

Licensing Committee Meeting

**Online Meeting, Virtual Meeting Platform
Tuesday, 11 August 2020 at 18:00**

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

Information for Members of the Public

Access to information and meetings

You have the right of access to all meetings of the Council, its Committees and Cabinet which may be conducted remotely such as by live audio or video broadcast / webcast. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is published on the Council's website at least five working days before the meeting, and minutes once they are published. Dates of the meetings are available here:

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Occasionally certain issues, for instance, commercially sensitive information or details concerning an individual have to be considered in private. When this is the case an announcement will be made, the live broadcast will end and the meeting will be moved to consider in private.

Have Your Say!

The Council welcomes contributions in the form of written representations from members of the public at most public meetings. One single contribution to each meeting of no longer than 500 words may be made by each person which must be submitted via the form accessed by this link, before noon on the working day before the meeting date: [Licensing Have Your Say!](#)

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COLCHESTER BOROUGH COUNCIL

Licensing Committee

Tuesday, 11 August 2020 at 18:00

Member:

Councillor Dave Harris
Councillor Mike Hogg

Chair
Deputy Chair

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

Substitutes:

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

AGENDA - Part A

(open to the public including the press)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief.

1 Welcome and Announcements (Virtual Meetings)

The Chairman will welcome members of the public and Councillors to the meeting and remind those participating to mute their microphones when not talking. The Chairman will invite all Councillors and Officers participating in the meeting to introduce themselves. The Chairman will, at regular intervals, ask Councillors to indicate if they wish to speak or ask a question and Councillors will be invited to speak in turn by the Chairman. A vote on each item of business will be taken by roll call of each Councillor and the outcome of each vote will be confirmed by the Democratic Services Officer.

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 10 June 2020 are a correct record.

Licensing Committee Minutes -10 June 2020

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6 Have Your Say! (Virtual Meetings)

Members of the public may make representations to the meeting. Each representation may be no longer than three minutes (500 words). Members of the public may register their wish to address the meeting by registering online by 12.00 noon on the working day before the meeting date. In addition a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

7 CCTV Consultation

11 - 12

The report sets out the proposed timetable to bring the results of the consultation on CCTV to the Licensing Committee for consideration.

8 Changes to the Hackney Carriage and Private Hire Licensing Policy

13 - 16

To notify the Committee of the outcome of the consultation carried out from 18 May to 31 July 2020 on proposed changes to the Council's Hackney Carriage and Private Hire Licensing Policy.

9 Report of Urgent Action Taken/Hackney Carriage and Private Hire Licensing Policy

17 - 22

To inform the Committee of action taken on 17 July 2020, to amend the Council's Hackney Carriage and Private Hire Licensing Policy, pursuant to the provisions of Rule 18 of the Council Procedure Rules, following consultation with the Chairman of the Scrutiny Panel.

10 **Licensing Committee Work Programme 2020-2021**

23 - 24

This report sets out the current Work Programme 2020-2021 for the Licensing Committee. This provides details of the reports that are scheduled for each meeting during the municipal year.

11 **Exclusion of the Public (not Scrutiny or Executive)**

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

Part B

(not open to the public including the press)

Licensing Committee

Wednesday, 10 June 2020

Present:

Councillor Barton, Councillor Buston, Councillor Chuah, Councillor Crow, Councillor Elliott, Councillor Harris, Councillor Hogg, Councillor Moore, Councillor B Oxford, Councillor Wood, Councillor T. Young.

100. Appointment of Chair for the forthcoming Municipal Year

RESOLVED (UNANIMOUSLY) that Councillor Harris be elected Chairman for the forthcoming Municipal Year.

101. Appointment of Deputy Chair for the forthcoming Municipal Year

RESOLVED (UNANIMOUSLY) that Councillor Hogg be elected Deputy Chairman for the forthcoming Municipal Year.

102. Minutes of 22 January 2020

RESOLVED that the minutes of the meeting held on 22 January 2020 were confirmed as a correct record.

