

Licensing Committee

Grand Jury Room, Town Hall
26 November 2008 at 6:00pm

The Licensing Committee deals with
licensing applications for public entertainments,
hackney carriages and private hire vehicles, sex
establishments, gaming and lotteries, door
registration scheme and other appeals.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at www.colchester.gov.uk.

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call, and we will try to provide a reading service, translation or other formats you may need.

Facilities

Toilets are located on the second floor of the Town Hall, access via the lift. A vending machine selling hot and cold drinks is located on the ground floor.

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**COLCHESTER BOROUGH COUNCIL
LICENSING COMMITTEE
26 November 2008 at 6:00pm**

Members

Chairman : Councillor Cook.
Councillors Hogg, Lilley, Quarrie and Sykes.

Agenda - Part A

(open to the public including the media)

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

Pages

1. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

2. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

3. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

4. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated

- by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

5. Minutes

1 - 11

To confirm as a correct record the minutes of the meeting held on 14 May, 4 June, 19 June, 30 July and 13 August 2008

6. Exclusion of the public

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) 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).

**COLCHESTER BOROUGH COUNCIL
LICENSING COMMITTEE
26 November 2008 at 6:00pm**

Agenda - Part B
(not open to the public or the press)

Pages

7. Appeal against Council Conditions

The following report contains exempt information (information relating to an individual) as defined in paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

See report by the Head of Planning, Protection and Licensing.

LICENSING COMMITTEE
14 MAY 2008

Present:- Councillors Blundell, Chuah, Cook, Fisher, Garnett, Hogg, Lilley, Martin, P. Oxford, Quarrie, Sykes and Tod.

1. Chairman

RESOLVED that Councillor Cook be appointed Chairman for the ensuing Municipal Year.

2. Deputy Chairman

RESOLVED that the appointment of the Deputy Chairman for the ensuing Municipal Year be deferred to the next meeting of the Committee.

LICENSING COMMITTEE
4 June 2008

Present:- Councillors Blundell, Chuah, Cook, Garnett, Hogg,
Lilley, Martin, P. Oxford, Quarrie, Sykes and Tod.

3. Appointment of Deputy Chairman

RESOLVED that Councillor Garnett be appointed Deputy Chairman for the ensuing Municipal Year.

4. Minutes

The minutes of the meetings held on 5 and 19 March were confirmed as a correct record.

LICENSING COMMITTEE

4 June 2008

Present: - Councillor Cook (Chairman)
Councillors Chuah, Martin and Quarrie

The Committee resolved under Section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information)(Variation) Order 2006 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972

5. Hackney Carriage/Private Hire Driver's Licence // Appeal

The Committee considered a report by the Head of Planning, Protection and Licensing on an appeal against the Licensing Manager's decision to suspend a hackney carriage/private hire driver's licence.

The Licensing Manager and the appellant and his witness attended, presented their cases, then withdrew.

RESOLVED that-

- (i) The appeal be upheld.
- (ii) Four penalty points be issued to the appellant's hackney carriage/private hire driver's licence issued by the Council in accordance with the Council's penalty point scheme.

Councillor Hogg here joined the Committee.

The Committee resolved under Section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information)(Variation) Order 2006 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972

6. Hackney Carriage/Private Hire Driver's Licence // Appeal

The Committee considered a report by the Head of Planning, Protection and Licensing on an appeal against the Licensing Manager's decision not to grant a hackney carriage/private hire driver's licence.

The Licensing Manager and the appellant and his witness attended, presented their cases, then withdrew.

RESOLVED that-

- (i) The appeal against the Licensing Manager's decision to refuse to grant a hackney carriage/private hire driver's licence be upheld.
- (ii) Having regard to the evidence presented to the Licensing Committee and the contents

of the Committee report, the Committee determined that the appellant was a 'fit and proper person' to hold a hackney carriage/private hire driver's licence in accordance with Section 51 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 and determined to grant a full 3-year hackney carriage/private hire driver's licence subject to the usual standard conditions.

