

Licensing Committee Meeting

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

Wednesday, 08 March 2017 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

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Have Your Say!

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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COLCHESTER BOROUGH COUNCIL

Licensing Committee

Wednesday, 08 March 2017 at 18:00

Member:

Councillor Nick Cope
Councillor Dave Harris
Councillor Roger Buston
Councillor John Elliott
Councillor Mike Hogg
Councillor Darius Laws
Councillor Patricia Moore
Councillor Philip Oxford
Councillor Lee Scordis
Councillor Jessica Scott-Boutell

Chairman
Deputy Chairman

Substitutes:

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

AGENDA - Part A

(open to the public including the press)

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

1 Welcome and Announcements

- 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.

Review of the Statement of Licensing Policy

7 - 10

The Chairman has agreed this item should be considered at the meeting as a matter of urgency, as it concerns changes to the Statement of Licensing Policy and need to be considered by the Committee before the next scheduled meeting of the Licensing Committee which is on 31 May 2017.

See report by the Head of Professional Services.

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 11 January 2017

Minutes of 11 January 2017

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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 relating to the terms of reference of the Committee/Panel 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 relating to the terms of reference of the Committee/Panel not on this agenda.

7 Hackney Carriage/Private Hire Policy

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See report of Head of Professional Services

Part B

(not open to the public including the press)


8 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).

9 Minutes of 3 February 2017

- This report is not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to an individual).

8 March 2017

Report of	Head of Professional Services	Author	Jon Ruder
Title	Review of the Statement of Licensing Policy		 282840
Wards affected	All		

This report proposes minor changes to the Statement of Licensing Policy

1. Decisions Required

- 1.1 Members are asked to consider the proposed amendments to the Licensing Policy set out in Paragraph 4.2 below.

2. Reasons for Decisions

- 2.1 The Licensing Policy, approved in January 2016, is monitored and reviewed on a regular basis, the last changes being made in February 2017. The proposed amendments are suggested to help improve the clarity of the Policy.

3. Alternative Options

- 3.1 To leave the Policy unchanged.

4. Matters for consideration

- 4.1 The Policy was approved by full Council in December 2015 and implemented with effect from 1 January 2016. The Council has had recent feedback on the Policy in relation to the evidence that underpins it and in the light of this feedback it is suggested that the Policy should be changed to make it clear that there is evidence that underpins the Policy, in particular in relation to the creation of a Special Policy for the Old Town Zone. It is also considered beneficial to make it clear that the Special Policy does not reverse the presumption of grant.
- 4.2 The key changes are set out in Appendix 1 and are –
 - Deletion of the words underlines in Paragraph 2.13
 - Insertion of the words in italics in Paragraph 9.1 and 9.2

5. Strategic Plan References

- 5.1 The Statement of Licensing Policy attempts to strike a difficult but reasonable and proportionate balance between the different and often competing aspirations of licensed businesses and residents. This Policy recognises the importance of widening the choice and appeal of licensed premises and the development of cultural, social and community activities while at the same time offering reasonable and proportionate protections to local residents, visitors and other non-licensed businesses. The policy is in line with the Council's vision to create a Borough that is vibrant, prosperous, thriving and welcoming.

6. Consultation and Publicity Considerations

- 6.1 The original Policy was the subject of an extensive consultation process as prescribed by the Licensing Act 2003. The revisions are clarification and it is not considered that a wholesale consultation is necessary.

7. Financial Implications

- 7.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the Statement of Licensing Policy.

8. Equality, Diversity and Human Rights Implications

- 8.1 The draft revised Statement of Licensing Policy has been prepared in accordance with and taken account of, all relevant legislation. There is an Equality Impact Assessment in Place for the Policy.

9. Community Safety Implications

- 9.1 The Licensing Policy is a key component in the Council's strategy to tackle crime and disorder and anti-social behaviour, particularly alcohol related anti-social behaviour and as such it will contribute significantly towards improving overall community safety.

10. Health and Safety Implications

- 10.1 There is no known direct public health and safety issues arising from the adoption of the amended Licensing Policy.

11. Risk Management Implications

- 11.1 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 licensed premises and a secure platform from which to promote the four licensing objectives as outlined in the Licensing Act 2003.

Operation of the Policy

2.9 Applicants are expected to consider all the policies relevant to their application; these include general policies, key factors and where appropriate special policies.

2.10 Where there is no relevant representation, the licence must be granted as applied for subject to the mandatory conditions and those specified in the operating schedule.

2.11 If there is a relevant representation, the application will be considered against the policies and steps taken which are appropriate and proportionate to promote the licensing objectives.

2.12 There is a greater chance of a representation being made (and therefore a hearing) where the factors contained in this Policy are not addressed.

2.13 Where the policy is to refuse the application in line with the special policy, the Licensing Authority will always consider the circumstances of the case and whether there are exceptional circumstances to justify a departure. In considering whether there are such circumstances, the authority will consider the reasons for the policy and whether those reasons would be met notwithstanding the departure.

9. Special Policy for Colchester's Old Town Zone

9.1 In the town centre restaurants and takeaways account for over half of the premises in the night time economy and pubs, bars and inns account over a third of all premises. **There is evidence that within the area identified as the Old Town Zone (shown on the plan at Appendix 1), the promotion of the licensing objectives is being undermined, *in particular in the early hours of the morning*, as a consequence of the operation of licensed premises in the area; having regard to the levels of crime and disorder and public nuisance experienced within it and the complaints received from local residents.**

9.2 The Licensing Authority considers that whilst the levels of problems do not currently justify the implementation of a cumulative impact policy for the area *and therefore a reversal in the presumption of granting applications*; **the area is of concern and will be kept under review**. The Licensing Authority has taken into consideration the role of the SOS bus in helping to mitigate the problems caused by the sale of alcohol in this area and recognizes that were the bus to be withdrawn the effect would be to push problems in the area to levels where a cumulative impact area would be considered.

9.3 Therefore, the Council has adopted a special policy for the area, to be known as the Old Town Zone Policy.

9.4 There is evidence of problems associated with operation of licensed premises in the Old Town Zone and the Licensing Authority wishes to see a decrease in the levels of crime and disorder and public nuisance already being experienced in the area. However, the authority does wish to diversify the evening and night time economy in in this area.

LICENSING COMMITTEE

11 January 2017

Present: - Councillor Nick Cope (Chairman)
Councillors Dave Harris, John Elliott, Roger Buston,
Darius Laws, Patricia Moore, Lee Scordis and Jessica
Scott-Boutell

Substitute Member: - Councillor Gerard Oxford for Councillor Philip Oxford

15. Review of the Statement of Licensing Policy

The Committee considered a report by the Head of Professional Services inviting the Committee to consider the proposed amendments to the Licensing Policy and proposing the adoption of the revised policy to full Council.

Mr Ruder, Licensing, Food and Safety Manager gave a brief introduction to the proposed amendments to the Licensing Policy with particular emphasis on a number of key changes

SOS Bus. The paragraph in relation to the SOS bus would be strengthened to highlight that the bus was funded by voluntary contributions and therefore that the support of the licensed trade was essential to its continued operation and to the mitigation of any impact caused by licensed premises in the town centre.

The inclusion of the expectation that licence holders were expected to operate their premises in line with the application and commitments given to the Committee in order to gain their licence.

The inclusion of additional categories of venues, including garages and camping venues in the Matrix and minor adjustment to time for non-alcohol led premises. Inclusion of paragraphs on the primary use of the premises and the need to demonstrate an exceptional case to justify departure from the Policy

The inclusion of paragraph dealing with the opening hours of premises

Amendments to the Special Policy for the Old Town Zone. Removing the times associated with the venue types and Changes to the categories of venues to make clear what is encouraged and what there is a strong presumption against.

It was suggested by the Committee that the word “only” be deleted from paragraph 3.28 of the report as this might unduly restrict the Council when considering applications.

In discussion, Sally Harrington, Planning, Licensing Service Manager informed the

Committee that the town centre had experienced the quietest Christmas in the last five years in terms of incidents and but that the town had been busy. This was attributed to the success of collaborative working by licensed premises. The Committee welcomed this good news, which it believed was a consequence of the hard work by Licensing Officers, both in terms of enforcement and in developing a strong and effective policy.

The Committee also suggested that in future it should look at the use of CCTV and the possibility of bodycams for door staff. These would be particularly useful as they captured sound.

RESOLVED that the amended Statement of Licensing Policy be agreed with the exception of the word 'only' to be omitted from paragraph 3.28, under KF4 – Standards to promote the licensing objectives.

RECOMMENDED to COUNCIL that the amended Statement of Licensing Policy be approved and adopted and included in the Policy Framework.

16. Minutes

RESOLVED that the minutes of the meetings held on 7 December 2016 be approved as a correct record.

8 March 2017

Report of	Head of Professional Services	Author	Jon Ruder
Title	Hackney Carriage/Private Hire Policy		 282840
Wards affected	All		

This report seeks the Licensing Committee's views on the draft policy

1. Decision Required

- 1.1 The Licensing Committee's views are sought on the draft policy to date.

2. Reasons for Decision

- 2.1 The Council is carrying out a fundamental review of the taxi and private hire licensing policy. In the light of this the Sub-Committee's views are sought on the changes that have been made to date to the policy.

3. Alternative Options

- 3.1 The alternative option is to continue to enforce the current policy which now fails to comprehensively address a number of issues which have come to the fore in recent years.

4. Supporting Information

- 4.1 The current policy comprises the policy and 20 related appendices; these require fundamental review. The attached draft policy reflects the work that has been carried out to date and it is brought before the Committee to seek its views before further work is carried out.
- 4.2 An initial meeting has been held with trade representatives and their feedback has been requested.
- 4.3 The key consideration of the Council and the overriding objective in the licensing of hackney carriage and private hire vehicles, drivers and operators is the safety of the travelling public. In view of this and having regard to experience gained in dealing with applications and appeals it was considered necessary and appropriate to draw up a convictions policy and to amend the Council's penalty points scheme.
- 4.4 **The Convictions Policy** sets out the Council's stance in relation to convictions, including motoring offences. It is hoped that by making it clear, through the allocation of points and the use of the colour coded system, applicants will be able to assess prior to making an application, the likelihood of their being able to obtain a licence. It is also intended to be used as a guide to Members of the Sub-Committee in assessing appeals.
- 4.5 **The Penalty Point Scheme** has been in operation for a number of years and its use by the Council's enforcement officers has informed the decision to add a number of

additional points to the scheme. The points have been separated to identify under which legislation or policy the breach has occurred. Additional offences for the operator have also been included.

