

Licensing Committee

Grand Jury Room, Town Hall
9 March 2011 at 6.00pm

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, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

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There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

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**COLCHESTER BOROUGH COUNCIL
LICENSING COMMITTEE
9 March 2011 at 6:00pm**

Members

Deputy Chairman : Councillor Nick Cope.
Councillors Mary Blandon, John Bouckley, Mark Cory,
Wyn Foster, Christopher Garnett, Dave Harris, Mike Hogg,
Margaret Kimberley, Michael Lilley and Ann Quarrie.

Substitute Members :

Agenda - Part A
(open to the public including the media)

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

Pages

1. Welcome and Announcements

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

2. Substitutions

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

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Have Your Say!

- (a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should

indicate your wish to speak at this point if your name has not been noted by Council staff.

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

5. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

6. Minutes

1 - 6

To confirm as a correct record the minutes of the meetings held on 24 November 2010 and 12 January 2011.

7. Draft Sex Establishment Policy

7 - 52

See report by the Head of Environmental and Protective Services.

8. Penalty Point Scheme of Delegation

53 - 67

See report by the Head of Environmental and Protective Services.

9. Exclusion of the public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

LICENSING COMMITTEE 24 NOVEMBER 2010

Present :- Councillor Barrie Cook (Chairman)
Councillors Mary Blandon, John Bouckley, Mark Cory,
Wyn Foster, Christopher Garnett, Dave Harris,
Mike Hogg, Margaret Kimberley, Michael Lilley and
Ann Quarrie

12. Minutes

RESOLVED that the minutes of the meetings held on 6 October 2010 be confirmed as a correct record.

13. Draft Licensing Policy 2011-2014

The Committee considered a report by the Head of Environmental and Protective Services on the Licensing Policy which the Council was required, by the Licensing Act 2003, to review every three years. The Policy had been reviewed having regard to the various legislative changes that had taken place since its last review in 2008 including the amendment to the Section 182 Guidance. The draft Statement of Licensing Policy sought to balance the interests of licensed businesses and residents. The policy was in line with the Council's vision for Colchester to develop as a prestigious regional centre. The Council and the Licensing Authority wished to discourage anti social behaviour, in particular alcohol related anti social behaviour and crime and disorder, and to encourage the effective and responsible management of licensed premises that would proactively promote the four licensing objectives.

The report set out the consultees that the Council was required to consult. Consultation letters would also be sent to a number of other interested parties including Ward Councillors, Parish and Town Councils, residents groups and responsible authorities. At the end of the consultation period the draft Policy would be sent to Counsel for legal scrutiny and a report would be brought back to the Licensing Committee for approval prior to the matter being referred to full Council for its approval and ratification.

The Committee gave consideration to a suggested amendment to the Policy proposed by the Chairman in relation to Temporary Event Notices which stated that "A Temporary Event Notice will not be granted by the Licensing Authority to an early morning drinking establishment, operating seven days weekly, if such an establishment has previously applied for an extension of its existing licensed closing time; which at a subsequent hearing of the Licensing Authority's Sub-Committee was refused on the grounds that the extension in hours would have the potential of attracting an increase in crime and disorder in the nearby area and was objected to by the Police on these grounds, at the time of the hearing". The Licensing Manger expressed concern regarding the legality of the inclusion of such wording in the Policy and the Monitoring Officer then addressed the Committee to echo the concerns expressed by Mr Harvey. It was agreed that an appropriate way forward was to seek Counsel's opinion on its inclusion when the matter

was referred at the end of the consultation period.

RESOLVED that-

- (i) the draft statement of Licensing Policy be approved for the purposes of consultation
- (ii) consultation be undertaken as outlined in paragraphs 4.2 to 4.6 of the report by the Head of Environmental and Protective Services and that the revised policy be brought back to the Licensing Committee following its scrutiny by Counsel.

LICENSING COMMITTEE 12 JANUARY 2011

Present :- Councillor Barrie Cook (Chairman)
Councillors Mary Blandon, John Bouckley, Nick Cope,
Mark Cory, Wyn Foster, Christopher Garnett,
Dave Harris, Margaret Kimberley, Michael Lilley and
Ann Quarrie

14. Urgent Items

The Chairman agreed to consider the following item as a matter of urgency because of the need to submit a response to the Home Office by 26 January 2011.

Relaxation of Licensing Hours for the Royal Wedding// Consultation document

The Committee considered a report by the Head of Environmental and Protective Services on a consultation document received from the Home Office that morning concerning the relaxation of licensing hours for the Royal Wedding. The Government proposed to make an order under Section 172 of the Licensing Act 2003 to mark the Wedding of Prince William and Catherine Middleton on 29 April 2011. The effect of the order would be to extend opening hours of licensed premises to 01.00 on Friday, 29 April and Saturday, 30 April 2011 for the sale of alcohol for consumption on the premises and the provision of regulated entertainment. There was some discussion concerning the wording of the document which was ambiguous concerning the dates and times of the order and clarity on this matter would be sought from the Home Office.

RESOLVED that the relaxation in Licensing Hours on 29 and 30 April be supported and the Head of Environmental and Protective Services be requested to respond to the consultation document setting out the Committee's views and seeking clarification on the dates and times of the order.

15. Licensing Policy//Consultation Responses

The Committee considered a report by the Head of Environmental and Protective Services on the comments that had been received following public consultation on the review of the Council's Statement of Licensing Policy and on the suggested changes to the policy following its examination by leading licensing Counsel, Mr Kolvin.

Mr Kolvin had been requested by the Committee to consider an amendment to tighten up the provisions of the Policy in relation to the application for a Temporary Event Notice by a premises licence holder who had previously been refused a full variation application for the same hours. He had responded that such an amendment would be unlawful since it would amount to a fetter on the authority's discretion and also because it would purport to confer a discretion on the authority that could only be engaged by police representation. The Chairman reported to the Committee that this issue had

been raised by Bob Russell MP in the House of Commons.

RECOMMENDED to Council that the draft revision of the Statement of Licensing Policy as amended be approved.

**LICENSING COMMITTEE
12 JANUARY 2011**

Present :- Councillor Barrie Cook (Chairman)
Councillors John Bouckley, Nick Cope, Wyn Foster and
Dave Harris

The Committee/Panel resolved under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

16. Hackney Carriage/Private Hire Licensing // Appeal A

The Committee considered a report by the Head of Environmental and Protective Services on an appeal against the Licensing Committee's condition not to allow a holder of a hackney carriage/private hire vehicle licence for a wheelchair accessible vehicle to sell their business for a period of 5 years from the date of first issue. The Protective Services Manager and the appellant attended, presented their cases and then withdrew for the Committee to consider the matter and make their determination.

RESOLVED that in view of the exceptional circumstances presented to the Committee, the appellant be granted permission to sell their hackney carriage/private hire vehicle licence for a wheelchair accessible vehicle when the appellant's current insurance expires in October 2011 and subject to the condition that on the sale of their business, the appellant returns their Hackney Carriage/Private Hire Driver's Licence to the Council. The Committee also granted the appellant permission to advertise the business for sale six weeks prior to the appellant's current insurance expiration date in October.

The Committee/Panel resolved under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

17. Hackney Carriage/Private Hire Licensing // Appeal B

The Committee considered a report by the Head of Environmental and Protective Services on an appeal against the Protective Services Manager's decision to revoke a Hackney Carriage/Private Hire Driver's Licence following the accumulation of points on their DVLA licence, motoring convictions received by the appellant during their probationary licence and their failure to comply with the conditions of the Hackney Carriage/Private Hire Driver's Licence. The Protective Services Manager and the appellant and their representative attended, presented their cases and then the Committee withdrew to consider the matter and make their determination.

RESOLVED that having regard to the evidence presented to the Licensing Committee and the contents of the Committee report, the Committee determined that the appellant was not a 'fit and proper person' to hold a Hackney Carriage/Private Hire Driver's Licence in accordance with Section 51 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 and that the appeal be dismissed, the decision of the Protective Services Manager be upheld and the licence be revoked with immediate effect.



Licensing Committee

Item

7

9 March 2011

Report of	Head of Environmental & Protective Services	Author	Colin Daines ☎ 282596
Title	Licensing of Sexual Entertainment Venues (Sex Establishment Licence)		
Wards affected	All		

This report seeks the Licensing Committee's approval of the proposed draft Sex Establishment Policy and of the consultation process.

1. Decision Required

- 1.1 The Licensing Committee is asked to agree the proposed draft Statement of Licensing Policy for Sex Establishments and to the process proposed for consultation for public consultation on this policy.

2. Reasons for Decision

- 2.1 On 13 October 2010 the Council resolved to re-adopt the provisions of Schedule 3 of the Local Government Act 1982, as amended by Section 27 of the Policing & Crime Act 2009. The provisions of the act came into effect in the Borough, after advertisement, on 31 January 2011. The adoption of this legislation has had the effect of requiring all premises operating as sex establishments in the Borough (including sex shops, sex cinemas and sex entertainment venues) to be licensed. It also allows the Council to set terms and conditions for the grant, renewal, transfer and variation of these licences and to prescribe the number of licences that can be issued in the area, including setting this figure at nil.

3. Alternative Options

- 3.1 There is no statutory requirement to have a licensing policy for sex establishments and therefore the Committee could determine not to adopt a policy at all. However, the development of such a policy is in line with recent developments in licensing with the Licensing Act 2003 and the Gambling Act 2005. It is considered that the establishment of a policy for sex establishments will bring transparency, consistency of approach and will promote good standards in licensing.

4. Policy

- 4.1 A copy of the draft Statement of Licensing Policy is attached at Appendix 1.

5. Consultation

- 5.1 There are no statutory provisions regarding consultation on the policy and therefore, in formulating a suggested process, consideration has been given to the general principles and case law concerning consultation.

- 5.2 It is suggested that the Council consult with the following:
- (a) the Chief Officer of Police for the Licensing Authority's area;
 - (b) the holders of premises licences carrying out relevant regulated entertainment and those holding sex establishment licences issued by that Authority,
 - (c) such other persons as the Licensing Authority considers to be representative of businesses and residents in its area;
- 5.3 Invitations will therefore also be sent out to other agencies and authorities, business groups, and residents' associations, Ward Councillors and Town and Parish Councils to comment on the proposed draft Policy. A copy of the draft policy and an invitation to comment on the policy will also be placed on the Council's website.
- 5.4 It is recommended that the consultation responses be brought back to the Committee on 1 June 2011.

6. Strategic Plan References

- 6.1 The new provisions introduced by Section 27 of the Policing & Crime Act 2009 which amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 links into the Council's strategic plan for Community Safety and Community Development.

7. Consultation

- 7.1 There is no legal requirement for public consultation but it is considered good practice and the suggested consultation process is outlined in 5.2 and 5.3 above.

