

Good morning,

I refer to your undated letter received today about amendments to the above policy. I have only 1 further comment to make for your consideration:

Page 21 - 4 Driver medicals - I believe the requirement for an annual medical over the age of 65 is a bit harsh and very expensive. I think a bi-annual medical would be more appropriate.

Thanks

David Daniel

Point 3.13

As the retirement age is rising to 67, this age discrimination seems inappropriate. Medicals are difficult to arrange and very expensive.

The Ambrose surgery are reluctant to use their busy GP's for medicals, and it took several phone calls in order to arrange the last one.

Yours sincerely

Richard Robinson

I have read the proposed Policy and have a few questions I would like answered if possible, before 28.02.2018

2.6 The council expects drivers and operators to report their concerns to the appropriate authority and has drawn up a referral guide to assist - Please could I have a copy of this guide?

4.16 Hackney Carriage and Private Hire Driver Assessment test - Please could you advise me how you have sourced the approved driving assessor or are you putting this out to tender?

Also under pre-licensing standards it states in order to be licensed as a HC/PH driver you must be over 21 years of age. Under The Equality Act 2010 this would be classed as Age discrimination?

Regarding CCTV, please could advise on some of the Council Approved CCTV systems, costs and cost of insulation?

Kind regards,

Donna Lawson

Accounts Manager , Accounts Department
Hawaii Five-O

Dear Sirs

I refer to your recent undated letter which would appear to be formally advising us that you are to implement the proposed new policy previously issued to us in its entirety with the minor amendments marked in bold text.

My first point is that the draft document was issued for consultation which means dialogue and discussion of any matters raised by us. I am not aware of any dialogue taking place and many of my colleagues that requested a meeting with you to discuss various proposals to which they raised objections have not heard from you either.

Therefore consultation has not taken place you have merely invited comments.

I feel that in particular the proposal to impose penalty points on our drivers badges e.g. 6 points for speeding offences goes far beyond the civil law of the UK and exceeds the authority empowered upon you by Government.

In effect anyone with 2 speeding offences i.e. 12 points could have their licence revoked and furthermore those points remain for a period of 5 years.

There is however an ambiguity you need to clarify since elsewhere you state two offences within a 12 month period???

Our collective view is that this could impact upon driver's livelihoods and seriously affect their ability to support their families. By comparison the Courts of England would only revoke a driving licence when a driver accumulates 12 points eg by comparison of up to 4 speeding offences for example.

We certainly believe that you are not legally entitled to impose this condition and if you proceed we intend to challenge this in court.

One associated question I have is whether you also intend to impose these conditions upon the companies that you employ to transport people in the borough and whose drivers hold public service POV licenses?

On another matter ie the installation of CCTV cameras in 2019 I raised a point which you have not answered.

I have a discretionary exemption as I do not carry members of the public but only carry out corporate work as a sub-contractor representing my Clients.

I have CONSULTED with them and 70% have stated that they have strong objections to the recording of confidential business discussions that may take place in the car.

They are prepared to put this in writing but the likely effect would be that my business would be adversely affected as they could withdraw contacts and directly employ their own Chauffeurs to replace me. This would be a restraint of trade on your part

and may put me out of business.

These are only 2 of my own personal issues but I anticipate that you will receive many comments from other drivers and operators in the Borough who also are extremely concerned at this autocratic and author active imposition of unacceptable conditions.

I therefore request a definitive response or a meeting between all parties to establish and confirm your intentions going forward.

Yours Faithfully

Thomas Sayer

Thank you for your correspondence regarding the above policy. I have read the new policy and would like to make the following comments.

My business, NORTH ESSEX AIRPORT TRANSFERS, is an executive airport transfer only business. All my transfers are carried out in my Mercedes Viano 7 seater luxury mini bus. A lot of my clients are corporate business people.

I have spoken with a few of them regarding the new policy, especially regarding the CCTV policy. I have received a lot of negative comments in relation to the fact that CCTV will be installed in my vehicle. Quite a few of the clients see it as an infringement of their privacy.

Having worked as a private hire driver in the town previously, I fully understand the reasons and need for the CCTV policy in the normal "town cars". However I do not see the value of installing in the executive use vehicles where the passengers are known in advance and in most cases regular clients.

