



Colchester
City Council

Licensing Committee Meeting

**Grand Jury Room, Town Hall, High Street,
Colchester, CO1 1PJ
Wednesday, 17 January 2024 at 18:00**

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

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda (the list of items to be discussed at a meeting), which is usually published 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>.

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COLCHESTER CITY COUNCIL
Licensing Committee
Wednesday, 17 January 2024 at 18:00

Members:

Councillor Appleton
Councillor Bloomfield
Councillor Michelle Burrows (Deputy Chair)
Councillor Roger Buston
Councillor Jeremy Hagon
Councillor Dave Harris (Chairman)
Councillor Mike Hogg
Councillor David King
Councillor Roger Mannion
Councillor Sam McLean
Councillor Carl Powling
Councillor Michael Spindler

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

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.

2 Substitutions

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

3 Urgent Items

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

4 Declarations of Interest

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

5 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes of the meeting held on 8 November 2023, and the Driver Appeal Hearing held on 29 June 2023 contained in Part B of the agenda are a correct record.

Licensing Committee draft Minutes 8 November 2023

7 - 10

6 Have Your Say! (Hybrid Council meetings)

Members of the public may make representations to the meeting. This can be made either in person at the meeting or by joining the meeting remotely and addressing the Committee via Zoom. Each representation may be no longer than three minutes. Members of the public wishing to address the Committee remotely must register their wish to address the meeting by e-mailing democratic.services@colchester.gov.uk by 12.00 noon on the working day before the meeting date. In addition, a written copy of the representation will need to be supplied for use in the event of unforeseen technical difficulties preventing participation at the meeting itself.

There is no requirement to pre-register for those attending the meeting in person.

7 Taxi Policy – Vehicle Age Restriction

11 - 14

The Committee will consider a report requesting that it consider approving, for consultation purposes, the removal of the age restriction on licensed vehicles and that the vehicle testing programme be used to determine the continuing road worthiness of licensed vehicles.

8 Work Programme 2023-2024

15 - 16

The Committee will consider a report setting out its work programme for the current municipal year.

9 Exclusion of the Public (not Scrutiny or Executive)

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

Part B

(not open to the public including the press)

Draft minutes for the driver appeal panel 29.06.2023

- 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).

Licensing Committee
Wednesday, 8 November 2023

Present: Councillor Appleton
Councillor Michelle Burrows (Deputy Chair)
Councillor Roger Buston
Councillor Jeremy Hagon
Councillor Dave Harris (Chair)
Councillor Mike Hogg
Councillor David King
Councillor Roger Mannion
Councillor Sam McLean
Councillor Carl Powling
Councillor Michael Spindler

Substitutes: Councillor Tim Young for Councillor Molly Bloomfield

Also in attendance:

180. Minutes of the previous meeting

RESOLVED that: the minutes of the meeting held on 14 June 2023, the meeting of the Licensing Sub-Committee held on 9 August 2023 at 11.00am and the meeting of the Licensing Committee Driver Appeal Hearing held on 9 August 2023 be confirmed as a correct record.

181. Licensing Enforcement Policy

The Committee considered a report requesting that it approve for use a new stand-alone Licensing Enforcement Policy document.

Paul Donaghy, Licensing, Community Safety and Safeguarding Manager, attended the meeting to present the report and assist the Committee with its deliberations. The Committee heard that a review of the Council's Policies following the Licensing, Community Safety and Safeguarding Manager having taken up his post had revealed that the Licensing Enforcement Policy had been entwined with the Policies of other areas of Public Protection, and it was considered more appropriate that a stand-alone Licensing Enforcement Policy was created. Although the substance of the proposed Policy remained unchanged, its length had been reduced from 55 pages to 27, and it was hoped that this would make the Policy more transparent and easier to understand for all who used it. The Committee was asked to approve the proposed Policy for use.

In response to a question from the Committee, the Licensing, Community Safety and Safeguarding Manager confirmed that Officers were diligent in ensuring that their knowledge of changes to legislation or national policy was up to date. The proposed Licensing Enforcement Policy would be kept under review, and modified whenever necessary to ensure that changes to the Council's Strategic Priorities were reflected in it.

