

Licensing Committee - Hackney Carriage/Private Hire Appeals Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Tuesday, 19 September 2023 at 13:00**

The Licensing Committee Hackney Carriage/Private Hire Appeals hears and determines applications made in respect of private hire/hackney carriage dual driver licences.

Information for Members of the Public

Access to information and meetings

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

<https://colchester.cmis.uk.com/colchester/MeetingCalendar.aspx>.

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

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COLCHESTER CITY COUNCIL
Licensing Committee - Hackney Carriage/Private Hire Appeals
Tuesday, 19 September 2023 at 13:00

The Licensing Committee Hackney Carriage/Private Hire Appeals Hearing Members are:

Roger Buston - Member, Carl Powling - Member, Michael Spindler - Member

The Licensing Committee Hackney Carriage/Private Hire Appeals Hearing Members are:

All members of the Council who are not Cabinet members or members of this Panel who have undertaken the necessary training.

AGENDA
THE LIST OF ITEMS TO BE DISCUSSED AT THE MEETING
(Part A - open to the public)

Please note that Agenda items 1 to 4 are normally dealt with briefly.

1 Appointment of Chairman

To appoint a Chairman for the meeting.

2 Welcome and Announcements

The Chairman will welcome members of the public and Councillors and remind everyone to use microphones at all times when they are speaking. The Chairman will also explain action in the event of an emergency, mobile phones switched to silent, audio-recording of the meeting. Councillors who are members of the committee will introduce themselves.

3 Substitutions

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

4 Declarations of Interest

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

Flowchart

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5 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).

6 Driver appeal hearing report - Mr C

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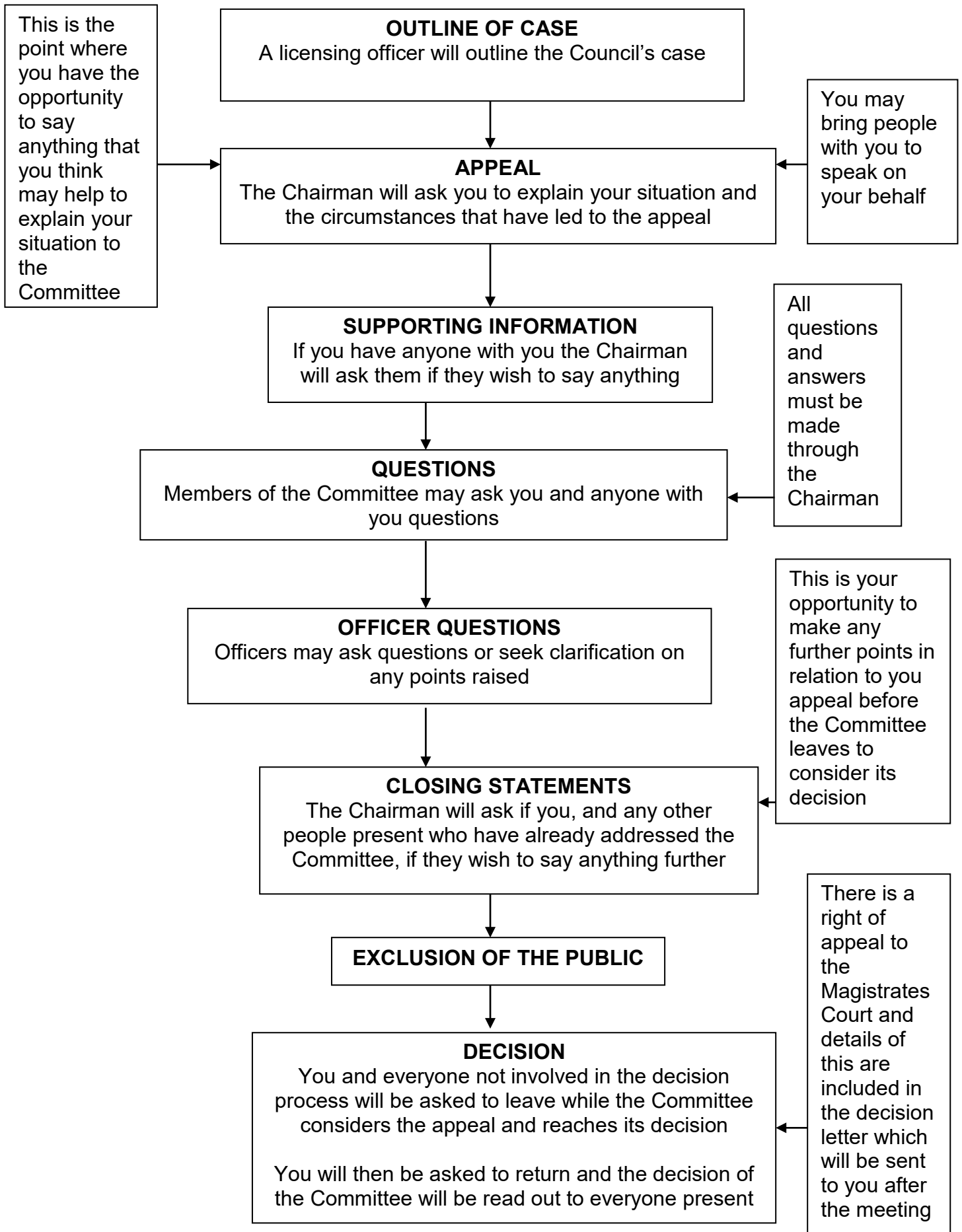
The Licensing Committee will be invited to determine an application for a new private hire/hackney carriage driver's badge.