- 4.6 It is intended that the convictions policy and penalty point scheme will work in tandem. For example a new driver, with a 5 year old conviction for failing to comply with double white lines, will start his driving career with the Council with 2 points on his licence. If he is then caught charging more than the legal fare he will receive 6 points under the penalty point scheme which brings the total points on his driving licence with the Council to 8.
- 4.7 **CCTV** - The Council recognises that licensed drivers are a valuable asset to the Borough and drivers' safety and health is a key concern. In considering the installation of CCTV in licensed vehicles, the Council has had regard to the number and nature of complaints made by the public in relation to licensed drivers and to recent high profile cases which have highlighted not only the vulnerability of passengers to wrong doing but also the vulnerability of drivers to unfounded allegations. There are often significant difficulties in investigating such complaints, to the satisfaction of all parties, because of the lack of an independent witness. In the light of this it is considered appropriate to introduce a policy in relation to the introduction of CCTV. There are still a number of issues to be resolved in relation to the introduction of CCTV but the Committee's views are sought on whether this is something it wishes to see introduced and if so whether it should be in all licensed vehicles or whether it should be left to the discretion of the driver.

5. Standard References

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



Hackney Carriage & Private Hire Licensing Policy & Conditions

Colchester Borough Council

1 October 2016

Foreword

Welcome to the latest edition of Colchester's Hackney Carriage and Private Hire Licensing Policy and Conditions.

Colchester is seeking to promote and enhance its reputation as a safe and vibrant, welcoming and prosperous borough and it recognises the importance of the licensed trade in helping to achieve this. Licensed drivers are both front line ambassadors in promoting Colchester to residents and visitors alike and a vital and integral part of Colchester's integrated transport strategy.

We recognize that drivers and operators need a licensing service which is dynamic and responsive, capable of adapting to changes in the economy in which they operate and with this in mind we have made a number of significant changes to the policy.

The policy sets out the relevant information on how applications will be determined and how drivers and operators are expected to operate to pursue and promote the following licensing objectives:

- Protection of the public, safeguarding children and vulnerable persons; and the prevention of crime and disorder
- The safety and health of drivers
- Establishment of professional and respected hackney carriage and private hire trades
- Vehicle safety, comfort and access
- Encouraging environmental sustainability

We hope that this revised Licensing Policy is clear and easily understood and reflects the needs of both the trade and the travelling public.

We commend it to you and sincerely believe that it will make a positive difference to all parties.

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Colchester is Britain's oldest recorded town with a unique history and heritage attracting in excess of 6 million visitors' trips a year; the evening and night time economy attracting 1.14 million visitors. It is also a vibrant, thriving, prosperous and welcoming town and home to more than 180,000 residents living in communities based not only in and around the town centre but in the coastal, rural and riverside areas of the Borough. The population is expected to rise to 233,400 by 2035 with the regeneration of key areas of the borough and the creation of new communities.

The unique geography of the town centre means that the vast majority of licensed venues and a number of visitor attractions are located within the area circled by the old roman wall whilst the town's main railway station is a mile to the north of the town centre and the bus station located to the south just outside the roman wall. Hackney carriage and private hire vehicles are an integral part in the town's integrated transportation system and in addition provide a vital service in rural areas, late at night, and for persons with specific mobility needs.

Introduction and Guide to the Policy

1.1 The Town Police Clauses Act 1847 and the Local 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.

1.2 This Licensing Policy (hereafter referred to as 'the Policy'), states how the Council will exercise its functions in the determination of applications and issuing, reviewing or revoking licences; vehicle standards and limits on vehicle numbers; other relevant licensing matters; and how drivers and operators are expected to operate to pursue and promote the licensing objectives of:

- Protection of the public, safeguarding children and vulnerable persons; and the prevention of crime
- The safety and health of drivers
- The establishment of professional and respected hackney carriage and private hire trades
- Vehicle safety, comfort and access
- Encouraging environmental sustainability
- Promoting Colchester as a vibrant, prosperous, thriving and welcoming place

1.2 The aim of the Policy is to regulate and support the licensed trade as front line ambassadors in promoting Colchester to residents and visitors alike and to facilitate well operated and responsible businesses which form a vital and integral part of Colchester's integrated transport strategy.

1.3 Where exercising discretion in the carrying out of its functions the Council will have regard to the Policy.

1.4 The Policy applies to:

- **Hackney carriages** – a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means it may stand at ranks or

be hailed in the street by members of the public.

- **Private hire vehicles** – licensed to carry no more than 8 passengers but must be booked in advance by customers through an operator and may not ply for hire in the street.
- **Drivers** of hackney carriage and private hire vehicles
- **Private hire operators**.

1.5 The Policy comprises this document and the appendices set out below. The appendices contain detailed information on the Council's requirements and conditions and must be read in full alongside this document.

- **Pre-licensing conditions**
- **Convictions Policy**
- **Penalty Points Scheme**
- **Hackney Carriage and Private Hire Vehicle Specifications and conditions**
- **Application procedures – vehicles**
- **Application procedures – drivers**
- **Application procedure for operators**
- **Determination of applications – considered alongside the policy (do we put this in the main body of the Policy) i.e. consider the application the convictions, the right to work etc.**
- **Hackney Carriage/Private Hire Driver (Dual) Licence Conditions**
- **Private Hire Operator Conditions**
- **Enforcement Policy**
- **Exemption from requirement to display and external vehicle identification plate**
- **?Drivers/Vehicles/Operators Handbook?**
- **Code of conduct when working with vulnerable persons**
- **Vehicle conditions**
- **Operator conditions**

The Strategic Plan

1.6 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies to create a Borough that is -

Vibrant promoting our heritage and working hard to shape our future
Prosperous generating opportunities for growth and supporting infrastructure
Thriving attracting business and selling Colchester as a destination
Welcoming a place where people can grow and be proud to live

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

Aspirations for the Borough

1.8 The Council is committed to achieving the goals set out in its Strategic Plan to create a vibrant, prosperous, thriving and welcoming town. In relation to the licensed trade the Policy will support the plans to -

Promote Colchester's heritage and wide ranging tourism attractions to enhance our reputation as a destination

Ensure Colchester is a welcoming and safe place for residents, visitors and businesses with a friendly feel that embraces tolerance and diversity

Promote Colchester to attract further inward investment and additional businesses, providing greater and more diverse employment and tourism opportunities

Ensure transport infrastructure keeps pace with housing growth to keep the Borough moving

Links to Other Strategies, Policies and Initiatives

1.9 In preparing the Policy, the Council has had regard to and consulted those involved in its local strategies on transport, crime prevention, safeguarding, planning, culture, tourism and economic development. The Policy therefore integrates, as far as is reasonably practicable, with other key Council policies to ensure the promotion of the Council's Strategic Plan. Particular regard has also been given to the 2015 Unmet Demand Survey.

Purple Flag

1.10 Colchester has achieved Purple Flag status which recognises the Council's excellence in managing the evening and night time economy. The Purple Flag Core agenda covers a number of broad themes of which a key element is movement. The Policy aims to complement the principles behind Purple Flag by helping to ensure that there are safe and widely available hackney carriage and private hire vehicles and drivers for those wishing to get home after an evening out.

Fees

1.11 The Council recognises that in setting fees in relation to the licensing of vehicles, drivers and operators, under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976, it must take into account any surplus or deficit generated from the fees levied in previous years. Any surplus or deficit identified in the licensing regime will only be applied to that part of the system from which it has been raised or lost.

Relevant legislation

1.12 In writing the Policy and in exercising its functions the Council has had and will continue to have regard to all relevant legislation including, but not limited to, the Town Police Clauses Act 1847 and 1889; Local Government (Miscellaneous Provisions) Act 1976; Transport Act 1985 and 2000; Crime and Disorder Act 1998; Environmental Protection Act 1990; Equality Act 2000; Disability Discrimination Act 1995; Road Traffic Acts; Health Act 2006; Human Rights Act 1998.

Consultations and Implementation of the Policy

1.13 In reviewing the Policy the Council has consulted its licence holders, Essex Police, relevant Council departments, groups representing customers and the public.

1.14 The comments received in response to the consultation were considered by the Licensing Committee at its meeting on XXXXXXXX

1.15 The Policy will take effect on XXXX and unless otherwise stated all the provisions contained within the Policy will come into immediate effect. The Policy will be monitored and reviewed on a regular basis. Any proposed significant changes will be subject to full consultation; minor amendments which do not affect the substance of the Policy may be made without consultation.

Protection of the Public; Safeguarding Children and Vulnerable Persons; and the Prevention of Crime

2.1 The key consideration of the Council in taxi licensing is the **safety of the travelling public**. The protection of the public; safeguarding children and vulnerable persons; and the prevention of crime are therefore key factors in this Policy.

Fit and Proper Test

2.2 The application of the fit and proper test is essential to ensure that the Council's licensing scheme protects the public. The test requires that –

- The Council must not grant a hackney carriage or private hire driver's licence unless it is satisfied that the applicant is a fit and proper person to hold a licence.
- The Council is also entitled to suspend or revoke a driver's licence if there is evidence to suggest that the driver is not a fit and proper person, and specifically
 - if they have been convicted since the grant of the licence of an offence involving dishonesty, violence or indecency.
 - for non-compliance with the licensing requirements of the relevant and related legislation.
 - for any other reasonable cause.

2.3 There is no definition within the act of 'fit and proper'. The Council therefore uses the following tests when deciding upon the suitability of an individual –

Drivers - Would you (as a member of the Licensing Committee or other person charged with the ability to grant a private hire or hackney carriage driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care to get into a vehicle with this person alone?

Private Hire Operators - Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?

Vehicle Proprietors – Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes.

and has regard to the following –

Its purpose therefore is to prevent licences being given to or being used by those who are not suitable people, taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their

2.4 To assist in determining the question of whether a person is fit and proper the Council has drawn up a **Convictions Policy** to categorize and assess the risk to the public of a wide variety of criminal and motoring convictions. It should be noted that the convictions listed are by no means exhaustive; it is anticipated that any convictions not listed will have close enough themes to enable parallels to be drawn from other listed convictions. Also included within the Convictions Policy is the stance to be taken on other forms of intelligence which can be considered by the Committee as part of its fit and proper test.

2.5 The Convictions Policy works alongside the Council's Penalty Point scheme and point can be given under both schemes. Where the total of these points exceeds 12 in any one year a licence holder should expect consideration to be given to the suspension or revocation of their licence.

