

# Licensing Committee Meeting

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

**Wednesday, 29 August 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, 29 August 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 meeting held on 25 July 2018.
- Minutes 25 July 2018** 7 - 8
- 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     **Hackney Carriage and Private Hire Licensing Policy** 9 - 158
- The Committee is asked to consider 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.
- 8     **Pavement Permits (Street Restaurant, Café and Bar Furniture)** 159 - 192
- This report seeks the Licensing Committee's approval of the Pavement Permit Policy and subsequent referral to Full Council.
- 9     **Scheme of Delegation to Officers by the Licensing Committee** 193 - 196
- The Committee is asked to consider changes to its scheme of delegation to the Assistant Director - Environment.
- 10    **Work Programme 2018-19** 197 - 198
- 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.
- 11    **Exclusion of the Public (not Scrutiny or Executive)**
- In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

## **Part B**

(not open to the public including the press)

### **12 Minutes of Previous Meeting (Confidential).**

The Councillors will be invited to confirm that the confidential minutes are a correct record of the meetings held on 22 June 2018 and 26 June 2018.

**Not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual).**

#### **22 June 2018 appeal 1**

- This report is not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual).

#### **22 June 2018 appeal 2**

- This report is not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual).

#### **26 June 2018**

- This report is not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual).

## **LICENSING COMMITTEE**

### **25 July 2018**

*Present:* - Councillors Julie Young (Chairman), Nick Cope, Simon Crow, Paul Dundas, Dave Harris, Pauline Hazell, Mike Hogg, Darius Laws, Patricia Moore and Gerard Oxford

#### **59. Minutes**

*RESOLVED* that the minutes of the meeting held on 30 May 2018 be approved as a correct record.

#### **60. Colchester Charter Market Regulations**

The Committee considered a report by the Assistant Director of Communities and were asked to agree the revised Colchester Charter Market Regulations. Mrs Clements addressed the Committee having been requested on the 21 March 2018 meeting to bring further information for consideration with regards to the inclusion of a specific banning of the sale of fur rule. Mrs Clements informed the Committee that this had originally started from an online petition by Respect For Animals asking all UK Markets to ban the sale of all fur products.

*RESOLVED that –*

The recommendation to continue to prohibit the sale of real fur using the existing rule 12.2 *'No goods may be displayed or sold which in the opinion of the Markets & Street Trading Manager are inappropriate, dangerous or likely to cause offence to other traders or members of the public'*.

#### **61. Licensing Work Plan**

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

*RESOLVED that –*

The Committee agreed with the itinerary for future meetings but also requested looking at cumulative areas, enforcement, a brief outline of all the areas Licensing covers and also the possibility of training to be added on before a meeting.





29 August 2018

Report of	Assistant Director (Environment)	Author	Jon Ruder ☎ 282840
Title	Amendments to the Hackney Carriage & Private Hire Licensing Policy		
Wards affected	Not applicable		

## 1. Executive Summary

- 1.1 The Committee is asked to consider further changes to the Hackney Carriage and Private Hire Licensing Policy including the Policy in relation to CCTV and to approve a further period of consultation.

## 2. Recommended Decision

- 2.1 To consider and approve the proposed amendments to the Policy, as set out in the report, for consultation purposes.
- 2.2 To carry out a further six week consultation with the licensed trade on the amended policy.

## 3. Reason for Recommended Decision

- 3.1 Further changes have been made to the Policy which will affect licence holders, in particular the draft CCTV Policy, and therefore a further period of consultation is considered necessary.

## 4. Alternative Options

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

## **5. Detailed Considerations**

- 5.1 The Committee has previously considered and agreed the Hackney Carriage & Private Hire Licensing Policy. This consideration however did not include the detail of the CCTV policy and this element has now been finalised for consultation with the trade. Further minor changes have been made to the Policy to clarify some issues and these are marked in bold on the attached policy document. The draft Policy is brought to the Committee for approval prior to a further 6 week period of consultation and its consideration by full Council.

## **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 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.

## **8. Publicity Considerations**

- 8.1 The draft revised policy was the subject of an extensive consultation process. However, as the proposed changes include the CCTV Policy and number of small amendments to the Policy it is considered necessary to carry out a further 6 week consultation. A copy of the draft revised 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 deals with the protection of children and vulnerable adults.

## **11. Health and 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. 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.



# **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](mailto: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.

## **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 Plate numbers 200 to 224 (currently plates 98, 99, 100, 101, 103, 104 and 114 to 131) 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.

# Annex 1 • Driver Licensing Standards and Conditions

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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.**

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## 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

# Annex 1 • Driver Licensing Standards and Conditions

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.**

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## 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

# Annex 1 • Driver Licensing Standards and Conditions

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 (plates 200 to 224) 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.

## 8. The Carriage of Animals

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- 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 to secure and carry such passengers:

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- 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.
- 13.2 You are expected to obey rank discipline; vehicles should immediately move

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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 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.**



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## 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.

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## 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.

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

- DBS report

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- 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.

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## 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**

# Annex 1 • Driver Licensing Standards and Conditions

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.

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## 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 224 (currently plates 98, 99, 100, 101, 103, 104 and 114 to 131)** must be fully wheelchair adapted; this means having the facility to load and unload wheelchairs directly into the vehicle.

**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.**

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

# Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

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:

- Nominal size

## Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

- 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.

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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

## Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

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](mailto: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](mailto: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.

## Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

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.

## Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

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, must 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.

## Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

### 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 licensee/owner 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.

# Annex 2 • Hackney Carriage Vehicles Licensing Standards and Conditions

## 23. Convictions and Penalty Points

23.1 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.

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## 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.**

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- 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.