**Part B
(not open to the public including the press)**

e-mail: democratic.services@colchester.gov.uk
website: www.colchester.gov.uk

APPEAL 2

The Hackney Carriage/Private Hire Appeal Process



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, proprietors 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', safe and suitable, 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, and where applicable transfers, and 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 and when considering pre-licensing matters.

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 applicants, licence holders, officers and members of the Licensing Committee means exhaustive however, 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 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 and Guidance

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'. Drivers, operators, vehicles and their proprietors 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', give the Council the power to suspend, revoke or to refuse to renew a driver or operator licence. Section 60 (1)(c)

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of the Local Government (Miscellaneous Provisions) Act 1976 permits the Council to suspend, revoke or refuse to renew a vehicle licence.

2.3 The Council has had regard to the Statutory Taxi & Private Hire Standards in the formulation of its Policy and in meetings its ongoing obligation to ensure that a licensee remains safe and suitable to hold a 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, those with a registered interest in the vehicle, 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 Operators and vehicle proprietorship are not an exempt occupation. However, the Council has determined, in order to ensure it has a complete picture of an individual requesting/holding a licence, to request that an application for a licence or to renew a licence submitted by operators and vehicle proprietors (including those individuals named on the Vehicle Proprietor Declaration) be accompanied by a statutory declaration listing all previous convictions, whether or not they are spent, and any other relevant material information, for example a current investigation. The Council will consider on a case by case basis any motoring offences in relation to its assessment of whether an individual is safe and suitable to hold a vehicle licence.

3.5 The Policy also deals with any civil actions including injunctions, breaches of licensing conditions or byelaws, complaints, allegations, cautions 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.

3.6 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 will be sought from the applicant/licence holder.

3.7 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

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evidence.

3.8 The release of a licence holder on police bail or under investigation for an alleged offence is likely to call into question whether the individual 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.

3.9 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.

3.10 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
- the intent or harm that was or could have been caused
- any other relevant matter

3.11 The Council may depart from the policy however it will only do so in exceptional circumstances where genuine and mitigating circumstances have been demonstrated. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3.12 The tables included within the Policy, at Paragraph 5 below, 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.

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

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, and where relevant, a 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 9 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.

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 with the relevant number of points attached to the licence. An existing licence holder should expect that the points will be applied to their licence. The application of points in both circumstances can be appealed to the the Licensing Committee.

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 given under this Policy and where 12 or more points are reached in any one year the licence holder should expect consideration to be given to the suspension or revocation of their licence. Points will not be given under both Policies for the same offence.