2.6 In determining whether an applicant is fit and proper, each case will be considered on its own merits and the Council will have regard to the applicant's -

- Right to Work in the United Kingdom
- Convictions, cautions and other formal action etc. in line with the Council's Convictions Policy
- Penalty Points issued under the Council's Penalty Point Scheme
- Any complaints and allegations
- Any intelligence made available to the Council by the Police and other partner agencies
- Anything considered by the Courts which hasn't resulted in a conviction
- Motoring convictions and penalty notices in line with the Council's Convictions Policy
- Health
- Local knowledge
- Ability to communicate in the English language
- Any other matter that might call into question the person's ability to meet the fit and proper person test.

2.7 The Council is empowered by law to carry out verification with the Disclosure and Barring Service to confirm the existence and content of any criminal record and any other intelligence held in the person's name. The Council may also contact other agencies to request information held on a person.

2.8 The evidential threshold that will be applied by the Licensing Committee is based on the balance of probabilities and not on proving 'beyond reasonable doubt' which is the criminal standard of proof.

Protection of the Public

2.7 The protection of the public has been interpreted in its widest sense encompassing not only issues of safe driving and vehicle safety but also such matters of domestic violence and other indicators of aggression which demonstrate on the part of the perpetrator an inability to control their behaviour.

2.9 Drivers must not engage in sexual conversations with passengers or have sexual contact on duty, even where there is consent. Such contact includes phoning passengers on their mobile phone making unwarranted verbal sexual advances and inappropriate comments. Any allegation of such behaviour will result in the Council carrying out a full investigation and may result in action being taken to prevent a person from driving even where evidence has not been tested in any other arena.

2.10 Other matters that will be considered by the Council in relation to this objective include, but are not restricted to, the failure to adhere to the Council's licensing conditions and procedures; any indicator of dishonesty; and omitting to work with the Council, Police and any other relevant enforcement agency.

2.11 The matters will be considered and regulated through the Council's **Application Procedures**, enforcement activities and **Penalty Point Scheme**.

Safeguarding Children and Vulnerable Persons

2.12 Everyone who comes into contact with children and vulnerable persons has a responsibility to protect them from harm. Licensed drivers, who are often working at times when other agencies are not operating or are poorly represented, can act as the eyes and ears of the town and by working in partnership with the Police, Council and other agencies can help to make a positive difference.

2.13 To support this role and recognising the importance of licensed drivers in the local night time economy the Council has introduced **mandatory safeguarding training** as part of the application process for taxi drivers wishing to obtain or renew a licence.

2.14 The Council expects drivers and operators to report their concerns to the appropriate authority and has drawn up a **referral guide** to assist in this process. The guide deals not only with reporting child sexual exploitation but also domestic violence and abuse, human trafficking, gang related violence and terrorism.

2.15 The Council also acknowledges that a small minority of licensed drivers across the country have abused their position of trust to sexually exploit children. Therefore where there are safeguarding concerns that arise from more than rumour or innuendo, the Council will carry out a full investigation and every decision will be made with the safety of the vulnerable individual foremost. This may mean that action is taken to prevent a person from driving even where evidence has not been tested in any other arena.

Safety and Health of Drivers

3.1 The Council recognises that licensed drivers are a valuable asset to the Borough and their safety and health is a key concern.

Driver Safety

3.2 The Council's **mandatory safeguarding training** is designed not only to ensure that drivers are aware of the issues around safeguarding but also to ensure that they are aware of the steps they need to take to protect themselves from possible allegations of misconduct. The Council's **Code of Conduct for Working with Vulnerable Passengers** is designed to promote good safeguarding practices for drivers and the Council expects these standards to be embedded into a driver's working practice.

3.3 Licensed drivers provide a service to the public and there is a reciprocal aspect to this trade. In recognition of this the Council supports the use of a **Driver and Passenger Charter** which sets out the behaviour that drivers can expect of their passengers together with that expected of them. Drivers are encouraged to display this in their vehicles.

3.4 **Personal Safety Tips** for licensed drivers gives guidance on practical measures drivers may wish to take to protect themselves whilst working. It covers a wide variety of matters from physical measures such as the installation of safety screens and CCTV to assessing passengers and removing temptation by ensuring money is hidden away.

3.5 The Council supports the installation of security measures such as a screen between the driver and passengers however care must be taken to ensure such measures don't impede the ability of the driver and passenger to communicate. Vehicle owners should have regard to the relevant vehicle conditions before installing such devices.

3.6 The installation of CCTV has proved to be an essential tool for drivers in protecting themselves against allegations of misconduct and in helping to identify culprits in where problems have occurred. It is for this reason that the Council has determined that all newly licensed vehicles should be fitted with CCTV. Vehicle owners should have regard to the relevant vehicle conditions before installing CCTV.

3.7 The Council will continue to update the trade on matters in relation to driver safety to ensure that they have the relevant information to make informed choices.

Taxi Rank Marshaling

3.8 The Council values greatly the work of the taxi marshals who operate at the High Street rank and are supplied by a licensed venue in the town. Their work helps to ensure the orderly management of queues, reducing the potential for conflict between drivers and passengers and helping to ensure the swift dispersal of patrons from town centre venues. The presence of an enforcement agency increases the public's perception of safety and contributes to the aim to make Colchester a vibrant and welcoming place.

3.9 The Council will seek to promote the other ranks in the town centre which are located –
xxxxxxxxxxxx

3.10 In particular the Council wishes to raise the profile and use of the Rank in Head Street which is located close to a number of licensed venues and would be a valuable asset in the dispersal of patrons from this area. It is recognized that there are problems with the general public parking illegally in the ranks and will work with its partners in parking to address this issue and in collaboration with the trade to increase the profile and use of this rank.

Driver Health

3.8 The Council requires drivers to meet Group 2 Standards of Medical Fitness, as applied by the DVLA to the licensing of lorry and bus drivers, and details of this are found in **Group 2 Medical Fitness**.

3.9 The Council has taken this view because they carry members of the public who have expectations of a safe journey; are on the road for longer hours than most car drivers; and they may have to assist disabled passengers and handle luggage.

Age Limits

3.10 The Council does not set age limits for drivers beyond the statutory periods for holding a full driver licence. Applicants and licensed drivers seeking to renew their licence will be considered on an individual basis

Establishment of Professional and Respected Hackney Carriage and Private Hire Trades

4.1 The Council supports the aim of regulating and supporting the licensed trade by setting clear and transparent standards and procedures and enforcing these in a consistent and fair manner.

4.2 These standards and procedures are set out in the following documents attached as appendices -

Standards and Procedures

- **Pre-licensing conditions**
- **Convictions Policy**
- **Penalty Points Scheme**
- **Hackney Carriage and Private Hire Vehicle Specifications and conditions**
- **Application procedures – vehicles**
- **Application procedures – drivers**
- **Application procedure for operators**
- **Determination of applications – considered alongside the policy (do we put this in the main body of the Policy) i.e. consider the application the convictions, the right to work etc.**
- **Hackney Carriage/Private Hire Driver (Dual) Licence Conditions**
- **Private Hire Operator Conditions**
- **Enforcement Policy**
- **Exemption from requirement to display and external vehicle identification plate**
- **Drivers/Vehicles/Operators Handbook**
- **Code of conduct when working with vulnerable persons**
- **Vehicle conditions**
- **Operator conditions**

4.3 It is important that the Policy remains a responsive document capable of change to reflect an evolving business environment. The Council is therefore committed to continued engagement with the licensed trade through a variety of mediums and pivotal to this is the work of the **Hackney Carriage/Private Hire Liaison Group**.

Knowledge Tests

4.4 Effective communication with passengers is essential and therefore as part of the application process the Council requires drivers to take **English Language/Numeracy Test**.

4.5 Not knowing the way or taking customers on an indirect route to a location is a common cause of dispute therefore the Council requires that all drivers have a good working knowledge of the area. The **Knowledge Test** comprises questions on the topography of the area, driver conditions, and driving knowledge (similar to the theory

test).

Dress Code

4.6 The Council regards its drivers as ambassadors for the Borough and therefore first impressions are important. All drivers are required to be clean and respectable in person, appearance and the way they dress to conform to the Council's dress code:

- Tops, shirts, blouses, t-shirts or sweat tops – These should be cover the shoulders and be capable of being worn inside trousers or shorts. Shirts or blouses can be worn with a tie or open necked.
- Trousers, skirts, shorts - Trousers may either be full length or shorts, if tailored. Short skirts should not be worn. Smart jeans are permitted.
- Footwear – This should be smart and appropriate for driving; and must fit around the heel of the foot.

Undesirable clothing – unclean or damaged clothing, clothing bearing offensive words, graphics or logos, football shirts, clothing with studs or similar adornments, beach type footwear such as mules and flip flops, and baseball caps.

Training

4.7 In addition to the requirement for new drivers to undertake mandatory safeguarding training, the Council, during the lifetime of a driver's licence, may require a licence holder to undertake reasonable and appropriate training to meet the needs and demands of the job. In requiring such training the Council will set a reasonable timeframe for its completion and these requirements will be notified to the driver in writing. If the driver refuses or fails to attend or does not meaningfully participate in the training or attain the training accreditation the driver's licence may be suspended and consideration given to its revocation. The cost of such training will be borne by the licence holder.

4.8 The driver of any wheelchair accessible vehicle must undertake appropriate training, approved by the Council, to ensure that passengers are handled and conveyed safely

Enforcement

4.9 It is essential for the safety of the public and the reputation of the trade that licensed drivers and operators; and their vehicles comply with the terms of their licence and the requirements of the Council's Policy.

4.10 Effective taxi and private hire regulation depends on partnership working and in particular the relationship between the trade, Council departments, the Police, DLVA and VOSA. The Council has an intelligence sharing protocol in place with Essex Police that enables relevant information to be shared even before an arrest or conviction is

made.

4.11 The Council will take a risk based approach to enforcement with a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference. The principles of enforcement are:

- Taking firm action against those who flout the law or act irresponsibly
- Assisting the trade in meeting their legal obligations
- Promptly acting on complaints and issues of concern.

Complaints

4.12 Complaints can be reported online using the **Taxi Complaint Form** or via the Council's Customer Service Centre. All complaints will be investigated by a Licensing Enforcement Officer.