8. Publicity Considerations

- 8.1 Publicity on the draft Sex Establishment Policy is not required by legislation but will be provided by way of inviting various representative bodies to comment on the policy and by placing it on the Council's website and inviting comment.
- 8.2 It is anticipated that there would also be coverage of this subject in the local media, drawing the attention of the wider public to the matter.

9. Financial Implications

- 9.1 There will be some costs associated with the consultation however the cost of doing so can be met from existing budgetary provision.
- 9.2 Our practice of referring other consulted and amended draft Policies to specialist Counsel for their legal opinion before final adoption has proved very effective in the past. It is proposed that this again be done in this case but, again, the costs should be kept within existing budgets.
- 9.3 There may also be costs incurred in defending any action brought against the Council which might seek to challenge the Statement of Licensing Policy by way of a judicial review.

10. Equality, Diversity and Human Rights Implications

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

- 10.2 All other equality and diversity matters will have been considered when the Policing and Crime Act 2009 was passed by Parliament and by the Home Office when issuing its guidance to Local Authorities, existing operators and new applicants entitled 'Sexual Entertainment Venues', guidance for England and Wales.
- 10.3 An Equalities Impact assessment can be found on www.colchester.gov.uk > Council and Democracy > Policies, strategies and performance > Diversity and equality > Equality Impact Assessments > Equality Impact Assessments for Environmental and Protective Services > Sex Establishments Policy.

11. Community Safety Implications

- 11.1 The adoption by the Council of the amendments made to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as introduced by Section 27 of the Policing & Crime Act 2009, will enhance community safety with regards to how and what the Council is able to consider when determining applications to provide relevant entertainment at sexual entertainment venues, and will also allow 'local people' to have a greater input into this process than the Licensing Act 2003 currently allows for.

12. Health and Safety Implications

- 12.1 Not applicable within the context and recommendations of this report.

13. Risk Management Implications

- 13.1 A flexible yet robust revised Statement of Licensing Policy will continue to provide both the Council and the Licensing Authority with a sound basis for decision making in relation to Sex Establishments.

Colchester Borough Council

Statement of Licensing Policy for Sex Establishments (including Sex Shops, Sexual Entertainment Venues and Sex Cinemas)

This policy sets out the Council's proposed approach to regulating sex establishments and the procedures it will adopt in relation to applications for sex establishment licences.

The policy is intended as a guide to applicants, licence holders, objectors and members of the licensing committee and provides information on what the Council expects to see in relation to an application. The advice and guidance contained in the appendices attached to the policy are intended only to assist applicants and other parties and should not be interpreted as legal advice. All parties are advised to seek their own legal advice if they are unsure of any of the requirements of the legislation in so far as they relate to the licensing of sexual entertainment venues. It should be noted that the Council, as licensing authority, is required to implement the licensing regime in accordance with the law and not in accordance with any moral codes.

Any comments on this policy should be sent to:-

Colchester Borough Council
Head of Environmental & Protective Services
Licensing Specialist Unit
33 Sheepen Road
Colchester
Essex
CO3 3WG

Or by e-mailing EPS.Support@colchester.gov.uk or by telephoning Customer Services on 01206 282222

February 2011

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1. Adoption of legislation

- 1.1 Colchester Borough Council resolved to adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 on 14 October 1982. This provided the Council with the ability to license sex establishments. The Policing and Crime Act 2009 amended the Miscellaneous Provisions Act, in so far as it related to the licensing of sex establishments, by adding the new category of “sexual entertainment venue”.
- 1.2 On 13 October 2010 the Council resolved to re-adopt Schedule 3 of the Miscellaneous Provisions Act, as amended by the Policing and Crime Act 2009, thereby requiring all premises operating as sex establishments in the Council’s area to be licensed. The definition of sex establishments now includes sexual entertainment venues. Adoption of Schedule 3 also allows the Council to set terms, conditions and fees for the grant, renewal, transfer and variation of such licences and the number of licences that may be issued in the area, including setting that figure at nil if desired. The provisions of the Act came into effect, after advertisement, in the Colchester Borough area on 31 January 2011.

2. Definition of ‘Sex Establishment’

- 2.1 A ‘sex establishment’ is defined under the Act as a ‘sex shop’, a ‘sex cinema’ or a ‘sexual entertainment venue’. Full definitions of those terms can be found in **Appendix A** to this policy.

3. Existing Premises

- 3.1 To date the Council has not imposed a restriction on the number of sex establishment licences that can be issued. The town currently has 2 licensed sex shops located in Butt Road, Colchester. In addition, there is a premises in St Botolph’s Street providing adult entertainment in the form of lap dancing or similar entertainment. This is currently licensed as “regulated entertainment” under the provisions of the Licensing Act 2003.
- 3.2 These premises are shown by Ward in the table below.

Ward	Sex Shop	Sexual Entertainment Venue	Sex Cinema
Castle		1	
Christ Church	1		
New Town	1		

4. Policy Limits

- 4.1 The Council’s policy is to limit the number of sex establishments in its area to zero. However, the Council recognises that there are existing businesses in the Borough providing such services and it is the Council’s policy to allow these licences to be maintained. The Council will not apply the limit when

considering applications from premises with pre-existing licences that were already trading on the date when the licensing provisions were first adopted by the Council, 13 October 2010. However, in the event that these existing premises cease to trade there will be no presumption that a licence will be granted to a new applicant wishing to trade in the same location.

- 4.2 With regard to new applications, each one will be considered on its own merits. However applicants should be aware that the Council is unlikely to grant any new applications and the onus will be on applicants to demonstrate why the Council should depart from its policy.

5. Location of Licensed Premises

- 5.1 Whilst treating each new application on its own merits and in its own right, it will be the Council's policy on grounds of "relevant locality" or "character of the relevant locality" to not ordinarily licence any new applications for premises that are in close proximity to;

- (a) residential accommodation;
- (b) schools, nurseries and other premises used by children and vulnerable persons;
- (c) parks or other recreational areas used by children and other vulnerable persons;
- (d) religious centres and places of religious worship;
- (e) youth, community and leisure centres;
- (f) access routes to and from premises listed above;
- (g) historic buildings or visitor attractions;
- (h) an area designated either as an area under regeneration, or due to be regenerated.

6. Impact

- 6.1 The Council, in considering applications will take into consideration the likely impact on the local community of granting the application and may consider the following factors;
- (a) the type of activity, the duration of the licence, proposed hours of operation and the layout and condition of the premises;
 - (b) any cumulative and adverse impact of existing sexually related licensable activities in the vicinity of a proposed premises;
 - (c) crime and disorder issues;
 - (d) planning permissions and planning policy requirements;
 - (e) any evidence relating to noise or disturbance caused by the premises;
 - (f) whether the applicant or applicants are fit and proper to hold the licence. This may include consideration of the operation of existing or previous licences held by the applicant; their experience and knowledge; their ability to comply with the licensing requirements and minimise the impact of the business on local residents and businesses; and any reports received concerning the applicant from the Police or any other source.

- (g) the character and locality of the area and the use of other premises in the area;
- (h) the relevant locality of the area in which the application is submitted.

7. Applications

- 7.1 An application for the grant, renewal, transfer or variation of a licence must be made in writing to the Council in accordance with the requirements shown in **Appendix B** of this policy document.
- 7.2 A specimen example of the Council's application form and also a notice for the newspaper and public advertisements of the application are attached as **Appendix C and also appendices E, F and G** of this policy document respectively.
- 7.3 An application can be served on the Council as follows:-
 - (a) by post to Head of Environmental & Protective Services, Licensing Specialist Unit, 33 Sheepen Road, Colchester, CO3 3WG
 - (b) by personal service to the Customer Services Team, Colchester Borough Council, Angel Court, High Street, Colchester, CO1 1SP
 - (c) by e-mail to EPS.Support@colchester.gov.uk;
 - (d) by fax to 01206 – 282598
 - (e) on-line (when the facility becomes fully operational).
- 7.4 The Council encourages applicants to serve their applications and other notices on it electronically. In line with the Provision of Service Regulations 2009, where an application for the grant, renewal or transfer of a licence is submitted electronically the Council will send a copy of the application to the Chief Officer of Police not later than 7 days after the date that the application is received. In all other cases, it will still be the responsibility of the applicant to serve a copy on the Police within 7 days of submitting an application to the Council.
- 7.5 The Council expects that any premises for which a licence is required should have either planning consent or lawful use under planning legislation for the intended use and hours of operation. The Council will not treat licensing applications as a re-run of a planning application however, and it will not seek to impose licensing conditions which duplicate conditions that have been imposed on a planning consent.
- 7.6 The Council will notify relevant Ward Councillors of an application in their area. On receipt of an application the Council will also consult those parties it considers appropriate including the police and fire authority.

8. Fees

- 8.1 The licence fees for all sex establishments including sexual entertainment venues have been reviewed and set at a level that is reasonable and

proportionate to the effective cost of administrating and enforcing the application and licensing process.

- 8.2 The application process involves paying a non-returnable application fee. The fees will be reviewed annually by the Council and the current schedule of fees is shown at **Appendix D**. No further fees will be applied by the Council in the event that objections are received to an application and a hearing is required to determine the application. Should the application be subsequently refused, the proportion of the fee associated with enforcement will be refunded.

9. Advice and Guidance

- 9.1 The Council will seek to liaise with applicants and, wherever possible and necessary, mediate between applicants and objectors in order to achieve a satisfactory outcome for all stakeholders. Applicants are advised to discuss their proposals with the Council and any interested parties prior to an application being made.

10. Grant, renewal or transfer of licences

- 10.1 The Council may grant to any applicant and renew a licence for the use of any premises as a 'sex establishment' on such of the terms and conditions specified by the Council which are shown in **Appendix I** of this policy document.
- 10.2 A licence once granted will usually remain in force for 12 months, but can be issued for a shorter period if deemed appropriate. In order to continue operating as a sex establishment the licence holder must make a renewal application to the Council prior to the expiry of the existing licence.
- 10.3 An application to transfer a licence to any other person may be made.
- 10.4 Where an application for renewal or transfer of a licence is made before the expiry of the existing licence, the licence shall remain in force until such time as the application has been determined.

11. Variation of licences

- 11.1 The holder of a licence may apply to the Council to vary the terms, conditions or restrictions on, or subject to which, the licence is held.

12. Objections

- 12.1 Anyone wishing to object to an application must do so in writing within 28 days of the application being made to the Council. Representations can be made via-

- (a) by post to Head of Environmental & Protective Services, Licensing Specialist Unit, 33 Sheepen Road, Colchester, CO3 3WG

- (b) by personal service to the Customer Services Team, Colchester Borough Council, Angel Court, High Street, Colchester, CO1 1SP
- (c) by e-mail to EPS.Support@colchester.gov.uk;
- (d) by fax to 01206 – 282598

The objection must state the grounds on which it is made.