103. CCTV in Licensed Vehicles Policy Consultation extension

Jon Ruder, Licensing, Food and Safety Manager, presented a report on the Draft Scrap Metal Dealers Policy, and assisted the Committee with their discussions. Jon explained that the consultation period for the draft CCTV in Licensed Vehicles Policy, as approved by the Licensing Committee at its meeting on 22 January 2020, had been due to conclude at the end of May, with a report due to be presented to the Committee at the meeting of 10 June 2020. However, due to the ongoing difficulties presented by the Covid-19 pandemic, the consultation period for the draft policy had been extended until 12 June 2020, and the Committee were requested to note this.

RESOLVED that the extension of the consultation period until 12 June 2020 in relation to the draft CCTV in Licensed Vehicles Policy be noted.

104. Draft Scrap Metal Dealers Policy

Jon Ruder, Licensing, Food and Safety Manager, presented a report on the Draft Scrap Metal Dealers Policy, and assisted the Committee with their discussions. The report was introduced and Members were advised that the Policy had to be renewed for the next few years, and as such, had been circulated in order that consultation on the contents could take place. Following the end of the consultation period, no responses at all had been received, and the Committee were requested to agree the adoption of the draft policy, and to recommend to Council that it form part of the statutory framework.

Councillor Hogg enquired whether the policy would apply to all persons carrying out relevant activities, or whether some groups would in fact stand outside the policy and instead have to be the subject of a criminal investigation. Jon Ruder explained that no one was treated as 'standing outside the law', and confirmed that the rules, and therefore the proposed policy, would apply equally to all, and if a licence was required it would be required regardless of who was conducting the activity. Jon further commented that if people had entered an area and were trading unlawfully, then it would be the job of Colchester Borough Council working in conjunction with the Police to oppose such activity. It was also clarified that responsibility lay with members of the public to ensure that any scrap metal that they disposed of was passed to a properly licensed collector. Jon explained that it was now unlawful to trade scrap metal for cash and he would happily investigate any allegations of wrongdoing whenever he was presented with any evidence of this.

Councillor Harris commented that the legislation governing the licensing of scrap metal dealers had come into force in 2013, and enquired whether it was known how many licences there currently were within Colchester Borough. Jon Ruder explained that there had been a recent audit on the number of licences and that from memory there were between six to eight site licences, and a similar number of collectors licences issued.

Councillor Buston asked whether there were any items in the policy that Officers would like to bring to Members attention that were of particular importance or relevance, in order that they may be prepared for any questions that might arise on the document in the future. Jon Ruder said that there was nothing that he would highlight in particular in the policy, and stated that the document has been drafted to be as easy to read and user friendly as possible.

Councillor Harris commented that licences lasted for three years, and questioned whether in the light of this the policy would also be reviewed every three years. Jon Ruder confirmed that the policy would be reviewed every three years, and that in the meantime premises were subject to inspections by licensing staff to ensure compliance with their existing licences.

Councillor Moore enquired whether there was any evidence that the new legislation had in fact reduced thefts and other criminal activity? Jon Ruder said that there was evidence that across the country crimes associated with scrap metal dealing had reduced, in no small part to the restrictions placed on the industry which removed the capacity to trade in scrap metal for cash, and required an audit trail to be kept for all

items received and sold. Councillor Moore further enquired what was in place to stop stolen metal being exported to the continent, and Jon Ruder explained that despite laws and policies being in place, it was unlikely that this practice could be fully combatted.

Councillor Tim Young referred to the point previously raised by Councillor Hogg, and asked Jon Ruder to confirm whether there was any intelligence that linked specific groups of people to scrap metal crimes. Jon Ruder responded by stating that he paid no attention to whether or not a person he was investigating was a member of any specific group, but instead focussed only on the task at hand. Jon stated that it was irrelevant whether a person under investigation was the member of any particular group of people, as everyone would be investigated in the same manner by him and his team. Councillor Hogg confirmed that all he had been seeking was clarification that the proposed policy would apply to everyone equally, and he was satisfied with the response.

RESOLVED that the Scrap Metal Dealers Policy be approved and recommended to Full Council for adoption as part of the Council's statutory framework.

105. Work programme

Matthew Evans, Democratic Services Officer, introduced the work programme 2019-2020.

RESOLVED that the contents of the work programme be noted.

11 August 2020

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

1. Executive Summary

- 1.1 The report sets out the proposed timetable to bring the results of the consultation on CCTV to the Licensing Committee for consideration.

2. Recommended Decision

- 2.1 That the report be noted.