Penalty Point Scheme

4.13 The Council's **Penalty Point Scheme** provides a stepped enforcement process for those licence holders who have contravened licence conditions or associated legal provisions. This scheme does not prejudice the Council's ability to take any other action it is entitled to take under conditions, bylaws or regulation. In relevant cases, where it is considered necessary, an existing licensed driver may also be required to take the Council's knowledge test at their own expense.

Cross Border Working

4.14 The Council recognises that cross border hiring, whereby private hire vehicles and/or drivers which have been licensed to operate by another Council work in the Borough, is a potential problem. The driver and/or vehicle may have been licensed by an authority which has lower standards than those that apply in the Borough and the Council has no powers to intervene if any conditions of the licence are broken or the driver provides poor service to customers.

4.15 To address these issues, until such time as they are covered by legislation, the Council is committed to working with other Essex Licensing Authorities on an **Essex Protocol for the Authorization of Officers**, which will enable the Council's enforcement officers to take the necessary actions to protect the safety of public in the Borough.

Driver Proficiency

4.16 In line with its duty to ensure the safety of the travelling public and in order to address the persistent complaints relating to driver standards the Council requires all new drivers to complete an **enhanced driver assessment test**. **Add details**

Fares

4.17 The hackney carriage tariff for fares is determined by the trade and implemented at its request by the Council. The Council takes the view that the fees scales are best determined by the trade itself as they have a direct relationship with the market and are also best placed to determine their costs.

4.18 The tariff is a maximum tariff and the Council welcomes competition, particularly in relation to telephone bookings, with firms offering a differentiation in services, for example off peak reductions.

4.18 The Council has no power to set fares for private hire vehicles.

Number of Vehicles

4.19 The Council restricts the number of hackney carriage vehicles licensed to 131. This figure has been established through unmet demand surveys commissioned by the Council. The most recent unmet demand survey carried out in 2015 indicated that there was no significant unmet demand.

Vehicle safety, comfort and access

5.1 The Council has a duty of care to the public and central to this duty is the safety of licensed vehicles. To maintain standards of safety the Council has set out its requirements in terms of vehicle testing, accident reporting and the age of vehicles etc. in **Conditions for Hackney Carriage Vehicles** and **Conditions for Private Hire Vehicles**.

Accessibility

5.2 The Council is committed to social inclusion and therefore considers it a high priority that people with disabilities have access to all forms of public transportation.

5.3 The trade has a duty to provide a service to people with disabilities in the same way as it provides a service to any other passenger and therefore the Council is committed to work with operators and drivers to improve drivers' awareness of the needs of disabled people and to ensure best practice. New drivers will be required to undertake **disability awareness training** and where complaints have been made in relation to the carrying of a disabled passenger any driver may be required to undertake disability awareness training at their own expense.

5.4 The Equality Act 2010 states taxis and private hire vehicles must carry assistance dogs unless they have been issued with a medical exemption certificate. It is currently very difficult for people with vision impairments to verify the validity of these certificates. However, this can be overcome through the creation of **tactile medical exemption certificates** and it is the Council's policy to introduce these for licence holders with exceptions. The tactile certificate will take the form of a raised or embossed "E" on an exception certificate, larger than braille in size, and much simpler for those who do not read braille, making the certificate more accessible.

Encouraging Environmental Sustainability

Air Pollution

6.1 European wide emission limits are improving air quality and the Council is therefore committed to improving, as far as possible, the efficiency of vehicles licensed by the Council.

6.2 The Council supports measures to reduce the levels of CO2 Nitrogen Dioxide and particles emitted. Liquid Petroleum Gas (LPG) conversions are therefore acceptable if carried out by an approved converter.

6.3 Objective 4 of the Colchester Low Emission Strategy is to develop and implement measures to encourage taxi emission reductions in Colchester. In line with the Healthier Air for Colchester Air Quality Action Plan the Council has set the following compliance dates and standards for emissions from taxis –

- Euro 5 for diesel vehicles / Euro 4 for petrol from 2018
- Euro 6 for diesel vehicles / Euro 4 for petrol from 2020

6.4 The Council further requires that drivers of licensed vehicles turn off their engines when waiting in the Borough's Air Quality Management Areas as set out on the plan at [Appendix xxx](#)

Promoting Colchester as a vibrant, prosperous, thriving and welcoming place

7.1 Colchester is proud to be famous for being the oldest recorded town in the Country and receives visitors from all over the world. It is seeking to promote and enhance its reputation as a safe and vibrant, welcoming and prosperous borough and it recognises the importance of the licensed trade in helping to achieve this.

Ambassadors for the Borough

7.2 Licensed drivers are both front line ambassadors in promoting Colchester to residents and visitors alike. The Council therefore welcomes the support of its licensed drivers in fulfilling this role.

7.3 To be such an ambassador could not be easier and quite simply comes down to the way in which passengers are treated. First impressions are generally lasting impressions and a negative attitude from a licensed driver towards visitors can have a detrimental effect on their stay and whether they return. Visitors support many local trades and businesses and therefore not only directly support many jobs, but also help in the creation of much needed employment for the Borough as a whole.

7.4 A positive, friendly and helpful manner when dealing with both residents and visitors alike promotes the trade, making it far more likely that the public will wish to use the service again in the future. Such an attitude therefore promotes both Colchester and the individual business.

Colchester Borough Council - Convictions Policy

1. Introduction

1.1 The key consideration of the Council and the overriding objective in the licensing of hackney carriage and private hire vehicles, drivers and operators is the **safety of the travelling public**. The Council therefore considers its robust approach to convictions and motoring convictions to be fully justified.

1.2 Licensed drivers proprietors and operators have close regular contact with the public who entrust their personal safety to licensed members of the trade whenever they take a journey. Users of licensed vehicles have a right to expect that their driver is not an individual with a predisposition towards or a propensity for violent behaviour at any level. The public also have a right to expect that licensed drivers and operators are trustworthy with no propensity for dishonesty.

1.3 In line with these considerations the Council has a statutory obligation to ensure the applicant is a 'fit and proper' person. This requirement remains with the Council throughout the lifetime of a licence and at the point of renewal. Therefore, **the Council's Convictions Policy (the Policy) will apply to new and renewal applications, when reviewing an existing licence and decisions to suspend or revoke a licence. The Council will also have regard to the Policy when determining its own pre-licensing conditions.**

1.4 Any decision, taken by officers of the Council and/or the Licensing Committee, needs to be justified, proportionate and consistent. The Policy has been drawn up to assist licence holders, officers and members of the Licensing Committee and ensure that the decision making process is open and transparent for all users.

1.5 In the Policy the Council has categorized and assessed the risk to the public of a wide variety of criminal and motoring convictions. The convictions listed are by no means exhaustive however it is anticipated that any convictions not listed will have close enough themes to enable parallels can be drawn from other listed convictions. Also included within the Policy is the stance to be taken on other forms of intelligence which can be considered by the Council as part of its fit and proper test.

2. Relevant legislation

2.1 Hackney carriage and private hire licences are issued by the Council, pursuant to the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. The 1976 Act prohibits the Council granting a licence to a person unless it is satisfied that the person is 'a fit and proper person'. Section 57 of the Act gives the Council the power to require a person to submit information about themselves so the Council can be satisfied that they are 'a fit and proper person'.

2.2 There is an ongoing responsibility under the 1976 Act for the Council to ensure

Colchester Borough Council - Convictions Policy

that licence holders continue to meet the 'fit and proper' test for the duration of the licence period and Sections 61 & 62 of the '1976 Act', gives the Council the power to suspend, revoke or to refuse to renew a driver or operator licence.

3. General principles

3.1 In this Policy **any reference to offences should be taken to include convictions, cautions, fixed penalty notices, and any other form of restorative justice.** Such determinations can be regarded as being similar in terms of culpability, evidence and the admission of guilt. The categories include attempts, incitement, aid and abet, cause and/or permit, counsel or procure or conspiracy to commit an individual offence which can attract the same penalty.

3.2 Reference to 'applicants and 'licence holders' in this policy includes drivers, proprietors and operators as appropriate.

3.3 **By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 'taxi' drivers are an exempt occupation for the purposes of the 1974 Act and convictions are therefore never spent.** The Council is therefore able to take into account spent convictions but will do so in a fair and proportionate way.

3.4 The Policy also deals with any civil actions including injunctions, breaches of licensing conditions or byelaws, complaints, allegations, and intelligence made available to the Council by the Police or other partner agencies, and anything considered by the Courts that hasn't resulted in a conviction.

3.5 Anecdotal evidence can be taken into account and may, on occasions, be the sole reason for the refusal, suspension or revocation of a licence. Where allegations are presented as evidence further information must be sought from the applicant.

3.6 The investigating officer/Licensing Committee cannot go behind the existence of a conviction in an attempt to re-try the case. **The conviction will be considered in so far as it relates to whether the applicant/licence holder is a fit and proper person to hold a licence.**

3.7 Each case will be considered on its own merits and discretion may be exercised where appropriate and the appropriate weight attached to the evidence under consideration. The Council will consider –

- the nature of the offence and any penalty imposed
- the length of time since the offence
- the individual's age when the offence was committed
- the history and pattern of offending
- whether the matter has previously been considered

Colchester Borough Council - Convictions Policy

- the intent or harm that was or could have been caused
- any other relevant matter

3.8 The licensing authority may depart from the policy however it will only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3.9 The tables included within the Policy set out the number of points that will be attached for each offence when determining an application or when a licence is renewed or reviewed. The points may be applied to new applicants and existing licence holders. The points will remain on the licence as specified in the table.

4. Application of Points

4.1 In addition to setting out the points to be applied for each offence the tables are colour coded to indicate the Council's stance in relation to a new or renewal application or to the review of a licence.

Red (9 to 12 points) - Where the convictions of an applicant result in the accumulation of 12 or more points an applicant should expect their application to be refused. If a licence holder's conduct is such that, were they to be applying for a new licence, their application would be refused, they should expect consideration to be given to the revocation of their licence.

Orange (5 to 8 points) - Where the convictions of an applicant result in the accumulation of between 8 and 5 points an applicant should expect their application to be referred to the Licensing Committee for determination. If a licence holder's conduct is such that, were they to be applying for a new licence, their application would be referred to the Licensing Committee for determination, they should expect their case to be referred to the Licensing Committee for consideration where it may be suspended or revoked.

Green (0 to 4 points) - Where the convictions of an applicant result in the accumulation of 4 or less points the application is likely to be granted. A licence holder should expect that the points will be applied to their licence but no further action is likely to be taken unless circumstances indicate that consideration by the Licensing Committee is appropriate.