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**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.

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## 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.**

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## 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.

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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](mailto: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](mailto: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](mailto: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](http://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, must 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 attendance pass 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

## Annex 3 • Private Hire Licensing Standards and 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.

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### 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.

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## 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

## Annex 3 • Private Hire Licensing Standards and Conditions

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.

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**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.**

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## 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.

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## 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

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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.



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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.

### 4. Notifications to the Council

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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, including an operator licensed by another local authority and at the same rate and same standard as the Council's operators. In these circumstance you must -

- a) keep a record of the initial booking details for audit purposes.
- b) 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.
- c) identify an alternative private hire operator and advise the original hirer of that operator's details.
- d) 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-contracted.
- e) 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.

All records kept must be available for inspection on request of an authorized officer of the Council or Police officer.

## Annex 4 • Operator Licensing Standards and Conditions

5.2 In relation to cross border working it should be noted that -t t

- You can only hold a private hire operator's licence issued by the local Council in whose area you have your operating base.
- If you intend to take bookings from outside the Council area you must apply for an operator's licence from the local Council in which your operating base is located.
- You can only use vehicles and drivers who are licensed by the same local Council who issue your operator's licence.
- You can accept bookings made from outside the borough but the address where the bookings are taken, your operating premises, must be within the area of the Council who issued your operator's licence.
- You may pass work to drivers who are declared on your operator's licence application form; the drivers and cars must be licensed by the same Council as issued the operator's licence.

### 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.

## Annex 4 • Operator Licensing Standards and Conditions

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

### 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

# Annex 4 • Operator Licensing Standards and Conditions

12.1 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.

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## 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

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## 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.

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**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](mailto: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
<b>Battery</b>	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

## Annex 5 • Convictions Policy

### 5.3 Road Traffic/Motoring Convictions

#### Level 1 • Driving offences involving the loss of life

Code	Offence	Number of Points
<b>BA40</b>	Causing death by driving while disqualified	12 for all offences listed in this table
<b>BA60</b>	Causing serious injury by driving while disqualified	
<b>CD40</b>	Causing death through careless driving when unfit through drink	Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for such an offence.
<b>CD50</b>	Causing death by careless driving when unfit through drugs	
<b>CD60</b>	Causing death by careless driving with alcohol level above the limit	A current licence would be revoked in all but the most exceptional circumstances
<b>CD70</b>	Causing death by careless driving then failing to supply a specimen for alcohol analysis	
<b>CD80</b>	Causing death by careless or inconsiderate driving	
<b>CD90</b>	Causing death by driving: unlicensed, disqualified or uninsured drivers	
<b>DD60</b>	Manslaughter or culpable homicide while driving a vehicle	
<b>DD80</b>	Causing death by dangerous driving	
<b>DG60</b>	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)									
<b>AC10</b>	Failing to stop after an accident	12	12	12	12	12	8	6	4	2	1
<b>BA10</b>	Driving while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
<b>BA30</b>	Attempting to drive while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
<b>CU80</b>	Breach of requirement as to control of the vehicle, mobile phone etc.	12	12	12	12	12	8	6	4	2	1
<b>DD10</b>	Causing serious injury by dangerous driving	12	12	12	12	12	8	6	4	2	1
<b>DD40</b>	Dangerous driving	12	12	12	12	12	8	6	4	2	1
<b>DD90</b>	Furious driving	12	12	12	12	12	8	6	4	2	1
<b>DG10</b>	Driving or attempting to drive with drug level above the specified limit	12	12	12	12	12	8	6	4	2	1
<b>DG40</b>	In charge of a vehicle while drug level above a specified limit	12	12	12	12	12	8	6	4	2	1
<b>DR10</b>	Driving or attempting to drive with alcohol level above the limit	12	12	12	12	12	8	6	4	2	1
<b>DR20</b>	Driving or attempting to drive while unfit through drink	12	12	12	12	12	8	6	4	2	1
<b>DR30</b>	Driving or attempting to drive then failing to supply a specimen for analysis	12	12	12	12	12	8	6	4	2	1
<b>DR31</b>	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
<b>DR40</b>	In charge of a vehicle while alcohol level above limit	12	12	12	12	12	8	6	4	2	1



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<b>DR50</b>	In charge of a vehicle while unfit through drink	12	12	12	12	12	8	6	4	2	1
<b>DR60</b>	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
<b>DR61</b>	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
<b>DR70</b>	Failure to provide a specimen for breath test	12	12	12	12	12	8	6	4	2	1
<b>DR80</b>	Driving or attempting to drive when unfit through drugs	12	12	12	12	12	8	6	4	2	1
<b>DR90</b>	In charge of a vehicle when unfit through drugs	12	12	12	12	12	8	6	4	2	1
<b>AC20</b>	Failing to give particulars or report an accident within 24 hours	12	12	12	12	12	8	6	4	2	1
<b>AC30</b>	Undefined accident offences	12	12	12	12	12	8	6	4	2	1
<b>IN10</b>	Using a vehicle uninsured against third party risks	12	10	8	7	6	5	4	3	2	1
<b>LC20</b>	Driving otherwise than in accordance with a licence	12	10	8	7	6	5	4	3	2	1
<b>MS50</b>	Motor racing on the highway	12	10	8	7	6	5	4	3	2	1
<b>MS90</b>	Failure to give information as to the identity of a driver etc.	12	10	8	7	6	5	4	3	2	1
<b>UT50</b>	Aggravated taking of a vehicle	12	12	12	6	4	3	2	1	0	0