- 12.2 A person making a representation must state their full name and address and their grounds for objecting to the application and indicate whether they consent to have their name and address revealed to the applicant. The Council will not consider objections that are frivolous, vexatious or relate to moral grounds. Moral objections cannot be made under the terms of the Act.
- 12.3 The Council has the discretion to consider representations made after the 28 day consultation period. The Council's acceptance of late representations will be assessed on a case by case basis having regard to the length of delay, the mitigating reason or circumstances that caused the delay and the amount of time before the hearing date that the applicant has to consider the representation.
- 12.4 Where written objections are made the Council will provide copies to the applicant. However, the Council will not normally divulge the identity of the objector/s to the applicant without their permission to do so.
- 12.5 Where objections are made and are not withdrawn, a hearing before the Licensing Committee or Licensing Sub Committee will normally be held within 20 working days of the end of the objection period, unless all parties agree in writing beforehand that a hearing is no longer necessary. The Council may under certain circumstances need to hold a hearing later than 20 working days after the end of the objection period and may do so at its discretion.
- 12.6 There is no explicit provision in the legislation for objectors to be heard at a Licensing Committee or Sub Committee hearing. However it is likely that in most cases the Council will use its discretion to allow objectors or their representative to put their case at a hearing. The Council must be notified in writing by the objector, prior to the hearing, if they wish someone else to speak on their behalf.
- 12.7 Where no relevant objections are made, the Council will grant the application and licence subject to the terms and conditions shown in **Appendix I** of this policy document.

13. Determining applications

- 13.1 The Council reserves the right to consider each application in its own right and on its own merit.
- 13.2 When considering applications, the Council will have regard to:
 - (a) the Local Government (Miscellaneous Provisions) Act 1982

- (b) any supporting or accompanying regulations;
- (c) this Statement of Licensing Policy.

13.3 When determining applications, the Council will take account of any written objections, comments or observations made by the Chief Officer of Police and any objections made by other persons or interested parties such as statutory agencies or authorities.

14. Conditions

14.1 No condition will be imposed by the Council that cannot be shown to be necessary, reasonable or proportionate to the application that has been submitted.

14.2 In the event that conditions are attached to the grant of a licence they will be adapted to the operating circumstances and requirements of the individual premises and may also take into account any objections, comments or observations received, particularly where they have been received from the Chief Officer of Police.

14.3 The Council will attach those conditions shown in **Appendix I** which are relevant to the activities granted to the sex establishment licence applied for. These conditions are not exhaustive however and further conditions may be granted on the advice of a responsible authority such as the Police for example, or may be attached by the Council's Licensing Committee or Licensing Sub-Committee as they believe necessary, reasonable and proportionate at any licensing hearing that the Council has had to convene to consider relevant objections to an application submitted for a sex establishment licence

15. Refusal of Licences

15.1 Except where the Council is prohibited from granting, renewing, varying or transferring a licence, it will not refuse a licence without first;

- notifying the applicant or holder of the licence in writing of the reasons;
- giving the applicant or holder of the licence the opportunity of appearing and making representations before a Licensing Committee or Sub Committee as may be determined by the Council.

15.2 The circumstances in which the council must or may refuse a licence are shown in **Appendix H** of this policy document.

16. Appeals

16.1 In all cases for the grant, renewal or transfer of a sex establishment licence, applicants and those making objections that are aggrieved by a decision of the Council are entitled to appeal to the Magistrates' Court. Under certain circumstances that are set out under paragraph 12(3)(c) or (d) of the Local

Government (Miscellaneous Provisions) Act 1982 an applicant can challenge a refusal of an application by way of seeking a judicial review of the Council's decision.

17. Revocation of Licences

17.1 The Council may revoke a licence;

- on any of the grounds specified in paragraph 1 of **Appendix H** of this policy document;
- on either of the grounds specified in paragraph 3(a) and (b) of **Appendix H** of this policy document.

17.2 The Council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before a Licensing Committee or Sub Committee.

18. Cancellation of Licences

18.1 The licence-holder may surrender the licence at any time and may request the Council in writing to cancel the licence.

18.2 In the event of the death of a licence holder, the licence will be deemed to have been granted to their personal representative(s) and will remain in force for 3 months from the date of death, unless previously revoked.

18.3 Where the Council is satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, it may extend or further extend the period for which the licence remains in force.

19. Complaints

19.1 Wherever possible and appropriate the Council will give early warning to licence holders of any concerns which have been identified at premises and of the need for any improvements to the way that the premises is operated. It is hoped and expected that licence holders will actively participate in such dialogue.

20. Enforcement

20.1 The Council is responsible for the administration and enforcement of the licensing regime and will carry out its regulatory functions in a fair, open and consistent manner.

20.2 Specifically, the Council is committed to:

- (a) be proportionate – to only intervene when necessary and when remedies will be appropriate to the risk posed;

- (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
 - (c) be consistent – to implement rules and standards fairly;
 - (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
 - (e) target its regulatory action at cases in which action is needed.
- 20.3 The Council recognises and acknowledges the interests of residents, visitors and businesses and will actively work closely with its partners to assist licence holders to comply with the law and the conditions attached to their licence.
- 20.4 Necessary, reasonable and proportionate enforcement action will be taken by the Council against those who commit serious offences or consistently break the law or breach the conditions of their licence.
- 20.5 The Council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been adopted that explains how the Council will undertake its role and how the principles of effective enforcement will be achieved.
- 20.6 This policy is freely available from the Council, as are details of its corporate complaints procedures, both of which can also be viewed on the Council's website; www.colchester.gov.uk or further details can be provided by the Council's Customer Service Centre by e-mailing EPS.Support@colchester.gov.uk or by phoning customer services on 01206 282222.

21. Human Rights

- 21.1 When considering transitional applications or new applications, the Council will take into account rights that the applicant has under Article 1, Protocol 1 of the European Convention of Human Rights (peaceful enjoyment of possessions) and Article 10 (freedom of expression). The Council also acknowledges that 'freedom of expression' extends to the right to use particular premises as a sexual entertainment venue in line with the outcome of the stated case of *Belfast City Council v Miss Behavin' Ltd* in 2007.

22. Updates to this policy document

- 22.1 The Council may update this policy document with any changes that have been made by legislation or accompanying guidance, or to the Council's own terms and conditions. If the Council considers that the changes are of significant importance to applicants or to other interested parties the Council will put those changes out to public consultation. Minor amendments to this policy document will be made at the Council's discretion and will not be subject to any public consultation or comment. The policy document itself will ordinarily be reviewed every three years from the date on which it was adopted by the Council.

Definitions

- The Act – refers to the Local Government (Miscellaneous Provisions) Act 1982
 - Authorised Officer - any Officer of the Council authorised under the Council's Scheme of Delegation as detailed within the Council's Constitution
 - The Council - refers to Colchester Borough Council
 - Licence Holder - a person or persons who holds a sex establishment licence under the Act
 - This Policy - refers to Colchester Borough Council's sex establishment policy
 - Premises - a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a sex establishment licence granted under the Act. It includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
 - Sex Establishment - as defined in section 2 of Schedule 3 of the Act
 - A Sex Establishment means a sexual entertainment venue, a sex shop or a sex cinema as defined below in extracts from the Act.
 - Sexual Entertainment Venue - as defined by Paragraph 2A of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as inserted by Section 27 of the Policing & Crime Act 2009.
 - Relevant National Authority – in relation to England means the Secretary of State.
- (1) In this Schedule “**sexual entertainment venue**” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. (An audience can consist of just one person).

The organiser means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. While in most instances this is likely to refer to the manager of the premises, it could also mean a person who is responsible for organising the entertainment on behalf of persons responsible for the management of the premises. This will therefore mean that the organiser must be a person who is in a position of responsibility over the provision of the relevant entertainment and will not be interpreted as meaning

a member of staff employed to work during the provision of relevant entertainment).

(2) In this paragraph “**relevant entertainment**” means-

- (a) any live performance; or
- (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether verbally or other means).

- Paragraph 2A(14) of Schedule 3 defines a “**display of nudity**” as being in the case of a woman, it means the exposure of her nipples, pubic area, genitals or anus and in the case of a man; it means exposure of his pubic area, genitals or anus.

However, a display of nudity included in for example a part of a theatre or drama performance, will not require a sex establishment licence unless it is being provided solely or principally for the purpose of sexually stimulating any member of the audience (whether verbally or other means).

(3) The following are not sexual entertainment venues for the purposes of this Schedule-

(a) sex cinemas and sex shops;

(b) premises which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being provided at that time-

(i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;

(ii) no such occasion has lasted for more than 24 hours; and

(iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

(c) premises specified or described in an order made by the relevant national authority.

- Spontaneous entertainment - Where activities take place at a premises that would ordinarily be considered as relevant entertainment but are not provided for financial gain of the organiser or entertainer such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not

be considered as a sexual entertainment venue by virtue of those circumstances alone.

- Sex Cinema as defined in Section 3 of Schedule 3 of the Act-

(1) In this Schedule, “**sex cinema**” means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which-

(a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage-

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity; or

(b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.

(2) No premises shall be treated as a sex cinema by reason only-

(a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation; or

(b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

- Sex Shop as defined in Section 4 of Schedule 3 of the Act

(1) In this Schedule “**sex shop**” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating-

(a) sex articles; or

(b) other things intended for use in connection with, or for the purpose of stimulating or encouraging-

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity.

(2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

(3) In this Schedule “**sex article**” means-

(a) anything made for use in connection with, or for the purpose of stimulating or encouraging-

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity; and

(b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies-

(a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and

(b) to any recording of vision or sound, which-

(i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or

(ii) is concerned primarily with the portrayal of, or primarily deals with or relates to: genital organs, or urinary or excretory functions.

Requirements for applying for grant, variation, transfer or renewal of a sex establishment licence

Grant of a licence

- 1) To apply for the grant of a sex establishment licence an applicant must: -
 - a) send the Council: -
 - i) a completed application form;
 - ii) a plan to the scale of 1:100 of the premises to which the application relates;
 - iii) an application fee of £5,000;
 - b) display a notice on or near the premises;
 - c) advertise the application in a local newspaper;
 - d) send a copy of the application and plan to the Chief Officer of Police, Essex Police, 10 Southway, Colchester, CO3 3BU within 7 days of making the application to the Council.

Plan requirements

- 2) The plan shall show:
 - a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
 - b) the location of points of access to and egress from the premises;
 - c) the location of escape routes from the premises;
 - d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
 - e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
 - f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
 - g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
 - h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
 - i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
 - j) the location of a kitchen, if any, on the premises.
- 3) The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

Public notices

- 4) A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the Council, where it can be conveniently read from the exterior of the premises.