Please note – In addition to points for convictions, licence holders may also receive penalty points for breaches of policy etc under the Council's Penalty Points Scheme. These points will be added to those for convictions and where the total exceeds 12 in any one year the licence holder should expect consideration to be given to the suspension or revocation of their licence.

Colchester Borough Council - Convictions Policy

5. Investigation Procedure

5.1 The Council will deal with offences as follows –

- On receiving a disclosure from the DBS or other notification a member of the Licensing Team will assess whether any of the convictions and/or any of the additional information received has any relevance as to whether the applicant/licence holder is a fit and proper person to hold a licence,
- A member of the Licensing Team will investigate the facts, which may include interviewing the applicant/licence holder under caution, and prepare a report for the Licensing, Food & Safety Manager (the Manager).
- The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
- In the first instance the applicant/licence holder has a right of appeal to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of suspension/revocation.
- If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.
- There is a further right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision/notification of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.
- Where an appeal has been made the implementation of any suspension or revocation will be held until its determination.

Colchester Borough Council - Convictions Policy

6. Criminal Convictions

Level 1 – Serious crime including sexual offences

Offences (including but not limited to) -

Serious Crime including Sexual Offences	
Type of offence	Number of Points (Points are doubled for a term of imprisonment)
Murder	Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for such an offence
Manslaughter	
Manslaughter or culpable homicide while driving	
Causing death by dangerous or careless driving	
Gross indecency with a female	
Gross indecency with a male	
Indecent assault on a female	
Indecent assault on a child under 16 years	
Buggery	
Rape	
Indecent exposure	
Indecent exposure to the annoyance of residents	
Indecent exposure with intent to insult a female	
Unlawful sexual intercourse	
Importuning	
Living of immoral earnings	
Prostitution	
Possessing or distributing obscene material	

Colchester Borough Council - Convictions Policy

Level 2 - Offences usually associated with violence or high value crime

Offences (including but not limited to) –

Offences usually associated with violence or high value crime										
Years since conviction received (or part year)	1	2	3	4	5	6	7	8	9	10
Type of offence	Number of Points (Points are doubled for a term of imprisonment)									
Possessing Controlled Drugs	12	12	12	12	8	6	4	2	1	0
Possessing Controlled Drugs with intent to supply	12	12	12	12	12	12	10	8	6	4
Producing Controlled Drugs	12	12	12	12	12	10	8	6	4	2
Importing drugs	12	12	12	12	12	12	10	8	6	4
Burglary & Theft – Aggravated	12	12	12	12	12	12	8	6	4	2
Robbery	12	12	12	12	12	12	12	12	8	6
Aggravated vehicle taking (causing death)	12	12	12	12	12	12	12	12	8	6
Arson	12	12	12	12	12	12	12	12	12	12
Grievous Bodily Harm, s20	12	12	12	12	12	12	8	6	4	2
Grievous Bodily Harm, s18	12	12	12	12	12	12	12	12	8	6
Possess Offensive Weapon	12	12	12	8	6	4	2	0	0	0
Possession of Firearm with intent	12	12	12	12	12	8	6	4	2	0
Possession of a Firearm	12	12	12	8	6	4	2	0	0	0
Criminal Damage	12	12	12	8	6	4	2	0	0	0
Violent Disorder	12	12	12	8	6	4	2	0	0	0
Riot	12	12	12	12	8	6	4	2	0	0
Affray	12	12	12	6	5	4	3	2	1	0
Assault on Police Officer	12	12	12	8	6	5	4	3	2	1
Common Assault	12	12	12	8	6	5	4	3	2	0
Racially or religiously aggravated violent disorder	12	12	12	12	8	6	4	3	2	0
Resisting Arrest	12	12	12	8	6	4	2	0	0	0
Using threatening, abusive words or behaviour	5	4	3	2	1	0	0	0	0	0
Battery	5	4	3	2	1	0	0	0	0	0
Breach of the Peace	3	2	1	0	0	0	0	0	0	0
Drunk and Disorderly	3	2	1	0	0	0	0	0	0	0
Obstruction	12	12	12	6	4	2	0	0	0	0
Indecent/nuisance telephone calls	12	12	12	12	12	8	6	4	2	1

Colchester Borough Council - Convictions Policy

Level 3 - Dishonesty crime

Offences (including but not limited to) –

Dishonesty Crime										
Years since conviction received (or part year)	1	2	3	4	5	6	7	8	9	10
Type of offence	Number of Points (Points are doubled for a term of imprisonment)									
Theft	12	12	12	6	4	2	1	0	0	0
Theft – Shoplifting	12	12	12	6	4	2	1	0	0	0
Theft – Employee	12	12	12	6	4	2	1	0	0	0
Theft – from vehicle	12	12	12	6	4	3	2	1	0	0
Burglary & Theft – Dwelling	12	12	12	12	8	6	4	2	1	0
Burglary & Theft – Non Dwelling	12	12	12	6	4	3	2	1	0	0
Fraudulent Use	12	12	12	6	4	3	2	1	0	0
Handling/receiving	12	12	12	6	4	3	2	1	0	0
Forgery	12	12	12	6	4	3	2	1	0	0
Conspiracy to defraud	12	12	12	6	4	3	2	1	0	0
Obtaining money by deception	12	12	12	6	4	3	2	1	0	0
Obtaining money by forged instrument	12	12	12	6	4	3	2	1	0	0
Deception	12	12	12	6	4	3	2	1	0	0
False Accounting	12	12	12	6	4	3	2	1	0	0
False Statement to obtain benefit	12	12	12	6	4	3	2	1	0	0
Going equipped	12	12	12	6	4	3	2	1	0	0
Taking/driving or attempting to steal vehicle	12	12	12	6	4	3	2	1	0	0
Allow to be carried in a stolen vehicle	12	12	12	6	4	3	2	1	0	0
Perverting the course of justice	12	12	12	12	8	6	4	2	0	0

Level 3 – Smoking offences

Offences (including but not limited to) –

Smoking										
Years since conviction received (or part year)	1	2	3	4	5	6	7	8	9	10
Type of offence	Number of Points (Points are doubled for a term of imprisonment)									
Smoking in a licensed vehicle	3	3	3	2	1	0	0	0	0	0

Colchester Borough Council - Convictions Policy

7. Road Traffic/Motoring Convictions

Level 1 – Driving offences involving the loss of life

Code	Offence	Number of Points
BA40	Causing death by driving while disqualified	12 for all offences listed in this table Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for such an offence. A current licence would be revoked in all but the most exceptional circumstances
BA60	Causing serious injury by driving while disqualified	
CD40	Causing death through careless driving when unfit through drink	
CD50	Causing death by careless driving when unfit through drugs	
CD60	Causing death by careless driving with alcohol level above the limit	
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis	
CD80	Causing death by careless or inconsiderate driving	
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	
DD60	Manslaughter or culpable homicide while driving a vehicle	
DD80	Causing death by dangerous driving	
DG60	Causing death by careless driving with drug level above the limit	

Colchester Borough Council - Convictions Policy

Level 2 – Driving under the influence of alcohol/drugs and other serious driving offences

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
AC10	Failing to stop after an accident	12	12	12	12	12	8	6	4	2	1
BA10	Driving while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
BA30	Attempting to drive while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
CU80	Breach of requirement as to control of the vehicle, mobile phone etc.	12	12	12	12	12	8	6	4	2	1
DD10	Causing serious injury by dangerous driving	12	12	12	12	12	8	6	4	2	1
DD40	Dangerous driving	12	12	12	12	12	8	6	4	2	1
DD90	Furious driving	12	12	12	12	12	8	6	4	2	1
DG10	Driving or attempting to drive with drug level above the specified limit	12	12	12	12	12	8	6	4	2	1
DG40	In charge of a vehicle while drug level above a specified limit	12	12	12	12	12	8	6	4	2	1
DR10	Driving or attempting to drive with alcohol level above the limit	12	12	12	12	12	8	6	4	2	1
DR20	Driving or attempting to drive while unfit through drink	12	12	12	12	12	8	6	4	2	1
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	12	12	12	12	12	8	6	4	2	1
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	12	12	12	12	12	8	6	4	2	1
DR40	In charge of a vehicle	12	12	12	12	12	8	6	4	2	1

Colchester Borough Council - Convictions Policy

	while alcohol level above limit										
DR50	In charge of a vehicle while unfit through drink	12	12	12	12	12	8	6	4	2	1
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	12	12	12	12	12	8	6	4	2	1
DR61	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive	12	12	12	12	12	8	6	4	2	1
DR70	Failure to provide a specimen for breath test	4	4	4	4	4	3	2	1	0	0
DR80	Driving or attempting to drive when unfit through drugs	12	12	12	12	12	8	6	4	2	1
DR90	In charge of a vehicle when unfit through drugs	12	12	12	12	12	8	6	4	2	1
AC20	Failing to give particulars or report an accident within 24 hours	12	12	12	12	12	8	6	4	2	1
AC30	Undefined accident offences	12	12	12	12	12	8	6	4	2	1
IN10	Using a vehicle uninsured against third party risks	8	7	6	5	4	3	2	1	0	0
LC20	Driving otherwise than in accordance with a licence	8	7	6	5	4	3	2	1	0	0
MS50	Motor racing on the highway	12	10	8	7	6	5	4	3	2	1
MS90	Failure to give information as to the identity of a driver etc.	6	5	4	3	2	1	0	0	0	0
UT50	Aggravated taking of a vehicle	12	12	12	6	4	3	2	1	0	0

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Level 2 - Convictions relating to Personal Health

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
LC30	Driving after making a false declaration about fitness when applying for a licence	12	12	12	12	8	6	4	2	1	0
LC40	Driving a vehicle having failed to notify a disability	12	12	12	12	8	6	4	2	1	0
LC50	Driving after a licence has been revoked or refused on medical grounds	12	12	12	12	8	6	4	2	1	0
MS70	Driving with uncorrected defective eyesight	12	12	12	12	8	6	4	2	1	0
MS80	Refusing to submit to an eye test	12	12	12	12	8	6	4	2	1	0

Please note - Where a licensed driver receives a conviction relating to personal health it will be regarded as a high risk to public safety and immediate suspension will be considered until all safety issues have been resolved and in any other case consideration should be given to revocation.

Where there is a second conviction relating to personal health or any failure to comply with any reasonable request from an authorised officer of the Council in respect of their enquiries into the matter, consideration should be given to the immediate suspension of the licence, its revocation, or a refusal to renew.