## Annex 5 • Convictions Policy

### 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)									
<b>LC30</b>	Driving after making a false declaration about fitness when applying for a licence	12	12	12	12	8	6	4	2	1	0
<b>LC40</b>	Driving a vehicle having failed to notify a disability	12	12	12	12	8	6	4	2	1	0
<b>LC50</b>	Driving after a licence has been revoked or refused on medical grounds	12	12	12	12	8	6	4	2	1	0
<b>MS70</b>	Driving with uncorrected defective eyesight	12	12	12	12	8	6	4	2	1	0
<b>MS80</b>	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)									
<b>AC10</b>	Failing to stop after an accident	12	12	12	12	12	8	6	4	2	1
<b>BA10</b>	Driving while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
<b>CU10</b>	Using a vehicle with defective brakes	3	3	3	3	2	1	0	0	0	0

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<b>CU20</b>	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
<b>CU30</b>	Using a vehicle with defective tyre (points given per tyre)	3	3	3	3	2	1	0	0	0	0
<b>CU40</b>	Using a vehicle with defective steering	3	3	3	3	2	1	0	0	0	0
<b>CU50</b>	Causing or likely to cause danger by reason of load or passengers	3	3	3	3	2	1	0	0	0	0
<b>CD10</b>	Driving without due care and attention	10	9	8	7	6	5	4	3	2	1
<b>CD20</b>	Driving without reasonable consideration for other road users	10	9	8	7	6	5	4	3	2	1
<b>CD30</b>	Driving without due care and attention or without reasonable consideration for other road users	10	9	8	7	6	5	4	3	2	1
<b>SP10</b>	Exceeding goods vehicle speed limits	6	6	6	6	5	4	3	2	1	0
<b>SP20</b>	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	6	6	6	6	5	4	3	2	1	0
<b>SP30</b>	Exceeding statutory speed limit on a public road	6	6	6	6	5	4	3	2	1	0
<b>SP40</b>	Exceeding passenger vehicle speed limit	6	6	6	6	5	4	3	2	1	0
<b>SP50</b>	Exceeding speed limit on a motorway	6	6	6	6	5	4	3	2	1	0

## Annex 5 • Convictions Policy

### 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)									
<b>MS10</b>	Leaving a vehicle in a dangerous position	3	3	3	3	2	1	0	0	0	0
<b>MS20</b>	Unlawful pillion riding	3	3	3	3	2	1	0	0	0	0
<b>MS30</b>	Play Street Offences	2	2	2	2	1	0	0	0	0	0
<b>MS60</b>	Offences not covered by other codes (as appropriate)										
<b>MW10</b>	Contravention of special roads regulations (excluding speed limits)	3	3	3	3	2	1	0	0	0	0
<b>PC10</b>	Undefined contravention of pedestrian crossing regulations	3	3	3	3	2	1	0	0	0	0
<b>PC20</b>	Contravention of pedestrian crossing regulations with moving vehicle	3	3	3	3	2	1	0	0	0	0
<b>PC30</b>	Contravention of pedestrian crossing regulations with stationary vehicle	3	3	3	3	2	1	0	0	0	0
<b>TS10</b>	Failing to comply with traffic light signals	3	3	3	3	2	1	0	0	0	0
<b>TS20</b>	Failing to comply with double white lines	3	3	3	3	2	1	0	0	0	0
<b>TS30</b>	Failing to comply with 'stop' sign	3	3	3	3	2	1	0	0	0	0
<b>TS40</b>	Failing to comply with direction of constable/warden	3	3	3	3	2	1	0	0	0	0
<b>TS50</b>	Failing to comply with traffic sign (excluding 'stop' signs)	3	3	3	3	2	1	0	0	0	0
<b>TS60</b>	Failing to comply with school crossing patrol sign	3	3	3	3	2	1	0	0	0	0
<b>TS70</b>	Undefined failure to comply with traffic directions sign	3	3	3	3	2	1	0	0	0	0

## Annex 5 • Convictions Policy

### 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.

## **Annex 5 • Convictions Policy**

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**

## Annex 6 • Penalty Point Scheme

**If during the period of this probationary licence you receive any criminal or motoring convictions or any fixed penalty notices 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**



## Annex 6 • Penalty Point Scheme

**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](mailto: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**

## Annex 6 • Penalty Point Scheme

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**

## Annex 6 • Penalty Point Scheme

### 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 <sup>st</sup> offence 2 <sup>nd</sup> offence	3 6	x x	x x	-
3*	Plying for hire without a hackney carriage licence 1 <sup>st</sup> offence 2 <sup>nd</sup> 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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<b>9*</b>	Failure to display a hackney carriage or private hire identification plate	4	x	-	-
<b>10*</b>	Refusal to take a fare without a reasonable excuse	4	x	-	-
<b>11*</b>	Charging more than the agreed or legal fare	6	x	-	-
<b>12*</b>	Obtaining more than the legal fare (including failure to refund)	6	x	-	-
<b>13*</b>	Travelling less than the lawful distance for an agreed fare	6	x	-	-
<b>14*</b>	Failure to wait after a deposit has been paid	6	x	-	-
<b>15*</b>	Carrying persons other than with the consent of the hirer	6	x	-	-
<b>16*</b>	Driving a licensed vehicle without the proprietor or operator's consent	12	x	-	-
<b>17*</b>	Allowing a person to drive a licensed vehicle without the proprietor or operator's consent	12	x	-	-
<b>18*</b>	Driver leaving a hackney carriage unattended	4	x	-	-
<b>19*</b>	Hackney carriage driver obstructing other hackney carriages	4	x	-	-
<b>20*</b>	Breach of Byelaws	4	x	x	-