I note that there is a exemption for door signs and other identification for executive vehicles. Perhaps there is a case for this to be extended to the CCTV policy.

I look forward to hearing from you.

Regards

Pete Taylor
NORTH ESSEX AIRPORT TRANSFERS

Dear sir/madam

My name is Mr Spraggett , I am writing with concern after reading the new regulations coming in 2019

For a driver like myself I have been doing this job 22 years and think that these are a step too far .

We are drivers not carers for sick etc

Driver assesment test

Pas test

Safegaurd training

Is this really necessary for existing drivers we should by now no how todo our jobs .

I find these test humiliating and an insult .

Drivers like myself have dealt with so many things over the years im sure you could only imagine .

Like I say this is my gripe and am offended

By almeans new drivers need teaching I get that before things develop

Yours sincerely

A Spraggett

Good Morning My names is Andrew Perry and my badge number is 773. Having read the updated policy does this now mean that as a taxi driver I will undertake Safeguarding training, which is no problem, in fact I believe it is required.

regards

Andy Perry (773)

The Colchester Hackney Carriage Association would like to make a representation with regard to the section of the new conditions concerning Hackney Carriage numbers 101-131.

We have already had a meeting with Mr Ruder where we presented evidence to show that not all of these plates were issued for wheelchair accessible vehicles. Plate numbers 105 and 111 were issued for and have always been on conventional vehicles.

However the new conditions do not recognise these anomalies, causing great concern and anxiety for the relevant plate holders.

Yours sincerely

David Green

Secretary CHCA

Further to the invitation to comment on the reviewed Licensing Policy made to Operators and Drivers, I would like to make the following observations regarding parts of the policy that are either confusing or possible causes of concern.

While fully supporting the role of the Council in maintaining Public Safety, Health and Safety policy and other statutory requirements, I am concerned that certain parts of the policy appear to place Colchester Borough Council in a position where it is taking

the rights and privileges of an employer, such as setting dress codes and customer relations policy and overlooking the fact that each driver is a self-employed person running their own small business. Is this a role that CBC takes when dealing with other small businesses within the borough? Additionally, CBC is attempting to regulate who drivers can form 'associations' with (section 2.12), which again seems to be outside the role of a statutory regulator.

There is also the problem that CBC has positioned itself to be able to sanction operators and drivers, in a way that exceeds the punishments laid down in national law, that it is not able to do with other sectors of the workforce.

For example, annex 5 lists penalties that could be applied to the council badge for minor traffic violations and it appears that 2 fixed penalty tickets could lead to the suspension of a drivers badge, which would effectively make that person unemployed, whereas any other person in different work receiving the same penalty's would just continue driving.

Do these same regulations apply to all Council employees and sub contractors who are carrying members of the public in vehicles, for example coach drivers or social workers?

CBC also takes a position that appears to place it above national law in stating that it would use 'balance of probability' rather than 'beyond reasonable doubt' when determining the guilt or innocence of a driver or operator to any allegations made against them. This could appear somewhat heavy handed and seems discriminatory.

With regard to CCTV, I am confused as to the exact requirements regarding Activation. Is the system to be wired to the ignition, which would leave it inoperative when the vehicle is switched off (though may have customers in the vehicle), or should it be powered through a permanent live connection, which could play havoc with the battery if the vehicle is not used for a few days. Alternatively should it be operated through a switch operated by the driver and rely on the driver to remember to switch it on at the relevant times?

My other (and greater) concern regarding CCTV is how it will be managed when the Data Protection Act is replaced by the European Data Protection Regulation, which must be in force by May this year. This regulation removes the ability to gather data through 'implied consent' and now requires express consent that may be withdrawn at any time. Am I right in assuming that every customer must now be asked if they give consent to the use of CCTV in our vehicles, and that if they refuse consent we must be able to deactivate the system?

Also, I have discussed this with all of my regular clients, most of whom are either middle to high ranking business traveller, with a smattering of show business and media persons and found that they are all either dubious or downright hostile to the suggestion of CCTV intruding on their right to privacy in a privately hired vehicle. (These same concerns were expressed in Parliament when a private members bill attempting to legislate for CCTV in cabs failed to gain support largely because of concerns regarding privacy of both the hirer and the driver).