4.2 The Policy requires that, in the case of existing licence holders, offences are reported to the Council within 2 days and where this occurs any points awarded can be appealed as set out in paragraph 5.2 below subject to paragraph 5.2 c. Where there is a repeated failure to declare offences, the licence holder forfeits their right to appeal to the Licensing Committee as the offences will be considered together and are likely to place the licence holder in the red category with consideration being given to the revocation of the licence on the grounds that they are not fit and proper, safe and suitable, to hold a licence. In this case, the appeal mechanism would be as set out in 5.3 below.

5. Investigation, Determination and Appeal Procedure

Applicants for a New Licence

5.1 The Council will deal with offences as follows –

- a. 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 is a fit and proper person to hold a licence,
- b. A member of the Licensing Team will investigate the facts, which may include interviewing the applicant. The Council may also, as part of its investigation, request a Police National Computer Check (PNC) from the Police to ensure it has all the evidence necessary to properly investigate the matter.
- c. If the points on the Convictions Policy place the applicant in the red zone, the applicant will be informed that their licence has been refused on the grounds that they are not fit and proper or safe and suitable to hold a licence. The right of appeal against this decision is to the Magistrates Court. Appeals must be made in writing to the Clerk of the Court, Essex Magistrates' Court's, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford CM2 5PF within 21 days of having been notified of the Licensing Manager's decision.
- d. Where the points on the Conviction Policy place the applicant in the orange zone, an applicant should expect their application to be referred to the Licensing Committee for determination. There is no separate right of appeal in relation to the award of points, the Licensing Committee will consider the application of points on the licence as part of its consideration whether to grant the licence.
- e. Where the points on the Convictions Policy place the applicant in the green zone, the licence will be granted with relevant points attached. Once the licence is granted these points can be appealed to the Licensing Committee. The award of points can be appealed to the Licensing Committee within 21 days of being notified of the award of points. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing Manager, Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester CO3 3WG.
- g. 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.
- h. The Committee will make its decision based on the evidence presented at the hearing and may exercise its discretion to increase or reduce the number of points that are applied. Where the number of points is increased and results in the applicant being placed in the red category there will be a right of appeal to the Magistrates Court. The number of points may be reduced where it considers that the case has been proved by the applicant that there were

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genuine and mitigating circumstances.

- i. The determination of the Licensing Committee is final and there is no right of appeal to the Magistrates' Court except in the circumstances outlined in 5.1 c above.

Existing Licence Holders

5.2 The Council will deal with offences as follows –

- a. 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 licence holder is a fit and proper person to hold a licence,
- b. A member of the Licensing Team will investigate the facts, which may include interviewing the licence holder under caution where an offence has been committed under the relevant legislation. Interviews under caution will not take place in relation to breaches of policy or general complaints. The Council may also, as part of its investigation, request a Police National Computer Check (PNC) from the Police to ensure it has all the evidence necessary to properly investigate the matter; this evidence will be made available to the Committee to assist it in reaching its decision. This may mean that matters that formed part of a previous decision are reconsidered in the light of new evidence and this may result in a licence, previously granted, being revoked.
- c. If following completion of the investigation (set out in 5.2 a and b above) there are matters of significant concern regarding an existing licence holder that requires urgent action, and which circumstances and/or the Policy indicates should result in the revocation of the licence or the refusal to renew an existing licence, the process set out at 5.3 below will be followed. This will usually, but not always, mean that the matters of concern have placed the licence holder into the red category on the Council's tables indicating that a licence holder should expect consideration to be given to the revocation of their licence on the grounds that they are not fit and proper, safe and suitable, to hold a licence. In such circumstances there is no right of appeal to the Licensing Committee. The right of appeal is to the Magistrates Court.
- d. In all other cases (i.e. where 5.2.c does not apply), upon completion of the investigation, 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.
- e. The award of points can be appealed to the Licensing Committee and this should be done within 21 days of being notified of the award of points. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing Manager, Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester CO3 3WG.

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- f. 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.
- g. The Committee will make its decision based on the evidence presented at the hearing and may exercise its discretion to increase or reduce the number of points that are applied. The number of points may be reduced where it considers that the case has been proved by the applicant that there were genuine and mitigating circumstances.
- h. The determination of the Licensing Committee is final and there is no right of appeal to the Magistrates' Court except in the circumstances outlined in 5.2 c below.