3. Supporting Information

- 3.1 The Committee approved the draft Hackney Carriage and Private Hire CCTV policy, for the purposes of consultation on 22 January 2020. A three-month consultation process was carried out which was extended in the light of Covid -19 and the consultation ended on 12 July 2020.
- 3.2 The Council has received a number of responses and these will be brought back to the Committee for full consideration at its next meeting on 30 September 2020.

4. Standard References

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

11 August 2020

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

1. Executive Summary

- 1.1 To notify the Committee of the outcome of the consultation carried out from 18 May to 31 July 2020 on proposed changes to the Council's Hackney Carriage and Private Hire Licensing Policy.

2. Recommended Decisions

- 2.1 It is recommended that the changes to the Council's Hackney Carriage and Private Hire Licensing Policy, set out in the report at Paragraph 5.3 to 5.8 be approved and recommended to full Council for adoption.

3. Reason for Recommended Decision

- 3.1 The Council has committed to keeping the Hackney Carriage and Private Hire Licensing Policy under review to ensure that it remains fit for purpose and is responsive to the changing licensing environment. The Policy has been in operation since January 2019 and the proposed changes have been identified which would aid the clarity of the Policy and its operation.

4. Alternative Options

- 4.1 To leave the Policy unaltered which would fail to address the recent issues identified.

5. Changes to the Policy

- 5.1 The Trade was consulted on the proposed changes from 18 May 2020 to 31 July 2020 and no representations have been received.
- 5.2 The proposed changes are set out below. It should be noted that the requirements in relation to a basic DBS from all vehicle proprietors is contained within the Department of Transport's Statutory Taxi & Private Vehicle Standards which was published on 22 July 2020. These Standards require the annual production of a Basic DBS by hackney carriage proprietors and therefore it is recommended that the Policy be amended in line with this requirement.

Hackney Carriage Proprietors' Suitability

- 5.3 The application process to be amended to require hackney carriage proprietors, including joint owners, to provide the following information, in addition to the information already provided in relation to the vehicle being licensed –
- A current Passport or Birth Certificate
 - Evidence that they may legally work in the UK
 - Please note - If circumstances come to light during the lifetime of the licence that they no longer have a right to work in the UK, the licence will be revoked.
 - A basic Disclosure and Barring Service Check accompanied by a list of all previous convictions and any other relevant material information. The disclosure must be less than three months old when the application is made. Thereafter a DBS must be submitted every year. If they are also a licensed driver with the Council this requirement would not apply.
 - Proof of completion of safeguarding training.
- 5.4 The following test be included at Paragraph 2.3 of the Policy and used when deciding the suitability of an individual –

Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arising suspicion and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence.

- 5.5 The minimum age for vehicle proprietors be set at 18 years or over.

Use of Meters

- 5.6 To add to Paragraph 8 of the Annex on hackney carriage vehicles and Paragraph 8 on the Annex on private hire vehicles that the meter must be turned on at the start of every journey.

Driver Conditions – Pre-licensing Standards

- 5.7 That Annex 1 of the Policy relating to Driver Conditions be amended to add an additional requirement to the pre-licensing standards that applicants holding an EU country driving

licence must obtain a UK counterpart licence from the DVLA before they can be considered for a hackney carriage/private hire driver's licence and the details must be disclosed to the Council. Applicants from all other countries must apply for a full UK DVLA licence before being considered.

Selling a Vehicle

- 5.8 To add to the hackney and private hire conditions the following -

If the vehicle is sold to someone else who is going to use it for hackney/private hire work the Council must be informed, in writing within 14 days, of the name and address of the new owner. If this is not done the existing owner will remain responsible for the hackney carriage or private vehicle licence. A fee will be charged to transfer the licence to the new owner.

6. Revocation of Hackney Carriage Vehicle Licence

- 6.1 The consultation sought views on the proposed process for the revocation of a vehicle licence is the case of joint owners. Since the Committee first considered the matter, further information has come to light which means that it is not proposed, at this stage, to take this matter forward. A further report will be brought back to the Committee in due course.

7. Strategic Plan References

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

8. Consultation

- 8.1 The changes have been the subject of consultation and therefore no further consultation is required.

9. Publicity Considerations

- 9.1 The new revised Policy will be available for all on the Council's website.

10. Financial Implications

- 10.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the policy.

