

Licensing Committee Meeting

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

Wednesday, 13 September 2017 at 18:00

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

Information for Members of the Public

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. 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.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to most public meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at www.colchester.gov.uk

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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 use one of the contact details at the bottom of this page 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, 13 September 2017 at 18:00

Member:

Councillor Julie Young
Councillor Nick Cope
Councillor Roger Buston
Councillor John Elliott
Councillor Dave Harris
Councillor Theresa Higgins
Councillor Mike Hogg
Councillor Darius Laws
Councillor Patricia Moore
Councillor Philip Oxford

Chairman
Deputy Chairman

Substitutes:

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

AGENDA - Part A
(open to the public including the press)

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

1 Welcome and Announcements

- a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.
- (b) At the Chairman's discretion, to announce information on:
 - action in the event of an emergency;
 - mobile phones switched to silent;
 - the audio-recording of meetings;
 - location of toilets;
 - introduction of members of the meeting.

2 Substitutions

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

3 Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent, to give reasons for the urgency and to indicate where in the order of business the item will be considered.

4 Declarations of Interest

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Councillor's judgement of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

5 Have Your Say!

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

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

6 Presentation on Air Quality

Presentation by Belinda Silkstone and Tim Savage on Air Quality

7 Taxi Policy Report

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See report from the Assistant Director of Environment

8 Licensing Policy Changes

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see report from Assistant Director of Environment

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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).

10 Minutes

To confirm as a correct record the minutes of the meetings held on 5 July and 7 July

5 July 2017

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

7 July 2017 Appeal A

- 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).

7 July 2017 Appeal B

- 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).

7 July 2017 Appeal C

- 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).

Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
			282840
Title	Draft Hackney Carriage/Private Hire Licensing Policy		
Wards affected	Not applicable		

This report seeks the Licensing Committee's approval of the draft Hackney Carriage/Private Hire Licensing Policy and to agree to start the consultation process.

1. Decisions Required

- 1.1 The Licensing Committee is asked to agree the proposed draft Hackney Carriage/Private Hire Licensing Policy to enable the formal consultation process to begin.
- 1.2 The Committee is also asked to agree to the proposed consultation process.

2. Reasons for the Decision

- 2.1 The Council's Policy was last revisited in 2014 and since this time there have been significant changes in the industry with the increased use of mobile Apps for booking and cross border working. There have also been a number of high profile safeguarding cases involving taxi drivers in other areas highlighting the need for safeguarding issues to be formally addressed within the Council's licensing process.

3. Alternative Options

- 3.1 The existing policy is no longer fit for purpose and therefore there is no alternative option as the Policy needs to be reviewed and changed to meet the challenges posed.

4. Supporting Information

- 4.1 The Review has been carried out having regard to the legislation, guidance and best practice. The Policy sets out how the Council will exercise its functions in the determination of applications and issuing, reviewing or revoking licences; vehicle standards and limits on vehicle numbers; other relevant licensing matters; and how drivers and operators are expected to operate to pursue and promote the licensing objectives of -
 - Protection of the public, safeguarding children and vulnerable persons; and the prevention of crime
 - The safety and health of drivers
 - The establishment of professional and respected hackney carriage and private hire trades
 - Vehicle safety, comfort and access
 - Encouraging environmental sustainability
 - Being an ambassador of the town by promoting Colchester as a vibrant, prosperous, thriving and welcoming place

- 4.2 The aim of the Policy is to regulate and support the licensed trade as front line ambassadors in promoting Colchester to residents and visitors alike and to facilitate well operated and responsible businesses which form a vital and integral part of Colchester's integrated transport strategy.
- 4.3 The Policy comprises a main overarching document with a number of annexes and appendices. The annexes and appendices contain detailed information on the Council's requirements and conditions and must be read in full alongside the main policy document. The documents are -
- Pre-Licensing Standards and Conditions for
 - Drivers
 - Hackney Carriage Vehicles
 - Private Hire Vehicles
 - Operators
 - CCTV Policy
 - Convictions Policy
 - Penalty Points Scheme
 - CCTV policy
 - Exemptions Policy
 - Horse Drawn Vehicles
 - Stretch Limos, Classic Cars Etc.
- 4.4 The Policy document may look significantly different to those issued previously however it captures the ethos that has underlined this area of licensing in recent years. Significant changes to the Council's previous Policy have been marked by grey highlighting. The Council's Penalty Point Scheme has also been reviewed and updated in the light of the experience of the Council's enforcement officers.
- 4.5 A significant departure from previous policies is the introduction of the Convictions Policy. This Policy has been drawn up to assist licence holders, officers and members of the Licensing Committee when making decisions which must be justified, proportionate and consistent. The Policy categorizes and assesses the risk to the public of a wide variety of criminal and motoring convictions and presents these in a traffic light table which indicates the Council's likely stance on the granting or renewal of a licence. 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.

5. Consultation

- 5.1 Initial discussions took place with representatives of the trade at the beginning of the review process and it is hoped that a more formal response will be available at the meeting. It is intended to carry out a full consultation with the trade's licence holders, Essex Police, relevant Council Departments, groups representing customers including representing those with disabilities, Councillors and by placing notification on the Council's website to enable the public to comment.
- 5.2 At the end of the 8 week consultation period the representations received will be considered by the Licensing Committee prior to its submission to full Council for approval.

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. Publicity Considerations

- 7.1 If Members approve the proposed draft Policy, it is intended that this will be the subject of an eight week public consultation as set out in 5.1 and the Policy itself will be available to view and download from the Council's website.

8. Financial Implications

- 8.1 There will be some costs associated with sending out the letters of consultation where they cannot be emailed. In addition the updating of the policy will minimise any risk of a judicial review from any aggrieved applicant.

9. Equality, Diversity and Human Rights Implications

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

10. Community Safety Implications

- 10.1 The policy deals with the protection of children and vulnerable adults.

11. Health and Safety Implications

- 11.1 There is no known direct public health and safety issues which might arise from the adoption of the revised Policy.

12. Risk Management Implications

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



Hackney Carriage & Private Hire Licensing Policy

Colchester Borough Council

1 October 2016

Foreword

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

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

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

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

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

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

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

Introduction and Guide to the Policy

1.1 The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 provide the broad framework for the licensing of drivers, vehicles and operators but the detail relating to how this is done and the standards to be applied are matters for the Council to determine.

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

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

1.3 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
- **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.

- **Pre-Licensing Standards and Conditions for**
 - Drivers
 - Hackney Carriage Vehicles
 - Private Hire Vehicles
 - Operators
- CCTV Policy
- Convictions Policy
- Penalty Points Scheme
- Exemption Policy
- Plate Allocation Policy
- Horse Drawn Vehicles
- Stretch Limousines

The Strategic Plan

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

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

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

Aspirations for the Borough

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

- Promote Colchester's heritage and wide ranging tourism attractions to enhance our reputation as a destination
- Ensure Colchester is a welcoming and safe place for residents, visitors and

- businesses with a friendly feel that embraces tolerance and diversity
- Promote Colchester to attract further inward investment and additional businesses, providing greater and more diverse employment and tourism opportunities
- Ensure transport infrastructure keeps pace with housing growth to keep the Borough moving

Links to Other Strategies, Policies and Initiatives

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

Fees

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

Relevant legislation

1.11 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.

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 comments received in response to the consultation were considered by the Licensing Committee at its meeting on 13 December 2017.

1.14 The Policy will take effect on 1 January 2018 and unless otherwise stated all the provisions contained within the Policy will come into immediate effect. The Policy will be monitored and reviewed on a regular basis. Any proposed significant changes will be subject to full consultation; minor amendments which do not affect the substance of the Policy may be made without consultation.

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

2.1 The key consideration of the Council in 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 if there is evidence to suggest that the individual is not a fit and proper person, and specifically
 - if they have been convicted since the grant of the licence of an offence involving dishonesty, violence or indecency.
 - for non-compliance with the licensing requirements of the relevant and related legislation.
 - for any other reasonable cause.

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

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

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

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

and has regard to the following –

"Its purpose therefore is to prevent licences being given to or being used by those who are not suitable people, taking into account their driving record, their driving experience, their sobriety, mental and physical fitness,

honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers". (Leeds City Council v Hussain2002)

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

2.5 The Convictions Policy works alongside the Council's Penalty Point Scheme and 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 to the suspension or revocation of their licence.

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

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

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

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

Protection of the Public

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

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

2.10 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. Drivers and Operators must not use contact details obtained in the course of their business for any purpose other than business, neither should they respond to overtures from customers.