Revocation or refusal to renew an existing licence

- 5.3 If following completion of the investigation (set out in 5.2 a and b above) there are matters of significant concern requiring urgent action, the following process will be followed –
- a. The matter will be reported to the Licensing Manager for determination.
 - b. The Licensing Manager will consider the matter and confirm his decision in writing to the licence holder.
 - c. There is a right of appeal to the Magistrates' Court. Appeals must be made in writing to the Clerk of the Court, Essex Magistrates' Court's, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford CM2 5PF within 21 days of having been notified of the Licensing Manager's decision. Where an appeal has been made the implementation of any suspension or revocation will be held over until the appeal has been determined unless the licence has been revoked with immediate effect.

Examples of how the scheme will operate

New Applicants

A new applicant with convictions will be assessed in accordance with the Convictions Policy. They will be advised of the likely success of their application in line with the 'traffic light' system and can then choose whether to proceed with their application. If they determine to proceed but are then refused on the grounds that they are not fit and proper to hold a licence there is a right of appeal to the Magistrates Court. If they fall within the amber category their application will be determined by the Licensing Committee if they choose to proceed.

An applicant with a 5 year old conviction for shoplifting and an 8 year old one for driving with no insurance will have 4 and 3 points respectively. This places the application in the orange zone and they should expect it to be referred to the Licensing Committee for determination. In the event that a licence is granted 7 points will remain on the driver's record. These points will continue to decrease during the course of the licence in accordance with the Convictions Policy for example when the licence is 2 years old there will be 5 points on the licence. If a driver then receives penalty points for smoking in a vehicle the points will be added to the 5 points already on their licence. These penalty points only last for a period of 12 months.

Existing Licence Holders

A driver with a new convictions for a Breach of the Peace will be given 3 points on their licence. These points will reduce over the course of the licence. If the conviction were for Possessing Controlled Drugs 12 points would be given and in line with the Policy consideration given to the revocation of the driver's licence. Any penalty points awarded during the course of the licence will be added to the existing conviction points.

5.2. 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 any of the offences listed in this table
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	
Exploitation *	

*For the purposes of this Policy, exploitation means where there is evidence that an applicant or licensee has been convicted of is the subject of an ongoing investigation or where a concern has been raised in relation to abuse, exploitation, misuse or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse and domestic violence. This list is not exhaustive and other matters may fall into this definition.

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
Hate crime	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	12	12	12	8	6	5	4	3	2	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

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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

5.3 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	<p>12 for all offences listed in this table</p> <p>Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for such an offence.</p> <p>A current licence would be revoked in all but the most exceptional circumstances</p>
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	

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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 while alcohol level above limit	12	12	12	12	12	8	6	4	2	1
DR50	In charge of a vehicle	12	12	12	12	12	8	6	4	2	1

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	while unfit through drink										
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	12	12	12	12	12	8	6	4	2	1
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	12	10	8	7	6	5	4	3	2	1
LC20	Driving otherwise than in accordance with a licence	12	10	8	7	6	5	4	3	2	1
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.	12	10	8	7	6	5	4	3	2	1
UT50	Aggravated taking of a vehicle	12	12	12	6	4	3	2	1	0	0

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
CU10	Using a vehicle with defective brakes	3	3	3	3	2	1	0	0	0	0

AC1 - Convictions Policy

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 (points given per tyre)	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	10	9	8	7	6	5	4	3	2	1
CD20	Driving without reasonable consideration for other road users	10	9	8	7	6	5	4	3	2	1
CD30	Driving without due care and attention or without reasonable consideration for other road users	10	9	8	7	6	5	4	3	2	1
SP10	Exceeding goods vehicle speed limits	3	3	3	3	2	1	0	0	0	0
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3	3	3	3	2	1	0	0	0	0
SP30	Exceeding statutory speed limit on a public road	3	3	3	3	2	1	0	0	0	0
SP40	Exceeding passenger vehicle speed limit	3	3	3	3	2	1	0	0	0	0
SP50	Exceeding speed limit on a motorway	3	3	3	3	2	1	0	0	0	0

AC1 - Convictions Policy

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)	3	3	3	3	2	1	0	0	0	0
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

6. Driving Offences

AC1 - Convictions Policy

6.1 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.