Level 3 – Intermediate Road Traffic Offences – Speeding, careless driving, construction and use offences

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
AC10	Failing to stop after an accident	12	12	12	12	12	8	6	4	2	1
BA10	Driving while disqualified by order of court	12	12	12	12	12	8	6	4	2	1

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CU10	Using a vehicle with defective brakes	3	3	3	3	2	1	0	0	0	0
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3	3	3	3	2	1	0	0	0	0
CU30	Using a vehicle with defective tyre(s)	3	3	3	3	2	1	0	0	0	0
CU40	Using a vehicle with defective steering	3	3	3	3	2	1	0	0	0	0
CU50	Causing or likely to cause danger by reason of load or passengers	3	3	3	3	2	1	0	0	0	0
CD10	Driving without due care and attention	8	7	6	5	4	3	2	1	0	0
CD20	Driving without reasonable consideration for other road users	8	7	6	5	4	3	2	1	0	0
CD30	Driving without due care and attention or without reasonable consideration for other road users	8	7	6	5	4	3	2	1	0	0
SP10	Exceeding goods vehicle speed limits	6	6	6	6	5	4	3	2	1	0
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	6	6	6	6	5	4	3	2	1	0
SP30	Exceeding statutory speed limit on a public road	6	6	6	6	5	4	3	2	1	0
SP40	Exceeding passenger vehicle speed limit	6	6	6	6	5	4	3	2	1	0
SP50	Exceeding speed limit on a motorway	6	6	6	6	5	4	3	2	1	0

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Level 4 – Minor Road Traffic Offences – Motorway, pedestrian crossing, traffic direction and signs and miscellaneous offences

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
MS10	Leaving a vehicle in a dangerous position	3	3	3	3	2	1	0	0	0	0
MS20	Unlawful pillion riding	3	3	3	3	2	1	0	0	0	0
MS30	Play Street Offences	2	2	2	2	1	0	0	0	0	0
MS60	Offences not covered by other codes (as appropriate)										
MW10	Contravention of special roads regulations (excluding speed limits)	3	3	3	3	2	1	0	0	0	0
PC10	Undefined contravention of pedestrian crossing regulations	3	3	3	3	2	1	0	0	0	0
PC20	Contravention of pedestrian crossing regulations with moving vehicle	3	3	3	3	2	1	0	0	0	0
PC30	Contravention of pedestrian crossing regulations with stationary vehicle	3	3	3	3	2	1	0	0	0	0
TS10	Failing to comply with traffic light signals	3	3	3	3	2	1	0	0	0	0
TS20	Failing to comply with double white lines	3	3	3	3	2	1	0	0	0	0
TS30	Failing to comply with 'stop' sign	3	3	3	3	2	1	0	0	0	0
TS40	Failing to comply with direction of constable/warden	3	3	3	3	2	1	0	0	0	0
TS50	Failing to comply with traffic sign (excluding 'stop' signs)	3	3	3	3	2	1	0	0	0	0
TS60	Failing to comply with school crossing patrol sign	3	3	3	3	2	1	0	0	0	0
TS70	Undefined failure to comply with traffic directions sign	3	3	3	3	2	1	0	0	0	0

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Totting Up

4.3 If the number of current points on the DVLA licence exceeds 12 points a new application will be refused or a current licence suspended or revoked. A further application will not be approved until the DVLA licence demonstrates that the number of current points on the licence is below 12 points.

4.4 When disqualified from driving under the 'totting up' procedures, the licence will remain suspended until the driver has achieved a pass in 'driving skills' training with a nationally recognised and accredited driving assessment programme. ***(add in our driving course details here and below)***

4.5 Where a licence shows 12 points or more but no disqualification was imposed because of 'exceptional hardship'; the requirement to undertake 'driving life skills' development and be successful will apply and must be achieved within 3 months of the Court decision or the licence will be suspended and not restored or renewed until successful in a 'driving life skills' programme with a nationally recognised and accredited driving assessment programme.

4.6 If there is a further period of disqualification the licence will be revoked and not considered for renewal for a minimum period of 12 months from the end of the disqualification period. Where there is a third period of disqualification the minimum period is 3 years. In both cases the licence will remain suspended and not restored or renewed until successful in a 'driving life skills' programme with a nationally recognised and accredited driving assessment programme.

Repeated convictions

4.8 Repeated convictions on a DVLA licence for the following offences or combination of offences will result in a licence being refused, suspended or revoked and not restored until the number of active occasions for those types of offence has reduced to one or less.

Code	Offence
CU10	Using a vehicle with defective brakes
CU30	Using a vehicle with defective tyre(s)
CU40	Using a vehicle with defective steering
CU80	Breach of requirement as to control of the vehicle, mobile telephone etc.
IN10	Using a vehicle uninsured against third party risks

Failure to report a disqualification

4.11 It may be that by the time the Council becomes aware of a disqualification, the

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period has passed and the driver is able to drive again. By being dishonest the intentions of the policy have been evaded.

4.12 In such circumstances the failure to report such a disqualification would normally result in the driver licence being suspended or revoked. The period of suspension or revocation would not normally be less than would have been effective if the disqualification had been properly reported to the Council.

4.13 A licence would not normally be granted or a suspension lifted until the completion of a 'driving life skills' training with a nationally recognised and accredited driving assessment programme. **(our course details?)**

4.14 Where false declarations have been made at the time of application or re renewal these will be considered under the 'fit and proper' person assessment.

Immediate Suspension or revocation

4.15 The Council will immediately suspend or revoke a licence if it considers it necessary to do so in the interests of public safety.

Police Bail

4.16 The release of a driver on police bail for an alleged offence is likely to call into question whether the driver is a fit and proper person to hold such a licence and the Council will carry out an investigation as it would in the case of a conviction.

Police intelligence

4.17 Any applicant or licence holder who in the view of the Police may be a threat to the public, can expect the Council to carry out a full investigation. This intelligence may be provided by the police or other agencies and may include circumstantial evidence.

Right of Appeal

5.1 Any decision made by an officer of the Council can be appealed to the Licensing Committee

5.2 Anyone appearing before the Licensing Committee has a right to appeal its decision to the Magistrates Court.

5.3 Any such appeal must be made in writing and lodged with the Clerk of the Court within 21 days from the date of the decision/notification of the decision.

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5.4 The address for appeals in this area is - Clerk of the Court, HMCS – Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.

Colchester Borough Council – Penalty Point Scheme

1. Introduction

1.1 The key consideration of the Council and the overriding objective in the licensing of hackney carriage and private hire vehicles, drivers and operators is the **safety of the travelling public**. The protection of the public; safeguarding children and vulnerable persons; and the prevention of crime are key factors of its Policy in relation to the licensing of hackney carriage and private hire vehicles, drivers, proprietors and operators.

1.2 The aim of the Penalty Point Scheme (the Scheme) is to work in conjunction with other enforcement measures to provide a stepped enforcement process for licence holders. It bridges the gap between the warning and suspension/revocation options provide by the legislation and creates a record of a licence holder's conduct thereby enabling the Council to make an informed decision as to whether a licence holder is a fit and proper person to hold a licence. The primary objective of the Scheme is to improve levels of compliance and standards within the trade to ensure the safety of the travelling public.

2. Relevant legislation

2.1 Hackney carriage and private hire licences are issued by the Council, pursuant to the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. The 1976 Act prohibits the Council granting a licence to a person unless it is satisfied that the person is 'a fit and proper person'. Drivers, operators and vehicles are also subject to the Council's own licence conditions and policies.

2.2 There is an ongoing responsibility under the 1976 Act for the Council to ensure that licence holders continue to meet the 'fit and proper' test for the duration of the licence period and Sections 61 & 62 of the '1976 Act', gives the Council the power to suspend, revoke or to refuse to renew a driver or operator licence.

3. General Principles

1.2 The Scheme applies to all hackney carriage and private hire drivers and vehicle proprietors and operators.

2.2 Where an offence or breach of the rules is committed or alleged, or a complaint received the investigation process set out in this document will be followed and may result in the issue of penalty points and/or other appropriate action.

2.3 The penalty point process will operate without prejudice to the Council's ability to take other action that it is entitled to take under legislation and regulations.

Colchester Borough Council – Penalty Point Scheme

2.4 Points issued under this scheme will remain current for 12 months from the date they are issued. At the conclusion of a period of suspension 6 points will remain on your licence.

2.5 The number of penalty points issued will be at the discretion of the investigating officer and in accordance with the penalty points' table.

2.6 The Council will advise drivers, proprietors and operators in writing when their points accumulation for any relevant period exceeds 6 points.

2.7 The imposition of penalty points against a driver who is an employee will not necessarily result in the imposition of points to their employer. However points may be issued to one or more parties for a single contravention if the circumstances warrant such action being taken i.e. where there is joint responsibility for the contravention.

2.8 Licence Holders may see their penalty point record at any time. Vehicle proprietors and licensed operators may make a written request to view the penalty point record of their employees; any such request must give full reasons for the request. All such requests are subject to approval by the Licensing, Food and Safety Manager.

Please note – In addition to penalty points licence holders may also receive points for convictions etc. under the Council's Convictions Policy. These points will be added to those given under this Scheme and where the total exceeds 12 in any one year the licence holder should expect consideration to be given to the suspension or revocation of their licence.

3. Investigation procedure

3.1 The Council will deal with all complaints or witnessed/alleged breaches of the legislation, licence conditions and/or policy as follows –

- On receipt of a complaint or where there is an alleged breach of the Council's conditions or other relevant statutory provisions, a member of the Licensing Team will assess whether they believe there is a case to answer.
- In the event it is considered there is a case to answer, a member of the Licensing Team will investigate the facts which may include interviewing the relevant individuals under caution.
- Upon completion of the investigation, penalty points may be applied. Notification that points have been given will be sent in writing to the licence holder and, where appropriate, a copy will be sent to their vehicle proprietor or operator within 7 days of the decision.