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<b>21*</b>	A licensed driver using an unlicensed vehicle for private hire purposes	12	x	-	-
<b>22*</b>	Operating a private hire vehicle without a private hire operators' licence	9	-	-	x
<b>23*</b>	Operating an unlicensed vehicle as a private hire vehicle	12	x	x	x
<b>24*</b>	Operating a private hire vehicle when the driver is not licensed as a private hire driver	12	x	x	x
<b>25*</b>	Failure to notify the transfer of a vehicle licence	3	-	x	x
<b>26*</b>	Failure to present a hackney carriage or private hire vehicle for inspection upon request	6	x	x	x
<b>27*</b>	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3	x	x	x
<b>28*</b>	Failure to report an accident to the Council within seventy two hours	6	x	x	x
<b>29*</b>	Failure to produce the vehicle and/or insurance upon request	6	x	x	x
<b>30*</b>	Failure to produce a driver's licence upon request	6	x	-	-
<b>31*</b>	Failure to wear a driver's badge	3	x	-	-
<b>32*</b>	Failure of a private hire operator to keep proper records of all bookings and driver and vehicle licences,	4	-	-	x

## Annex 6 • Penalty Point Scheme

	failure to produce them upon request of an authorised officer of the Council or a police officer within reasonable time or time specified				
<b>33*</b>	Failure of a private hire operator to produce his licence upon request	4	-	-	x
<b>34*</b>	Making a false statement or withholding information to obtain a hackney carriage/private hire driver's	12	x	-	-
<b>35*</b>	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
<b>36*</b>	Failure to surrender a driver's licence or badge on or after suspension, revocation, or refusal to renew	6	x	-	-
<b>37*</b>	Permitting a private hire vehicle to wait on a hackney carriage rank	6	x	-	-
<b>38*</b>	Hackney Carriage charging more than the meter fare for a journey ending outside the District, without prior agreement	8	x	-	-
<b>39*</b>	Hackney Carriage charging more than the meter fare when a hackney carriage is used as a private hire vehicle	8	x	-	-
<b>40*</b>	Unnecessarily prolonging a journey	8	x	-	-

## Annex 6 • Penalty Point Scheme

<b>41*</b>	Interfering with a private hire taxi-meter with intent to mislead	12	x	x	x
<b>42*</b>	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

<b>Licensing Policy</b>					
<b>No.</b>	<b>Offence/Breach of Conditions</b>	<b>Points applicable</b>	<b>Driver</b>	<b>Vehicle Owner</b>	<b>Operator</b>
<b>43</b>	Failure to ensure the safety of passengers	12	x	x	x
<b>44</b>	Concealing or defacing a vehicle licence plate	6	x	x	x
<b>45</b>	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
<b>46</b>	Conveying a greater number of passengers than permitted	6	x	-	-



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<b>47</b>	Failure to give reasonable assistance with passengers luggage	3	x	-	-
<b>48</b>	Private Hire soliciting for hire or accepting a fare that is not pre-booked	6	x	-	-
<b>49</b>	Operating/using a vehicle that is not properly maintained internally externally 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 12	x	x	x
<b>50</b>	Driving without the consent of the proprietor	12	x	-	-
<b>51</b>	Drinking or eating in the vehicle whilst carrying passengers	3	x	-	-
<b>52</b>	Smoking in the vehicle, including the use of electronic cigarettes, at any time 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3 + FPN 12 + FPN 12 + P	x	-	-
<b>53</b>	Causing excessive noise from any radio or sound-reproducing equipment which annoys anyone either in or outside the vehicle	3	x	-	-
<b>54</b>	Playing of a music radio or other sound producing equipment without the express permission of the passenger(s)	3	x	-	-
<b>55</b>	Sounding the horn to signal that the vehicle has	3	x	-	-

## Annex 6 • Penalty Point Scheme

	and so causing a potential disturbance				
<b>56</b>	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	-	-
<b>57</b>	Parking a hackney carriage vehicle or private hire vehicle illegally so as to cause an obstruction to other road users	4	x	-	-
<b>58</b>	Using a non-hands free mobile telephone whilst driving I engine running 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 + FPN 12 + FPN	x	-	-
<b>59</b>	Failure to advise of a relevant medical condition	12	x	-	-
<b>60</b>	Failure to provide a receipt for a fare when requested	3	x	-	-
<b>61</b>	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	-
<b>62</b>	Failure to notify the Council of relevant change to licence details within the time specified in the associated licence conditions	3	x	x	x
<b>63</b>	Failure to produce a hackney carriage or private hire licence upon	3	x	x	x

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<b>64</b>	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	3	x	-	-
<b>65</b>	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
<b>66</b>	Failure of a licence holder to disclose convictions within 7 days of the conviction	<b>4 plus the points for the actual offence as set out in the Convictions Policy</b>	x	x	x
<b>67</b>	Failing to deal with lost property in an appropriate manner 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 12	x	-	-
<b>68</b>	Failure to report an accident within 72 hours	6	x	-	-
<b>69</b>	Failure to comply with requirements for the safe carrying of a wheelchair	6	x	x	-
<b>70</b>	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

<b>71</b>	A Private Hire driver using a Hackney Carriage vehicle without a Hackney Carriage driver licence	12	x	-	-
<b>72</b>	Failure to carry and/or maintain an approved operational fire extinguisher, where fitted	3	x	x	-
<b>73</b>	Modifying a licensed vehicle without the consent of the Council	6-12	-	x	x
<b>74</b>	Failure to display or maintain external plates as issued by the Council or displaying them incorrectly	4	x	x	-
<b>75</b>	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	-
<b>76</b>	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
<b>77</b>	Using a taxi-meter that does not conform to Council requirements	6	x	x	x
<b>78</b>	Using a licensed vehicle with no insurance or inadequate insurance for the vehicle	12	-	x	x
<b>79</b>	Permitting the vehicle to be used for any illegal or immoral purposes	12	x	x	x