11. Equality, Diversity and Human Rights Implications

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

12. Risk Management Implications

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

13. Health & Safety and Community Safety Implications

- 13.1 There are no known direct health & safety or community safety issues which might arise from the adoption of the revised Policy.

14. Environmental and Sustainability Implications

- 14.1 There are no known environmental or sustainability implications.

11 August 2020

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder ☎ 282840
Title	Report of Urgent Action Taken / Hackney Carriage and Private Hire Licensing Policy		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 To inform the Committee of action taken on 17 July 2020, to amend the Council's Hackney Carriage and Private Hire Licensing Policy, pursuant to the provisions of Rule 18 of the Council Procedure Rules, following consultation with the Chairman of the Scrutiny Panel.

2. Recommended Decision

- 2.1 That the information contained within this report and the accompanying Appendix A be noted.

3. Background Information

- 3.1 Changes to the Council's Hackney Carriage and Private Hire Licensing Policy were required as a matter of urgency, and could not wait until the next meeting of the Licensing Committee, as the Council needed to start to process the backlog of renewal applications for both driver and vehicle licences to ensure it continued to meet its statutory duty under the relevant legislation.
- 3.2 The report attached at Appendix A sets out the full details of the changes. The Chairman and Group Spokespersons of the Licensing Committee were informed of the changes before any action was taken.

11 August 2020

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder ☎ 282840
Title	Hackney Carriage and Private Hire Licensing Policy // Removal of administration processes from the Policy		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The report seeks approval to remove from the Council's Hackney Carriage and Private Hire Policy, the purely administrative processes associated with the discharge of the Council's statutory functions.
- 1.2 Approval is also sought to amend the provisions in relation to medicals, to enable further suppliers who meet the Council's requirements in relation to the provision of Group 2 medicals to be included on the Council's approved list; and to make temporary changes to the requirement for vehicles to have a mid-year test.
- 1.3 These changes are required as a matter of urgency to enable the Council to start to process the backlog of renewal applications for both driver and vehicle licences. This will ensure the Council continues to meet its statutory duty under the relevant legislation.

2. Recommended Decisions

- 2.1 That the changes set out in the report at paragraphs 6.1, 6.2, 6.5 and 6.6 be agreed.

3. Reasons for the Decision

- 3.1 A policy is generally a system of principles to guide decisions and achieve outcomes. It is unusual and unnecessary for strategic policies to have detailed administrative and often operational processes contained within them as with the Council's Hackney Carriage and Private Hire Policy.
- 3.1 The pandemic required a very different, very quick change to the way we work and this highlighted the difficulties in being able to change our administrative processes quickly to respond to changing circumstances. Detailed administrative process being embedded into the policy highlighted the fact that even small changes, with no impact on the overall aims should pass through the Committee. The removal of these purely administrative processes from the Policy will enable the Council to be more responsive to the demands placed upon it by changing circumstances whilst ensuring that the Council and Committee still fulfils its duty under the relevant legislation.
- 3.3 The proposed changes to medicals and the temporary suspension of the requirement for a mid-year test is recommended in order to help clear the backlog of driver and vehicle renewals. The changes in relation to medicals will also give drivers a greater choice going forward.

4. Alternative Options

- 4.1 To leave the process unchanged which will mean that we can be less responsive to changes in technology and processes that improve the administrative functions, and all administrative changes will still need to come before the Committee for approval and the existing provision for medicals will remain.

5. Supporting Information

- 5.1 The Council's Hackney Carriage and Private Hire Licensing Policy came into effect in January 2019 following a period of extensive consultation. The Policy sets out how the Council will discharge its functions in relation to the licensing of hackney carriage and private hire drivers and vehicles and operators; included in the policy are the various administrative procedures which applicants are expected to follow when making an application to the Council.
- 5.2 Following the closure of the Council's buildings in March in line with the Covid-19 regulations it was necessary to put in place some temporary procedures to ensure that the Council's licensed trade could continue to operate providing transport for essential workers.
- 5.3 The Council is now looking to the future and how it plans to deliver this service against the backdrop of limited access to Council buildings and face to face contact. In working to develop new processes it has become apparent that the inclusion of purely administrative functions within the Policy is a barrier to dynamic service delivery and that these processes could be removed without detriment to the Policy and the Council's fulfilment of its statutory duties.

