

Licensing Committee Meeting

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

Wednesday, 28 August 2019 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>.

Most meetings take place in public. This only changes when certain issues, for instance, commercially sensitive information or details concerning an individual are considered. At this point you will be told whether there are any issues to be discussed in private, if so, you will be asked to leave the meeting.

Have Your Say!

The Council welcomes contributions and representations from members of the public at most public meetings. If you would like to speak at a meeting and need to find out more, please refer to the Have Your Say! arrangements here: <http://www.colchester.gov.uk/haveyoursay>.

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Access

There is wheelchair access to the Town Hall from St Runwald 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 the Library and Community Hub, Colchester Central Library, using the contact details below and we will try to provide a reading service, translation or other formats you may need.

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COLCHESTER BOROUGH COUNCIL
Licensing Committee
Wednesday, 28 August 2019 at 18:00

Member:

Councillor Dave Harris	Chairman
Councillor Mike Hogg	Deputy Chairman

Councillor Lyn Barton
Councillor Roger Buston
Councillor Helen Chuah
Councillor Simon Crow
Councillor John Elliott
Councillor Patricia Moore
Councillor Beverley Oxford
Councillor Barbara Wood
Councillor Tim Young

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 pecuniary interest or non-pecuniary interest.

5 Minutes of Previous Meeting

The Councillors will be invited to confirm that the minutes are a correct record of the meeting held on 29 May 2019.

Minutes 29 May 2019

7 - 8

6 Have Your Say!

The Chairman will invite members of the public to indicate if they wish to speak or present a petition on any item included on the agenda or any other matter relating to the terms of reference of the meeting. Please indicate your wish to speak at this point if your name has not been noted by Council staff.

7 Changes to the Hackney Carriage and Private Hire Licensing Policy

9 - 12

The Committee have been asked to recommended the changes, set out in the report, be made to the Council's Hackney Carriage and Private Hire Licensing Policy.

8 Licensing Committee Work Programme 2019 - 2020

13 - 14

The Committee have been asked to note the contents Committee's Work Programme for 2019-20.

Part B

(not open to the public including the press)

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).

LICENSING COMMITTEE

29 May 2019

Present: - Councillors Dave Harris (Chairman), Mike Hogg (Deputy Chairman) Lyn Barton, Roger Buston, Helen Chuah, Simon Crow, John Elliott, Patricia Moore, Beverley Oxford and Barbara Wood.

87. Minutes

RESOLVED that the minutes of the meeting held on 27 March 2019 be approved as a correct record.

88. Licensing Work Plan

Mrs Gentry addressed the Committee and asked the Committee to note the contents of the Work Programme for 2019 - 2020.

RESOLVED that the work plan be noted and the Caravans & Park Homes Summary be brought back to either the January or March 2020 Committee meeting.

28 August 2019

Report of	Assistant Director (Communities)	Author	Jon Ruder ☎ 282840
Title	Changes to the Hackney Carriage and Private Hire Licensing Policy		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 The report proposes changes to the Council's Hackney Carriage and Private Hire Licensing Policy in the light of recent operational experience.

2. Recommended Decisions

- 2.1 It is recommended that the changes, set out in the following report, be made to the Council's Hackney Carriage and Private Hire Licensing Policy.

3. Reason for Recommended Decision

- 3.1 The Council has committed to keeping the Hackney Carriage and Private Hire Licensing Policy under review to ensure that it remains fit for purpose and is responsive to the changing licensing environment. The Policy has been in operation since January 2019 and a small number of changes have been identified which would aid the clarity of the Policy and its operation.

4. Alternative Options

- 4.1 To leave the Policy unaltered which would fail to address the recent issues identified.

5. Suggested Changes to the Policy

Hackney Carriage Proprietors' Suitability

- 5.1 The Council's Hackney Carriage/Private Hire Licensing Policy currently focuses on the suitability of the vehicle both in age, size, specification and mechanical suitability to be a hackney carriage; it does not include a test in relation to the fitness and propriety for hackney carriage proprietors. This contrasts with the requirement for licensed drivers to hold an enhanced DBS and operators who must have a basic DBS.
- 5.2 As licensed vehicles, hackney carriages attract little attention. They are able to move around largely unnoticed at times when other modes of transport would be noticed. As a result, they can provide ideal transportation for the movement of vulnerable persons and items such as illicit alcohol, tobacco and drugs.
- 5.3 It is therefore suggested that Annex 2 of the Policy relating to the licensing of hackney carriage vehicles be amended to require, as part of the application process, a basic DBS from all vehicle proprietors, including joint owners. It is further suggested that this be accompanied by a requirement to list all previous convictions and any other relevant material information. This additional requirement is because vehicle proprietors are included within the Rehabilitation of Offenders Act 1974 and therefore any convictions become spent and will not, in time, appear on the DBS. The proposed changes will enable the Council to take a more informed view on the suitability of the applicant to be a vehicle proprietor. It is also suggested that proprietors are required to complete mandatory safeguarding training which brings them into line with drivers and operators.
- 5.4 The application process would be amended to require hackney carriage proprietors to provide the following information, in addition to the information already provided in relation to the vehicle being licensed –
- A current Passport or Birth Certificate
 - Evidence that they may legally work in the UK
 - Please note - If circumstances come to light during the lifetime of the licence that they no longer have a right to work in the UK, the licence will be revoked.
 - A basic Disclosure and Barring Service Check. The disclosure must be less than three months old when the application is made. Thereafter a DBS must be submitted every three years. If they are also a licensed driver with the Council this requirement would not apply.
- 5.5 There is no definition in the Act of fit and proper and therefore it is suggested that the following test be included at Paragraph 2.3 of the Policy and used when deciding the suitability of an individual –
- 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 arising suspicion and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence.
- 5.6 The Council's Policy does not currently set a minimum age for vehicle proprietors and it is suggested that this is changed so that all owners must be 18 years or over.