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

Safeguarding Children and Vulnerable Persons

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

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

2.14 The Council expects drivers and operators to report their concerns to the appropriate authority and has drawn up a referral guide to assist in this process.

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

Safety and Health of Drivers

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

Driver Safety

3.2 The Council's mandatory safeguarding training 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 has therefore determined that with effect from 1 January 2019 all newly licensed vehicles must be fitted with CCTV and existing vehicles must be fitted with CCTV within a year of the renewal of their licence.

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

Taxi Rank Marshalling

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

3.8 The Council will seek to promote the other ranks in the town centre and in particular wishes to raise the profile and use of the rank in Head Street which is located close to a number of licensed venues and would be a valuable asset in the dispersal of patrons from this area. It is recognized that there are problems with the public parking illegally in this rank and will work with its partners to address this issue and in collaboration with the trade to increase the profile and use of this rank. The Council will seek to utilise any opportunities presented by redevelopment in the Town Centre to

address the need to increased rank space.

Driver Health

3.10 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.

Age Limits

3.12 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.

3.13 Drivers seeking to renew their licence after the age of 65 will be required to have annual medicals and those over the age of 70 will also be required to have an eyesight test.

Establishment of Professional and Respected Hackney Carriage and Private Hire Trades

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

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

- Pre-Licensing Standards and Conditions for
 - Drivers
 - Hackney Carriage Vehicles
 - Private Hire Vehicles
 - Operators
- CCTV Policy
- Convictions Policy
- Penalty Points Scheme
- Exemption Policy
- Plate Allocation Policy
- Horse Drawn Vehicles
- Stretch Limousines

4.3 It is important that the Policy remains a responsive document capable of change to reflect an evolving business environment. The Council is therefore committed to continued engagement with the licensed trade through a variety of mediums.

Knowledge Tests

4.4 Effective communication with passengers is essential and therefore as part of the application process the Council requires drivers to take an English language/numeracy test.

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

Dress Code

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

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.

Training

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

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

Enforcement

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

4.10 Effective hackney carriage and private hire regulation depends on partnership working and in particular the relationship between the trade, Council departments, the Police, 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 Council will take a risk based approach to enforcement with a view to balancing the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference. The principles of enforcement are:

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

Complaints

4.12 Complaints can be reported online using the Taxi Complaint Form or via the Council's Customer Service Centre. All complaints will be 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.

Cross Border Working

4.14 The Council recognises that cross border hiring, whereby private hire vehicles and/or drivers which have been licensed to operate by another Council work in the Borough, is a potential problem. The driver and/or vehicle may have been licensed by an authority which has lower standards than those that apply in the Borough. The Council has no powers to take direct action were 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.

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

Driver Proficiency

4.16 In line with its duty to ensure the safety of the travelling public and in order to address the persistent complaints relating to driver standards the Council requires all new drivers to complete and pass a hackney carriage/private hire driver assessment test with a Council approved driving assessor.

4.17 If the Council receives a complaint in relation to your driving or has concerns in relation to the number of DVLA points on your licence, it may require you, at your own expense, to undertake a hackney carriage/ private hire driver's assessment with a Council approved driving assessor.

Fares

4.19 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.

4.20 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.

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

Number of Vehicles

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

4.23 Plate numbers 101 to 131 are for vehicles that 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.

4.24 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.

4.25 The allocation or reallocation of a hackney carriage plate will be carried out in accordance with the Council's Hackney Carriage Plate Allocation Policy and Process.

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 - Pre-Licensing Standards and Conditions and Hackney Carriage - Pre-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. New drivers will be required to undertake disability awareness training and where complaints have been made in relation to the carrying of a disabled passenger any driver may be required to undertake disability awareness training at their own expense.

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

Encouraging Environmental Sustainability

Air Pollution

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

6.2 The Council supports measures to reduce the levels of CO₂ Nitrogen Dioxide and particles emitted. Hybrid or fully electric vehicles are welcomed. 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

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 Annex 6.

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. First impressions are generally lasting impressions and a negative attitude from a licensed driver towards visitors can have a detrimental effect on their stay and whether they return. Visitors support many local trades and businesses and therefore not only directly support many jobs, but also help in the creation of much needed employment for the Borough as a whole.

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

Annex 1 - Driver Pre-Licensing Standards and Conditions

The Council issues a dual 3 year hackney carriage/private hire driver's licence; on occasions a licence may be issued for a shorter period of time. Licences are granted for one year if you are over 65 years.

These conditions are attached to the private hire driver element of the licence.

Any requirement of legislation, which affects the operations being carried out under the terms of this licence, shall be regarded as if they are conditions of this licence.

Where there appears in the licence conditions a summary of any statutory provision you are advised that such summary is not exhaustive.

These conditions should be read in conjunction with the Council's Policy documents and in particular regard should be given to the Penalty Points Scheme and Convictions Policy.

Pre-Licensing Standards

In order to be licensed as a hackney carriage/private hire driver you must –

1. Be over 18 years of age and have held a full UK Driving and Vehicle Licence Agency (DVLA) (or EU equivalent) driving licence for at least three years. You must supply a DVLA issued counterpart (until withdrawn by the DVLA) or your European Community/European Economic Area (EC/EEA) licence with the application.
2. Complete the application form and supply the required fee and documentation to support your application including evidence that you may legally work in the UK.

Please note - If circumstances come to light during the lifetime of the licence that you no longer have a right to work in the UK, the licence will be revoked.

3. Be vetted by the Disclosure and Barring Service (DBS) as part of the application process and then on renewal of your badge.

Please note – Applicants for Hackney Carriage/Private hire drivers' licences are exempt from the provisions of the Rehabilitation of Offenders Act 1974. You must therefore disclose all previous cautions and convictions whether they are "spent" or not. You should have regard to the Council's Convictions' Policy. Any conviction or caution that is relevant to the determination of whether you are a fit and proper person to hold a licence will be taken into consideration when determining the application.

4. Have completed, at your own expense, an independent medical examination to determine whether you meet the criteria set out in the 'Medical Aspects of Fitness to Drive' Group 2 standard and been found to be medically fit to hold a licence. This medical must be supplied to the Council before a licence can be granted and is required on initial application for a licence and then every 5 years to the age of 65

Annex 1 - Driver Pre-Licensing Standards and Conditions

when a medical will then be required annually. If you are over the age of 70 years you are required to undergo an eyesight test upon initial application and then annually upon renewal of your licence. Exceptional arrangements may be made if you have insulin treated diabetes and are able to meet a series of medical criteria.

5. Be found to be a fit and proper person to hold a private hire operator's licence by the Council having regard to its Hackney Carriage/Private Hire Licensing Policy, its relevant annexes and appendices.

6. Have completed a hackney carriage/private hire driver assessment test with a Council approved driving assessor. This assessment is to be completed at your own expense.

7. Have undertaken a Passenger Assisted Transport training course at your own expense; the certificate must be produced to the Council.

8. Have undertaken the Council's Mandatory Safeguarding Training.

9. Have passed the Council's English test and supplied proof of having done so to the Council.

10. Have passed the Council's knowledge test.

Please note – The 30 minutes test comprises 25 questions picked at random from the Council's driver and vehicle conditions, place locations, shortest routes between two points, the Highway Code, tourism and basic arithmetic. To pass the test a minimum of 20 questions have to be answered correctly. The test paper will be marked immediately and you will be advised of the outcome; the Adjudicators decision is final and no discussion of individual questions will be entered into. If you don't pass the test you will be permitted two further attempts at a minimum of fortnightly intervals when a further fee per test will be payable; these re-tests must be completed within three months of the initial application being made/test being taken. A different question paper will be selected for each test re-sit. If three tests are failed you must wait three/six months before you can reapply. Failure to pass the knowledge tests after 3 attempts will deem the applicant unsuccessful and the application fee will be refunded minus the administration fee.

Drivers re-applying after the failure of 3 knowledge tests will be treated as a new driver and will be required to undertake all the tests and other requirements applicable to a new driver.

11. If you have lived in a country, other than the UK, for one or more continuous periods of 6 months since the age of 10 years, you need to submit a 'Certificate of Good Conduct' issued by the relevant non-UK country. The certificate must be an extract from the judicial record or equivalent document issued by a competent judicial or administrative authority for the relevant country. The certificate must document any convictions recorded against you or confirm 'good conduct'.