## Annex 6 • Penalty Point Scheme

<b>80</b>	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3	-	-	x
<b>81</b>	Failure of a private hire operator to keep the operating premises in accordance with Council requirements	3	-	-	x
<b>82</b>	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	9	-	-	x
<b>83</b>	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	6	-	-	x
<b>84</b>	Driving or allowing a hackney carriage vehicle to be driven with tinted windows which do not conform to licence conditions	3	x	x	-
<b>85</b>	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
<b>86</b>	Allowing a hackney carriage vehicle to be driven with a top sign that is in breach of the licence conditions	3	-	x	-

## Annex 6 • Penalty Point Scheme

<b>87</b>	Illegal ranking	6	x	-	-
<b>88</b>	Failure to comply with Council Livery	6	x	x	x
<b>89</b>	Smoking or allowing smoking in an operator's premises 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 12	- -	- -	x x
<b>90</b>	Driver allowing a customer to smoke, including the use of an electronic cigarette, in a licensed vehicle	6	x	-	-
<b>91</b>	Failure to carry an assistance dog without an exemption certificate	12	x	x	x
<b>92</b>	Failing to conform to statutory road signs	4	x	-	-
<b>93</b>	Illegal or inappropriate parking such as to cause an obstruction to pedestrians and/or other road users	4	x	-	-
<b>94</b>	Failing to accept travel tokens for a legitimate journey	3	x	x	x
<b>95</b>	Unacceptable standard of driving, witnessed by authorised officer or police officer	6	x	-	-
<b>96</b>	Late application for the renewal of a licence	6	x	x	x
<b>97</b>	Failure to display internal licence plates	4	x	x	x
<b>98</b>	Failure to produce the tariff				

## Annex 6 • Penalty Point Scheme

	or advise of charges when requested by the hirer	3	x	x	x
<b>99</b>	Unsatisfactory appearance of the driver or not conforming to the dress code	4	x	-	-
<b>100</b>	Providing false or misleading information on a licence application form, or failing to provide relevant information	6	x	x	x
<b>101</b>	Failure of private hire operator I driver to honour a booking without a reasonable excuse	6	-	-	x
<b>102</b>	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	-	-
<b>103</b>	Failure to carry plate exemption notice in the vehicle	6	x	-	-
<b>104</b>	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
<b>105</b>	Failure to comply with the Highway Code	6	x	-	-
<b>106</b>	Failure to have a valid MOT	6	x	x	x
<b>107</b>	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 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3 6 9			
<b>108</b>	<b>Allowing an engine to idle in one of the Borough's air quality</b>	<b>3</b>	<b>x</b>	<b>•</b>	<b>•</b>
<b>109</b>	<b>Failure to provide a DBS when requested</b>	<b>6</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>110</b>	<b>Charging more than the agreed fare</b>	<b>6</b>	<b>x</b>	<b>x</b>	<b>x</b>
<b>111</b>	<b>Failure to notify the Council of a named driver</b>	<b>6</b>	<b>•</b>	<b>x</b>	<b>•</b>
<b>112</b>	<b>Failure to supply to the Council insurance for a named driver</b>	<b>6</b>	<b>•</b>	<b>x</b>	<b>•</b>
<b>113</b>	<b>Refusing a wheelchair fare without reasonable cause</b>	<b>4</b>	<b>x</b>	<b>•</b>	<b>•</b>
<b>114</b>	<b>Failure to comply with the requirements of the CCTV Policy</b>	<b>6</b>	<b>x</b>	<b>x</b>	<b>x</b>

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,

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**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.

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## 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.

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### 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

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## 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.

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**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"><li>- Flash-based SSD (100% industrial grade),</li></ul> 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	<p>The in-vehicle taxi camera system must be compliant with :</p> <ul style="list-style-type: none"><li>- 2004/108/EC on Electromagnetic Compatibility (CISPR 22/EN55022),</li><li>- 2004/104/EC on Radio Interference (sections 6.5, 6.6, 6.8 and 6.9)</li></ul> <p>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.</p>
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 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 I 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.

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## 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](mailto: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.

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### 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](mailto: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](mailto: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.

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**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.

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## 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](mailto: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.

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## 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](mailto: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](mailto: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.

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### 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.

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### 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](mailto: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

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**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

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## **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.

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### **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.

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**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.

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## 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.

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### 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.

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**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.