RESOLVED that: the Licensing Enforcement Policy be adopted and made publicly available.

182. Pavement Licence Policy Update

The Committee considered a report which presented an amended Pavement Licence Policy to it, and which requested that the amended Policy be approved.

Alison Chapman, Licensing Officer, attended the meeting to present the report and assist the Committee with its enquiries. The Committee heard that the Council's Pavement Licence Policy had first come into force during the Coronavirus pandemic, as a result of the implementation of the Business and Planning Act 2020 (the Act) which aimed to encourage the use of outdoor facilities. The Act had been updated a number of times, and it was considered appropriate to review the Council's Policy in the light of the most recent extension of the provisions within it.

The proposed amended Policy provided greater clarity for applicants, and included more information to assist with the application process, including detailing the requirement for the submission of suitable scale plans with applications. The proposed Policy was written in such a way that it would no longer carry a requirement to be reviewed annually, and would remain effective should the provisions in the Act be extended further. The Committee was invited to approve the proposed amended Policy for use.

A Committee member supported the proposed Policy, but wondered whether the Council was being proportionate in the level of fees being charged? It was important to try to encourage a café style culture in Colchester, could the fee charged for the licence be related to the size of the business of the applicant? The Licensing Officer confirmed to the Committee that the Act set a maximum fee of £100 for each application for a pavement licence, whether the licence was to cover 1 chair or 20. It was possible to apply for a pavement permit under the Highways Act, however, the cost of such an application would be very significantly higher than the proposed £100 fee for a pavement licence, and it was hoped that the lesser fee would encourage the safe culture which had been mentioned.

In discussion, the Committee supported the proposed Policy and accepted that £100 was not a large fee, although would potentially be more significant for a small business. It wondered whether any consideration could be given to providing some more flexibility in the fee which was charged based on the scale of the business which was applying. Paul Donaghy, Licensing, Community Safety and Safeguarding Manager, confirmed that the level of fee could be considered.

A Committee member asked about the safety of the furniture which would be placed on the street, and sought assurance that adequate insurance would be provided by the licence holder to indemnify the owner of the land on which furniture would be placed. The Licensing officer confirmed that it was only possible for a pavement licence to be issued on land controlled by Essex County Council as the Highway Authority, and no licence would be issued on private owned land. Essex County Council had raised the requirement for liability insurance up to £10m to ensure that adequate cover was provided in the event of an accident.

A Committee member considered that the proposed fee of £100 was not significant, however, did believe that the carrying out of an equality impact assessment (EIA) would be helpful in relation to the proposed Policy to ensure that equality legislation was being adequately supported. The Licensing, Community Safety and Safeguarding Manager confirmed that he would undertake such an assessment.

In response to questions asked by a Committee member in relation to potential ease of access issues associated with a pavement licence, it was confirmed to the Committee that the Act provided that a minimum space had to be maintained between any licenced area and the kerb, and that the Highway Authority was consulted to ensure that sufficient space was available.

The Committee again discussed the fee associated with an application for a pavement licence, and although opinions were divided as to the correct amount to be charged, it was suggested that consideration be given to drawing a distinction between larger and smaller businesses when setting the fee. It was, however, noted that even the highest fee of £100 per year equated to approximately 30p a day, which was not considered to be a high amount compared to the benefits that even a single extra table outside could bring to a business. The Licensing, Community Safety and Safeguarding Manager would consider whether there was any potential to vary the fees which were charged.

RESOLVED that: the updated Pavement Licensing Policy be approved.

183. Work Programme

The Committee considered a report setting out its work programme for the forthcoming municipal year.

In answer to a question from the Committee, Paul Donaghy, Licensing, Community Safety and Safeguarding Manager, confirmed that the requirement for all licensed vehicles to be able to accept card payments had been in force since October 2023. Officers were still awaiting deliver of stickers to be placed in vehicles advising customers that card payments could be taken, but this issue was expected to be resolved in the near future.

The question of the provision of closed circuit television (CCTV) in licensed vehicles was raised by the Committee, and an update on the current position was requested at either the January or March meetings of the Committee.