6. Proposed changes

- 6.1 The Policy currently states that -

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

- 6.2 In order to ensure flexibility in terms of the purely administrative process it is proposed that the wording is changed to remove the words in bold above and that the following is added to the Policy –

The Council's administrative processes in relation to applications are set out on the Council's website and all applicants and licence holders should have regard to this when submitting an application. Please note processes may change so you are advised to check the website before submitting an application.

- 6.3 These changes will ensure that the Council retains a documented and evidenced procedure to in relation to its statutory obligations and its duty to ensure the safety of the travelling public but will enable the administration of the process (effectively the way in which the Council collects and processes the information) to be adjusted to meet service demands.
- 6.4 The Policy requires that drivers undertake a Group 2 medical with their own GP or with Cotswold medical. This ensures that the medical is carried out to the standard the Council requires and satisfies the requirements around the fit and proper test.
- 6.5 It is proposed that the Council widens this to enable the inclusion of further suppliers to the list of those able to carry out medicals. The Council will ensure that any supplier added to the list is able to carry out medicals to the standard the Council requires. It is hoped that by increasing the number of providers, the length of time it is taking to obtain a medical will be reduced.

- 6.6 In order to deal with the backlog of vehicle renewals it is proposed that the requirement for the mid-year test is removed for these vehicles only as a temporary measure. The Council's enforcement officers have completed the necessary training to carry out vehicle checks and will inspect these vehicles at random to ensure compliance with the Councils standards.

7. Consultation

- 7.1 As the proposed changes are exclusively in relation to how information is received and processed it is not considered necessary to carry out any consultation. The Council will be contacting existing licence holders in relation to their renewal and they will be advised of the changes relevant to them. New applicants will be directed to the website.

8. Strategic Plan References

- 8.1 There are no direct implications in relation to the changes. The Policy aims to contribute to the Council's vision of the Borough by ensuring that the licensed trade plays a significant role not only in the Borough's transport strategy but also in helping to promote Colchester and thereby enhancing our reputation as a destination and encouraging further investment.

9. Publicity Considerations

- 9.1 The processes will be available on the Council's website together with the amended policy. The Council will be contacting existing licence holders in relation to their renewal and they will be advised of the relevant changes. New applicants will be directed to the website.

10. Financial considerations

- 10.1 There are no financial considerations in the removal of the administrative processes from the Policy. There will be a one-off financial impact for the Council to refund the payments for the mid-year tests on those vehicles whose renewals will no longer take place because of the pandemic.

11. Equality, Diversity and Human Rights Implications, Community Safety, and Health and Safety Implications

- 11.1 There are no know direct implications of the proposed changes.

12. Risk Management Implications

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

13. Environmental and Sustainability Implications

- 13.1 The move to more online processes will reduce the number of journeys made by the trade to Council offices.

11 August 2020

Report of	Assistant Director of Corporate and Improvement Services	Author	Matthew Evans
Title	Licensing Committee Work Programme 2020-2021		☎ 8006
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2020-2021 for the Licensing Committee. This provides details of the reports that are scheduled for each meeting during the municipal year.

2. Recommended Decision

- 2.1 The Committee is asked to note the contents Committee's Work Programme for 2020-2021, including the changes that have been made to the agenda for this meeting of 11 August 2020, and the changes proposed for the next meeting scheduled for 30 September 2020.

3. Alternative Options

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

4. Background Information

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

5. Standard References

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

6. Strategic Plan References

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

Licensing Work Plan May 2020 – April 2021

10 June 2020	Responses to scrap metal dealer policy consultation CCTV in Licensed Vehicles Policy consultation period - extension
11 August 2020	Reponses to CCTV in licensed vehicles policy consultation – update report for noting Responses to the Hackney Carriage and Private Hire Policy amendments in relation to policy changes Amendments made to the administrative process for Hackney Carriage and Private Hire under urgency powers – for noting
30 September 2020	Caravans and Park Homes update Licensing Act 2003 policy review Update on Reponses to CCTV in licensed vehicles consultation
11 November 2020	CCTV implementation update/policy revisions Street Collections policy review
20 January 2021	Revised Hackney Carriage and Private Hire Policy – card machines
24 March 2021	Caravans and Park Homes update Sex establishment policy review