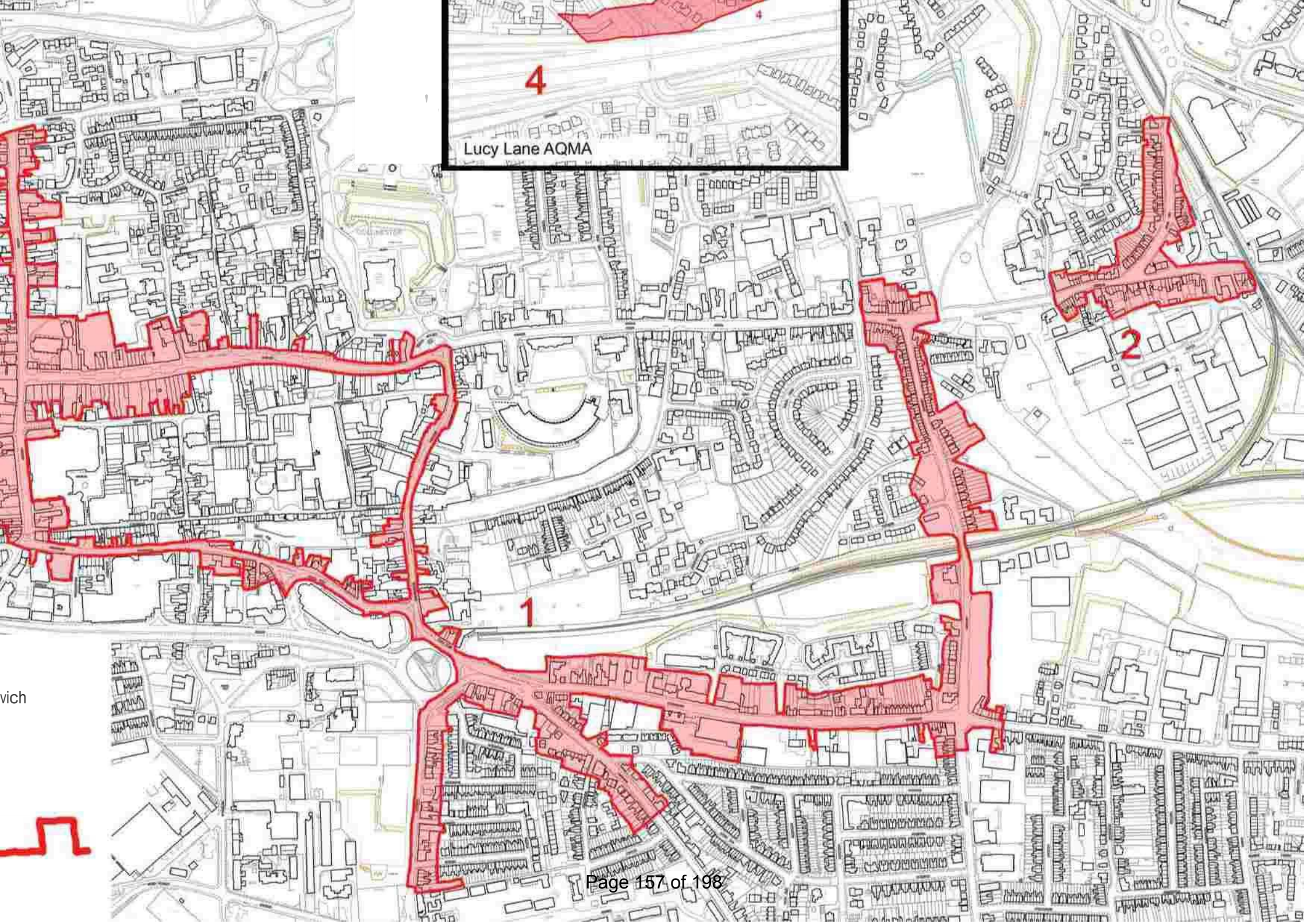
### **As a Passenger you can expect the driver to -**

- 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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<b>Report of</b>	<b>Licensing, Food and Safety Manager</b>	<b>Author</b>	<b>Jon Ruder</b>
<b>Title</b>	<b>Pavement Permits (Street Restaurant, Café and Bar Furniture)</b>		
<b>Wards affected</b>	Castle Ward Initially		

## 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 what the specific requirements are.

## 2. Recommended Decision

- 2.1 This report seeks the Licensing Committee's approval of the Pavement Permit Policy and subsequent referral to Full Council.

## 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 if there is more than one decision, please list them separately..

## 4. Alternative Options

- 4.1 Not to introduce a Pavement Permit Policy.

## **5. Background Information**

- 5.1 It is felt that the regulated provision of street cafés makes a positive contribution to the street scene and adds vitality to the town bringing life, colour and interest onto the street. The legislation that covers this policy is found under the **Highways Act 1980 Part VIIA Provision of Amenities on Certain Highways Section 115**. The process can be enforced by both ECC and CBC. However, the suggested protocol relies on CBC carrying out the inspections and any resultant enforcement. Fees can be levied for this in order to cover the cost of the process. Fees for 2018 have already been agreed as part of the Council fees and charges process.
- 5.2 The policy and procedure has been written in conjunction with Essex County Council and appropriate access groups have been consulted. The policy and procedure require approval by the Licensing Committee. Consideration will also need to be given to Colchester's Public Space Protection Order (PSPO) and any associated impact. If agreed, the businesses will then be given time to make their applications to regularise existing pavement cafes and apply for new ones before enforcement will begin. Town Centre businesses have been made aware of this. Enforcement will be carried out by Licensing Officers as part of their town centre activity.
- 5.3 It is suggested to apply this policy to the town centre zone initially before considering other areas such as Dedham, Tiptree, Wivenhoe, Rowhedge and Mersea Island. There are approximately 20 businesses in the town centre that currently have street furniture out on the pedestrian highway, none as far as we are aware have a licence from Essex County Council. 5 premises have quasi permission agreed with CBC and ECC pending the implementation of this policy. There has been no control or agreement as to what the 20 premises currently have and as such a number of them encroach the public highway.

## **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

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 was carried out prior to this Committee meeting.



## **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.

## **Appendices**

Appendix A – Pavement Permit (Café Furniture) CBC Policy and Procedure 2018

Appendix B – Guidance Notes - Pavement Permit (Café Furniture)

Appendix C – Application - Pavement Permit

Appendix D – Licence – Pavement Permit





**Pavement Permits in Colchester  
Policy, Procedure and Process  
2018–2021**

DRAFT

**Colchester Borough Council**

**January 2018**

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## 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 £5,000,0000 (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 outgoings 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.





## **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**

## Appendix B – 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](mailto: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.