12. Declare if you have previously held a hackney carriage and/or private hire

Annex 1 - Driver Pre-Licensing Standards and Conditions

drivers' licence whether with this authority or another local authority.

13. As an existing driver, if you allow your licence to lapse you will be treated as a new driver and will be required to undertake all the tests and other requirements applicable to a new driver.

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Driver Conditions

As the holder of a private hire driver's licence you must comply with the following conditions:

1. Conditions of licence

- 1.1 The combined hackney carriage/private hire driver's licence (hereinafter referred to as 'driver's licence') is valid for three years from the date of its grant.
- 1.2 You must present your driver's licence or a copy thereof to the proprietor/operator at the beginning of your employment and immediately after any renewal of the licence.
- 1.3 On the request of an authorised officer of the Council or a Police officer, you must produce your licence for inspection.
- 1.4 You must keep a copy of these driver conditions in the licensed vehicle you are using.
- 1.5 You must not act as a driver without the consent of the licensed proprietor of the vehicle.
- 1.6 You must notify the Council in writing, within 7 days, of any change of name or address.
- 1.7 At all times when your vehicle is available for hire, you must wear your driver's badge in a position where it can be seen. You must not wear your badge other than when carrying out work in connection with your business.
- 1.8 You must not allow your driver's badge to be used by any other person or cause or permit any other person to wear it. Nor permit any person to damage, deface, mutilate or obscure a driver's badge or any part of it.
- 1.9 Your licence and badge remains the property of the Authority at all times. They must be returned forthwith if your employment as a licensed driver ceases, or if the licence expires and is not renewed, or where the licence is suspended or revoked.

Annex 1 - Driver Pre-Licensing Standards and Conditions

- 1.10 If your immigration status changes, for example your permission to stay in the UK has been curtailed, you have been served a deportation notice or have been convicted of an immigration offence, you must return your licence and badge to the Council within 7 days.
- 1.11 You must complete mandatory or any other training that the Council deems necessary and appropriate; this may include training required because of convictions or penalty points awarded against you or as a result of a complaint.

2. Driver Conduct

You must -

- 2.1 Behave in a civil, polite and orderly manner at all times in the course of carrying out your duties as a licensed driver. You must not behave in a way that will-
- Cause any person to take offence at your actions.
 - Cause any person to believe your actions are inappropriate.
 - Cause any person to fear for their physical safety.
 - Cause any person to doubt your integrity.
 - Bring into disrepute the integrity of the Council for having issued a licence to you.
- 2.2 Take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 2.3 Drive with the utmost care and consideration to other road users and pedestrians
- 2.4 Convey a reasonable amount of luggage, including wheelchairs and children's pushchairs (provided they can be carried in a safe manner) and provide reasonable assistance in loading and unloading such luggage.
- 2.5 Give reasonable assistance to elderly, vulnerable or disabled persons entering or alighting from the vehicle, and any other reasonable assistance during the course of the journey
- 2.6 Not drink or eat in the vehicle nor play any radio or sound equipment, which is not connected with the operation of the business, without the hirer's consent.
- 2.7 Ensure that the vehicle licence plates are not willfully or negligently concealed from public view.
- 2.8 If you have agreed or have been hired to be in attendance with the vehicle at an appointed time and place you must, unless delayed or prevented by some sufficient cause, punctually attend with the vehicle at the appointed time and place.

Annex 1 - Driver Pre-Licensing Standards and Conditions

- 2.9 Not smoke tobacco or any other like substance in a licensed vehicle nor use an electronic cigarette or similar device.
- 2.10 Not drive a vehicle while having use of illegal drugs or having used legal drugs, including alcohol.
- 2.11 Not use a handheld mobile phone nor any other handheld mobile device (including a PDA) which performs an interactive communication function by transmitting and receiving data, other than a two way radio.
- 2.12 Not drive a vehicle if you no longer hold, have had suspended, or are disqualified from holding a DVLA licence for that type of vehicle.
- 2.13 When hired to drive to a particular destination, subject to any directions given by the hirer, proceed to that destination by the shortest route.
- 2.14 Not, without reasonable cause, unnecessarily prolong in distance or time, the journey for which the vehicle was hired.
- 2.15 Not solicit, by calling out, or otherwise importuning any person to hire or be carried for hire. Neither is it permitted to accept an offer for the hire of the vehicle except where it is first communicated to you by the Operator.
- 2.16 Not permit the vehicle to be parked or ply for hire on a taxi rank.
- 2.17 Present the vehicle in a clean and tidy condition for each journey.
- 2.18 Have consent to drive a private hire vehicle from the proprietor of the vehicle.
- 2.19 Not use the horn as a means of signaling that the vehicle has arrived for a hire.
- 2.20 Not convey, nor permit to be conveyed, in the vehicle more than the number of persons specified in the licence and referred to on the vehicle licence plate.
- 2.21 Not carry other persons in the vehicle when hired, without the express consent of the person hiring the vehicle.
- 2.22 Turn off your engine when waiting in the Borough's Air Quality Management Areas as shown on the Plan attached at Appendix 6.
- 2.23 Obey all traffic regulations and directions at all times.
- 2.24 Fulfil your responsibility to ensure compliance with any legislation relating to the length of working hours.

3. Dress Code

Annex 1 - Driver Pre-Licensing Standards and Conditions

- 3.1 You must at all times be respectably dressed, clean and tidy in appearance and adhere to the Council's dress code -

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.

4. Fares and Journeys

You must

- 4.1 If requested by the hirer, provide a written receipt for the fare paid. Each receipt should show the date and destination of journey, driver badge number and amount paid.
- 4.2 At the start of a hired journey, where a meter is fitted, ensure the meter is turned to the correct tariff and running and that it remains in operation until the termination of the hiring. This applies to all bookings.
- 4.3 Not cause the fare recorded thereon to be cancelled or concealed until the hirer has had reasonable opportunity of examining it and has paid the fare.
- 4.4 Ensure the dial of the taximeter is kept properly illuminated throughout any part of a hiring which is during the hours of darkness and at any other time at the request of the hirer.
- 4.5 Not demand a fare in excess of any previously agreed for that hiring between the hirer and the operator or, if the vehicle is fitted with a meter, the fare shown

Annex 1 - Driver Pre-Licensing Standards and Conditions

on the face of the meter.

- 4.6 When driving a private hire vehicle, equipped with a meter, ensure that a table of fares as issued by the Private Hire Operator/Proprietor is kept within the vehicle, displayed in a clearly visible position, and made available to any passenger or authorised officer on request.
- 4.7 Not demand a fee for carrying a wheelchair or other mobility aids.

5. Convictions, Cautions, Criminal Investigations and Penalty Points

You must

- 5.1 Notify the Authority, in writing, within a period of 7 days, of any conviction, caution or charge for a criminal offence, motoring offence, disqualification or fixed penalty notice imposed or being the subject of a criminal investigation whilst the licence is in force.
- 5.2 Following conviction or the issue of a fixed penalty notice which results in points being given on your DVLA licence, produce your licence to the Council within 7 days of its return from the DVLA, court of fixed penalty office following the endorsement of the offence.
- 5.3 In the event that you are disqualified from driving, immediately inform the Council and surrender your driver's badge and where appropriate the vehicle plate.
- 5.4 Make application and pay for a further DBS check, if required to do so by the Council in order that it may fully investigate any complaints or matters in which you are involved.

6. Fitness to Drive and Medical Evidence

- 6.1 You must inform the Authority, in writing, immediately, of any deterioration in health or injury that would affect your ability to drive a licensed vehicle.
- 6.2 Up to the age of 65 you must undergo a medical examination to DVLA Group 2 standard every 3 years, to assess your fitness to drive. The certificate of examination must be submitted to the Council. This examination must be carried out at the Surgery with whom you are registered and will be at the driver's expense.
- 6.3 If you are suffering from a known and notifiable medical disorder or are over the age of 65, you will be required to undergo a medical examination to Group 2 standard annually. The certificate of examination must be submitted to the Council. This examination must be carried out at the Surgery with whom you

Annex 1 - Driver Pre-Licensing Standards and Conditions

are registered and will be at the driver's expense.

- 6.4 If you are over the age of 70 you must have an eyesight test, this is in addition to the eyesight test carried out at the annual medical. The certificate of examination must be submitted to the Council. This examination is carried out at the driver's expense.
- 6.5 The Council may refer you for a further medical, specifically where you suffer from a serious medical conditions which is diagnosed between your last Group 2 medical assessment and your next medical assessment. The certificate of examination must be submitted to the Council. Note – This examinations is at the expense of the driver and may be at a clinic or hospital as directed by the Council.