- 5) Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.
- 6) The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.
- 7) The notice must state: -
 - a) details of the application and activities that it is proposed will be carried on or from the premises,
 - b) the full name of the applicant,
 - c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
 - d) the date, being 28 days after that on which the application is given to the council, by which representations may be made to the Council and that representations should be made in writing,
 - e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£5000) for which a person is liable on summary conviction for the offence.
- 8) A similar notice must be published in a local newspaper or similar publication within 7 days of giving the application to the Council.

Variation of a licence

- 9) The holder of a licence may apply at any time for any variation of the terms, conditions or restrictions on, or subject to which, the licence is held.
- 10) The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

Renewal of a licence

- 11) The holder of a licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application together with the appropriate fee must be submitted before the current licence expires.
- 12) The process of applying for renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

Transfer of a licence

- 13) A person may apply for transfer of a licence at any time.

14) The process of applying for transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

For details on how the Council intends to process applications, including those to which objections are made, please see Section 7 of this policy document entitled **'Applications'**.

COLCHESTER BOROUGH COUNCIL

Local Government (Miscellaneous Provisions) Act 1982
Part II, Schedule 3

Application for grant / renewal / transfer / variation of a Sexual Establishment
Licence (Sexual Entertainment Venue/Sex Shop/Sex Cinema)*
(*Please delete as appropriate)

Applications may be made by individuals, corporate bodies or unincorporated bodies.

1. Application is hereby made and the necessary fee enclosed for a

New Licence ()*

Transfer of Licence ()*

Renewal of Licence ()*

Variation of Licence ()*

*Tick as appropriate

2. Name and address of premises to which this application relates.

If application relates to a vehicle / vessel / stall give a description and state where it is to be used as a sex establishment.

3. Full Name of Applicant.

Date of Birth.

Occupation (during preceding six months).

4. Address for Correspondence (If different from permanent address)

Telephone No.

If application is made on behalf of a corporate or unincorporated body.

5. Name of applicant body: _____
State whether a corporate or unincorporated body. _____
6. Address of registered or principal office. _____

7. Full names of all directors and other persons responsible for the management of the body, including if applicable the names of managers, company secretary and similar officers and the manager of the establishment.
(You will be required to complete a statutory declaration sheet for each person) _____

8. What hours and days to you require the licence to cover? _____

9. What "relevant" entertainment do you wish to provide?
10. If you are seeking to vary the licence, what does the variation consist of?
11. If the premises are not open between 9.00 am and 4.00 pm, state name, address and telephone number of person responsible for keys to the premises. _____

12. If only part of the building is to be licensed, give details. _____

13. Will any part of the premises be used for the exhibition of moving pictures? Yes / No

14. Does the applicant presently use the premises or the vehicle, vessel or stall as a sex establishment? Yes / No

If not, what is the present use? _____

If yes, give details of any person, other than the applicant(s) who has run the premises, vehicle, vessel or stall as a sex establishment since that date? _____

15. If the premises, vehicle, vessel or stall are presently used as a sex establishment, when did the use commence? _____

16. Give full details of the type of business to be conducted at the establishment. _____

- 17 I declare I have checked the information given on this application and attached statutory declaration forms and to the best of my knowledge and belief it is correct.

I understand that if the above requirements have not been complied with my application may be rejected.

I understand that the information given may be used in conjunction with other authorities for the prevention and detection of fraud, and will be held on computer, subject to the Data Protection Act 1998.

I understand that it is an offence, liable on conviction to a fine not exceeding level 5 on the standard scale to make a false statement in, or in connection with, this application.

- 18 I enclose a cheque for £XXXX (please delete the amounts not applicable) being the appropriate application fee.

Date: _____ Signature: _____

Capacity of applicant –
Personal/Director/Other
(Please delete as
appropriate).

All applicants are required to send with this application: - (a) two plans showing the area to be licensed, (b) statutory declarations in the form shown in the attached document in respect of (i) the applicant, (ii) directors of any company applying for a licence and (iii) any other person who will be responsible for the management of the licensed premises.

Return by post to: Licensing Professional Support Unit Colchester Borough Council 33 Sheepen Road, Colchester, CO3 3WG

Return in person to Colchester Borough Council Customer Services Centre, Angel Court, High Street, Colchester, CO1 1SP

Return by e-mail to EPS.Support@colchester.gov.uk

Return on line (when facility available)

Return by Fax to 01206 282598

COLCHESTER BOROUGH COUNCIL

**Statutory declaration sheet for application for grant / renewal / transfer of Sex Establishment Licence (Sexual Entertainment Venue/Sex Shop/Sex Cinema)*
(*Please delete as appropriate)**

To be completed by the applicant for (i) the applicant, (ii) directors of any company applying for a licence and (iii) any other person who will be responsible for the management of the licensed premises.

Full name. _____

Position held. _____

Date of birth. _____

Place of birth. _____

Permanent address. _____

Address(es) at which person has been resident during the five years preceding the date of this application. _____

Details of any relevant previous convictions and/or cautions
Please give details of any "unspent" convictions or cautions (see overleaf)

Date of conviction	Court of conviction	Nature of offence	Sentence

Please photocopy extra sheet for each declaration

Convictions - To Be Declared In Respect Of Applications Sex Establishment Licence

If you have been convicted of any of the following offences and they are "unspent" they must be declared on the application form:-

- Sexual offences.
- Offences involving obscenity.
- An offence involving the use, possession or supply of any drug.
- An attempt, incitement or conspiracy to commit any of the above offences.

The Rehabilitation of Offenders Act 1974 provides that after a certain period of time, convictions for offences are to be regarded as "spent". Set out below are some examples of when convictions become "spent". Please note it is from the date of **conviction** that the time commences. The periods of time which must elapse in other cases before the conviction becomes "spent" may vary considerably according to the nature of the offence and other circumstances. The rehabilitation period may, for example, be extended by the commission of a further offence during the rehabilitation period. Further guidance on this may be obtained from the Home Office publication "A Guide to the Rehabilitation of Offenders Act 1974", available for reference from the Licensing Specialist Unit or from a Solicitor.

Sentence.

Rehabilitation Period.

- | | |
|--|--|
| 1. 2½ years (30 months) imprisonment and over whether sentence suspended or not. | Never spent. |
| 2. Imprisonment or detention in a young offender institution (previously known as youth custody) between six months and 30 months whether sentence was suspended or not. | Ten years. |
| 3. Imprisonment or detention in a young offender institution (previously known as youth custody) of six months or less whether sentence was suspended or not. | Seven years. |
| 4. A fine, compensation or community service order. | Five years. |
| 5. Conditional discharge, bound over or probation order. Also includes fit person, supervision and care orders. | One year or period of probation sentence (whichever is longer). |
| 6. Absolute discharge. | Six months. |
| 7. Disqualification, disability or prohibition. | Period of sentence unless a longer period as above (e.g., disqualification and a fine 5 Years) |
| 8. Remand Home/Approved School/Attendance Centre Orders. | One year after Order expires. |
| 9. Hospital Order under Mental Health Acts. | 5 years, or two and a half years after the order expires (whichever is the longer). |

Offences under HM Services - please make enquiries to the Licensing Specialist Unit in respect of periods of rehabilitation for such offences.

Appendix D

Fees

Grant £5,000

Renewal £2,500

Transfer (TO BE ADDED)

Example of Newspaper Advert

**COLCHESTER BOROUGH COUNCIL
NEWSPAPER ADVERTISEMENT**

Application for a Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act, 1982, Part II, Schedule 3

NOTICE IS HEREBY GIVEN THAT I / WE (FULL NAME(S))

APPLIED ON **(Date)**

To Colchester Borough Council in respect of the premises known as
for a licence to use the premises as a 'Sexual Entertainment Venue'

ANY PERSON wishing to object to this application should write to the Head of Environmental & Protective Services, Licensing Specialist Unit, Colchester Borough Council, 33 Sheepen Road, Colchester CO3 3WG by no later than:-*

Letters in support should also be sent to the Head of Environmental & Protective Services by that date.

Please note that any written representations received in response to this application may be required to be made available for public inspection in accordance with the Local Government (Access to Information) Act 1985.

*** Insert 21 days after the date of application.**

Note: This form is recommended for the text of a newspaper advertisement for the purpose of the Local Government (Miscellaneous Provisions) Act, 1982, Part II, Schedule 3.

Example of Site Advertisement

**COLCHESTER BOROUGH COUNCIL
SITE ADVERTISEMENT**

**Application for a Sexual Entertainment Venue Licence
made under the Local Government (Miscellaneous
Provisions) Act, 1982, Part II, Schedule 3**

**NOTICE IS HEREBY GIVEN THAT I / WE (FULL NAMES):
APPLIED ON (Date):**

**To: Colchester Borough Council in respect of the premises
known as:**

located at (address of premises):

**for a licence to use the premises as a 'Sexual
Entertainment Venue'**

**ANY PERSON wishing to object to this application should
write to the Head of Environmental & Protective Services,
Licensing Specialist Unit, Colchester Borough Council, 33
Sheepen Road, Colchester, CO3 3WG by no later than:-***

**Letters in support should also be sent to the Head of
Environmental & Protective Services by that date.**

**Please note that any written representations received in
response to this consultation may be required to be made
available for public inspection in accordance with the
Local Government (Access to Information) Act 1985.**

*** Insert 21 days after the date of application being made to
Colchester Borough Council.**

Example of Certificate for Site Notice

FORM OF CERTIFICATE FOR SITE NOTICE

Application for a Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act, 1982, Part II, Schedule 3

To the Head of Environmental & Protective Services,
Licensing Specialist Unit,
Colchester Borough Council,
33 Sheepen Road,
Colchester CO3 3WG

I CERTIFY that on the Day of XXXX I displayed a site notice of which a true copy is attached and ensured that the notice continued to be displayed on or at the premises at:-

in a prominent position so that it could easily be read by passers-by, and ensured that the site notice remained in position for at least twenty one days.

Date: _____ Signed: _____

Refusals and revocations of licences

1. The council must refuse to grant or transfer a licence to: -
 - (a) a person under the age of 18;
 - (b) a person who is for the time being disqualified from holding a licence;
 - (c) a person who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
 - (d) a body corporate which is not incorporated in the United Kingdom;
 - (e) a person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

2. The Council may refuse-
 - (a) an application for grant or renewal of a licence on one or more of the grounds shown in paragraph 3 below;
 - (b) an application for transfer of a licence on either or both of the grounds shown in paragraph 3 (a) and (b) below.