The Licensing, Community Safety and Safeguarding Manager assured the Committee that policy review work was ongoing, and it was anticipated that reports on a number of issues would be forthcoming over the coming year.

RESOLVED that: the contents of the work programme be noted.



Licensing Committee

Item
7

17 January 2023

Report of	Head of Public Protection	Author	Sarah White
Title	Taxi Policy – Vehicle Age Restriction		☎ 506420
Wards affected	All Wards		

1. Executive Summary

- 1.1 The Department of Transport issued the updated Taxi and Private Hire Best Practice Vehicle Guidance in November 2023. This document gives guidance on the age restrictions for licensed vehicles. In light of this guidance and in response to concerns raised by the trade, this report considers whether the current vehicle age restriction for licensed vehicles stipulated in the Council's Hackney Carriage and Private Hire Licensing Policy should be removed.

2. Recommended Decision

- 2.1 It is recommended that the Committee consider approving, for consultation purposes, the removal of the age restriction on licensed vehicles and that the vehicle testing programme be used to determine the continuing road worthiness of licensed vehicles.

3. Reason for Recommended Decision

- 3.1 The change would bring the Council into line with the Department of Transport's Best Practice Guidance by removing arbitrary age limits and may help address the current issues being faced by the trade around the supply and affordability of vehicles.

4. Alternative Options

- 4.1 To leave the Policy unaltered and to continue with the existing licensing regime.

5. Detailed Information

5.1 The Council's current Hackney Carriage and Private Hire Licensing Policy sets out the age limits both for first licensing and the maximum age for a licensed vehicle.

1. Vehicle Age and Condition

1.1 An application for a hackney carriage/private hire vehicle will not be accepted if the vehicle is five years or older. The age of the vehicle will be taken from the date of first registration on the logbook and therefore this must be submitted with the application.

1.2 The vehicle will continue to be licensed until it reaches 12 years of age (or in the case of a hackney carriage vehicle, 15 years of age for a purpose-built taxi).

1.3 The vehicle must pass an inspection undertaken at a Council approved testing station. The current approved garage is the Riverside Workshop, Unit 7, Westside, Stanway CO4 3QE.

1.4 All vehicles licensed as hackney carriages and which are, from the date of first registration, over one year old must have a VOSA MOT test certificate.

5.2 In recent years, the Council has become aware of the increasing difficulty the trade is experiencing in finding suitable and affordable vehicles that meet the Council's current licensing requirements.

5.3 The age limit for first licensing vehicles and the maximum age limit have been in place for many years. The limitations were put in place not only to ensure the safety of the public but also to ensure the overall standard of the Council's licensed vehicles remained high. Since the Policy was put in place, the overall standard of vehicles, their longevity and emissions have steadily improved to the point where it is considered that the age limits currently imposed should be reconsidered with a view to their removal and the vehicle testing regime used to determine the continuing suitability of the vehicle to be licensed.

5.4 This stance is supported by the recently published Department of Transport's Best Practice [Guidance](#) which states that in relation to vehicle age limits, 'the setting of an arbitrary age limit may be inappropriate, counterproductive and result in higher costs to the trade and ultimately passengers. For example, a maximum age for first licensing may have adverse unintended consequences. A 5-year-old used electric vehicle will produce less emissions than a new Euro 6 diesel or petrol car – enabling the trade to make use of previously owned vehicles will assist it to transition more rapidly to zero emission vehicles and improve air quality'.

5.5 The Council's Policy in relation to air quality and Euro emissions will remain relevant although it is likely that this will be revised as part of the current review of the Council's Hackney Carriage and Private Hire Licensing Policy.

6. Vehicle testing

6.1 The Council has a robust test regime in place for its licensed vehicles as set out below.

1. Vehicle Testing

1.1 Once licensed, the vehicle must be presented for inspection as follows –

- Up to 5 years old - once during each 12-month licensing period.
- 5 to 12 years old - twice during each 12-month period.

1.2 Licensed vehicles that fail an authorised examination and test will be issued with a suspension notice to prevent the vehicle being used to carry passengers until the defect(s) is/are remedied. The suspension will not be lifted until the vehicle has been repaired; undergone a further test at your expense; has been passed as fit for use by a Council approved testing station; and the Authority has received the appropriate notification.