7. Found Property

- 7.1 A driver shall, after the termination of each hiring or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left therein.
- 7.2 Items found in a licensed vehicle must be registered by the driver on [Essex Police's website](#). Items should be held for a minimum of 28 days.
- 7.3 The following found items must be surrendered to the Police and cannot be retained:
- Firearms / explosive material - These items are a threat to your safety. It is unlawful for you to retain them, please call 999 and Essex Police will arrange for collection.
 - Knives/offensive weapons/drugs/unidentified substances - This item is a threat to your safety. It is unlawful for you to retain this item, please call 101 and Essex Police will arrange for collection.
 - Offensive material/ items believed to be used in or in connection with a crime - It is unlawful for you to retain this item, please call 101 and Essex Police will arrange for collection.

Passports, driving licences or other government documents, for security reasons, must be sent back to the issuing authority as it is unlawful for you to retain these items.

8. The Carriage of Animals

- 8.1 You must not carry, in a private hire vehicle whilst being hired, any animal which belongs to or is being looked after by yourself, the proprietor or operator of the vehicle.

Annex 1 - Driver Pre-Licensing Standards and Conditions

- 8.2 Animals in the custody of passengers may be carried, at your discretion, provided they are restrained in a safe manner.
- 8.3 You must carry assistance dogs. Assistance dogs include guide dogs for the blind or partially sighted, hearing dogs for the hard of hearing, and other assistance dogs which assist people with disabilities, and other assistance dogs.
- 8.4 If you have a medical condition, which may be exacerbated by such dogs, you may apply to the Authority for exemption from the condition 8.3 above. A certificate of exemption will be supplied on production of suitable medical evidence.
- 8.5 You cannot charge a fee for carrying an assistance dog when it is acting in its capacity as an assistance dog.

9. Wheelchair Accessible Vehicles

- 9.1 If you drive a wheelchair accessible vehicle you must be appropriately trained to secure and carry such passengers:
- be fully conversant with the correct method to operate ramps, lifts and wheelchair restraints that can be fitted to the vehicle.
 - ensure that all wheelchairs are firmly secured to the vehicle using an approved restraining system and that the brakes of the wheelchair have been applied prior to the vehicle setting off.
 - ensure that any wheelchairs, equipment and passengers are carried in such a way that no danger is likely to be caused to any passenger, in accordance with the Road Vehicles (Construction & Use) Regulations 1986.

10. Certificate of Motor Insurance

- 10.1 You must ensure that the vehicle driven by you is insured as a licensed vehicle and that you are personally covered to drive the vehicle.

11. Condition of the Vehicle

- 11.1 You are responsible for ensuring that the licensed vehicle you drive is in a roadworthy condition and complies with the relevant legislation and with the Council's licensing conditions for that vehicle.
- 11.2 You must report an accident in a private hire vehicle within 72 hours of the occurrence, where damage materially affects the safety, performance and

Annex 1 - Driver Pre-Licensing Standards and Conditions

appearance of the licensed vehicle, or the comfort or convenience of persons carried.

12. Seat Belts and Child Seats

- 12.1 You must wear your seat belt unless [exempt](#).
- 12.2 You have a responsibility to ensure that you are familiar and up to date with all relevant [legislation](#) and guidelines as issued or determined by central government in relation to the use of seatbelts and any other relevant construction and use and safety legislation.
- 12.3 If the [correct child car seat](#) provisions are not available children can travel without a car seat but only if they travel on a rear seat and wear an adult seat belt if they are 3 years or older; or without a seat belt if they're under 3 years of age.

13. Rank Discipline

- 13.1 It is an offence to leave a Hackney Carriage unattended in a public place. Any Parking, outside of agreed parameters, on the rear of a Hackney Carriage rank will therefore be dealt with by way of a fixed penalty notice or penalty points.
- 13.2 You are expected to obey rank discipline; vehicles should immediately move forward when the vehicle at the front of the rank leaves.

Appeals

If you are aggrieved by any of the conditions attached to the licence you may appeal to the Magistrates Court within 21 days of the service of the licence and the attached conditions on you. Any appeal must be made in writing to the Magistrates Court, Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 5PF.

Application and Renewal Process

Details of the application and renewal process are available separately and on the Council's website.

Annex 1 - Driver Pre-Licensing Standards and Conditions

Determination of Application

The Council will deal with applications as follows –

1. The application will be reviewed by a member of the Licensing Team and if any issues are identified the applicant/licence holder will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those that are identified are resolved, the application will be granted. In all other cases a report will be prepared for the Licensing Manager setting out the facts of the matter to be considered.
3. The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
4. In the first instance the applicant/licence holder has a right of appeal to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of suspension/revocation.
5. If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.
6. There is a further right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision/notification of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.
7. Where an appeal has been made in the case of the renewal of a licence the driver may continue to drive until the appeal has been determined.

Implementation 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.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

Only those vehicles which comply with the specifications set out below can be granted a hackney carriage vehicle licence by Colchester Borough Council.

Introduction

A hackney carriage vehicle licence remains in force for a year.

Any car to be used as a hackney carriage must be –

- Capable of carrying at least four passengers, but no more than eight including any passenger in a wheelchair.
- Side loading and of a type approved by the Council.
- Capable of carrying a wheelchair in the boot.
- Meet the European Whole Vehicle type approval or British National Type approval
- Meet all other pre-licensing standards set out below.

In addition –

- any vehicle to be used as a hackney carriage on plates 101 to 131 must, on replacement of the vehicle, be fully wheelchair adapted; this means having the facility to load and unload wheelchairs directly into the vehicle.

PLEASE NOTE:

Always make sure that any vehicle you intend to licence meets all the conditions before you pay for it or enter into any credit agreement.

The Council is not liable if you purchase a vehicle which cannot be licensed because it does not meet the pre-licensing conditions.

If you have any doubts about whether your particular vehicle is acceptable, contact the Licensing Team.

Once your vehicle has been licensed it cannot be driven by anyone else unless they hold a hackney carriage/private hire driver's licence and a valid PATS certificate. This means that your spouse, partner or children will be unable to drive the vehicle at any time, even on holiday, unless they hold a current hackney carriage/private hire driver's licence. Such use could invalidate your insurance cover.

Pre Licensing Standards

Only those vehicles which comply with the specification detailed below can be granted a hackney carriage vehicle licence by Colchester Borough Council.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

1. Vehicle Age and Condition

- 1.1 An application for a hackney carriage 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 log book 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 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.

2. General Specification

- 2.1 Where vehicles have not been manufactured in the UK or imported by the manufacturer, they must have an appropriate "Type Approval" which is either an EC Whole Vehicle Type Approval (ECWVTA) or British National Type approval. Vehicles must not have been altered since that approval was granted. An Individual Vehicle Approval (IVA) may be accepted for wheelchair accessible vehicles. Vehicles presented for approval, and while in use, must comply with the Road Vehicles (Construction and Use) Regulations 1986 and any subsequent amendment or re-enactment thereof.
- 2.2 No fittings, other than those approved in this Policy or required in the examination and test by the Council's authorised testing station, may be attached to or carried on the inside or outside of the vehicle.
- 2.3 All newly registered or re-registered vehicles must run on unleaded fuel, diesel or an alternative environmentally friendly fuel such as LPG, (Liquid Petroleum Gas) or be hybrid or fully electric. Where petrol or diesel vehicles are used they must comply with the following compliance dates and standards for emissions from taxis -
 - Euro 5 for diesel vehicles / Euro 4 for petrol from 2018
 - Euro 6 for diesel vehicles / Euro 4 for petrol from 2020
- 2.4 All vehicles must be of a size to have adequate luggage accommodation with suitable restraints to prevent items in non-saloon vehicles becoming unsecured. All vehicles must be capable of carrying a wheelchair, as luggage, in a reasonable manner.

3. Colour

- 3.1 Hackney Carriages must have a black full body livery.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

4. Body of the Vehicle

4.1 The vehicle must have no untreated or unrepaired body defect or significant signs of corrosion. Corrosion includes visible rust and signs of rust by virtue of the paintwork being blistered. All rust spots and repairs in excess of 100 millimetres diameter are to have been prepared and repainted with matching colour up to insurance finishing standard

4.2 The paintwork must be of a professional finish and be one consistent colour over the whole of the vehicle's bodywork.

