

Licensing Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Wednesday, 25 March 2015 at 18:00**

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

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, 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. Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

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The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

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Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please use one of the contact details at the bottom of this page 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

Wednesday, 25 March 2015 at 18:00

Member:

Councillor Nick Cope	Chairman
Councillor Mike Lilley	Deputy Chairman
Councillor Roger Buston	
Councillor Margaret Fairley-Crowe	
Councillor Ray Gamble	
Councillor Dave Harris	
Councillor Julia Havis	
Councillor Pauline Hazell	
Councillor Mike Hogg	
Councillor Margaret Kimberley	
Councillor Richard Martin	
Councillor Philip Oxford	
Councillor Lesley Scott-Boutell	

Substitutes:

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

AGENDA - Part A

(open to the public including the press)

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

1 Welcome and Announcements

- 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 to silent;
 - the audio-recording of meetings;
 - 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, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

4 **Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

5 **Minutes**

To confirm as a correct record the minutes of the meeting held on 19 November 2014 and 21 January 2015.

19 November 2014 minutes

7 - 8

21 January 2015 minutes

9 - 10

6 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.

7 Public Fundraising Regulatory Association Presentation

To receive a presentation on the operation of site management agreements by the Public Fundraising Regulatory Association.

8 Hackney Carriage Plate Allocation Policy and Process

11 - 16

See report by the Head of Professional Services

9 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)

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

website: www.colchester.gov.uk

LICENSING COMMITTEE

19 NOVEMBER 2014

Present :- Councillor Nick Cope (Chairman)
Councillors Ray Gamble, Dave Harris, Julia Havis,
Pauline Hazell, Margaret Kimberley, Michael Lilley,
Richard Martin, Philip Oxford and Lesley Scott-Boutell.

9. Licensing Team

Councillor P. Oxford reported that he had experienced difficulty in contacting members of the Licensing Team when he had been unable to attend a meeting of the Committee and asked for the arrangements to be reviewed.

Jon Ruder, Licensing and Food Safety Manager, confirmed that there had been certain issues with recent changes to the council's telephone system but that these had now been resolved. He agreed to see whether there were any other issues which needed to be reviewed.

10. Minutes

The minutes of the meetings held on 27 August and 15 September 2014 were confirmed as correct records, subject to the addition of Councillor Havis to the list of those in attendance at the meeting on 27 August 2014.

11. Face to face Charitable Collections

The Committee considered a report by the Head of Professional Services inviting the Committee to consider the adoption of a Charitable Collections Policy and seeking the Committee's views on any action in relation to 'chugging'.

Jon Ruder, Licensing and Food Safety Manager, together with Sally Harrington, Planning and Licensing Service Manager explained that the Council's current administration arrangements for House to House and Street Collections had been set out in a suggested policy document for formal adoption by the Committee. The intention was for the process of application and grant of collections and all parties' roles and responsibilities open and transparent.

It was further explained that 'chuggers' was the colloquial term used for face to face fundraisers who sought regular charity donations via direct debit from people in the street. No legislation currently existed to control this activity, although one possible means of regulation was by voluntary agreement. The report included details of agreements used by a charity led, self-regulatory membership body called the Public Fundraising Association (PFRA) that sought to balance the need of charities to raise funds against the needs of the public not to be put under undue pressure. The PFRA had management agreements in place in Chelmsford and Southend which were reported to have led to improvements.

The Committee could consider working with the PFRA, subject to more detailed discussions, to establish a Site Management Agreement which would set limits on the number of fundraisers, delineate fundraising sites and specify the days of the week that

charities could operate. The agreement would also include a penalty point scheme for breaches by charitable collectors.

Councillor Scott-Boutell referred to a recent example of intimidating behaviour by a charitable collector and welcomed opportunities to control and manage the collections but was concerned about the mechanisms to report breaches. It was explained that details in relation to monitoring arrangements would be subject to further discussions but, once an agreement was in place, the Council would relinquish the responsibility for the management of the scheme to the PFRA.

Councillor Harris considered that the identification of fundraising sites would be important as he wished to avoid the possibility of problems simply being transferred to smaller out of town shopping areas.

Members of the Committee were generally concerned about the effectiveness of the penalty point scheme and the scope for a number of major transgressions to occur without reaching the financial penalty threshold. Mention was also made of the possibility of a representative from Chelmsford or Southend attending a future meeting of the Committee to share their experience of the work of the PFRA.

RESOLVED that -

- (i) The proposed policy in relation to face to face collecting in the form of house to house collections and street collections be adopted
- (ii) The Public Fundraising Association be invited to attend a future meeting of the Committee and further discussions be undertaken with a view to entering into an agreement for the management in Colchester of the collection of direct debit details for charity, commonly known as 'chugging'

LICENSING COMMITTEE

21 January 2015

Present: - Councillors Nick Cope (Chairman)
Councillors Buston and Lilley

The Committee resolved under Section 100A of the Local Government Act 1972 to exclude the public from the meeting for the following items as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972.