## Appendix B – 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

## Appendix B – 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](mailto:licensing.team@Colchester.gov.uk)



**Application for New/Renewal\* PAVEMENT PERMIT**  
**Under the Highways Act 1980 – Part VIIA**

**IMPORTANT – Notes to Applicant**

Please read the guidance provided with this application before completing this form.  
Failure to supply any information requested may delay your application.

Date of Application

**1. Applicant details**

Name (including name of business if applicable):

Full Postal Address:

Daytime contact telephone number:

Mobile number:

E-mail address:

**2. Agents details if applicable**

Name (including name of business if applicable):

Full Postal Address:

Daytime contact telephone number:

Mobile number:

E-mail address:
<b>3. Details of Application Site</b>
Name of Establishment/Business:
Address of Application Site:
Telephone Number:

E-mail address:			
Premises Licence Number if applicable:			
<b>4. Days and Hours during which the Furniture (barriers, Tables and chairs) will be on the street. (Note the barriers, tables and chairs cannot be out before 7.00am and must be put away by 18.00 hours ) Applications can be made to have furniture out until 23.00</b>			
Monday	From	To	
Tuesday	From	To	
Wednesday	From	To	
Thursday	From	To	
Friday	From	To	
Saturday	From	To	
Sunday	From	To	

5. Place of Storage and Items

(Please specify the place of storage of the tables and chairs and other items when not on the highway) (Please list below any other items you intend to place within the licensed area)

6. Number of tables applied for  
Note the maximum number of chairs cannot exceed 20 and the tables 10. The space is also limited to the length of your premise.

7. Number of persons to be seated

8. Dimensions of area of street to be used  
(in metric)

9. Please give number and details of table and chairs and all other items of furniture including fencing, umbrellas, barriers etc.

**10. Barriers are a requirement**

11. Please supply a plan with Layout 1:1250

**Checklist**

- I have made or enclosed payment of the fee. ☐
- I have enclosed a copy of an Ordnance Survey site plan Scale 1:1250 showing the location of the tables, chairs and other items to be placed on the highway. ☐
- Plan not required for renewal
- Confirmation from the Highways Records of the status of the application site ☐
- Evidence of public liability insurance ☐
- Other associated permissions i.e. Planning and any appropriate licences under the Licensing Act 2003 ☐

Table and Chair licenses are valid for one year commencing on the 1<sup>st</sup> April. You will therefore need to renew your licence on the 1<sup>st</sup> April each regardless of its commencement date. An invoice will be sent to as a reminder



Signature of Applicant		Please print name:
Name of Company (if applicable)		
Position in company (if applicable)		
Fees as of 1 <sup>st</sup> of April	New	£
	Renewal	£

**Please post to:**

**Licensing Team  
Colchester Borough Council  
Rowan House  
33 Sheepen Road  
Colchester  
Essex  
CO3 3WG**



XXXX

Contact: Licensing Department

Phone: 01206 282840 Fax: (01206) 282598

E-mail: [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk)

Our ref:

Date:

Dear

**Highways Act 1980 Section 115E, Pavement Permit**

**Re:**

With reference to the above, please find enclosed the Pavement Permit valid for one year from the date on the permit.

Should you have any enquiries regarding this matter, please do not hesitate to contact me.

Yours sincerely

Jon Ruder  
**Licensing, Food and Safety Manager**

Encs

DRAFT



## COLCHESTER BOROUGH COUNCIL HIGHWAYS ACT 1980

### PAVEMENT PERMIT FOR FURNITURE LINKED TO ESTABLISHMENT

We the COLCHESTER BOROUGH COUNCIL being the local authority under the above Act

HEREBY PERMIT

**XXXX [Manager/owner]**

to have [Bar][Restaurant][Café] furniture out at the premises known as

**XXXX**

**Address, Address, Address Postcode**

and situated within the Borough of Colchester SUBJECT to the conditions endorsed hereon.

This Permit shall remain in force from the first day of [month] [year] until midnight  
on the last day of [month] [year].

GRANTED this [day][month][year]

**Richard Block**  
Assistant Director Environment Services

**CONDITIONS SUBJECT TO WHICH THIS LICENCE IS GRANTED**

**Site Specific Conditions Essex County Council THESE CHANGE FOR EACH APPLICATION AND 1 – 4 ARE AN EXAMPLE ONLY (INPUT CONDITIONS SENT BY ECC)**

1. The Licensee to provide alternative removable barriers and posts in an area no greater than 3.0 x 7.0 metres width to separate the tables and chairs from the users of the highway. Barriers must have a minimum overall height of 800mm and a gap of no more than 150mm between the base or tapping rail and the ground. Barriers must be manoeuvrable enough to allow them to be removed from the highway into the main premises at the close of business. It is recommended that the barriers are in a contrasting colour to the highway surface to provide maximum impact for the visually impaired.
2. The Table dimension cannot exceed a diameter of 600mm and placed with chairs on the section of footway in front, but adjacent to the property known as XXXXXXXXXX. An absolute minimum footway width of 3.0 metres must remain between the barriers and the bollards place in the public highway.
3. The permitted times for the tables and chairs to be on the highway are between XXXX - XX.XX Monday to Sunday.
4. The table and chairs to be placed in the permitted area of highway should not exceed xx tables and xx Chairs. There must be an absolute minimum of 8 barriers and up to 16 posts. Or as defined on attached plan.

Neither the barriers or tables and chairs must obstruct entrance into or out of the establishment.

**General Conditions**

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 and chairs (umbrella's, posts, barriers, heaters if applicable) shall only be placed outside the premises between the hours of 7.00 am and 18.00 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 highway applied for.
4. Permitted furniture or equipment – Tables and chairs (umbrella's, posts, barriers, heaters if applicable) 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 licence.