5. Wheels

5.1 The vehicle must have four road wheels unless agreed by the Licensing Committee.

5.2 Space-saver spare tyres, where supplied as standard equipment to the vehicle, will be accepted. Provision must be made for a standard road wheel to be secured in the vehicle should a space saver tyre be used in an emergency. [Please note](#) - a vehicle presented for examination and test with a space saver spare tyre in use as a road wheel will fail the test.

5.3 Any spare wheel must conform to construction and use regulations.

5.4 A wheel brace and jack to enable the effective change of a tyre and wheel must be carried, except where Paragraph 5.5 applies.

5.5 Where an aerosol inflation and sealant device is supplied with the vehicle as standard by the manufacturer, a spare tyre need not be carried.

5.6 If a vehicle is fitted with 'run flat' tyres, the vehicle must be fitted with a tyre pressure sensor / warning device.

6. Steering

6.1 It is recommended that the vehicle should be right hand drive but a left hand drive vehicle will be considered.

7. Doors

7.1 The vehicle must have a minimum of 4 opening doors unless it is a minibus type vehicle (multi seat Vehicle) in which case the minimum opening of the side door must be at least 864mm.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

7.2 All vehicles must have doors that open sufficiently wide to allow easy access and egress from the vehicle.

7.3 All doors must be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism.

7.4 The interior door handle must be clearly visible and easily accessible to passengers.

8. Seats

8.1 Each passenger must have a minimum of 432mm of personal sitting space, for the rear seats this will be measured in a straight line lengthways across the front edge of the seat.

8.2 Each seat must be fitted with fully operational seat belts, compliant with British Standards, except where the law specifically provides an exemption.

8.3 Where seat covers are used they must be properly affixed to the seat so as not to become loose during use. They must be clean and undamaged.

9. Windows

9.1 Opening windows must be provided in the rear of the vehicle capable of being opened by the rear seat passengers.

9.2 Vehicle windows must have visual transmission of light of not less than 70% in respect of windscreens and windows to either side of the driver.

9.3 Tinted windows are not permitted nor shall the vehicle be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.

10. Heating and ventilation

10.1 Vehicles must have an efficient heating and ventilation system.

11. Wheelchair carrying facilities

11.1 Any vehicle that has the facility for the carriage of wheelchair(s) and wheelchair passengers must comply with current equality act requirements and must be inspected by a Council approved garage to determine its suitability. It must -

- a. Have the facility to load and unload wheelchairs directly into the vehicle.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

- b. Be fitted with approved anchorages that must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and passengers must be independent of each other. Anchorages must also be provided for the safe storage of a wheelchair, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- c. Be fitted with a ramp or ramps for the loading of a wheelchair and passenger must be available at all times. An adequate locking device must be fitted to ensure that the ramp(s) do not slip or tilt when in use. Provision must be made for the ramps to be stored safely in the vehicle when not in use.

11.2 The vehicle must be equipped with a manufacturer's user manual/guide on the safe loading and unloading and security of wheelchair passengers.

11.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations immediately prior to being first licensed and at each subsequent twice yearly test and be so certified. The certification must be submitted at the time of first license and on renewal.

12. CCTV Systems

12.1 CCTV surveillance systems, which must comply with the Council's CCTV Policy (see Appendix 1), must be installed in vehicles with effect from 1 January 2019 as follows

- On first licensing for new vehicles
- Within a year of the renewal of their licence for existing licensed vehicles

13. Tyres

13.1 All tyres, including the spare tyre, must comply with the vehicle manufacturer's specification.

13.2 Re-cut tyres are not acceptable for vehicles that are internationally classified as M1 passenger vehicles and remould tyres must only be acceptable if they carry a recognised approval marking (BSAU144e) and display:

- Nominal size
- Construction type (e.g. radial ply)
- Load capacity
- Speed capability

14. Electrical Equipment

14.1 Any additional electrical installation to the original equipment must be adequately insulated and be protected by suitable fuses.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

15. Seat Belts

15.1 The vehicle must be compliant with all relevant [legislation](#) and guidelines as issued or determined by central government in relation to the use of seatbelts. This will however ordinarily exclude limousines and vintage cars.

15.2 If the [correct child car seat](#) provisions are not available children can travel without a car seat but only if they travel on a rear seat and wear an adult seat belt if they are 3 years or older; or without a seat belt if they're under 3 years of age.

As the holder of a hackney carriage vehicle licence you must comply with the following conditions. These conditions should be read in conjunction with the Policy. Any requirement of legislation, which affects the operations being carried out under the terms of this licence, should be regarded as if they are conditions of this licence.

Where there appears in the licence conditions a summary of any statutory provision you are advised that such summary is not exhaustive.

Conditions of licence

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 in order 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 the 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 you must apply to the Council to extend the period.

1.3 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

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

damage appears to be. You must also present the vehicle for inspection after it has been repaired.

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

1.5 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

2. Licence Identification Plates

2.1 You must fix to the vehicle licence identification plates of the size, colour, design and type supplied by the Council; these plates must relate to the vehicle on which they are displayed. No other vehicle licence identification plates should be displayed on the vehicle.

2.2 You must ensure that the licence identification plates are securely fixed to the outside exterior of the hackney carriage vehicle, adjacent as possible, to the number plate and in such a manner as to ensure that the vehicle registration plate is not obscured and the plate is clearly visible from the highway and by other road users. A plate must not be placed on the rear window of the vehicle.

2.3 You must ensure that a vehicle licence identification card, as supplied by the Authority, is displayed in a position for all passengers to clearly see.

2.4 The licence plates must remain the property of the Council and must be returned within seven days, following the service on you of an appropriate notice by the Authority and/or in the event of the hackney carriage vehicle licence ceasing to be in force in respect of the vehicle.

3. Luggage

3.1 Luggage must be conveyed in such a way that ensures it is protected from damage and is properly secured.

4. Furnishing and maintenance of vehicle

4.1 You must ensure that the vehicle and all its fittings and equipment is, at all times when the vehicle is in use or available for hire as a hackney carriage, kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements are complied with fully. **Please note** - It is not sufficient to wait until a compliance test to find out if the vehicle is still roadworthy.

4.2 Where a separate compartment is provided for passengers, you must provide sufficient means by which any person in the compartment may communicate with the driver.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

4.3 You must at all times provide adequate lighting, heating and ventilation for the interior of the vehicle.

5. Auxiliary equipment

5.1 Where apparatus for the operation of a two-way radio system is fitted to a vehicle, no part of the apparatus must be fixed in the passenger compartment or in the rear boot compartment if LPG or CNG tanks or equipment are in use.

5.2 Any radio apparatus must be so positioned and properly secured so as not to interfere with the safe operation of the vehicle.

5.3 Any auxiliary equipment that is fitted to a vehicle must not impede the driver in any way or hinder his/her view, impede or cause hazard to passengers or other road users.

6. Notification of Changes affecting the Licence

6.1 You must notify the Council, in writing/email, of any change in circumstances affecting the licence within 7 days of such a change taking place.

6.2 A copy of any new MOT certificate must be submitted to the Council within 7 days of the date of issue.

6.3 Any new insurance certificate/cover note must be submitted to the Council within 7 days of date of issue. Insurance Brokers may send a copy direct to eps.support@colchester.gov.uk but it is your responsibility to ensure that this has been done. The full insurance certificate must be sent direct to eps.support@colchester.gov.uk within 28 days of its issue.

7. Signs, Notices, etc.

7.1 No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or electronic advertising devices whatsoever can be displayed on, in, or from the vehicle, except as may be required by any statutory provision (including by-laws), or required or permitted by these conditions, provided however that this condition shall not apply to any indication on a taximeter fitted to the vehicle.

7.2 You must cause to be fixed and maintained to the front of the roof of the vehicle a sign which reads "Taxi" and must be able to be lit when available for hire and turned off at other times. The illuminated roof sign must be a minimum size of size of 24 inches (61cm). This condition does not apply when the vehicle is a London style cab such as for example, a TX1, FX4, Metrocab or any other type of vehicle that has a built in 'Taxi' sign at roof level. All other livery conditions apply to London style cabs unless they are actively displaying promotional advertising on the vehicle, permission

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

for which must have been sought from the Council. The roof sign will be supplied by the Council at cost price.

7.3 Door signs as supplied or authorised by the Council, must be affixed and maintained on the top of the nearside and offside front doors of the vehicle.