3. The grounds for refusal are-
 - (a) That the applicant is unsuitable the licence by reason of having been convicted of an offence or for any other reason;
 - (b) That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - (c) That the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which the Council considers is appropriate for that locality;
 - (d) That the grant or renewal of the licence would be inappropriate having regard to:-
 - i. The character of the relevant locality;
 - ii. The use to which any premises in the vicinity are put; or
 - iii. The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

4. Nil may be an appropriate number for the purposes of paragraph (3)(c) above.

Standard Conditions applicable to Licences for Sex Establishments

Notes

- (i) Except where the context demands otherwise the singular includes the plural and the masculine includes the feminine.
- (ii) Nothing in these conditions shall be construed as interfering with (i) the discretion of the licensee or his representative regarding the admission of any person or (ii) the need to strictly comply with all relevant statutory requirements.
- (iii) These conditions are divided as follows-
 - Part 1 General
 - Part 2 Conditions which apply to all premises
 - Part 3 Conditions which apply to sex shops
 - Part 4 Conditions which apply to sex cinemas
 - Part 5 Conditions which apply to sexual entertainment venues
- (iv) In these rules all references to the British Standard (BS) shall be deemed to refer to the current standard.
- (v) A premises licence may also be required for the operation of a sex cinema

Part 1 General

- 1. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
- 2. The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any enactment, by law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

Part 2 Conditions which apply to all premises

Exhibition of Licence

- 1. The copy of the licence and these Regulations which are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and exhibited in a position that it can easily be seen by all persons using the premises. The copy of these Regulations shall be retained in a clean and legible condition.

Responsibility of Licensee

2. The licensee shall take all reasonable precautions for the safety of the public and employees and, except with the consent of the Council, shall retain control over all portions of the premises.
3. The premises shall not be used for regulated entertainment, exhibition or display of any kind unless the Council's consent has been first obtained and any necessary licence granted.

Conduct and Management of the Premises

4. The licensee, or a responsible person over 18 years of age and nominated by him in writing for the purpose of managing the sex establishment in his absence, shall be in charge of and upon the premises during the whole time it is open to the public. Such written nomination shall be continuously available for inspection by an officer authorised in writing by the Council. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge shall be conversant with these rules, a copy of which shall be held on the premises.
5. The licensee, or the responsible person approved under Regulation 4, shall maintain a daily register to be kept on the premises in which he shall record the name and address of any person who is to be responsible for managing the sex establishment in his absence and the names and addresses of those employed in the sex establishment. The register to be completed each day within 30 minutes of the sex establishment opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
6. The Licensee shall ensure that, during the hours the sex establishment is open for business, every employee wears a badge of a type to be approved by the Council bearing a photograph of the employee and indicating his name and that he is an employee.
7. A notice showing the name of the person responsible for the management of a sex establishment shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.
8. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council.

9. The licensee shall ensure that no part of the premises is used by prostitutes (male or female) for the purposes of soliciting or any other immoral purpose.
10. The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
11. Neither the licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.
12. No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.

External Appearance

13. No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any other matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except;
 - (i) any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence granted by the Council.
 - (ii) Such display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
14. The entrances, windows and openings to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.

State, Condition and layout of the premises

15. The premises shall be maintained in good repair and condition.
16. The number, size and position of the doors or openings provided for the purposes of the ingress and egress of the public shall be to the satisfaction of the Council and shall comply with the following requirements :-
 - (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".
 - (ii) Doors and opening other than exits which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "private".
 - (iii) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency

17. The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order. The external door shall only be opened at such times as person(s) require access and egress to the interior of the premises.
18. The licensee shall make provision in the means of access both to and within the premises for the needs of members of the public visiting the premises who are disabled.
19. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except without the prior approval of the Council.
20. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

Maintenance of the means of Escape

21. The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable in accordance with the approved arrangements.
22. All fire resisting and smoke stop doors shall be maintained self closing and shall not be secured open.

Fire Appliances

23. The premises shall be provided with fire appliances suitable to the fire risks on the premises, and such fire appliances shall be maintained in proper working order and shall be available for instant use.
24. The licensee shall comply with any fire precautions and safety measures that may be required of him by the Fire Authority.
25. Portable fire appliances shall be examined at least once a year and periodically tested in accordance with the current British Standard by a competent person and the date of such test shall be clearly marked on the appropriate extinguishers or on stout tabs securely attached to them. Extinguishers which incorporate an anti-freeze agent shall be examined and recharged in compliance with the manufacturer's instructions.

Lighting

26. The licensee or any other person concerned in the conduct or management of the licensed sex establishment shall, in the absence of adequate daylight, ensure that adequate lighting is maintained to the satisfaction of the Council in all parts of the premises to which the public and staff have access and is in operation continuously during the whole time the premises are open to the public.

27. The normal lighting levels and the lighting to 'EXIT' notices shall be maintained at all times and shall not in any circumstances be extinguished or dimmed while the public are on the premises provided that, so long as there is sufficient daylight in any part of the premises, artificial light need not be used in any part.

Electrical Installations

28. The electrical installation for the premises shall be maintained in a safe working condition, as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers.
29. Unless the Council decides otherwise an inspection certificate, as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers, for the electrical installation associated with the premises shall be submitted to the Council at least once every five years or such other time specified on the certificate. The certificate shall be signed by a qualified engineer.

Change of Use

30. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council and the Police has been obtained.
31. No change from a sex cinema to sex shop or from a sex shop to a sex cinema shall be effected without the consent of the Council and the Police,
32. Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema or a sexual entertainment venue.

Admission of Authorised Officers

33. Officers of the Council, Police, and other authorised agencies who are furnished with authorities which they will produce on request, shall be admitted immediately at all reasonable times and at any time the premises are open for business to all parts of the premises.

Part 3 Conditions which apply to Sex Shops

1. It is permitted to play music or words either via national or local radio stations or any pre-recorded means, but no material whatsoever of an adult theme or nature can be played or broadcast, whether by means of sound or moving picture.

Goods available in Sex Establishments

2. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show persons who are inside the sex shop the respective prices being charged.
3. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase, hire, exchange or loan and a notice to this effect is to be prominently displayed within the sex establishment.
4. No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Censors, and bears a certificate to that effect, or approved by the Council and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

Part 4 Conditions which apply to Sex Cinemas

Film Categories

1. The categories U, PG, 12, 15, 18 and RESTRICTED 18 have the following effect:

U	Universal – Suitable for all
PG	Parental Guidance. Some scenes may be unsuitable for young children.
12	Passed only for persons of 12 years and over.
15	Passed only for persons of 15 years and over.
18	Passed only for persons of 18 years or over
RESTRICTED (18)	Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

Exhibition of Films

2. 'Film exhibition' means film exhibitions as defined in the Cinemas Act 1985, i.e. any exhibition of moving pictures which is produced otherwise than by the simultaneous reception and exhibition of (a) television programmes, broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority or (b) programmes included in a cable programme service which is or does not require to be licensed under Section 4 of the Cable and Broadcasting Act 1984.
3. No film shall be exhibited at the premises unless:
 - (a) it is a current news reel; or
 - (b) it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18, or RESTRICTED (18) film
 - (c) it has been passed by the Council as a U, PG, 12, 15, 18, or RESTRICTED (18) film.

Restricted (18) films

4. Films in the RESTRICTED (18) category may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

Unclassified Films

5. Not less than twenty-eight days notice in writing shall be given to the Council of any proposal to exhibit any other film which has not been classified as specified above. Such a film may only be exhibited if the Council's written consent has been obtained and in accordance with the terms of any such consent.

"Persons under 18" Notice

6. No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at the entrance to the premises a notice in clear letters in the following terms:

PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME

Category Notices

7. A representation or written statement of the terms of any certificates given by the British Board of Film Censors or the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates and the representation or statement shall be shown for long enough and in a form large enough for it to be read from any seat in the auditorium.

Timetable of Films

8. The licensee shall display in a conspicuous position, to the satisfaction of the Council, at each entrance to the premises, during the whole time the public are being admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

Advertisements

9. No advertisement displayed at the premises of a film to be exhibited at the premises shall depict as a scene or incident in the film any scene or incident which is not included in the film as certified by the British Board of Film Censors or the British Board of Film Classification or approved for exhibition by the licensing authority, as the case may be.
10. Where the licensing authority has given notice in writing to the licensee of the premises objecting to an advertisement on the ground that, if displayed, it would offend against good taste or decency or be likely to encourage or incite

crime or lead to disorder or be offensive to public feeling, that advertisement shall not be displayed at the premises without the prior consent in writing of the licensing authority.

Objection to exhibition of film

11. Where the licensing authority has given notice in writing to the licensee of the premises prohibiting the exhibition of a film on the ground that it contains material which, if exhibited, would offend against good taste or decency or would be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that film shall not be exhibited in the premises except with the prior consent in writing of the licensing authority.

Additional conditions for 'Club' cinemas showing films in the restricted classification

- 12 (i) No club showing films in the 'restricted 18' category may operate in a multi-screen complex whilst persons under 18 are being admitted to any performance in the complex unless the Council's written consent has first been obtained.

(ii) When the programme includes a film in the 'restricted 18, category the licensee shall display in a conspicuous position at the entrance to the premises a notice in clear letters in the following terms:

"CINEMA CLUB – MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME"

(In the case of a multi-screen complex where consent has been granted the notice shall specify the particular part of the premises in which films in the 'restricted 18' category are being exhibited).

(iii) The timetable of films required by rule 52 shall include the following addition to the categories shown;

"Category RESTRICTED 18" passed only for persons of 18 years and over who are either members of the cinema club or who are guests of a member".

(iv) All registers of members and their guests shall be available for immediate inspection by the Council's officers during any performance, or at any other reasonable time.

(v) Tickets shall in no circumstances be sold to persons other than members.

(vi) No persons under 18 ears of age shall be employed in any capacity at licensed premises which are operating as cinema clubs.

(vii) Subject to prior written consent by the Council, a subscription may entitle the club member to attend other clubs under the same management.

- (viii) Membership rules for these club cinemas shall include the following –
- (a) The club rules must be submitted to the Council 4 days before the club commences operations and notice of all rule changes shall be given to the Council within 14 days of the change.
 - (b) Only members and their guests shall attend exhibitions of moving pictures classified in a restricted classification.
 - (c) Membership shall be open to persons of both sexes of not less than 18 years of age. Applications for membership, including both name and address, shall be in writing, signed by the applicant, and if deemed necessary such applicants shall provide satisfactory references and proof of age.
 - (d) No person shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the licensed proprietors.
 - (e) New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
 - (f) An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the licensed proprietors may refuse to renew any membership without assigning reason for such refusal.
 - (g) Members shall be entitled on any day to bring not more than one guest to accompany the member, and the name of the guest shall be entered in the visitors' book and counter signed by the member.
 - (h) On admission a member and his guest shall be bound by the rules of the club and by any by-laws and regulations made thereunder.
 - (i) Tickets shall be sold only to members on the production of a membership card and members shall, if required, sign an acknowledgement for the ticket or tickets issued.
 - (j) Membership cards shall be personal to the member and shall not be transferable to any other person.
 - (k) Neither membership tickets or guest tickets shall be transferable.
 - (l) No member shall introduce as a guest any persons under the age of 18 or any persons whose application for membership had been refused. The proprietors will reserve the right to refuse admission to any person.