The Committee resolved under Section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information)(Variation) Order 2006 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972

7. Hackney Carriage/Private Hire Driver's Licence // Appeal

The Committee considered a report by the Head of Planning, Protection and Licensing on an appeal against the Licensing Manager's decision to suspend a hackney carriage/private hire driver's licence.

The Licensing Manager and the appellant and his witness attended, presented their cases, then withdrew.

In presenting the resolution the Chairman advised the appellant that the course of action determined by the Committee was considered to be necessary and proportionate and to be in the public interest. It provided the appellant with the opportunity to address the difficulties which had brought him before the Committee whilst enabling him to have the means to carry on with his employment. The appellant was advised that he would need to apply for a probationary licence as a new applicant and the grant of the licence would be dependent on no further evidence coming to light of contraventions of the pre-licensing conditions.

RESOLVED that-

(i) The appeal against the Licensing Manager's decision to suspend the appellant's hackney carriage/private hire driver's licence be dismissed. Having regard to the evidence before it, the Committee determined to revoke the appellants hackney carriage/private hire driver's licence and to offer the appellant the opportunity to reapply as a new driver for a one year probationary licence, subject to the following condition:-

That if, during the period of the licence, the appellant is convicted of any criminal or motoring offence, fails to notify the Council of any prosecution/fixed penalty fines pending or issued against them or fails to comply with Colchester Borough Council's driver and vehicle licensing conditions, then the probationary hackney carriage/private hire licence will be automatically be revoked.

LICENSING COMMITTEE

19 June 2008

Present: - Councillor Cook (Chairman)
Councillors Chuah, Cope, Hogg and Garnett

The Committee resolved under Section 100A(4) of the Local Government Act 1972 and the Local Government (Access to Information)(Variation) Order 2006 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972

8. Hackney Carriage/Private Hire Driver's Licence // Appeal

The Committee considered a report by the Head of Planning, Protection and Licensing on an appeal against the Licensing Manager's decision to suspend the appellant's hackney carriage/private hire driver's licence.

The Licensing Manager and the appellant and his witness attended, presented their cases, then withdrew.

RESOLVED that-

- (i) the appeal be dismissed.
- (ii) That after careful consideration of the evidence presented to the Committee including the Court records, the report and the evidence given by the Licensing Manager, the applicant and his witnesses, the Committee was not satisfied that the applicant was 'a fit and proper person' to hold a hackney carriage/private hire driver's licence in accordance with Section 51(1) (a) of the Local Government (Miscellaneous Provisions) Act 1976 and therefore determined to revoke the appellant's hackney carriage/private hire driver's licence with immediate effect. The Committee considered this course of action to be necessary and proportionate and to be in the public interest.

LICENSING COMMITTEE

30 JULY 2008

Present: - Councillor Cook (Chairman)
Councillors Blundell, Chuah, Garnett, Hogg, Lilley,
Martin, P Oxford, Quarrie and Sykes

Substitute Members:- Councillor Bouckley for Councillor Tod

9. Minutes

The minutes of the meeting held on 19 June 2008 were confirmed as a correct record.

10. Member Development Programme

The Head of Environmental and Protective Services submitted a report seeking the views of the Committee on the suggested programme for member development.

It had become apparent that the existing training arrangements did not adequately address the needs of members of the Committee and it had proved increasingly difficult in recent years to provide training on general aspects of licensing. These problems together with a number of other issues had left the Council with members who had not completed all the relevant sections of training and it had proved extremely difficult to fill the training gaps. In addition since a number of members of the Committee were of long standing they had completed the training on numerous occasions.

It was proposed therefore to move away from the traditional approach of legislation based training to a more flexible scheme which acknowledged the different developmental needs of new and experienced members and which provided guidance to new Chairman of the practicalities of chairing quasi judicial hearings.

The training programme for new members would comprise an introduction to the work of the licensing committee and then a core training programme which would encompass training on the licensing act and hackney carriage/private hire licensing, attending as an observer meetings of the various Committees and a review at the end of the year. The programme for existing members would centre on the provision of modular based information units on a variety of matters across the licensing spectrum. These would include matters such as convictions and rehabilitation, under age drinking, noise nuisance, enforcement and legal principles and would it was hoped, for the large part would be provided by the Council's licensing partners such as the probation service, trading standards and other responsible authorities. There would be some compulsory modules on areas that underpinned the work of the committee and all members would be required to attend. However, in general members would be free to choose their modules within the framework. Members would be required to undertake 12 member development points of training a year which would equate to 4 modules, each being worth 3 points. The scheme also acknowledged the role of the Chairman in quasi judicial hearings and proposed specialist training in this area.