This could lead to significant disruption to my business and to the businesses of a large number of other operators who do not work on the 'town circuit', and instead service what might be called the executive user, focusing on long distance runs that either start or finish outside the borough.

I trust these observations are received in the spirit in which they are intended and not seen as either nit picking or disruptive. It may be that I have mis read the policy and misinterpreted what is meant. I would be very happy to meet with a member of the enforcement team to discuss any of the points I have raised.

On a final note, there are a large number of operators and drivers within the borough who are, like myself, one or two man bands, who are possibly overlooked when council policy is being discussed. Could I suggest that a meeting of interested parties could be held, where concerns about policy and suggestions for change or improvement could be aired. This would add total transparency to the processes and clarify matters to all concerned.

Best regards

John Grice
Reliance Executive Cars

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Suggested changes to Licencing conditions:

Ref: Transfer of Hackney Carriage License plates between individuals

It is now a public secret that Hackney Carriage Licence plates in Colchester are sold and re-sold at extortionate prices (the price has ranged from £15000 - £65000 over the past ten years). Shockingly Colchester Borough Council Licensing authorities continue to turn a blind eye to such irregular (black market transfer of Hackney Carriage License plates) by the individuals involved and in some cases the authorities have either been complicity or have aided the unlawful sale of council licences and breach of regulations through exploiting of loopholes.

In this policy review the Council needs to be very clear and transparent in setting out the policy for Reassigning a Hackney Carriage Licence.

The suggestion is that: Hackney Carriage Licences must not be transferred from one person to another, except in the limited circumstance, such as transfer of licence on death of licence holder. In all other circumstances the licence should be returned to the council and reallocated using a random system to drivers (subject to satisfying all the conditions that apply to a person applying for a new Hackney Carriage Licence) from an approved waiting list. If the application is successful, the driver becomes the holder of the licence, and may renew and operate it as normal. This will help stop the loophole whereby taxi plates are being sold for up to £65000 (there is a case awaiting trial at the courts with respect to this situation).

In addition, pursuant to Town Police Clauses Act 1847 section 37 to 40, and the R v Weymouth Corporation, Ex parte Teletax (Weymouth) Ltd (1947) which states that: "The licence in respect of a hackney carriage granted under the Town Police Clauses Act 1847, s 37, is granted to the carriage and not to the owner of the carriage, and, therefore, if a change of ownership takes place during the time for

which the licence is valid, the new owner is entitled to have his name entered on the licence and the register of licences in place of that of the former owner."

Having said that, the council must be clearer on what the law specifically states with regards the renting or sale of taxi businesses. The above law clearly states that the licence plate is attached to the car and not the person and anyone else involved on that business can be part Property of that taxi Business.

This matter should be made clear without any ambiguity in the licensing conditions as stated in the 1847 act section 37 to 40 and 1947 R v Weymouth Corporation case law.

As a reminder, I have been in this law situation in 2009 to 2010 law case at Colchester Magistrates court (see attached letters).

Lastly, no person without a taxi driver badge should be a proprietor or part proprietor of a hackney carriage in respect of which such licence is granted or entitled to have his/her name entered on the licence and the register of licences. To be an insurance policy holder for a taxi, one must have a taxi driver badge.

Taxi Services

APPENDIX 1

Hackney Carriage and Private Hire Licensing Policy 2017 Schedule of Responses – Consultation February 2018

Policy reference	Respondent	Comment	Response
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Main Policy

Annex 1 - Driver Licensing Standards and Conditions Pre-Licensing Standard 4 medical examination	Mr Daniel	Wishes to see bi-annual medical rather than annual medical.	The annual medical for individuals over the age of 65 years is required as part of the Group 2 medical. Group 2 medicals are considered appropriate because of the length of time they spend at the wheel as an occupational driver and because they are carrying the public.
General Policy Safety and Health of Drivers Para 3.13 Age Limits	Mr Robinson	Retirement age is now 67 so requirement for annual medical at aged 65 and over is discriminatory. Medicals are expensive and difficult to obtain.	The age of 65 is in line with the requirements of the Group 2 medical which is required annually from the age of 65; this has not been adjusted to reflect the change in retirement age. It is recommended that the requirement that drivers use their own GPs to carry out the medicals be lifted and the use of one or more other approved organisations be agreed. It is hoped that this will help to speed up the time it