12. Hackney Carriage Appeal

The Committee considered a report by the Head of Professional Services concerning an appeal against the decision of the Licensing, Food Safety Manager to revoke a hackney carriage/private hire driver's licence.

RESOLVED that the decision of the Licensing, Food Safety Manager to revoke the appellant's hackney carriage/private hire driver's licence be upheld. The Committee had regard to all the evidence placed before it, which was admitted by the appellant. In the light of the evidence the Committee found that the appellant had failed to comply with Sections 51 and 59(1)a of the Local Government (Miscellaneous Provisions) Act 1976 thus were constrained to revoke the licence.

25 March 2015

Report of	Head of Professional Services	Author	Jon Ruder ☎ 282840
Title	Hackney Carriage Plate Allocation Policy and Process		
Wards affected	Not applicable		

This report concerns the Council's proposed approach to the allocation of a Hackney Carriage Plate

1. Decision Required

- 1.1 To adopt the Hackney Carriage Plate Allocation Policy and process.

2. Reasons for the Decision

- 2.1 The Council does not currently have a policy to allocate or re-allocate hackney carriage plates. As the number of hackney carriage plates issued by the Council is currently regulated, it is expected that should one become available, demand would be high. It is considered necessary therefore to have an approved policy to deal with any such scenario.

3. Alternative Options

- 3.1 The alternative option is not to have a policy however should a plate become available there will be a significant demand for it and the overall objective of having a policy is to enable the Council to allocate or reallocate a hackney carriage plate in a fair and open manner.

4. Proposals

- 4.1 A copy of the proposed policy and process is attached at Appendix 1.

5. Standard References

- 5.1 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

Hackney Carriage Plate Allocation Policy and Process

This policy sets out the Council's proposed approach to allocation of a Hackney Carriage (HC) Plate.

The policy is intended as a guide to applicants and members of the licensing committee and provides information on what the Council expects to see in relation to re-allocation of a HC vehicle plate. The advice and guidance contained in the policy are intended only to assist applicants and other parties and should not be interpreted as legal advice.

Any comments on this policy should be sent via email to:

Licensing@colchester.gov.uk

Contents**Page**

1. Background	3
2. Eligibility	3
3. Vehicle specification	3
4. Process	3
5. Timescales	4
6. Conditions	4
7. Declarations	4

1. Background

- 1.1 In line with legislative requirements an unmet demand survey was carried out in 2011 to review the number of hackney carriage vehicle plates to be available in the Borough of Colchester. The current limit is set at 131 plates. This is unlikely to change until an unmet demand survey highlights the need to add numbers or until the limit is removed by legislation. The next unmet demand survey is due to take place in the autumn of 2015.
- 1.2 The overall objective of this policy is to enable Colchester Borough Council to allocate or reallocate a hackney carriage plate in a fair and open manner, should a plate become available.
- 1.3 There is currently no policy in place regarding the allocated or re-allocation of a hackney carriage plate.

2. Eligibility

- 2.1 In order to qualify for the allocation process the following eligibility criteria must be met:
 - The applicant must not currently hold more than one hackney carriage plate (including, for the avoidance of doubt, those proprietors who obtained their current licence via a transfer).
 - The applicant must not have had a licence suspended or revoked during a five year period immediately prior to the start of the process.
 - The applicant must be compliant with all conditions within the Council's current policy and have not received penalty points within one year prior to the start of the process.
 - The intended driver must have completed and passed the passenger assisted transport (PAT) scheme.

3. Vehicle specification

- 3.1 The vehicle must be compliant with the Council's vehicle conditions for a hackney carriage licence.
- 3.2 The vehicle must be adapted for wheelchair/disabled accessibility.
- 3.3 The vehicle must meet the Council's current policy in terms of age and specification at first registration.

4. Process

- 4.1 All current owners and drivers who have indicated an interest will be notified of a plate becoming available and the relevant process. A public notice will be

placed in a local newspaper and on the Colchester Borough Council website. This will detail the process and indicate a closing date for registration to apply and be entered in a randomly generated draw.

- 4.2 Those who apply and meet the relevant criteria detailed above will be entered into a draw that will consist of an excel based programme to randomly pick an applicant.
- 4.3 To avoid any ambiguity the draw will be carried out at a meeting of the Licensing Sub-Committee at a specified date and time.
- 4.4 The number of draws will depend on the number of plates available.

5. Timescales

- 5.3 The Licensing Team will notify the successful applicant within one week of the draw.
- 5.4 The successful applicant will need to carry out the full application process within 28 days of the notification. Failure to do so will result in another draw being held at the next Licensing Sub-Committee meeting.

6. Conditions

- 6.1 The plate that is newly re-issued cannot be sold or transferred for a period of five years from issue.
- 6.2 Should the successful applicant be an existing hackney carriage plate holder, they will not be allowed to sell or transfer any existing plate for a period of five years.
- 6.3 The outcome of the draw is final.

7. Declaration

- 7.1 Any new driver wishing to register an interest in the allocation process will be required to complete a statutory declaration confirming that they meet the requirements of this policy.