It was hoped that the new system of training would address the need for flexibility in delivery of information whilst strengthening members' skills and enabling them to respond to the

increasingly complex and diverse licensing demands placed upon them. The scheme would support the bid for Member Charter status for the East of England Charter for Elected Member Development.

Resolved

- (i) That the training programme for members of the Licensing Committee as set out in the report by the Head of Environmental and Protective Services be approved–
- (ii) That the Constitution be amended as follows-

The following criteria shall apply in respect of training-

- Attendance must be at the training sessions provided within the context of the member training programme which will be provided on a modular basis.
- Members must complete 12 member development points of training a year.
- Attendance must be for the duration of each training session.
- Membership of the Committee does not provide any exemption from attendance at a training session.
- A record of attendance at training sessions will be maintained and updated each year by the Licensing Section and will be circulated to all members following each training session.

Councillor P Oxford declared his personal and prejudicial interest in the following item, as his brother was a taxi driver, and left the meeting at this point pursuant to the provisions of the Meetings General Procedure Rule 7

11. Unmet Demand Survey

The Head of Environmental and Protective Services submitted a report on the results of the unmet demand survey for hackney carriage vehicles undertaken during the late autumn of 2007 and early 2008. Mr Beecham of Transportation Planning International who had carried out the survey attended the meeting and presented the survey and responded to members questions.

The Council was required by the Department of Transport to regularly review its policy of restricting the number of hackney carriage vehicle licences that it granted and to make the results of the review public. The last review took place in 2004 and as a result the number of hackney carriage vehicle licences granted in Colchester had increased to 131.

The recent survey was carried out by Transportation Planning International Ltd. The survey included passengers and users of taxi services, on street public attitude and written questionnaires, mobility groups, transportation groups, business organisers, the primary care trust, the Council's tourism and visitor services and also the taxi and private hire trades. It found that there was currently no significant unmet demand for the services of hackney carriages. It also highlighted that facilities were limited at the taxi ranks in terms of signage and waiting facilities such as seating, shelter and information for taxi users.

Mr Rhodes, Chairman of the Hackney Carriage Association and Mr Doyle and Mr Wilmot of the Hackney Carriage Association attended the meeting and with the consent of the Chairman addressed the Committee.

RESOLVED

- (i) (unanimously) That the number of hackney carriage vehicle licences be maintained at the current limit of 131.
- (ii) That the Head of Environmental and Protective Services be requested to look at increasing the rank space in the Town Centre and to report back to the Committee in due course.
- (iii) That the following suggestions made by TPI be implemented where it is found to be possible and practical-
 - (a) That any change to the vehicle specifications to require more or all hackneys to be wheelchair accessible vehicles should only be considered following the outcome of the Department of Transport consultation proposed for summer 2008. In the absence of this, it is recommended that improvements in the accessibility of vehicles and services are encouraged on a voluntary basis through promotion of the market opportunities and identification of opportunities to build the capacity of operators to serve these.
 - (b) To address service accessibility, service quality and standards of customer care issues identified consideration should be given to:

In the short time

 - Encouraging drivers to seek assistance from the Train to Gain programme to pursue NVQ2 training
 - Promoting the improved customer care expectations to the public to provide reassurance to users and potential users, including information on accessibility and how to provide feedback (negative and positive)
 - Monitoring of this through customer surveys and random mystery passengers

In the longer term

 - Consideration of a more comprehensive quality taxi partnership (QTP) approach to improve liaison between the licensing authority, police, and other stakeholders and operators, provide a framework for bringing about mutually beneficial improvements across the taxi sector and a quality mark to participating operators, as has been found to be effective in other authorities.
 - The framework provided by a QTP would also be useful for facilitating discussion on how best to optimise supply to address peaks in demand, delays in arrival times and congestion issues.
 - (c) The licensing authority should address the shortcomings of facilities at ranks, identified by the rank audit in order to be sure to meet the needs of all users.
 - (d) The licensing authority should issue any guidance to taxi operators on how to address safety and security issues, due to be provided by the Government,

following publication of their research into this issue proposed for summer 2008.