7.4 The use of the Borough Coat of Arms is exclusive to Colchester Borough Council only, therefore prior permission for the use of these signs or this symbol must be obtained in writing from the Licensing Manager. No other use of door signage or the Borough Coat of Arms will be considered or allowed.

7.5 You must fix and maintain the rear door signage on the inside of the vehicle facing outwards in such a position that it can be seen by any passenger opening the rear doors. These signs will be supplied by the Council and will show the plate number of the vehicle.

7.6 You must fix and maintain the appropriate no smoking signage required by the relevant regulations.

7.7 You must cause to be fixed and maintained in the vehicle in a conspicuous position and in accordance with the directions of the Council, any sign or notice which can be illuminated or non-illuminated and confined to the nearside and offside front doors, or front and rear windscreens relating to Hackney Carriage vehicles and which from time to time the Council may require.

7.8 You may display such signs etc., as may from time to time be approved by the Council in writing. Approval for use must be obtained prior to display. Any signage should be the same size as the front door signs supplied by the Council. Only the name of the business and a contact telephone or mobile telephone number is permitted.

8. Taximeters

8.1 A licensed hackney carriage vehicle must be fitted with a taximeter, of a type approved by the Council, and this must be fixed to the vehicle in such a way that it will not be practical for any person to tamper with it except by breaking, damaging or permanently displacing the seals or other appliances.

8.2 The taximeter must be positioned so that all letters and figures on its face must be at all times illuminated and plainly visible to any passenger.

8.3 The taximeter when standing at a rank or plying for hire must be kept locked in a position in which no fare is recorded on its face.

8.4 When the taximeter is operating there must be recorded on the face of the meter in clearly legible figures a fare not exceeding the maximum fare that must be charged for a journey.

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8.5 If the taximeter has been altered for whatever reason, the proprietor of the vehicle must forthwith make arrangements for resetting with the approved meter agent.

8.6 The vehicle taximeter must be used for every fare without exception and the fare demanded by the driver must not be greater than that shown on the meter. In the event of a hire ending outside the Authority's boundary, the fare that may be charged for the journey is the fare or rate of fare that was made at the start of the journey; the fare to be charged should be no greater than that that would have been shown on the taximeter. If a fixed fare is negotiated, the taximeter must be used in order to confirm that any negotiated fare is less than the metered fare.

9. Table of fares

9.1 The proprietor must ensure that the current table of fares for that vehicle is available on request at all times.

10. CCTV

10.1 CCTV provided within the vehicle must comply with the Council's CCTV Policy (see Appendix 1).

11. Lease of Vehicles

11.1 You are permitted to lease/rent your hackney carriage however you will continue to be responsible either individually, severally or jointly for compliance with the licence conditions, statutory requirements and byelaw provisions. You must inform the Council of every person who becomes responsible for the keeping, letting for hire and employ of such vehicles.

11.2 You are responsible for insuring the vehicle with any additional driver being noted on the policy as a named driver. Upon application and renewal the insurance document, vehicle registration document, and application form must all show the same name.

Please note - Any lease / rental agreement between you and lessee will require very careful drafting, it cannot be of concern to the Council since the Council is not party to such an agreement. In the case of dispute, all parties are reminded that ownership of the licensing plate is retained by the Council and that the licence plate can never be leased or rented without a business, i.e. vehicle, and its goodwill. Similarly a licensing plate cannot be sold by the licence holder to a third party without a business, i.e. vehicle and its goodwill. In the event of this action being proven the licensing plate will be revoked and reallocated to another licensed driver using the Allocations Policy.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

12. Livery

12.1 The vehicle must, at all times, conform to the livery requirements unless the vehicle is one that has been supplied to you by an insurance company or similar business as a result of an accident to your vehicle and it is supplied as a short term replacement only and while repairs are being carried out to your vehicle. Any such replacement vehicle must still display an approved roof light and door signs.

12.2 London style taxis must conform to the prescribed full body livery (except for the display of the uniform roof light) at all times except when they are actively displaying full body livery promotional advertising on the vehicle, permission for which has been obtained from the Council.

Please note - Any hackney carriage vehicle found not complying with the Council's livery is liable to immediate suspension.

13. Insurance

13.1 A fully paid up insurance policy in respect of the vehicle covering the carriage of passengers for hire or reward and complying with the requirements of Part VI of the Road Traffic Act 1988, must be in force during the vehicle licence period. The certificate of this policy must be produced to the Council, or any other authorised officer at all such times and places as may reasonably be required. Failure to provide a copy of a valid insurance certificate will result in the immediate suspension of the licence.

14. Temporary Replacement Vehicles

14.1 Where a vehicle cannot be used because it is being repaired, you may apply for a temporary plate for the replacement vehicle which will enable you to continue to operate. The temporary plate may be used for up to a month; this period may be extended in exceptional circumstances following the approval of the Council.

14.2 The temporary replacement vehicle must be under five years old. If the vehicle is over five years old it 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.

15. Return of Plates

15.1 Hackney carriage vehicle licence plates remain at all times the property of the Council and must be returned to the Council or other authorised officer if you fail to renew the licence, the licence is revoked or on the death of a sole proprietor or upon their giving up the business.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

15.2 On renewal of vehicle licence, the expired plate must be returned to the Council within 7 days of the expiry of that licence.

16. Carriage of Assistance Dogs

16.1 You must carry guide, hearing and other assistance dogs accompanying disabled people and to do so without additional charge. The dog must be allowed to remain with the passenger.

16.2 Where a notice of exemption has been issued to you on medical grounds, it must be exhibited in the vehicle by fixing it facing outwards either to the windscreen or in a prominent position on the dashboard. You must also at all time carry a tactile exemption certificate which must be made available in appropriate circumstances.

16.3 You must not forge or alter for use a Certificate or Notice of Exemption; lend a Certificate or Notice of Exemption to any other person; allow it to be used by any other person; or make or have in your possession any document which closely resembles a Certificate or Notice of Exemption.

17. Additional specifications for wheelchair accessible vehicles.

17.1 The vehicle must have been manufactured or properly adapted to carry at least one person seated in their wheelchair (which includes electrically driven wheelchairs) and have an approved wheelchair clamping system installed. The system of clamping a wheelchair must be of a proprietary type and been installed to manufacturers specifications. A certificate of professional fitting by a competent person must be produced.

17.2 Each wheelchair user conveyed must be capable of being properly secured with a lap and diagonal seat belt made available through the vehicle's adaptation or design and separate from the system holding the wheelchair. A certificate of professional fitting by a competent person must be produced. Belts attached to a wheelchair in order to assist a person to remain in it whilst the wheelchair is in use will not be sufficient.

17.3 If the vehicle is not fitted with a mechanical ramp, wheelchair ramps must be carried and be available for use. Storage of the ramps when not in use must not impede access or egress of passengers or otherwise compromise their safety. Ramps are to be clearly marked with the vehicles registration number.

17.4 When a designed or adapted vehicle is presented for testing, all seat configurations shall be made known and the interior layout of the seating will be noted. When presented, each vehicle must have a designated space to accommodate at least one wheelchair user. This space will be included in the total number of persons permitted to be carried.

17.5 Whilst available for hire, if such a vehicle is not being used for a passenger in a

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

wheelchair, only a foldaway seat which complies with current construction and use regulations may be used to substitute the wheelchair space.

17.6 Any seats replacing the wheelchair space which have to be bolted or locked into place will not be accepted since these present problems of storage of the displaced seats when wheelchair passengers are being carried.

17.7 Any hackney carriage licence granted specially for the provision of a London style cab or Mini Bus type wheelchair converted vehicle, shall only remain valid and in force for as long as a vehicle of this type is provided.

17.8 Should any proprietor wish to dispose of a vehicle with the benefit of such a licence, this condition will continue to apply to any new proprietor.

17.9 All drivers, whether proprietor or lessee, who use a wheel chair accessible vehicle must attend a Passenger Assistance Training course and lodge the attendance/pass certificate with the Licensing Team.

17.10 Refusal to accept a wheelchair user as a fare paying passenger, for any reason, will not be tolerated and a prosecution may follow. Any wheelchair accessible vehicle found to be not carrying the necessary ramps or claiming ramps to be damaged will be immediately suspended. On a second offence of this kind, the Council may refer the matter to the Licensing Committee with a view to revoking the vehicle and driver licence.