			takes to get a medical and also reduce the cost.
General Policy Safeguarding Children and Vulnerable Persons Para 2.16	Donna Lawson	Copy of the referral guide	The referral guide has been rethought and it has been decided instead to give drivers a single number and email address to report concerns. In situations of emergency or where there are immediate safeguarding concerns 999 should be called.
General Policy Driver Proficiency Para 4.16	Donna Lawson	Driver Proficiency	The Council is recommending the use of an external agency to provide these assessments. The applicant/driver will book direct and pay with the company concerned.
Annex 1 - Driver Licensing Standards and Conditions Pre-Licensing Standard 1 Age of Driver	Donna Lawson	The requirement for drivers to be aged 21 is age discrimination	The Council considers that it is justified in asking drivers to be aged 21 and to have held a full DVLA licence for at least three years as this is a proportionate means of achieving a legitimate aim, namely the safety of the travelling public.
Appendix 1 – CCTV Policy	Donna Lawson	CCTV	To be considered as part of the ongoing work on the CCTV Policy.
Annex 6- Penalty Points	Mr Sayer	Proposal to introduce penalty points on drivers badgers	<p>The Penalty Points scheme has been in place since 2006. The points are imposed on the Council issued licence and not on the DVLA licence and last for 12 months.</p> <p>The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 provide the broad framework for the licensing of drivers, vehicles and operators but the detail relating to how this is done and the standards to be applied are matters for the Council to determine.</p>

Appendix 1 – CCTV Policy	Mr Sayer	CCTV – request for exemption in executive transport	To be considered as part of the ongoing work on the CCTV Policy.
Appendix 1 – CCTV Policy	Mr Taylor	CCTV – request for exemption in executive transport	To be considered as part of the ongoing work on the CCTV Policy.
General Policy Establishment of Professional Trades Para 4.7 Training 4.16 Driver Proficiency	Mr Spraggett	The proposed tests should not apply to existing drivers	<p>The Council does take the matter of safeguarding extremely seriously and therefore all drivers will be required to attend a safeguarding session. There have been a number of high profile cases in the press in recent years concerning drivers and the training is considered necessary for the protection of drivers as well as passengers.</p> <p>The Passenger Assisted Transport course will not be retrospective and will only apply to new drivers. The driving assessments are also only designed to apply to new drivers unless the Council receives complaints in relation to an existing driver and then, if it is considered appropriate, they may be required to undertake a driver assessment.</p>
General Policy Establishment of Professional Trades Para 4.7 Training	Mr Perry	Safeguarding Training supported	
General Policy Establishment of Professional Trades	Hackney Carriage Association	Plates numbers 105 to 111 were issued for and	The Policy currently states that plate numbers 101 to 131 are for vehicles that must be fully wheelchair adapted; this means having the

Para 4.23 Number of Vehicles		have always been on conventional vehicles	facility to load and unload wheelchairs directly into the vehicle. All new vehicles on these plates must be adapted; this includes vehicles on renewal. The Committee are asked to take a view on the representation made by the Hackney Carriage Association.
	Mr Grice	Dress Code, Customer relation policy	The Town Police Clauses Act and the Local Government (Misc. Provisions) Act provide the framework for the licensing of drivers, vehicle and operators but the detail of how this is done and the standards to be applied are matters for the Council to determine and these are set out in the Policy.
		Contact between licence holders and passengers	This has been included in the Policy specifically in response to a small but significant number of complaints concerning this type of behaviour. The Council takes its safeguarding role very seriously and is also keen to protect its drivers from allegations of misconduct.
		Imposition of penalty points	The Council must not grant a licence unless the applicant is considered to be a fit and proper person to hold a licence. Fit and proper is not defined in law and therefore the Council uses the tests set out in 2.3 of the policy to assist in determining this. The fit and proper requirement remains with the Council for the duration of the licence. The penalty

			point scheme and convictions policy work to assess the risk to the Public.
		Balance of probability vs beyond reasonable doubt	Beyond reasonable doubt is the criminal standard of proof. The balance of probabilities is the standard of proof applied in civil matters.
		CCTV	To be considered as part of the ongoing work on the CCTV Policy.
Transfer of plates	Taxi Services	Transfer of plates	Transfer of a business is not a matter for the Council. The plate remains the Council's and as such permission must be sought from the Council to transfer the plate.