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 tables and chairs(umbrella's, posts, barriers, heaters if applicable) 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 £5,000,0000 (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 and chairs (umbrella's, posts, barriers, heaters if applicable) 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:

Appendix D - Licence

- 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 outgoings which may be charged
20. The permission shall run from the date of this 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.

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.





# Licensing Committee

29 August 2018

Item  
**9**

<b>Report of</b>	<b>Assistant Director Environment</b>	<b>Author</b>	<b>Jon Ruder</b>
<b>Title</b>	<b>Scheme of Delegation to Officers by the Licensing Committee</b>		
<b>Wards affected</b>	Not applicable		

## 1. Executive Summary

- 1.1 The Committee is asked to consider changes to its scheme of delegation to the Assistant Director - Environment.

## 2. Decision Required

- 2.1 The options available to the Committee are to -
  - Approve the Scheme of Delegation to Officers as set out.

## 3. Reasons for the decision

- 3.1 The Council has reviewed its licensing processes and as a result is proposing changes to allow officers to act under delegated powers whilst bringing to the Committee those matters which require its determination.

## 4. Alternative Options

- 4.1 An alternative option would be to leave the Scheme of Delegation unchanged; this would however necessitate a change in the way in which the Council processes applications and appeals.

## **5. Background Information**

5.1 The current scheme of delegation is set out below –

### **Delegated to Assistant Director - Environment**

1. Determination of applications and issue of licences, permits, registrations and certificates where no objections have been received in respect of:-

- Caravan Sites
- Dangerous Wild Animals
- Dog Breeding Establishments
- Food Exports
- Food Hawkers
- Food Premises
- Hackney Carriage and Private Hire Vehicles drivers
- and operators
- House to House and Street Collections
- Hypnotism – exhibitions, demonstrations or performances
- Pet Shops
- Pleasure Boats and Boatmen
- Premises and persons involved in acupuncture, tattooing, ear piercing and electrolysis
- Riding Establishments
- Sex Shops
- Zoos

2. Revocation or suspension of licences, permits, registrations, certificates.

3. Approval of individual identification signs for display on taxis and private hire vehicles, after consultation with the Chairman of the Licensing Committee.

4. To determine applications for permission to place advertisements on hackney carriages and private hire vehicles.

5.2 There are further delegations by the Committee to officers under the Licensing Act 2003 and the Gambling Act 2005 however no changes are proposed to these delegations and therefore they have not been included within this report.

## **6. Matters for Consideration**

6.1 The Council has reviewed its licensing processes and as a result is proposing changes to the current scheme of delegation to officers. The revisions take into account recent and proposed policy revisions and changes in procedures; allowing officers to act under delegated powers whilst bringing to the Committee those matters which require its determination.

6.2 The following changes are recommended to replace the provisions set out in paragraph 3.1 above –

1. To exercise all the Council's licensing, registration, consent, permit, certification and enforcement functions in respect of –

- Caravan Sites
- Dangerous Wild Animals
- Dog Boarding
- Dog Breeding Establishments
- Food Exports
- Food Hawkers
- Food Premises
- House to House and Street Collections
- Hypnotism – exhibitions, demonstrations or performances
- Pavement permits
- Pet Shops
- Pleasure Boats and Boatmen
- Premises and persons involved in acupuncture, tattooing, ear piercing and electrolysis
- Riding Establishments
- Sex Establishments
- Zoos

6.3 The following additions are suggested in relation to the licensing of hackney carriage and private hire drivers, vehicles and operators –

2. To exercise all the Council's licensing and enforcement functions in relation to hackney carriages and private hire vehicles, their drivers, and private hire operators including –

- a. To consider licence applications, having regard to the Council's hackney carriage and private hire licensing policy and grant or refuse licences accordingly except in cases, where in the opinion of the Licensing, Food and Safety Manager, there may be exceptional circumstances which merit further consideration, rather than an automatic refusal, in which case the matter will be referred to the Licensing Sub-Committee for determination.
- b. Functions identified as officer functions within the Colchester Borough Council Hackney Carriage and Private Hire Licensing Policy.

## **7. Standard References**

7.1 There are no financial, community safety, human rights, strategic plan references, publicity implications, health and safety, equality and diversity, or risk management implications that will require the consideration of the Committee.



29 August 2018

<b>Report of</b>	<b>Assistant Director of Environment</b>	<b>Author</b>	<b>Sally Harrington/Zoe Gentry</b>
			<b>☎ 506055</b>
<b>Title</b>	<b>Licensing Committee Work Programme 2018-2019</b>		
<b>Wards affected</b>	<b>Not applicable</b>		

## 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 Committee Work Plan May 2018 – Apr 2019

Meeting Date	Items for Consideration
<b>25 July 2018</b>	1. Colchester Charter Market Regulation Prohibited Items (Fur)
<b>29 August 2018</b>	1. Amendments to the Hackney Carriage & Private Hire Licensing Policy 2. Pavement Permits (Street Restaurant, Café and Bar Furniture) 3. Scheme of Delegation to Officers by the Licensing Committee
<b>26 September 2018</b>	1. Gambling Act (requires agreement from full Council)
<b>14 November 2018</b>	1. Caravans and Park Homes – Summary – Cumulative Impact Area Policy
<b>12 December 2018</b>	1. Animal Boarding/Breeding Summary - New legislation 2. Unmet demand survey for Hackney Carriages
<b>23 January 2019</b>	1. Post-Christmas summary 2. Licencing Team, Officer roles and enforcement information 3. Member Training Discussion
<b>27 March 2019</b>	1. Temporary Event Notice (TENs) report and Prevention of Crime