6.2 When disqualified from driving under the 'totting up' procedures, a licence it will remain suspended for the duration of the suspension period and until the driver has achieved a pass in 'driving skills' training with a nationally recognised and accredited driving assessment programme.

6.3 Repeated convictions on a DVLA licence or combination of offences will result in a licence being refused, suspended or revoked.

Failure to report relevant matters

6.4 It may be that by the time the Council becomes aware of a matter, the sanction applied in relation to it has passed and so by being dishonest the intentions of the policy have been evaded. In such circumstances the failure to report a matter will normally result in the relevant sanctions under this Policy being applied with the addition of penalty points, under the Council's Penalty Point Scheme, for failing to notify the Council.

6.5 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.

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

Implementation and Review of the Policy - 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.



Hackney Carriage & Private Hire Licensing Policy

Colchester Borough Council

October 2021

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 recognise 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, to safeguard and promote the welfare of 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

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, suspending 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, to safeguard and promote the welfare of 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

1.3 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. The Council will work with partner agencies in order to promote the policy objectives and aims.

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

1.5 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 can 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
- Proprietors of hackney carriage and private hire vehicles and those with a registered interest in the vehicle
- [Private hire operators](#)

1.6 The Policy comprises this document and the annexes and appendices set out below. The annexes and appendices contain detailed information on the Council’s requirements and conditions and must be read in full alongside this document as they form part of the Policy.

- [Pre-Licensing Standards and Conditions for](#)
 - [Drivers](#)
 - [Hackney Carriage Vehicles](#)
 - [Private Hire Vehicles](#)
 - [Operators](#)
- [Convictions Policy](#)
- [Penalty Points Scheme](#)
- [Exemption Policy](#)
- [Hackney Carriage Plate Allocation Policy and Process](#)
- [Horse Drawn Vehicles](#)
- [Stretch Limousines](#)

Applications must be made, and will be determined, in accordance with the relevant processes and procedures set out in the Policy, its annexes and appendices.

The Strategic Plan and Aspirations for the Borough

1.7 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, prosperous and welcoming. The Council seeks to promote its vision for the Borough by focusing on the priorities of growth, responsibility, opportunity and wellbeing.

1.8 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.

Fees

1.9 The Council sets the fees in relation to the licensing of vehicles, drivers and operators, under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976.

Relevant Legislation and Definitions

1.10 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 (as amended); Transport Act 1985 and 2000; Crime and Disorder Act 1998; Environmental Protection Act 1990; Equality Act 2000; Road Traffic Acts; Health Act 2006; Human Rights Act 1998.

1.11 Any reference to “Committee” in this Policy is a reference to the Licensing Committee of Colchester Borough Council or any of its Sub-Committees as the context permits.

Consultations and Implementation of the Policy

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

1.13 The Policy will take effect on 1 January 2019 and unless otherwise stated all the provisions contained within the Policy will come into immediate effect.

1.14 The Policy will be monitored and reviewed on a regular basis and at no more than 5 yearly intervals. Any proposed significant changes will be subject to full consultation and approval by Full Council; minor amendments which do not affect the substance of the Policy and are intended to improve the clarity of the Policy, make changes to process, correct errors or remove duplication will be made without consultation following consideration by the Licensing Committee.

1.15 The Council will monitor its performance against the Policy and report the outcome of this review annually to the Licensing Committee.

1.16 Any changes in licensing requirements will be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need may be applicable to those already in possession of a licence.

1.17 Where changes are identified the Council will, in general, allow licence holders a reasonable time to comply with any change in licence requirements. Such changes will be communicated clearly to licence holders setting out the deadline dates by which they are expected to comply. Where a more subjective change is introduced, for example an amended policy on previous convictions, the Council will consider each case on its own merits.

1.18 The Council may deviate from its Policy where there are exceptional, clear and compelling reason to do so. Where a decision is taken to deviate from Policy the reasons for doing so will be recorded.

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

2.1 The key consideration of the Council in licensing hackney carriage and private hire drivers, operators and proprietors 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 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 licence or may issue points under this Policy if there is evidence to suggest that the individual is not a fit and proper person, and specifically
 - if they have been convicted, or there has been an out of court disposal, 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 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. The Council must therefore be assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

2.4 The fit and proper test is an enduring duty placed on the Council which is relevant both at first licensing and for the lifetime of the licence. The Council will apply the relevant test(s) to all applicants under its licensing regime whether driver, operator, or vehicle proprietor.