Revocation of Hackney Carriage Vehicle Licence

- 5.7 The Council has a number of hackney carriage vehicle licences which list one or more owners. This is lawful but can present some difficulties in relation to enforcement matters as any action taken under the relevant legislation is against the vehicle licence and therefore affects all parties, with an interest in the vehicle, equally.
- 5.8 It is proposed that the following process be added to the hackney carriage conditions to deal with those cases where it may be necessary to revoke the vehicle licence because of the actions/behaviour of one party only-

A member of the Licensing Team will investigate the facts of the case which may include interviewing one or more of the parties under caution. The Council may also, as part of its investigation request a new DBS check or Police National Computer Check (PNC) for one or more of the parties to ensure it has all the evidence necessary to properly investigate the matter. This may mean that matters that formed part of a previous decision are reconsidered in the light of new evidence and may result in a licence, previously granted, being revoked.

You will be notified of the outcome of the investigation, and any resulting revocation, in writing.

Where the decision is taken to revoke the vehicle licence because of the behaviour of one of the parties only, the remaining proprietor will be invited to apply for the licence to be granted in their sole name.

There is a right of appeal to the Magistrates Court and in the event that the appeal is upheld, the appellant would be added as a joint owner on the relevant vehicle licence.

Use of Meters

- 5.9 To add to Paragraph 8 of the Annex on hackney carriage vehicles and Paragraph 8 on the Annex on private hire vehicles that the meter must be turned on at the start of every journey.

Driver Conditions – Pre-licensing Standards

- 5.10 Currently, in order to be licensed as a hackney carriage/private hire driver you must be over 21 years of age and have held a full UK Driving and Vehicle Licence Agency (DVLA) (or equivalent) driving licence for at least three years. The recent changes to the driver application process which came into effect in January 2019 have highlighted difficulties in the checking of non-UK driving licences.
- 5.11 If a driver, with a non-UK driving licence, is convicted of an offence since driving in the UK on their non-UK licence, they are issued with a UK licence number (a Ghost Record) and any endorsements are held against that licence number. This record can be checked in the usual way if disclosed.
- 5.12 To enable the Council to satisfy the statutory test that drivers are fit and proper to hold a licence it is recommended that an additional requirement is added to the pre-licensing standards that applicants holding an EU country driving licence must obtain a UK counterpart licence from the DVLA before they can be considered for a hackney

carriage/private hire drivers licence and the details must be disclosed to the Council. Applicants from all other countries must apply for a full UK DVLA licence before being considered.

Selling a Vehicle

- 5.13 To add to the hackney and private hire conditions the following -

If the vehicle is sold to someone else who is going to use it for hackney/private hire work the Council must be informed, in writing within 14 days, of the name and address of the new owner. If this is not done the existing owner will remain responsible for the hackney carriage or private vehicle licence. A fee will be charged to transfer the licence to the new owner.

6. Strategic Plan References

- 6.1 The Policy aims to contribute to the Council's vision of the Borough 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.

7. Consultation

- 7.1 The changes seek to clarify the stance already taken in the Policy, which has previously been the subject of extensive consultation. However, there are some changes that may have an impact on the ability to hold a licence or the business interests of certain parties and therefore it is considered that the changes are put out to consultation with the trade.

8. Publicity Considerations

- 8.1 The new revised Policy will be available for all on the Council's website.

9. Financial Implications

- 9.1 There may be costs incurred in defending any action brought against the Council which seeks to judicially review the policy.

10. Equality, Diversity and Human Rights Implications

- 10.1 The draft Policy has been developed in accordance with, and taken account of, all relevant legislation and national and local strategies.

11. Risk Management Implications

- 11.1 A flexible yet robust revised Policy will continue to provide the Council with a sound basis for decision making.

12. Health & Safety and Community Safety Implications

- 12.1 There are no known direct health & safety or community safety issues which might arise from the adoption of the revised Policy.

28 August 2019

Report of	Assistant Director of Policy and Corporate	Author	Zoe Gentry ☎ 506055
Title	Licensing Committee Work Programme 2019-2020		
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report sets out the current Work Programme 2019-2020 for the Licensing Committee. This provides details of the reports that are scheduled for each meeting during the municipal year.

2. Recommended Decision

- 2.1 The Committee is asked to note the contents Committee's Work Programme for 2019-20.

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 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 2019 – Apr 2020

12 June 2019	All day Licensing Training Session Grand Jury Room, Town Hall. 10am – 4pm
24 July 2019	Overview of the Licensing Service
28 August 2019	Taxi Policy
2 October 2019	CCTV
6 November 2019	Scrap Metal
11 December 2019	Licensing Policy review
22 January 2020	Caravans and Park Homes – update
25 March 2020	