment terminal (see 21.2 below) which can accept payment by credit and debit card.

21.2 Approved Card Payment methods

[Cab:app Ltd](#) (Miura M010)
[Cabvision Network Ltd](#) (Ingenico)
[Farepay Ltd](#) (Miura M010)
[Ingenico](#)
[iZettle](#) (Miura M010)
[Payataxi](#) (Miura M010)

[PayPal](#) (Miura M010)
[SumUp](#) (Miura M010)
[Viva Wallet](#)
[Worldpay](#)

21.3 The Council considers the card payment facility to be part of the vehicle and as such it must be working at all times.

21.4 The vehicle must display the Colchester Borough Council approved stickers on both the rear passenger window and inside the vehicles indicating that debit and credit card payments are now taken.

21.5 If the means of making electronic payments is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the payment facility is again operational.

21.6 If there is concern that the electronic payment facility may not work at the destination point, a fare may be agreed and paid in advance for the journey. This is permitted on condition that the meter is used, and if the metered charge is less than the agreed payment for the journey, the overpayment is refunded.

8. Financial implications

- 8.1 There will be a cost to the Council in relation to the production of stickers for the vehicles which can be recovered through the annual fee. This cost is estimated to be £1000.
- 8.2 It is not possible to give the exact costs to be met by the licence holders as these will depend on the device used and the transaction charges levied. However, it is anticipated that the cost of the payment device will be in the region of £100. A small charge of around 1.6% is then made for each transaction. The monthly cost will depend on the amount of business transacted.

9. Suggested implementation programme

- 9.1 The timetable for implementation will form part of the proposed consultation. It is suggested that, in the event the decision is taken to proceed with the change, a 3 month period would be given for compliance from the date of final approval.

10. Changes to the Penalty Point Scheme

- 10.1 The penalty point scheme would need to be revised to carry a penalty for failing to comply with the requirements of Section 21.

113	Failure to comply with the requirements relating to the provision and/or operation of a card payment device		x	x	x
	1 st offence	4			
	2 nd offence	8			
	3 rd offence	12			

11. Equality, Diversity and Human Rights implications

- 11.1 There are no equality and diversity considerations or human rights implications of the decision to consult on requiring electronic payment means in licensed vehicles.

12. Standard References

- 12.1 There are no particular references to the Strategic Plan; consultation or publicity considerations or financial; community safety; health and safety or risk management implications.

28 September 2022

Report of	Assistant Director of Corporate and Improvement Services	Author	Matthew Evans
Title	Licensing Committee Work Programme 2022-2023		☎ 8006
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2022-2023 for the Licensing Committee. This provides details of the reports that are scheduled for each meeting during the municipal year. Members are asked to note that due to the nature of Licensing work, items on the work programme may be subject to change.
- 1.2 The attention of the Committee is drawn to the amendment to the work programme which was made with the consent of the Chair of the Licensing Committee and the Group Spokespersons, and which postpones consideration of the Scheme of Delegation to a future meeting of the Committee.

2. Recommended Decision

- 2.1 The Committee is asked to note the contents Committee's Work Programme for 2022-2023.

3. Alternative Options

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

4. Background Information

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

5. Standard References

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

6. Strategic Plan References

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

Licensing Work Plan May 2021 – April 2022

1 June 2022	Update on the work of the Licensing Team
20 July 2022	Review of the Council's Sex Establishment Policy
28 September 2022	Review of the Licensing Scheme of Delegation Card machines in licensed vehicles
9 November 2022	Legislation update
18 January 2023	Licensing Act 2003 Statement of Policy review
22 March 2023	Officer summary of the year in Licensing