Colchester Borough Council – Penalty Point Scheme

- If following completion of the investigation there are matters of significant concern and/or the number of points to be issued results in the accumulation of 12 or more points the matter will be reported to the Licensing, Food & Safety Manager (the Manager) with a recommendation that the licence be suspended. Notification of the Manager's decision will be sent in writing to the licence holder and, where appropriate, a copy will be sent to their vehicle proprietor or operator within 7 days of the decision.
- Where a licence holder accumulates 12 or more points in a 12 month period the following **suspension periods** apply -
 - 28 consecutive days for the first occasion of the accumulation of 12 or more points within a 12 month period.
 - 56 consecutive days for the second occasion of the accumulation of 12 or more points within a twelve month period.
 - Revocation for any third accumulation of 12 points within a twelve month period.
- There is a 21 day period in which to **appeal** the award of points and suspension/revocation of the licence. This period runs from the day after the date of the letter notifying of the award of penalty points or suspension/revocation. Appeals must be made in writing, within the appeal period, to licensing.team@colchester.gov.uk or by writing to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG.
- If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.
- There is a further right of appeal to the Magistrates Court only in cases of suspension/revocation of a licence; there is no further right of appeal in relation to the imposition of penalty points. Any such appeal must be made in writing, within 21 days from the date of the decision/notification of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.
- Where an appeal has been made the implementation of any suspension or revocation will be held over until the determination of the appeal.

Please note – Appeals should only be made if you wish to dispute the evidence that resulted in the award of points or other enforcement action. If you committed the offence, points will be applied in accordance with the penalty points table. Any disputes regarding the number of penalty points applied will

Colchester Borough Council – Penalty Point Scheme

be referred to the Licensing Committee who will have the discretion to award a greater number of points than displayed on the table, if your appeal is dismissed.

Penalty Point Table

<p style="text-align: center;">Town Police Clauses Act 1847</p> <p style="text-align: center;">Matters list below are direct contraventions of the legislation and may result in prosecution in addition to any points penalty incurred</p>					
No.	Offence/Breach of Conditions	Maximum Points applicable	Driver	Vehicle Owner	Operator
1	S40 - Giving false information on a hackney carriage licence application	6	x	x	-
2	S44 – Failure to notify the Council of a change of address on a hackney carriage licence 1 st offence 2 nd offence	3 9	x	x	-
3	S45 – Plying for hire without a hackney carriage licence 1 st offence 2 nd offence	9 12	x x	- -	- -
4	S47 – Driving a hackney carriage without a hackney carriage driver's licence	12	x	-	-
5	S47 - Lending or parting with a hackney carriage driver's licence.	9	x	-	-
6	S47 – Hackney carriage proprietor permitting or employing an unlicensed driver to drive a hackney carriage vehicle	12	x	x	-

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7	S48 – Failure of a proprietor to retain in his/her possession copies of any hackney carriage driver's licence that permits them to drive their vehicle	3	-	x	-
8	S48 - Failure of a proprietor to produce on request by an authorised officer any hackney carriage driver's licence for whom he has permitted to drive his/her vehicle	3	-	x	-
9	S52 – Failure to display a hackney carriage plate	4	x	-	-
10	S53 – Refusal to take a fare without a reasonable excuse	4	x	-	-
11	S54 - Charging more than the agreed fare	6	x	-	-
12	S55 – Obtaining more than the legal fare (including failure to refund)	6	x	-	-
13	S56 – Travelling less than the lawful distance for an agreed fare	6	x	-	-
14	S57 – Failure to wait after a deposit to wait has been paid	6	x	-	-
15	S58 – Charging more than the legal fare	6	x	-	-
16	S59 – Carrying persons other than with the consent of the hirer	6	x	-	-
17	S60 – Driving a hackney carriage without the proprietor's consent	12	x	-	-

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18	S60 – Allowing a person to drive a hackney carriage without the proprietor's consent	12	x	-	-
19	S62 – Driver leaving a hackney carriage unattended	4	x	-	-
20	S64 – Hackney carriage driver obstructing other hackney carriages	4	x	-	-
21	S68 – Breach of Byelaws	3-6	x	x	-

Local Government (Miscellaneous Provisions) Act 1976

Matters list below are direct contraventions of the legislation and may result in prosecution in addition to any points penalty incurred

No.	Offence/Breach of Conditions	Maximum Points applicable	Driver	Vehicle Owner	Operator
22	S46 (1)(a) – A licensed driver using an unlicensed vehicle for private hire purposes	12	x	-	-
23	S46(1)(b) - Driving a private hire vehicle without a private hire driver's licence	12	x	-	-
24	S46(1)(c) - Proprietor of a private hire vehicle permitting or employing an unlicensed driver to drive a private hire vehicle	12	-	x	-
25	S46(1)(d) - Operating a private hire vehicle without a private hire operators' licence	9	-	-	x

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26	S46(1)(e) - Operating an unlicensed vehicle as a private hire vehicle	12	x	x	x
27	S46(1)(e) - Operating a private hire vehicle when the driver is not licensed as a private hire driver	12	x	x	x
28	S48(6) - Failure to display a private hire vehicle plate.	4	x	x	x
29	S49 – Failure to notify the transfer of a vehicle licence	3	-	x	x
30	S50(1) - Failure to present a hackney carriage or private hire vehicle for inspection upon request	6	-	x	-
31	S50(2) - Failure to inform the Licensing Authority where a hackney carriage or private hire vehicle is stored, if requested	3	-	x	-
32	S50(3) - Failure to report an accident to the Licensing Authority within seventy two hours	6	x	x	-
33	S50(4) - Failure to produce the vehicle and/or insurance upon request	6	x	x	-
34	S53(3) Failure to produce a driver's licence upon request	6	x	-	-
35	S54(2) Failure to wear a private hire driver's badge	3	x	-	-
36	S56(2) - Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon	4	-	-	x

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	request of an authorised officer of the Licensing Authority or a police officer within reasonable time / or time specified				
37	S56(3) - Failure of a private hire operator to keep proper records of all private hire vehicle licenses and driver licenses, or failure to produce them on request of an authorised officer of the Licensing Authority or a police officer within reasonable time / or time specified	4	-	-	x
38	S56(4) - Failure of a private hire operator to produce his licence upon request	4	-	-	x
39	S57 - Making a false statement or withholding information to obtain a hackney carriage/private hire driver's	12	x	-	-
40	S58(2) - Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence	6	-	x	-
41	S61(2) - Failure to surrender a driver's licence or badge on or after suspension, revocation, or refusal to renew	6	x	-	-
42	S64 - Permitting a private hire vehicle to wait on a hackney carriage rank	6	x	-	-
43	S66 - Hackney Carriage charging more than the meter fare for a journey ending	8	x	-	-

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	outside the District, without prior agreement				
44	S67 - Hackney Carriage charging more than the meter fare when a hackney carriage is used as a private hire vehicle	8	x	-	-
45	S69 - Unnecessarily prolonging a journey	8	x	-	-
46	S71 - Interfering with a private hire taxi-meter with intent to mislead	12	x	x	-
47	S73(1)(a) - Obstruction of an authorised officer of the Licensing Authority or a police officer	6	x	x	x
48	S73(1)(b) - Failure to comply with a requirement of an authorised officer of the Licensing Authority or a police officer	6	x	x	x
49	S73(1)(c) - Failure to give information or assistance to an authorised officer of the Licensing Authority or police officer	6	x	x	x

Licensing Policy					
No.	Offence/Breach of Conditions	Maximum Points applicable	Driver	Vehicle Owner	Operator
50	Failure to ensure the safety of passengers	12	x	x	x

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51	Concealing or defacing a vehicle licence plate	6	x	x	x
52	Failure to attend on time for a pre- arranged appointment at the request of the Licensing Authority without reasonable cause	4	x	x	x
53	Conveying a greater number of passengers than permitted	6	x	-	-
54	Failure to give reasonable assistance with passengers luggage	3	x	-	-
55	Private Hire soliciting for hire or accepting a fare that is not pre-booked	6	x	-	-
56	Operating/using a vehicle that is not properly maintained internally /externally 1 st offence 2 nd offence	6 12	x	x	x
58	Driving without the consent of the proprietor	12	x	-	-
59	Drinking or eating in the vehicle whilst carrying passengers	3	x	-	-
60	Smoking in the vehicle at any time 1 st offence 2 nd offence 3 rd offence	3 + FPN 12 + FPN 12 + P	x	-	-
61	Causing excessive noise from any radio or sound-reproducing equipment which annoys anyone either in or outside the vehicle	3	x	-	-

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62	Playing of a music radio or other sound producing equipment without the express permission of the passenger(s)	3	x	-	-
63	Sounding the horn to signal that the vehicle has arrived. disturbing residents	3	x	-	-
64	Allowing a private hire vehicle to stand in such a position as to suggest that it is plying for hire or using a hackney carriage stand	6	x	-	-
65	Parking a hackney carriage vehicle or private hire vehicle illegally so as to cause an obstruction to other road users	4	x	-	-
66	Using a non-hands free mobile telephone whilst driving / engine running 1 st offence 2 nd offence	6 + FPN 12 + FPN	x	-	-
67	Failure to advise of a relevant medical condition	12	x	-	-
68	Failure to provide a receipt for a fare when requested	3	x	-	-
69	Failure to operate the meter from the commencement of the journey and /or charging more than the fixed charge for hire of a hackney carriage	8	x	x	-
70	Failure to notify the Licensing Authority of relevant change to licence details within the time specified in the associated licence conditions	3	x	x	x

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71	Failure to produce a hackney carriage or private hire licence upon request	3	x	x	x
72	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	3	x	-	-
73	Failure of a private hire operator to request and keep a copy all driver's licence in his employ at the beginning of employment	3	-	-	x
74	Failure of a licence holder to disclose convictions within 7 days of the conviction	12	x	x	x
75	Carrying any animal other than a guide, hearing or other prescribed assistance dog or those owned by bone-fide fare paying passengers	6	x	-	-
76	Failing to deal with lost property in an appropriate manner 1 st offence 2 nd offence	6 12	x	-	-
77	Failure to report an accident within 72 hours	6	x	-	-
78	Failure to comply with requirements for the safe carrying of a wheelchair	6	x	x	-
79	Operating a vehicle that does not comply with the Licensing Authority's licensing policy or relevant legislation where such a breach of policy/legislation is not otherwise specified herein	3-12	-	x	x

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80	A Private Hire driver using a Hackney Carriage vehicle without a Hackney Carriage driver licence	12	x	-	-
81	Failure to carry and/or maintain an approved operational fire extinguisher, where fitted	3	x	x	-
82	Modifying a licensed vehicle without the consent of the Licensing Authority	6-12	-	x	x
83	Failure to display or maintain external plates as issued by the Licensing Authority or displaying them incorrectly	4	x	x	-
84	Affixing or displaying a roof sign on a private hire vehicle or failure to affix a roof sign to a Hackney Carriage Vehicle	4	x	x	-
85	Displaying a sign or advertisement on a licensed vehicle that does not satisfy the policy requirements or has not been approved by the Licensing Authority	6	-	x	x
86	Using a taxi-meter that does not conform to Licensing Authority requirements	6	x	x	x
87	Using a licensed vehicle with no insurance or inadequate insurance for the vehicle	12	-	x	x
88	Permitting the vehicle to be used for any illegal or immoral purposes	12	x	x	x
89	Failure of a private hire operator to ensure that office staff act in a civil and	3	-	-	x