2.5 There is no definition within the act of 'fit and proper'. The Council and authorised officers therefore use 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 that he/she would maintain it to an acceptable standard throughout the period of the licence.

and has regard to the following –

"Its purpose therefore is to prevent those 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 employment to abuse or assault passengers". (Leeds City Council v Hussain2002)

2.6 To assist in determining the question of whether a person is fit and proper, safe and suitable, 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.

2.7 The Convictions Policy works alongside the Council's Penalty Point Scheme and points 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 by authorised officers and the Committee to the suspension or revocation of their licence.

2.8 In determining whether an applicant is fit and proper, safe and suitable, each case will be considered on its own merits and the Council will have regard to the following matters as appropriate -

- Right to Work in the United Kingdom
- Certificate of Good Conduct where relevant
- Convictions, cautions, penalty notices and other formal action etc. in line with the Council's Convictions Policy
- Disclosure and Barring report
- Notification of any convictions disclosed as part of the application process
- Police National Computer check where appropriate
- 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

- Group 2 Medical
- Completion of the Knowledge Test
- Completion of the English language test
- Completion of Hackney Carriage/Private Hire Driver Assessment.
- Completion of a Passenger Assisted Transport (PAT) training course if driving a fully adapted disabled vehicle.
- Completion of the Council’s Mandatory Safeguarding Training.
- Any other matter that might call into question the person’s ability to meet the fit and proper person test.

Sharing Information in the Interests of Public Safety

2.9 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 such as the Home Office, Police, National Anti-Fraud Network and benefits agencies to verify and request information held on a person and will share information with such bodies where it is appropriate to do so.

2.10 Where a decision is taken to refuse or revoke a licence because it is thought that the licence holder presents a risk of harm to a child or vulnerable adult, the Council will notify its decision to the DBS. The Council will make such a referral when it is thought that the licence holder has:

- harmed or poses a risk of harm to a child or vulnerable adult
- satisfied the harm test
- received a caution for a relevant offence and
- is or might in the future be working in regulated activity.

On receipt of this information the DBS may consider it appropriate for the licence holder to be added to a barred list.

2.11 The Council works closely with the Police to ensure effective and efficient information sharing and will use any information shared by way of Common Law Disclosures in determining whether a licence holder is fit and proper. Action taken as a result of information received from the Police will be fed back to them together with details of any refusals or revocation of licences on public safety grounds.

2.12 The Council will check applicants against the National Anti Fraud Network register and where it considers appropriate to do so in the interests of public safety, it will share information with the NAFN in relation to revoked licence holders.

2.13 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

2.14 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.

2.15 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/or any other relevant enforcement agency.

2.16 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.

2.17 The Council has investigated a small number of complaints concerning drivers who have used details supplied to them for the purposes of their business to contact a passenger at a later date. Drivers must not engage in sexual conversations, make inappropriate comments or have sexual contact with passengers on or after their duty, even where there is consent. 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. Licence holders must not use contact details obtained in the course of their business for any purpose other than that business, neither should they respond to overtures from customers.

2.18 These matters will be considered and regulated through the Council's application procedures, enforcement activities, Convictions Policy and Penalty Point Scheme. The installation of CCTV in all licensed vehicles is an additional measure to assist the Council in ensuring the safety of the travelling public and the Council is committed to investigating the feasibility of its introduction in all licensed vehicles.

Safeguarding Children and Vulnerable Persons

2.19 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.

2.20 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 licensed drivers wishing to obtain or renew a driver's licence. This training will address a variety of safeguarding concerns including child sexual exploitation, gangs and trafficking. Applicants who haven't completed the training will not be granted their licence and existing drivers who do not complete the training within the required timescale will be suspended unless they can prove exceptional circumstances that prevent them from complying. The Council's

safeguarding training is carried out through approved suppliers. The list of approved suppliers can be found on the website.