- (m) Proof of identity, or of age, or of any particulars of any guest shall be produced by any member or guest if demanded by the licensed proprietors.
- (n) Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Sale of Sex Article

- 13. Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a 'sex cinema'.

Part 5 Conditions which apply to Sexual Entertainment Venues

Performances of Relevant Entertainment

- 1. The performance of relevant entertainment within the premises shall not be visible from any area outside of the premises at any time.

Age Restrictions

- 2. A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.
- 3. All members of staff at the premises shall seek "credible photographic proof of evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.

Staff

- 4. All staff employed to work at any premises licensed as a sexual entertainment venue shall be required to provide an Enhanced Criminal Records Bureau disclosure to the Licensing Authority in which the premises is located.

Club Rules

- 5. The premises must provide a copy of its Club Rules to the Council and to Essex Police.
- 6. All performers and staff shall be aware of the Club Rules.

7. All dancers, staff and door supervisors shall read a copy of the rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the premises as part of their due diligence.

Management Operation Manual

8. A management operation manual detailing all aspects of procedure when the premises are operating relevant entertainment shall be produced and approved by the Council. This document shall be on-going and under constant review.

Performers

9. Performers shall be aged not less than 18 years.
10. All performers shall be aware of the management operation manual.
11. A log book shall be maintained on the premises detailing the names and start and finish times of individual performers involved in all forms of adult entertainment.
12. At all times during the performance, performers shall have direct access to a dressing room without passing through, or in close proximity to, the audience.
13. On leaving the premises performers, who wish to be, shall be escorted by staff member to their vehicle or other safe location.

Performances

14. Whilst dancers are performing in any public area there shall be a minimum distance of one metre maintained between the dancer and the seated customers. Prominent, clear notices shall be displayed at each table stating this requirement.
15. There shall be no physical contact between customers and the dancers except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.
16. No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.
17. No audience participation shall be permitted.
18. Signs displaying the rules on the performance of relevant entertainment will be displayed throughout the premises and be clearly visible to patrons. This will include any private individual booth area.
19. In the event of the relevant entertainment being performed for private viewing, the patron shall be informed of the duration and price of the relevant

entertainment, and the details shall be specified in a clearly visible notice in each area designated for private relevant entertainment.

Door Supervisors

20. An adequate number of registered door supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one door supervisor on each entrance in each separate part of the premises and on the door to the dressing room.
21. The door supervisors shall be on duty at the premises at all times when the premises provide relevant entertainment.
22. The premises shall be a member of the Pub/Townlink Radio scheme.

Closed Circuit Television (CCTV)

23. A high quality CCTV system shall be installed to cover all entrances and exits to the premises and areas where relevant entertainment will take place, with the exception of the performers' changing area. This system must be installed and fully operational before the premises opens for the licensable activity applied for. All cameras shall continually record whilst the premises are open to the public and video recording shall be kept available for a minimum of 31 consecutive days with date and time stamping.
25. At the time of installation or upgrading of any CCTV system it shall comply with the current and relevant Police guidelines for Standard Minimum closed circuit television requirements. To obtain a clear head and shoulders image of every person entering the premises on the CCTV System, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.
26. A member of staff who is fully trained in the use of the system shall be on duty at all times when the premises are open until the premises is clear of customers, cleared of staff and closed.
27. The premises will provide any footage upon request by Essex Police or the Licensing Authority within 24 hours of the request.

Crime Survey

28. Upon completion of a crime survey by Essex Police, the licence holder shall act accordingly with all reasonable recommendations of the survey in so far as they relate to licensable activities,

Layout of premises

29. The approved activities shall take place only in the areas designated by the Licensing Authority and Essex Police.

30. All dance booths are to be equipped with a panic alarm for safety.
31. Arrangements shall be put in place to restrict access to the dressing room at all times when the relevant entertainment is taking place, and until such time as all performers have vacated it.
32. The layout within the areas used by customers shall not undergo substantial change without the prior written consent of the Licensing Authority.

Change of Use of Premises

33. The Licensing Authority and Essex Police must be informed should the licensee seek to change the use of the establishment to another form of sex establishment.

Sale of goods

34. Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a 'Sexual Entertainment Venue'.

Door Policy

38. The venue will operate a "Challenge 25" policy.
39. No entry to be permitted to any customer who is considered by the management or door staff to be incapable of controlled or acceptable behaviour, especially those who may be showing signs of having been intoxicated through alcohol or drugs.
40. All customers will be explained the rules for the venue before entry is permitted.
41. One member of door staff will be present at the entrance to the venue at all times during opening hours.
42. Door staff will carry two way radios at all times.
43. Dress code will be smart at all times; no sports wear will be permitted.

Customer conduct

44. Any customer who is offensive either by language or action towards the performer will be ejected from the venue. They will also be barred from entry on any future occasion.
45. Strictly no photographing or videoing of performances or performers before, during or after the performance will be allowed. All customers' mobile phones will be switched off whilst on the premises. Anyone found breaching this

condition will be ejected from the venue and barred from entry on any future occasion.

46. Any customer found in possession of drugs, attempting to consume drugs or selling drugs will be detained by the security staff and the Police will be called. They will also be barred from entry on any future occasion.
47. Throwing of money at performers will not be permitted before, during or after the performance, nor will the giving of any other gift. Anyone breaching this condition will be ejected from the venue and barred from entry on any future occasion.
48. Customers will not be allowed to pass on personal details such as business cards or telephone numbers to performers before, during or after a performance.
49. Payment must be made to the performer only and strictly in advance of the performance taking place.

Performer Conduct

50. No performer will be allowed to carry or use any sex toy, sex aid or other paraphernalia.
51. No performer will be allowed to wear bondage or sadomasochist clothing or paraphernalia. No accessories such as sex toys or aids are to be carried or used by the performers.
52. No handing out of cards, telephone numbers or personal contact information to customers or any other persons by performers.
53. Performers must not encourage customers to touch them in any way before, during or after a performance.
54. Performers found in possession, using or attempting to sell drugs or even under the influence of drugs before, during or after a performance will be immediately dismissed and the Police notified.
55. Performers will instruct all customers to keep their hands by their sides at all times during a private dance.
56. Any approach by a customer to make personal contact with a performer must be immediately reported to the management or security.
57. Performers will not be permitted to enter any part of the venue other than the private dance area and dressing room areas while fully nude.

Supervision of Performers

58. No performers allowed in the club under the age of 18, the "Challenge 25" scheme will be used to manage this.
59. Proof of citizenship or working permits must be provided.
60. No performer will be allowed to work within the venue unless an audition has been performed; this will consist of two pole dances and a full briefing on the club rules.
61. No working auditions will be permitted; a cooling off period of three days is enforced at all times.
62. All performers and staff must complete an emergency contact form before working within the venue.
63. Performers must sign a 'contract' before working stating that they have read, understood and will abide by the performer rules and rules of the house while working in the venue.
64. A member of staff will be in the private dance area at all times whilst private dances are taking place.
65. No dances will be permitted without supervision from a member of staff.
66. No touching of dancers by persons or customers. (A touch and go policy will operate; i.e. any person/customer touching dancers will be ejected from the premises and barred from those premises). The only exception to this will be prior to the performance when the dancer is handed cash or vouchers into their hands.

Operation of the Venue

67. A copy of the house customer rules will be on display at the entrance to the venue and in the bar area.
68. Performers' door to be locked at all times. Performers' dressing room will be off-limits to all non-employees.
69. Waitresses/Waiters and bar staff must remain fully clothed at all times.



Licensing Committee

Item
8

9 March 2011

Report of	Head of Environmental and Protective Services	Author	Colin Daines ☎ 282596
Title	Change to Penalty Point Scheme// Delegation to Officers		
Wards affected	Not applicable		

This report requests the Committee to approve an update to the application of the current penalty point scheme and to reduce the number of members sitting on appeal hearings

1. Decision(s) Required

- 1.1 To approve the amendments to the Hackney Carriage/Private Hire Drivers' Licence Conditions and Penalty Point scheme as set out in Appendix 1 to this report.
- 1.2 To agree to a reduction in the number of committee members, sitting on Hackney Carriage/Private Hire appeals from the current level of five to a future number of three.

2. Alternative Options

- 2.1 To manage the Penalty Points scheme effectively the changes proposed are necessary and therefore there are no alternative options to amending the scheme as set out.
- 2.2 It would be possible to leave the number of members hearing appeals unchanged, but this is not recommended.

3. Supporting Information

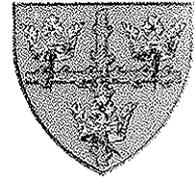
- 3.1 The Council's Penalty Point scheme for Hackney Carriage and Private Hire drivers requires amendment to reflect changes to the staffing arrangements of the Licensing Specialist Unit which have been highlighted following the previous Licensing Manager taking up a position at another authority.
- 3.2 The amendments to the scheme, which are appended at Appendix 1, will allow decisions to be taken by all appropriate officers, thereby improving our customer service and business continuity.
- 3.3 Reducing the number of members hearing appeals from five to three would bring this in line with the size of the sub-committees hearing issues under the Licensing Act 2003.
- 3.4 It can be quite intimidating for drivers to come before the Committee and, as individuals, it is felt that they can be less well equipped for this than persons operating businesses. It is felt that this reduction would make our approach to such matters fairer and that it would actually improve the process.

4. Standard References

- 4.1 There are no particular references to the Strategic Plan; publicity or consultation considerations; or financial; equality, diversity and human rights; community safety; health and safety or risk management implications.



COLCHESTER BOROUGH COUNCIL



Local Government (Miscellaneous Provisions)
Act 1976, Town Police Clauses Act 1847

DRIVER'S CONDITIONS OF LICENCE

(Note Colchester Borough Council issues combined
Private Hire and Hackney Carriage Driver Licences)

1 Conduct of Drivers

Drivers shall: -

- i) **Take all** reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by them.
- ii) **Afford** all reasonable assistance with passengers and their luggage.
- iii) **At all times** be clean and respectable in person, appearance and the way they dress to conform to the Council's dress code:
 - **Ladies** - Suitable blouse or other top, and either a sensible skirt/trousers/smart jeans and appropriate and smart footwear **or** an agreed company uniform.
 - **Gentlemen** - White or quiet coloured long or short sleeved shirt, with either a collar and tie or open neck or a coloured sport style top. Trousers or smart jeans. Shoes or appropriate sports shoes **or** an agreed company uniform.
- iv) **At all times** behave in a civil and orderly manner and not resort to using foul and abusive words or behaviour towards any passenger or member of the public whilst working.
- v) **Not**, unless the hirer has agreed they can, smoke, drink or eat in the vehicle.
- vi) **Not**, unless the hirer has agreed they can, play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- vii) **At no time** cause or permit noise from the vehicle or any radio or previously mentioned equipment in the vehicle which they are driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
- viii) **Have the responsibility** whilst driving and when carrying passengers of ensuring that the use of the vehicle conforms in all respects to current legislation concerning the use of motor vehicles on a road.
- ix) **Within seven days** disclose to the council **in writing** details of any conviction they have received (criminal or otherwise).