18. Trailers

18.1 A Council licensed Hackney Carriage/Private Hire driver be permitted to tow a trailer whilst driving a licensed vehicle provided that:

- a. The driver holds the appropriate category on his DVLA licence, which must be produced to the Council.
- b. The vehicle towing must be suitable for towing the intended trailer in accordance with the relevant regulations
- c. The trailer to be towed by the licensed vehicle complies with all legal requirements and the following conditions.
 - i. It is presented for and passes inspection by the Council's approved garage prior to its use and again at each inspection of the vehicle by which the trailer is towed. The cost of such an inspection to be borne by you.
 - ii. It is of a type and weight, when laden, recommended by the vehicle manufacturer as being suitable for the weight capacity of the intended towing vehicle i.e. not more than 50% of the kerb side weight of the towing vehicle.

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- iii. No advertising is permitted on any part of the trailer without the written agreement of the Council.
- iv. When the trailer is used with the vehicle, the additional licence plate issued by the Council specifically for that trailer must be clearly displayed on the rear of the trailer. Such licence plate number must correspond to the plate number of the towing vehicle. The cost of the additional plate will be borne by you.
- v. If the trailer is towed by a multi seat type vehicle i.e. a minibus, there must be sufficient distance between the rear of the vehicle and the load carrying area of the trailer to allow the rear doors of the towing vehicle to be opened and used in times of an emergency.
- vi. The trailer will be fitted with a properly maintained parking brake which when the trailer is in use and standing uncoupled from a vehicle must be activated.

19. Alteration of Vehicle

19.1 No material alteration or change in the specification, design, condition or appearance of the vehicle can be made without the approval of the Council, at any time when the hackney carriage vehicle licence is in force.

20. Liquid Petroleum Gas (LPG)

20.1 The following conditions apply to vehicles which are made or adapted to run on LPG. The vehicle must comply with all other pre licensing standards and conditions.

20.2 You must notify the Council if you change your vehicle to run on LPG and you must comply with the following:

- a. The installation of an LPG tank must be undertaken by an LPG approved installer, as recommended by the Liquid Petroleum Gas Association, and the certificate of compliance presented to the Council.
- b. The vehicle must display on the front and rear windscreen a sticker stating that the vehicle has been fitted with an LPG tank; this is to alert the emergency services in the event of an accident.
- c. You must must notify the DVLA at Swansea of the change.
- d. The vehicle must be serviced annually by a person competent in LPG powered vehicles and a certificate of compliance must be presented to the Council.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

Appeals

If you are aggrieved by any of the conditions attached to the licence you may appeal to the Magistrates Court within 21 days of the service of the licence and the attached conditions on you. Any appeal must be made in writing to the Magistrates Court, Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 5PF.

Application and Renewal Process

Details of the application and renewal process are available separately and on the Council's website.

Determination of Application

The Council will deal with applications as follows –

1. The application will be reviewed by a member of the Licensing Team and if any issues are identified the applicant/licence holder will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those that are identified are resolved, the application will be granted. In all other cases a report will be prepared for the Licensing Manager setting out the facts of the matter to be considered.
3. The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
4. In the first instance the applicant/licence holder has a right of appeal to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of the decision.
5. If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.

Annex 2 - Hackney Carriage Vehicles Pre-Licensing Standards and Conditions

6. There is a further right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision/notification of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.

Implementation 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.

Annex 3 - Private Hire Pre-Licensing Standards and Conditions

Only those vehicles which comply with the specification detailed below can be granted a private hire vehicle licence by Colchester Borough Council.

Introduction

A private hire vehicle licence remains in force for a year.

Any car to be used for the purposes of private hire must be –

- Capable of carrying at least four passengers, but no more than eight including any passenger in a wheelchair.
- Side loading and of a type approved by the Council.
- Capable of carrying a wheelchair in the boot.
- Meet the European Whole Vehicle type approval or British National Type approval
- Meet all other pre-licensing standards set out below.

PLEASE NOTE:

Always make sure that any vehicle you intend to license meets all the conditions before you pay for it or enter into any credit agreement.

The Council is not liable if you purchase a vehicle which cannot be licensed because it does not meet the pre-licensing conditions.

If you have any doubts about whether your particular vehicle is acceptable, contact the Licensing Team.

Once your vehicle has been licensed it cannot be driven by anyone else unless they hold a hackney carriage/private hire driver's licence and a valid PATS certificate. This means that your spouse, partner or children will be unable to drive the vehicle at any time, even on holiday, unless they hold a current hackney carriage/private hire driver's licence. Such use could invalidate your insurance cover.

Pre Licensing Standards

Only those vehicles which comply with the specification detailed below can be granted a private hire vehicle licence by Colchester Borough Council.

Annex 3 - Private Hire Pre-Licensing Standards and Conditions

1. Vehicle Age and Condition

1.1 An application for a private hire 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 log book 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 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 private hire vehicles and which are, from the date of first registration, over one year old must have a VOSA MOT test certificate.

2. General Specification

2.1 Where vehicles have not been manufactured in the UK or imported by the manufacturer, they must have an appropriate "Type Approval" which is either an EC Whole Vehicle Type Approval (ECWVTA) or British National Type approval. Vehicles must not have been altered since that approval was granted. An Individual Vehicle Approval (IVA) may be accepted for wheelchair accessible vehicles. Vehicles presented for approval, and while in use, must comply with the Road Vehicles (Construction and Use) Regulations 1986 and any subsequent amendment or re-enactment thereof.

2.2 No fittings, other than those approved in this Policy or required in the examination and test by the Council's authorised testing station, may be attached to or carried on the inside or outside of the vehicle.

2.3 All newly registered or re-registered vehicles must run on unleaded fuel, diesel or an alternative environmentally friendly fuel such as LPG, (Liquid Petroleum Gas) or be hybrid or fully electric. Where petrol or diesel vehicles are used they must comply with the following compliance dates and standards for emissions from taxis -

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

2.4 All vehicles must be of a size to have adequate luggage accommodation with suitable restraints to prevent items in non-saloon vehicles becoming unsecured. All vehicles must be capable of carrying a wheelchair, as luggage, in a reasonable manner.

3. Colour

3.1 Private hire vehicles **must not** be black. Existing licensed private hire vehicles which are black will continue to be licensed until they are 12 years of age when they must be replaced by a vehicle which is not black.

Annex 3 - Private Hire Pre-Licensing Standards and Conditions

4. Body of the Vehicle

4.1 The vehicle must have no untreated or unrepaired body defect or significant signs of corrosion. Corrosion includes visible rust and signs of rust by virtue of the paintwork being blistered. All rust spots and repairs in excess of 100 millimetres diameter are to have been prepared and repainted with matching colour up to insurance finishing standard

4.2 The paintwork must be of a professional finish and be one consistent colour over the whole of the vehicle's bodywork.

5. Wheels

5.1 The vehicle must have four road wheels unless agreed by the Licensing Committee.

5.2 Space-saver spare tyres, where supplied as standard equipment to the vehicle, will be accepted. Provision must be made for a standard road wheel to be secured in the vehicle should a space saver tyre be used in an emergency. [Please note](#) - a vehicle presented for examination and test with a space saver spare tyre in use as a road wheel will fail the test.

5.3 Any spare wheel must conform to construction and use regulations.

5.4 A wheel brace and jack to enable the effective change of a tyre and wheel must be carried, except where Paragraph 5.5 applies.

5.5 Where an aerosol inflation and sealant device is supplied with the vehicle as standard by the manufacturer, a spare tyre need not be carried.

5.6 If a vehicle is fitted with 'run flat' tyres, the vehicle must be fitted with a tyre pressure sensor / warning device.

6. Steering

6.1 It is recommended that the vehicle should be right hand drive but a left hand drive vehicle will be considered.

7. Doors

7.1 The vehicle must have a minimum of 4 opening doors unless it is a minibus type vehicle (multi seat Vehicle) in which case the minimum opening of the side door must be at least 864mm.

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7.2 All vehicles must have doors that open sufficiently wide to allow easy access and egress from the vehicle.

7.3 All doors must be capable of being readily opened from the inside and outside of the vehicle by one operation of the latch mechanism.

7.4 The interior door handle must be clearly visible and easily accessible to passengers.

8. Seats

8.1 Each passenger must have a minimum of 432mm of personal sitting space, for the rear seats this will be measured in a straight line lengthways across the front edge of the seat.

8.2 Each seat must be fitted with fully operational seat belts, compliant with British Standards, except where the law specifically provides an exemption.

8.3 Where seat covers are used they must be properly affixed to the seat so as not to become loose during use. They must be clean and undamaged.