2.21 The Council's Code of Conduct for Working with Vulnerable Passengers is also designed to promote good safeguarding practices for drivers and the Council expects these standards to be embedded into a driver's working practice. The Council's commitment to investigating the installation of CCTV in all licensed vehicles is a further measure to assist in safeguarding the public.

2.22 The Council expects drivers and operators to report their concerns. These concerns can be emailed to licensing.team@colchester.gov.uk or a message can be left on the Council's safeguarding phone line 01206 506935. Matters that require immediate attention should be reported using 999.

2.23 The Council 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 in relation to licence holders, that arise from intelligence, the Council will carry out a full investigation; every decision will be made with the safety of the vulnerable person foremost. This may mean that action is taken to revoke a licence 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 and its Code of Conduct for Working with Vulnerable Persons 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.

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 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.

3.5 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. The Council is committed to investigating the feasibility of its introduction in all licensed vehicles.

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

Taxi Rank Marshalling

3.7 The Council values greatly the work of the taxi marshals; 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. Where taxi marshalls are operating, the Council expects its licensed drivers to pay them due regard.

Driver Health

3.8 The Council requires drivers to meet Group 2 Standards of Medical Fitness; this is the same standard applied by the DVLA to the licensing of lorry and bus drivers. The Council has taken this view because drivers are on the road for longer hours than most car drivers; they may have to assist disabled passengers and handle luggage; and carry members of the public who have expectations of a safe journey. Where a driver is not

found fit to drive by a Doctor their licence will be revoked.

3.9 In recognition of the fact that drivers report increasing difficulty in booking a doctor's appointment for their medical, and that the cost of such appointments are rising, the Council has lifted the requirement from drivers to use their own GP to carry out the medical. Drivers will now also be able choose from one of the suppliers listed on the Council's website in addition to using their own GP.

Age Limits

3.10 The Council does not set maximum 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.

3.11 Drivers seeking to renew their licence after the age of 65 will be required to have an annual medical irrespective of their renewal date in line with the requirements of the Group 2 Standards of Medical Fitness applied by the DVLA.

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. These standards and procedures are set out in Policy including its annexes and appendices.

4.2 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.

Competency Tests

4.3 In determining the licensing process for its hackney carriage and private hire drivers, the Council has had regard to the overriding objective of the protection of the public. To support this objective the Council requires applicants to pass a number of competency tests designed to confirm their suitability for the role and their knowledge of the requirements and expectations that come with being a licensed driver.

4.4 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 and pass a hackney carriage/private hire driver assessment test with a Council approved driving assessor. The standard of the test complies with the former Driver and Vehicle Standards Agency taxi driver assessment.

4.5 If the Council receives a complaint in relation to a licence holder's driving or has concerns in relation to the number of DVLA points on a licence, it may require the licence holder, at their own expense, to undertake a hackney carriage/ private hire driver's assessment with a Council approved driving assessor. The list of approved driving assessors can be found on the Council's website.

Training

4.6 In addition to the requirement for new licence holders to undertake mandatory safeguarding training, the Council, during the lifetime of a 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 licence holder in writing. If they refuse or fail to attend or do not attain the necessary training accreditation the licence may be suspended and consideration given to its revocation. The cost of such training will be borne by the licence holder. In general, it is expected that mandatory training must be completed. However, if a driver/applicant can provide evidence that they have received up to date training elsewhere, they may apply to be exempt from the training. Each case will be considered on its own merits.

4.7 The driver of any wheelchair accessible vehicle must undertake appropriate training, approved by the Council, to ensure that passengers' needs are addressed appropriately and that they are conveyed safely.

Dress Code

4.8 The Council regards its drivers as ambassadors for the Borough and therefore first impressions are important. All drivers are required to be respectably dressed, clean and tidy in appearance and must adhere to the Council's dress code as set out below:

Permitted clothing

- Tops, shirts, blouses, t-shirts, polo shirts or sweat tops – These should cover the shoulders and be capable of being worn inside trousers/skirts and 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. Clothing should be of sufficient length when the driver is seated as to not offend against decency.
- Footwear – This should be smart and appropriate for driving; and must fit around the heel of the foot.
- Cultural dress – This is acceptable providing it meets similar standards of decency and smartness.