- x) **Notify** the Council in writing within **seven days**, of any change of their address whether temporary or otherwise.
- xi) **At** all times when acting in accordance with this Licence wear or display the badge issued to them by the Council in such a position and manner as to be plainly and distinctly visible and readable to passengers.
- xii) **Permit** the carriage of a guide or assistance dog (unless the holder of an exemption certificate) and allow the dog to remain with its owner at no extra cost to the fare.
- xiii) **Charge** no additional fee for the carriage of a wheelchair bound person.

2 Number of Passengers

- i) The driver shall not convey or permit to be conveyed a greater number of passengers than the number for which the vehicle is licensed and shown on the Council issued plate fitted to the vehicle.
- ii) The driver shall not without the consent of the hirer of the vehicle convey or permit to be conveyed any other person in that vehicle.

3 Animals

- i) Guide or assistance dogs shall be conveyed in hackney carriage or private hire vehicles without additional charge and shall be conveyed with the passenger.
- ii) This condition is waived where the driver is in possession of an exemption certificate issued by the Council in relation to the carriage of dogs.
- iii) The driver shall not convey in any hackney carriage or private hire vehicles any animal belonging to or in the custody of themselves or the proprietor or operator of the vehicle.
- iii) Any animal other than as (i) or (ii) above, belonging to or in the custody of any passenger, which at the driver's discretion may be conveyed in the vehicle, shall only be conveyed in the rear of the vehicle.

4 Prompt attention

The driver of a private hire vehicle shall, if aware that the vehicle has been hired, be in attendance at an appointed time and place or, when the operator or proprietor of the vehicle has instructed them to be in attendance at an appointed time and place, to punctually attend at the said appointed time and place unless delayed or prevented by sufficient cause. In such cases, all reasonable steps should be taken by the driver to inform the operator that the vehicle has been delayed in getting to the hirer and the reasons why.

5 Fare to be paid

The driver shall not demand from any hirer of a private hire vehicle a fare in excess of any that has been previously agreed between the hirer and the operator for that hiring. If the vehicle is fitted with a taximeter, and there has been no previous agreement as to the fare, the fare charged is the fare as shown on the taximeter or less if the driver feels a lesser fare is appropriate. The fare shall not be more than the amount shown on the meter in any case.

6 Written receipts

The driver shall, if requested by the hirer of a hackney carriage or private hire vehicle, provide the hirer with a written receipt for the fare paid.

7 Lost property

- i) The driver shall immediately after the termination of any hiring or as soon as practicable thereafter, search the vehicle for any property which may have been accidentally left in it by a previous hirer.
- ii) Where property has been left in the vehicle and found by the driver it must be taken as soon as possible, and in any event within 48 hours, or unless sooner claimed by or on behalf of its owner, to the Licensing Manager at the Customer Service Centre, Angel Court, High Street, Colchester and left in the custody of a member of staff who will issue a receipt for that property if requested to do so.
- iii) The driver may if it is more convenient, take the property within 48 hours if not sooner claimed by or on behalf of its owner, to the lost property department at Colchester Police Station.

8 Return of the drivers badge

- i) The badge issued by the Council to a driver remains at all times the property of the Council.
- ii) The driver shall upon its expiry, refusal to renew, revocation or suspension of their licence return the badge to the Council **within 14 days**. To fail to do so is an offence for which prosecutions may be taken to a Magistrates Court.

9 Deposit of Licence

Where the driver is permitted or employed to drive a private hire vehicle of which they are not the proprietor they shall before commencing to drive the vehicle deposit their licence with that proprietor until such time as the driver ceases to be permitted or employed to drive the vehicle. **Provided that** if the driver is employed both as a hackney carriage driver and as a private hire vehicle driver, then their licence shall be deposited with the proprietor of the hackney carriage as required by Section 48 of the Town Police Clauses Act 1847.

10 Taximeter

If a taximeter is fitted to a private hire vehicle the driver shall not allow the fare recorded to be cancelled or concealed until the hirer has had a reasonable opportunity of examining it and has paid the fare shown (Except where credit is to be given). The meter must also be calibrated to the current hackney carriage tariff.

11 Mobile Telephones

Mobile telephones used by drivers in private hire vehicles must be used strictly in accordance with the current laws governing their use.

12 Physical and Mental Fitness

The driver must report to the Council, as soon as practicable, any disability or physical or mental medical condition which develops or worsens and which may affect their ability to drive safely. The driver's Doctor or Consultant will generally advise whether it is safe for their patient to drive

Drivers are also reminded that they are legally required to inform the DVLA at Swansea of some medical conditions.

If any such conditions occur where the driver has been advised not to drive, or not to drive for hire and reward, the Council may suspend their driver's licence until such time as their Doctor or Consultant confirms to the Council in writing that they are fit to drive for the purposes of hire and reward.

The Council reserves the right to request an examination of a driver by the Occupational Health department at Colchester General Hospital where there is doubt as to their ability to safely drive hackney carriage / private hire vehicles to convey passengers. The Council will be responsible for any fees for such examinations it has requested.

When renewing a driving licence a fully completed medical certificate signed by the driver's Doctor must be produced, otherwise a licence will not be issued.

13 Insurance

- i) The driver will be responsible for ensuring that any vehicle in their charge is insured as a hackney carriage/private hire vehicle (as appropriate) for at least third party risks as required by part VI of the Road Traffic Act 1988.
- ii) If the hackney carriage/private hire driver's licence is suspended as a result of the driver's failure to comply with this condition, it will not be reinstated or re-issued until a period of three months has elapsed.
- iii) More than one suspension for this reason will result in the revocation of the driver's licence and any application for the grant of a licence will not be considered for a period of five years from the date of conviction.
- iv) Penalty points may also be issued as appropriate.

14 Private Hire Bookings

The drivers of private hire vehicles must not accept fares other than those made previously via the licensed operator they are currently working for.

It is an offence to take a fare without a previous booking having been made with a licensed operator; such bookings must **NOT** be made via a vehicles radio/computer or the driver's mobile telephone.

Drivers must inform persons attempting to hire them from the road side etc., of the above. Any driver accepting a hiring other than as stated above commits an offence which may lead to them having their hackney carriage/private hire driver's licence suspended or revoked.

15 Parking whilst working

Drivers of private hire vehicles who are not able to return to their operating base when working must make sure that, when they do 'park up', they do so in an appropriate place.

An appropriate place is one where it cannot be construed that they are soliciting or attempting to solicit to the public for hire.

Private hire vehicles are not allowed to park or stand on any 'taxi rank'.

16 Travel Tokens

All drivers of hackney carriage and private hire vehicles **must** accept travel tokens in payment for local travel (within the Borough) or for journeys to places just outside the Borough. They should not be used for airport runs.

These tokens are issued to old age pensioners and some disabled people to assist them in travelling in and about Colchester Borough.

Arrangements have been made for these tokens to be exchanged at the cash desk in the Customer Services Centre at Angel Court between 8.30am and 5.00pm on Tuesdays, Wednesdays and Thursdays.

The driver's badge must be produced and the vehicle plate number must be given together with a claim form. The maximum amount exchanged by the cash office is £300.00 and the minimum is £10.00 (bagged as £5.00 of 20p, £10.00 of 50p and £20.00 of £1.00 tokens).

Some operators have made arrangements to change the tokens with the drivers and then exchange them with the Council and you should enquire with your operator to see if that is the case.

It is an offence against these conditions not to take these tokens and action will be taken against the driver concerned should any substantiated complaints be received.

17 Enforcement

The Colchester Borough Council has signed the Government's Enforcement Concordat.

Enforcement will be carried out in a manner ensuring that the Council's licence holders and the public are properly protected by using a fair and proportionate response to all complaints and any suspected breaches of these conditions and other relevant legislation.

18 Penalties

The Council may under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 suspend or revoke any driver's licence granted if any of the above conditions are not complied with.

19 Penalty Points Scheme

The aim of introducing this scheme is to provide stepped enforcement for those licence holders who have contravened licence conditions or associated legal provisions. However, introduction of this scheme does not prejudice the Council's ability to take any other actions that it is entitled to take under conditions, byelaws or regulation. In relevant cases, where the Licensing Manager considers it necessary, an existing licensed driver may also be required to take the Council's knowledge test at their own expense.

Details of this scheme and points allocation are shown below for information.

20 The use of seat belts

It is the responsibility of the driver to ensure that seat belts are used in accordance with any current or future legislation or guidelines as issued or determined by central government. **Guidance on the use of seat belts in regard to children is included in the hackney carriage/private hire vehicle conditions of licence.**

This information has been obtained from the following web sites www.dft.gov.uk and www.rosipa.com (checking the child seat belt section). This information was correct at the time that these conditions were updated.

Drivers are, however, advised that they have a responsibility to ensure that they are familiar and up-to-date with seat belt and any other relevant construction and use and safety legislation which is available from the above web sites.

21 Promoting your Business and Colchester

Colchester is proud to be famous for being the oldest recorded town in the Country and receives visitors from all over the world. It also has a vibrant University which is world renowned and attended by many overseas students. The Council therefore welcomes the support of its licensed drivers to be front-line ambassadors in promoting Colchester to both its residents and its visitors.

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, who are just arriving in Colchester, can have a detrimental effect on their stay and can even influence whether or not they return.

It is worth remembering, that 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.

A positive, friendly and helpful manner when dealing with both residents and visitors alike promotes the 'taxi' or private hire service provided by the driver, 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. Short courses can be provided that are based on improving a driver's knowledge of Colchester and its historic importance.

22 Appeals

There is a right of appeal by any licensed driver against these conditions to the Council's Licensing Committee or to a Magistrates Court.

Should you wish to appeal to the Licensing Committee you must write to the Licensing Manager, Colchester Borough Council, 33 Sheepen Road, Colchester, CO3 3WG within 21 days of receiving these conditions, stating the reasons for your appeal.

Should you wish to appeal to the Magistrates Court, you must write to The Clerk of the Court, North East Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford CM2 5PF within 21 days from the date of receipt of these conditions, stating the reasons for your appeal.