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	courteous manner at all times				
90	Failure of a private hire operator to keep the operating premises in accordance with Licensing Authority requirements	3	-	-	x
91	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	4	-	-	x
92	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	6	-	-	x
93	Driving or allowing a hackney carriage vehicle to be driven with tinted windows which do not conform to licence conditions	3	x	x	-
94	Driving or allowing a hackney carriage or private hire vehicle to be driven without displaying the door signs or attaching the signs other than in accordance with the Council's Policy	3	x	x	x
95	Allowing a hackney carriage vehicle to be driven with a top sign that is in breach of the licence conditions	3	-	x	-
96	Illegal ranking	6	x	-	-
97	Failure to comply with Council Livery	6	x	x	x
98	Smoking or allowing smoking in an operator's premises 1 st offence	6	-	-	x

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	2 nd offence	12	-	-	x
99	Driver allowing a customer to smoke in a licensed vehicle	6	x	-	-
100	Failure to carry an assistance dog without an exemption certificate	12	x	x	x
101	Failing to conform to statutory road signs	4	x	-	-
102	Illegal or inappropriate parking such as to cause an obstruction to pedestrians and /or other road users	4	x	-	-
103	Failing to accept travel tokens for a legitimate journey	3	x	x	x
104	Unacceptable standard of driving, witnessed by authorised officer or police officer	6	x	-	-
105	Late application for the renewal of a licence	6	x	x	x
106	Failure to display internal licence plates	4	x	x	x
107	Failure to produce the tariff or advise of charges when requested by the hirer	3	x	x	x
108	Unsatisfactory appearance of the driver or not conforming to the dress code	4	x	-	-
109	Providing false or misleading information on a licence application form, or failing to provide relevant information	6	x	x	x
110	Failure to private hire operator / driver to honour a booking	6	-	-	x

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	without a reasonable excuse				
110	Dropping off or picking up a fare in an inappropriate place such as to cause an obstruction or nuisance to other road users	4	x	-	-

FPN – Fixed Penalty Notice

P - Prosecution

Colchester Borough Council - CCTV Policy

1. Introduction

1.1 The Council recognises that licensed drivers are a valuable asset to the Borough and **drivers' safety and health** is a key concern. This concern must be considered alongside the overriding objective in the licensing of hackney carriage and private hire vehicles, drivers and operators of the **safety of the travelling public**.

1.2 In considering the installation of CCTV in licensed vehicles, the Council has had regard to the number and nature of complaints made by the public in relation to licensed drivers and to recent high profile cases which have highlighted not only the vulnerability of passengers to wrong doing but also the vulnerability of drivers to unfounded allegations. There are often significant difficulties in investigating such complaints, to the satisfaction of all parties, because of the lack of an independent witness.

1.3 In order to address the objectives set out above, and for the following reasons the Council has determined that with effect from xxxxxxxx all newly licensed vehicles should be fitted with CCTV and existing vehicles must be fitted with CCTV upon renewal of their licence.

- To enable drivers to protect themselves against allegations of misconduct.
- To help identify culprits in where problems have occurred.
- Deterring and preventing the occurrence of crime
- Reducing the fear of crime
- To assist the Council and Police in investigating incidents of crime
- To assist insurance companies in relation to motoring claims.

2. General principles

2.1 For the purposes of this document the term "CCTV system" includes any electronic recording device attached to the inside of vehicle having the technical capability of capturing and retaining visual images and audio recording from inside or external to the vehicle. In addition to the standard CCTV camera system these may include for example, such devices as events, incident, and accident data recording devices.

2.2 Any CCTV system to be fitted must, as a minimum, meet the requirements set out in this Policy.

2.4 CCTV systems installed in Taxis and PHVs will be inspected as part of the annual licensing inspection to ensure they do not pose a risk to the safety of the passengers or the driver and are fitted safely and securely.

2.5 The installation and operation of CCTV must comply with the requirements of the [Information Commissioner's CCTV Code of Practice](#).

2.6 All equipment must comply with any legislative requirements in respect of Motor

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Vehicle Construction and Use Regulations.

2.7 All equipment must meet all requirements as regards safety, technical acceptability and operational/data integrity.

2.8 All equipment must be designed, constructed and installed in such a way and in such materials as to present no danger to passengers or driver, including impact with the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear.

3. System Specification

3.1 The following are the minimum criteria that the Council expects for a CCTV system.

- Meets the current Information Commissioner's data protection requirements [Information Commissioner's CCTV Code of Practice](#)
- Capable of date and time stamping.
- Capable of recording and storing images for a minimum of 28 days.
- Capable of capturing images that, in low light conditions, must be of sufficient quality to enable identification of any person travelling in a vehicle and be of such quality that they can be used for prosecution purposes.
- Be capable of storing images in a manner which prevents them being removed, downloaded or viewed by the driver or any other person travelling in the vehicle; the images to be capable of being downloaded by a system administrator only.
- Digitally encrypted and the de-encryption software required to view the images must be supplied to the Council free of charge before the system is installed in the vehicle.
- The area recorded by the camera must not extend outside of the vehicle.
- The system must be marked with the Electro Magnetic Certification indicating it meets the European Industry Standard.
- Must not interfere with any other safety, control, electrical, computer, navigation, satellite or radio system in the vehicle.

Installation

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- 4.1 All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions.
- 4.2 The installed CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.
- 4.3 All equipment must be installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers. For example, temporary fixing methods such as suction cups will not be permitted, or lighting, such as infra-red, which emits at such a level that may cause distraction or nuisance to the driver and/or passengers.
- 4.4 All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger or driver area or impact on the luggage carrying capacity of the vehicle.
- 4.5 Equipment must not obscure the view of the road through the windscreen (Motor Vehicle (Construction and Use) Regulations, 1986).
- 4.6 Equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags/air curtains or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems.
- 4.7 Viewing screens within the vehicle for the purposes of viewing captured images are not permitted.
- 4.8 All wiring must be fused as set out in the manufacture's technical specification and be appropriately routed.
- 4.9 If more than one camera is being installed their location within the vehicle must be specific for purpose i.e. to provide a safer environment for the benefit of the Taxi/ PHV driver and passengers.
- 4.10 All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.
- 4.11 All system components requiring calibration in situ should be easily accessible.

Camera Activation Methods

- 4.12 Activation of the equipment may be via a number and combination of options, including door switches, time delay, driver's panic button or, in the case of an incident/event recorder, predetermined G-Force parameters set on one or more axis (i.e. braking, acceleration, lateral forces). The CCTV system may be configured to record images for a short period of time before the trigger event, during the related

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incident and a short period following the related incident.

Please note - A direct wired link to the vehicle's taximeter, in the case of a Taxi, will not be acceptable.

Audio Recording

4.13 CCTV systems must not be used to record conversations between members of the public except in very exceptional circumstances. Where the system comes equipped with sound recording facility then this functionality should be disabled.

Please note - There are limited circumstances in which audio recording may be justified due to a specific threat to an individual's personal safety, e.g. when a 'panic button' is utilised in response to a threat of physical violence. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed. The time period that audio recording may be active should be the minimum possible. In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out

Image Security

4.14 Images captured must remain secure at all times. The captured images must be protected using approved encryption software which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen ([Information Commissioner's CCTV Code of Practice](#))

Retention of CCTV images

4.15 The CCTV equipment selected for installation must have the capability of retaining images either within its own secure, encrypted hard drive; using a fully secured and appropriately encrypted detachable mass storage device, for example, a compact flash solid state card; or where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS (GSM telephone) signalling to a secure server within the service provider's monitoring centre.

4.16 Images must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle. CCTV equipment selected for installation must include an automatic overwriting function, so that images are only retained within the installed system storage device for a maximum period of xxxx days from the date of capture. Where a service provider is used to store images on a secure server, the specified retention period must also only be for a maximum period of xxxx days from the date of capture. Where applicable, these provisions shall also apply to audio recordings.

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Using recorded CCTV images

4.22 Any images and/or audio recordings should only be used for the purposes as set out in the Policy at Paragraph xxxxx.

4.23 Requests to view captured images may be submitted in writing by the Police or other statutory law enforcement agencies; the Council; insurance companies/brokers/loss adjusters; or exceptionally other appropriate bodies using a standard template request form or signed statement; any such requests must set out the reasons why the disclosure is required.

4.25 Members of the public may also make a request for the disclosure of images, but only where they have been the subject of a recording. This is known as a 'Subject Access request'. Such requests must only be accepted where they are in writing and include sufficient proof of identity (which may include a photograph to confirm they are in fact the person in the recording). A fee may be charged for a subject access request (currently a maximum of £10). More guidance on handling Subject Access requests can be found in the ICO's Subject Access Request Code of Practice, which is available on their website.

Signage

4.26 All licensed vehicles fitted with a CCTV system must display a sign in a prominent position stating that the vehicle carries CCTV. The driver may also verbally bring to the attention of the passengers that CCTV equipment is in operation within the vehicle, if it is felt necessary or appropriate. The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle

5. Conditions

5.1 The following conditions will be attached to the vehicle licence –

- No CCTV system, including the installation of cameras, shall be installed in a vehicle unless previously approved in writing by the Council.
- No change shall be made to the CCTV system, including the number and location of cameras, without the prior written consent of the Council.
- A sign must be displayed in a prominent position stating that the vehicle carries CCTV. The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before

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and after entering the vehicle. The sign must be maintained in a clean and legible condition.

- The proprietor shall ensure that the system is properly and regularly maintained and serviced in accordance with the manufacturer's instructions by a suitably qualified person. Written record of maintenance and service shall be kept and made available on request to an authorised office of the Council or the Police.
- Upon request for CCTV footage made by an officer of the Council or Police Officer, the proprietor shall ensure that the CCTV system is made available to the system administrator as soon as is reasonably practicable and in any event within 7days.
- The proprietor of the vehicle shall take all reasonable steps to ensure that the driver of the vehicle is made aware of every condition in relation to the CCTV system installed in that vehicle and has been given adequate instruction in its use and the requirements in relation to image retrieval.
- The proprietor shall ensure that notification is lodged with the Information Commissioner to cover the purposes for which the CCTV system is used.