Clothing not permitted – unclean or damaged clothing, clothing bearing offensive or suggestive words, graphics or logos; vests or singlets; track suit or jogging bottoms; ripped jeans; sports shirts (e.g. football, rugby or cricket tops); clothing with studs or similar adornments; beach type footwear such as mules and flip flops; baseball caps; and any clothing that obscures the face.

This list is not exhaustive and where you are unsure please contact the Licensing Team for further advice.

Enforcement

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

4.10 Effective hackney carriage and private hire regulation depends on partnership working and in particular the relationship between the trade, Council departments, the Police, DBS Service, DVLA 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 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 Customers are able to report complaints online using the Taxi Complaint Form or via the Council's Customer Service Centre. All complaints will be assessed by the Licensing Team and those found to be genuine will be investigated.

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 and/or driving assessment at their own expense.

4.14 There is a right of appeal against the award of penalty points.

Cross Border Working

4.15 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. The Council has no powers to take direct action where any conditions of the licence are broken or the driver provides poor service to customers; the contraventions must be referred on to the relevant local authority. This matter is being kept under review by the Essex Licensing Officers Forum.

4.16 Drivers will be expected to be able to provide proper evidence of cross border working if requested by an authorized officer.

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.

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

Number of Vehicles

4.20 The Council restricts the number of hackney carriage vehicles it licenses. The appropriate figure is established by means of an unmet demand survey commissioned by the Council and carried out every three years. The most recent unmet demand survey, carried out in 2018, indicated that there was no significant unmet demand; at the time of the survey there were 130 licensed hackney carriage vehicles on the road.

4.21 Any vehicle to be used as a hackney carriage on plates 200 onwards must be fully wheelchair adapted; this means having the facility to load and unload wheelchairs directly into the vehicle. All new vehicles on these plates must be adapted; this includes vehicles on renewal. The door signs on these vehicles will carry the blue badge logo.

4.22 In the event that application is made for a horse drawn hackney carriage vehicle a special identification hackney carriage plate specific to this use will be issued; applications in respect of novelty vehicles will be considered on a case by case basis.

4.23 The allocation or reallocation of a hackney carriage plate, should one become available, will be carried out at the discretion of the Council and in accordance with the Council's Hackney Carriage Plate Allocation Policy and Process.

4.24 If the most recent unmet demand survey indicates that there is no unmet demand, the Council may determine not to allocate or reallocate a Hackney Carriage Plate

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 its Private Hire Vehicles Licensing Standards and Conditions and Hackney Carriage Licensing Standards and Conditions.

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. 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 Tactile medical exemption certificates will be introduced for licence holders with exemptions.

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 carbon dioxide, nitrogen dioxide and particulate matter 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 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 licensed vehicles –

- Euro 5 for diesel vehicles/Euro 4 for petrol from 2018
- Euro 6 for diesel vehicles / Euro 4 for petrol from 2020
- From 2025 all new registrations to meet an LPG, low emission or electric hybrid standard

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 1 and when they are sitting stationary. There may be exceptional circumstances when drivers are permitted to wait with their engines idling. An Air Quality Management Area, is an area which is likely to, or already exceeds the limits for the air pollutant Nitrogen Dioxide. These limits are designed for the protection of human health. Vulnerable groups are particularly at risk from the effects of air pollution. These include elderly adults, children, people with underlying heart and lung conditions or diseases and pregnant women.

6.5 Air pollution is associated with a range of health impacts including asthma, respiratory disease, coronary heart disease, stroke and lung cancer. There are emerging links showing impacts on diabetes, low birth weight and dementia. It is estimated that air pollution was a contributory factor within 5.5% of deaths (or 1 in 20 deaths) in the borough in 2018.

6.6 Vehicle emissions are the largest contributor to poor air quality within Colchester. By switching off and reducing unnecessary engine idling, drivers will decrease the output of air pollutants into the local environment.

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 and has acknowledged the importance of this role by including general questions on Borough, tourism and entertainment within the Knowledge Test.

7.3 To be such an ambassador could not be easier and quite simply comes down to the way in which passengers are treated and how the views of our Borough are shared. First impressions are generally lasting impressions and a negative attitude from a licensed driver towards visitors, or the Borough 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.