23 Not sure of any of the Conditions?

If you have any questions in relation to any of these conditions then please contact the Customer Service Centre on telephone number 01206 282725 between 9.00am and 5.00pm Monday to Friday, when a member of staff will be pleased to assist you or ensure that you are connected to the appropriate officer.

24 Public Liability Insurance

We would urge that all drivers, proprietors and operators seriously consider having an adequate public liability insurance policy in place. This is a business decision which can only be made by you and over which the Council has no influence.

PENALTY POINT SCHEME

The scheme will be operated as follows:

1. Issuing of Penalty Points

- (a) Where any breach of the Council's conditions or other relevant statutory provisions under the licensing acts have been positively identified, after completion of investigations, the Licensing Enforcement Officers of the Council may apply penalty points in accordance with the adopted penalty points schedule.
- (b) Penalty points when issued will be confirmed by letter to the relevant licence holder. There will be a 21 day period, starting from the date of the letter of notification, provided to allow for any appeal to be made against the decision to issue points or as to the number of points issued. Such appeals must be in writing to the Licensing Manager
- (c) The number of penalty points issued will be at the discretion of the Licensing Enforcement Officers and in accordance with the attached table.
- (d) The Licensing Manager retains the discretion to issue penalty points to drivers, vehicle proprietors or operators for any contravention, should the circumstances warrant such action.
- (e) The imposition of penalty points against a driver who is working on behalf of a proprietor will not necessarily result in the imposition of points to his/her employer or operator.
- (f) Any imposition of penalty points is at the discretion of the officers of the Council and is not negotiable other than by way of appeal.
- (g) Penalty points issued under this scheme will have a "life" of twelve months after which they will be deemed spent. The system is based over a rolling twelve month period.
- (h) Six points become spent at the conclusion of any suspension of a driver/ proprietor. Twelve points are spent at the conclusion of any suspension of an operator.
- (i) The Enforcement Officer investigating the alleged breach of conditions or statute may allocate an appropriate number of penalty points within the maximum limits shown in the table below.
- (j) The Licensing Manager, will determine any appeals in relation to the imposition of penalty points. If dissatisfied, a further appeal may be made to the Licensing Committee.
- (k) Wherever reference is made in these conditions to any action by the Licensing Manager, the matter may also be dealt with by another Council officer with the appropriate delegated powers.

2. Action levels

- (a) On the accumulation of 12 or more points in a twelve-month period a driver will be subject to a recommendation to the Licensing Manager for the suspension of his or her Council issued driver's licence.
- (b) On the accumulation of 12 or more penalty points in a rolling twelve-month period a proprietor/owner will be subject to a recommendation to the Licensing Manager for the suspension of his/her Council issued vehicle licence.
- (c) On accumulation of 24 or more penalty points in a twelve-month period an operator will be subject to a recommendation to the Licensing Manager/Officer for the suspension his/her operators licence.
- (d) The Council will advise drivers, proprietors and operators in writing when their points accumulation for any relevant period exceeds 50% of the relevant action level.
- (e) Where a letter is sent to a driver, a copy of the letter will be forwarded to any relevant vehicle proprietor or operator that they are driving for.

3. The suspension process.

- a) All suspensions will be determined by the Licensing Manager or by way of a report to the Licensing Committee.
- b) The licence holder will be advised of the accrued total of penalty points and the specific infringements identified.
- c) The licence holder will be advised of the Licensing Manager's decision regarding suspension or referral to the Licensing Committee within 7 days of such a decision being made.
- d) For drivers or proprietors, on the first occasion of the accumulation of 12 or more points within a twelve-month period, the recommendation will be suspension of licence for 28 consecutive days.
- e) For drivers or proprietors, on a second occasion of the total award of 12 or more penalty points, the recommendation would be for suspension of licence for 56 consecutive days.
- f) On any third accumulation of 12 points attained by a driver/proprietor would result in a recommendation to revoke his/her licence.
- g) An operator accumulating 24 points for the first time would result in a recommendation to suspend their Operators Licence for 28 consecutive days.
- h) A second accumulation of 24 points would result in a recommendation to suspend their Operators Licence for 56 consecutive days.

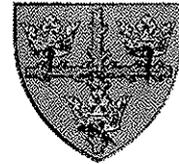
- i) Accumulation of 24 points for a third time, or exceeding 36 points in any twelve month period, would result in a recommendation to revoke their Operators Licence.
- j) Once a suspension has been served, a total of 6 penalty points will be removed from the total accrued by drivers or proprietors. In the case of operators 12 points will be removed.
- k) Any driver, proprietor subject to the suspension or revocation of a licence by the Licensing Manager has a right of appeal to the Council's Licensing Committee and must do so in writing within 21 days from the date of notification of suspension/revocation to the Licensing Manager at Environmental and Protective Services, 33 Sheepen Road, Colchester, CO3 3WG.
- l) Should an appellant not be satisfied with the decision of the Licensing Manager or the Council's Licensing Committee they may appeal to a Magistrates Court against such suspension/revocation and must do so by writing to the Clerk of the Magistrates Court within 21 days from the date of notification of such suspension/revocation.
- m) Where an appeal has been made the implementation of any suspension or revocation will be held until its determination.

4. Record availability.

- (a) Drivers, proprietors and operators may see their penalty point record at any time.
- (b) Vehicle proprietors and licensed operators may view their employed driver's point's record subject to making a written request giving their reasons for doing so. All such requests will be subject to the agreement of the Licensing Manager.



COLCHESTER BOROUGH COUNCIL



Local Government (Miscellaneous Provisions)
Act 1976

HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S PENALTY POINT SCHEME TABLE

(Note Colchester Borough Council issues combined
Private Hire and Hackney Carriage Licences)

	Offence/Breach of Conditions	Maximum Points applicable	Driver	Vehicle Owner or operator
1	Providing false or misleading information on licence application form, or failing to provide relevant information.	6*	x	x
2	Driver not holding a current Hackney Carriage/Private Hire driver licence	12*	x	x
3	Failure to notify the Council of change of address within 7 days	3*	x	x
4	Refusal to accept hiring without reasonable cause e.g. Drunk or rude customer.	4*	x	
5	Unreasonable prolongation of journeys or any misconduct regarding the charging of fares	6*	x	
6	Private hire touting/specking	9*	x	x
7	Failure to display a current vehicle excise licence	12*		x
8	Using unlicensed vehicle or vehicle without insurance.	12*		x
9	Failure to produce relevant documents within timescale when requested.	4*	x	x
10	Unsatisfactory condition of vehicle, interior or exterior.	4	x	x
11	Failure to produce Hackney Carriage or Private Hire vehicle for testing when required.	4*		x
12	Using a vehicle subject to a suspension order issued by the licensing officer or a police officer.	12	x	x
13	Using a vehicle for which the licence has been suspended or revoked.	12*	x	x
14	Failure to report within 72 hours accident or damage to licensed vehicle.	4*	x	x
15	Overloading of licensed vehicle (including exceeding the licensed number of passengers)	6*	x	

16	Failure to display external licence plate as required.	6*		x
17	Failure to notify transfer of Private Hire or Hackney Carriage vehicle licence within 14 days.	4*		x
18	Failure to maintain an operational fire extinguisher in accordance with the conditions, where fitted.	3		x
19	Failure to maintain records in a suitable form of the commencement and cessation of work of each driver each day.	5*		x
20	Failure to produce on request records of drivers work activity.	5*		x
21	Using incorrect tariff or an uncertified taximeter.	6*	x	x
22	Obstruction of an authorised officer or police officer.	6*	x	x
23	Displaying any feature on private hire vehicle that may suggest it is a Taxi.	6*		x
24	Using a Private Hire vehicle the appearance of which suggests it is a Hackney Carriage.	6*		x
25	Driver not holding a current DVLA Licence.	12*	x	x
26	Failure to display driver's badge.	4*	x	
27	Failing to notify change in medical circumstances.	6	x	x
28	Unsatisfactory appearance of driver or not conforming to dress code.	3	x	
29	Failure to observe rank discipline.	3*	x	
30	Operator failure to maintain proper records of private hire vehicle.	3*		x
31	Failure to keep or produce records of Private Hire bookings or other documents required to be kept or produced.	6*		x
32	Failure to produce tariff or advise charges when requested by a hirer.	3	x	x
33	Failure to return vehicle licence plate within 7 days after due notice following expiry, revocation or suspension of such licence.	4*		x

34	Unsatisfactory behaviour or conduct of driver. e.g. Abusive language etc.	3-9*	x	
35	Failure to notify the Council of any motoring or criminal convictions or cautions, in writing within seven days, during period of current licence.	6*	x	x
36	Failure to display internal licence plates.	4	x	x
37	Late application for renewal on expiry of a licence.	6	x	x
38	Failure to return drivers badge within 14 days after due notice being given.	4*	x	
39	Standard of driving unacceptable, witnessed by authorised officer or police officer.	6	x	
40	Misuse of mobile telephone (includes using the mobile telephone whilst the vehicle is in motion)	3	x	
41	Failing to accept Travel tokens for an legitimate journey	3	x	x
42	Failing to conform to statutory road signs or illegally parking	3	x	
43	Drinking or eating in a licensed vehicle without the express permission of the hirer.	3	x	
44	Playing of a music radio or other sound producing equipment without the express permission of the passenger(s).	3	x	
45	Causing excessive noise from any radio or sound producing equipment which annoys anyone either in or outside of the vehicle.	3	x	
46	Proprietor displaying an unauthorised sign. i.e. commercial advertisement on vehicle, without the Council's agreement.	3		x
47	Failure to carry assistance dog without exemption certificate.	3	x	x
48	Failure to attend at the requested time for a pre arranged booking without sufficient good cause.	3	x	x
49	Driving a licensed vehicle which is not properly maintained.	6	x	x

50	Leaving a Hackney Carriage vehicle on a taxi rank parked and unattended without reasonable excuse.	4*	x	
51	Allowing a Hackney Carriage to remain on a taxi rank in such a position as to cause obstruction to other hackney carriage vehicles.	3*	x	
52	Driver smoking in vehicle. (also subject to legal action under Health Act 2006 since 1/7/2007).	3	x	
53	Driver allowing customer(s) to smoke in licensed vehicle (also subject to legal action under Health Act 2006 since 1/7/2007).	3	x	
54	Smoking or allowing smoking in Operators premises (also subject to legal action under Health Act 2006 since 1/7/2007).	3		x
55	Failing to deal with lost property in the appropriate manner.	3	x	
56	Failure to comply with the Council's adopted vehicle livery.	3	x	x
57	Illegal Ranking.	3	x	

Matters identified with an asterisk are direct contraventions of the Town Police Clauses Act 1847 or Local Government (Miscellaneous Provisions) Act 1976 or other statutory requirements and may result in prosecution in addition to any penalty points incurred.

e-mail: licensing.committee@colchester.gov.uk
website: www.colchester.gov.uk