- (e) The anticipated useful life of the current survey is three years and we would recommend a further survey in autumn 2010 in line with current Government Guidance.

Councillors Chuah and Hogg left the meeting at this point.

12. Hackney Carriage Vehicles // Request to increase maximum fares.

The Committee considered a report by the Head of Environmental and Protective Services on an application from the Colchester Hackney Carriage Association for an increase in the maximum fare/tariff that could be charged. The reasons for the requested were the rising and unstable costs of diesel and petrol and the increases in car insurance, vehicle maintenance and servicing and other general running costs which were associated with the day to day running of hackney carriage businesses. The report set out the options on which the Hackney Carriage Association had asked its members to vote. Option B was the preferred option voted for by the majority of the membership of the Association. This would increase the flag fall on the taxi meter by 20 pence, followed by a 30 pence increment for each (or part thereof) 206 meters travelled up to a maximum of 2034 metres and a further 30 pence increment for each 402 meters. The 30 pence increment would also apply to rate 2 on the taximeter.

RESOLVED that the request from the Hackney Carriage Association to increase maximum fares be approved and that their preferred Option B be agreed.

LICENSING COMMITTEE

13 August 2008

Present:- Councillor Cook (Chairman)
Councillors Chuah, Hogg, Lilley and Sykes

The Committee resolved under Section 100A of the Local Government Act 1972 and the Local Government (Access to Information) (Variation) Order 2006 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972

13. Hackney Carriage Licensing // Appeal A

The Committee considered a report by the Head of Environmental and Protective Services on an appeal against the Licensing Manager's decision to revoke a driver's hackney carriage/private hire vehicle driver's licence. The Licensing Manager and the appellant attended and presented their cases.

RESOLVED that –

- (i) The revocation of the hackney carriage/private hire driver's licence be lifted.
- (ii) That six penalty points be issued in accordance with the Council's Penalty Point Scheme for hackney carriage/private hire drivers and operators. The Committee considered this to be a reasonable and proportionate response taking into account the breach of the Council's Conditions and the mitigating circumstances explained by the appellant.

The Committee resolved under Section 100A of the Local Government Act 1972 and the Local Government (Access to Information) (Variation) Order 2006 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972

14. Hackney Carriage Licensing // Appeal B

The Committee considered a report by the Head of Environmental and Protective Services concerning the possible imposition of penalty points under the Council's Penalty Point Scheme against a driver's hackney carriage/private hire driver's licence for failing to report accident damage to the driver's vehicle. The Licensing Manager and the driver and his witness attended and presented their cases.

RESOLVED that two penalty points be issued in accordance with the Council's Penalty Point Scheme for hackney carriage/private hire driver's and operators and that a copy of the Scheme be again sent to the driver with the decision letter. The Committee considered this to

be a reasonable and proportionate response having regard to the breach of the Council's conditions and the explanation offered by the driver.

The Committee resolved under Section 100A of the Local Government Act 1972 and the Local Government (Access to Information) (Variation) Order 2006 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in paragraph 1 of Schedule 12A to the Local Government Act 1972

15. Hackney Carriage Licensing // Appeal C

The Committee considered a report by the Head of Environmental and Protective Services concerning the possible imposition of penalty points under the Council's Penalty Point Scheme against a driver's hackney carriage/private hire driver's licence for a number of breaches of the Council's Conditions or other relevant statutory provisions under the licensing acts. The Licensing Manager and the driver and his witness attended and presented their cases.

RESOLVED that eight penalty points be issued in accordance with the Council's Penalty Point Scheme for hackney carriage/private hire drivers and operators. The Committee considered this to be a reasonable and proportionate response having regard to the breaches of the Council's conditions and other relevant statutory provisions under the licensing acts and the mitigating circumstances offered by the driver.