1.3 If the defect is not repaired within 28 days from the date of the service of the suspension notice, the vehicle licence will be revoked by the Council. Where it is anticipated that repairs will take longer than 28 days an application must be made to the Council to extend the period.

1.4 Any damage to a licensed vehicle must be reported to the Licensing Team in writing/by email within 72 hours.

1.5 A vehicle must always be inspected after it has been involved in a road traffic accident or where damage has been caused to it, however minor or limited the damage appears to be. You must also present the vehicle for inspection, at a Council approved testing station, after it has been repaired. A copy of the Pass Certificate must be given to the Council before the vehicle can be used again to carry passengers.

1.6 The licence of any vehicle failing to attend a required inspection will be suspended until such time as the vehicle has been inspected and passed.

1.7 Vehicles must be maintained to MOT standard at all times. Vehicles that pass the MOT with minor defects will be required to carry out remedial works within 7 working days of the MOT; if this is not possible prior approval for an extension in this time must be sought from the Licensing Manager. Proof of the completion of works must be presented to the Council within the period provided for remedial works to be carried out.

6.2 It is suggested that this testing regime should be used to determine the suitability of the vehicles to remain licensed rather than imposing an arbitrary cut-off date. As such it is proposed that the Policy be amended to read -

1.1 Once licensed, the vehicle must be presented for inspection as follows –

- Up to 5 years old - once during each 12-month licensing period.
- 5 years and older - twice during each 12-month licensing period at approximately 6-month intervals.

7. Strategic Plan References

7.1 Links to the priorities in the Council's [Strategic plan 2023-26](#).

Priorities:-

- Respond to the climate emergency.

- To make our city a better place in which to live and work and visit.

8. Consultation

- 8.1 The proposed changes would constitute a major change to the Council's Policy and therefore a consultation period of 6 weeks is proposed with the Trade to obtain its views before the Committee makes a final decision.

9. Publicity Considerations

- 9.1 Any change to the Policy will have effect once approved by full Council. The Policy and supporting information will be made available on the Council's website.

10. Financial implications

- 10.1 There are no financial implications for the Council associated with the policy. The cost of vehicle inspections is borne by the vehicle owners.

11. Environmental and Sustainability Implications

- 11.1 The Council's Policy currently sets emission limits for its licensed vehicles with the intention of improving air quality over time and these will remain pending a full review as part of the wider review of the Policy to ensure that the Council's policy reflects the current science and targets on emissions and air quality. The Council's vehicle testing regime will continue and therefore it is anticipated that the proposed change will have no detrimental impact.
- 11.2 The Council's 2030 Climate Emergency Response target monitors our direct emissions (Scope 1 Emissions) and "Scope 2" emissions indirectly created by people working for or with the Council to provide us with goods or services. However, as neither of these applies, this would not affect our own targets, as vehicle emissions from third party owned vehicle are outside the scope of the 2030 target.

12. Standard References

- 12.1 There are no community safety, health and wellbeing, health and safety, risk management, nor equality, diversity and human rights implications.



Licensing Committee

Item
8

17 January 2023

Report of	Assistant Director of Corporate and Improvement Services	Author	Matthew Evans ☎ 8006
Title	Licensing Committee Work Programme 2023-2024		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2023-2024 for the Licensing Committee. This provides details of the reports that are scheduled for each meeting during the municipal year. Members are asked to note that due to the nature of Licensing work, items on the work programme may be subject to change.

2. Recommended Decision

- 2.1 The Committee is asked to note the contents Committee's Work Programme for 2023-2024.

3. Alternative Options

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

4. Background Information

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

5. Standard References

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

6. Strategic Plan References

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

Licensing Work Plan May 2023 – April 2024

14 June 2023	Update on the work of the Licensing Team
26 July 2023	Meeting cancelled.
20 September 2023	Meeting cancelled.
8 November 2023	<ol style="list-style-type: none">1. Licensing Enforcement Policy2. Pavement Licence Policy
17 January 2024	<ol style="list-style-type: none">1. Taxi Policy age restriction
20 March 2024	<ol style="list-style-type: none">1. Taxi Policy age restriction consultation results.