9. Windows

9.1 Opening windows must be provided in the rear of the vehicle capable of being opened by the rear seat passengers.

9.2 Vehicle windows must have visual transmission of light of not less than 70% in respect of windscreens and windows to either side of the driver.

9.3 Tinted windows are not permitted nor shall the vehicle be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.

10. Heating and ventilation

10.1 Vehicles must have an efficient heating and ventilation system.

11. Wheelchair carrying facilities

11.1 Any vehicle that has the facility for the carriage of wheelchair(s) and wheelchair passengers must comply with current equality act requirements and must be inspected by a Council approved garage to determine its suitability. It must -

- a. Have the facility to load and unload wheelchairs directly into the vehicle through the side doors only.

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- b. Be fitted with approved anchorages that must be either chassis or floor linked and capable of withstanding approved dynamic or static tests. Restraints for wheelchair and passengers must be independent of each other. Anchorages must also be provided for the safe storage of a wheelchair, whether folded or otherwise, if carried within the passenger compartment. All anchorages and restraints must be so designed that they do not cause any danger to other passengers.
- c. Be fitted with a ramp or ramps for the loading of a wheelchair and passenger and these ramps must be available at all times. An adequate locking device must be fitted to ensure that the ramp(s) do not slip or tilt when in use. Provision must be made for the ramps to be stored safely in the vehicle when not in use.

11.2 The vehicle must be equipped with a manufacturer's user manual/guide on the safe loading and unloading and security of wheelchair passengers.

11.3 Any equipment fitted to the vehicle for the purpose of lifting a wheelchair into the vehicle must have been tested in accordance with the requirements of the Lifting Operations and Lifting Equipment Regulations immediately prior to being first licensed and at each subsequent twice yearly test and be so certified. The certification must be submitted at the time of first license and on renewal.

12. CCTV Systems

12.1 CCTV surveillance systems, which must comply with the Council's CCTV Policy (see Appendix 1), must be installed in vehicles with effect from 1 January 2019 as follows

- On first licensing for new vehicles
- Within a year of the renewal of their licence for existing licensed vehicles

13. Tyres

13.1 All tyres, including the spare tyre, must comply with the vehicle manufacturer's specification.

13.2 Re-cut tyres are not acceptable for vehicles that are internationally classified as M1 passenger vehicles and remould tyres must only be acceptable if they carry a recognised approval marking (BSAU144e) and display:

- Nominal size
- Construction type (e.g. radial ply)
- Load capacity
- Speed capability

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14. Electrical Equipment

14.1 Any additional electrical installation to the original equipment must be adequately insulated and be protected by suitable fuses.

15. Seat Belts

15.1 The vehicle must be compliant with all relevant [legislation](#) and guidelines as issued or determined by central government in relation to the use of seatbelts. This will however ordinarily exclude limousines and vintage cars.

15.2 If the [correct child car seat](#) provisions are not available children can travel without a car seat but only if they travel on a rear seat and wear an adult seat belt if they are 3 years or older; or without a seat belt if they're under 3 years of age.

As the holder of private hire vehicle licence you must comply with the following conditions. These conditions should be read in conjunction with the Policy. Any requirement of legislation, which affects the operations being carried out under the terms of this licence, should be regarded as if they are conditions of this licence.

Where there appears in the licence conditions a summary of any statutory provision you are advised that such summary is not exhaustive.

Conditions of licence

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 in order 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 the 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

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anticipated that repairs will take longer than 28 days you must apply to the Council to extend the period.

1.3 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 after it has been repaired.

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

1.5 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

2. Licence Identification Plates

2.1 You must fix to the vehicle licence identification plates of the size, colour, design and type supplied by the Council; these plates must relate to the vehicle on which they are displayed. No other vehicle licence identification plates should be displayed on the vehicle.

2.2 You must ensure that the licence identification plates are securely fixed to the outside exterior of the vehicle, adjacent as possible, to the number plate and in such a manner as to ensure that the vehicle registration plate is not obscured and the plate is clearly visible from the highway and by other road users. A plate must not be placed on the rear window of the vehicle.

2.3 You must ensure that a vehicle licence identification card, as supplied by the Authority, is displayed in a position for all passengers to clearly see.

2.4 The licence plates remain the property of the Council and must be returned within seven days, following the service on you of an appropriate notice by the Authority and/or in the event of the vehicle licence ceasing to be in force in respect of the vehicle.

2.5 If you have been granted an exemption from the requirement to display an external vehicle identification, you must carry the dispensation in the vehicle at all times and produce this on request to any officer of the Council or the Police (see Appendix 2 for information on Plate Exemptions).

3. Luggage

3.1 Luggage must be conveyed in such a way that ensures it is protected from damage and is properly secured.

4. Furnishing and maintenance of vehicle

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4.1 You must ensure that the vehicle and all its fittings and equipment is, at all times when the vehicle is in use or available for hire, kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements are complied with fully.

Please note - It is not sufficient to wait until a compliance test to find out if the vehicle is still roadworthy.

4.2 Where a separate compartment is provided for passengers, you must provide sufficient means by which any person in the compartment may communicate with the driver.

4.3 You must at all times provide adequate lighting, heating and ventilation for the interior of the vehicle.

5. Auxiliary equipment

5.1 Where apparatus for the operation of a two-way radio system is fitted to a vehicle, no part of the apparatus must be fixed in the passenger compartment or in the rear boot compartment if LPG or CNG tanks or equipment are in use.

5.2 Any radio apparatus must be so positioned and properly secured so as not to interfere with the safe operation of the vehicle.

5.3 Any auxiliary equipment that is fitted to a vehicle must not impede the driver in any way or hinder his/her view, impede or cause hazard to passengers or other road users.

6. Notification of Changes affecting the Licence

6.1 You must notify the Council, in writing/email, of any change in circumstances affecting the licence within 7 days of such a change taking place.

6.2 A copy of any new MOT certificate must be submitted to the Council within 7 days of the date of issue. This should be sent to eps.support@colchester.gov.uk

6.3 Any new insurance certificate/cover note must be submitted to the Council within 7 days of date of issue. Insurance Brokers may send a copy direct to eps.support@colchester.gov.uk but it is your responsibility to ensure that this has been done. The full insurance certificate must be sent direct to eps.support@colchester.gov.uk within 28 days of its issue. t

7. Signs, Notices and Advertisements, etc.

7.1 Vehicles must not display roof signs. Other signs or advertising below roof height cannot be displayed without the prior approval of the Authority.

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7.2 Advertising material or decorative stickers on the windows of the vehicle, including the rear window, are strictly prohibited.

7.3 Vehicles are permitted, subject to prior approval of the Council, to display signs, advertisements, notices or other markings on the outside of their vehicle subject to compliance with the following -

- a. The trade name, address and telephone number of the circuit may be displayed on front doors of the vehicle. This sign must contain the words 'pre-booked only'. It must not contain the words 'taxi' or 'cab' or any word of a similar meaning or appearance which may be taken to indicate that the vehicle is a hackney carriage which is licensed to ply for hire.
- b. Product advertising is permitted on the rear doors subject to the Council giving authority and retaining the right to request the removal of any particular advertisement, which is felt to be unsuitable.
- c. Colour copies of artwork showing the advertising as it is intended to appear on the vehicle must be sent to the Licensing Team for prior approval and any change to the advertisement must not be made without the further approval of the Council.
- d. Each application for approval of advertising material will be considered on an individual basis, but advertisements must -
 - Comply with the UK's Advertising Standards Authority's Advertising Codes; it is the responsibility of the private hire proprietor to make sure that they do so (available at www.cap.org.uk)
 - Not advertise or promote age restricted products, such as tobacco, alcohol
 - Not contain pictures, text or graphics of a religiously discriminatory, political, racist, sexist or controversial nature
 - Not display nude, semi-nude or other figures in a sexually provocative manner or in a manner that would be considered to be objectionable
 - Not advertise any racist group or organisation that intends to promote such a group or such organisation and/or any of its activities
 - Only advertise one product or service at a time.
- e. All product advertising must be applied by a professional company and no reflective materials may be used.

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- f. Wheelchair accessible vehicles may display the disability symbol on the wheelchair access door(s) only.
- g. Advertising material or decorative stickers on the inside of the vehicle (i.e. on the flip seat) will be permitted, subject to the Council giving authority and retaining the right to request the removal of any particular advertisement, which is felt to be unsuitable.
- h. Any damaged or disfigured advertisement signs must be removed immediately.

7.3 You must fix and maintain the rear door signage on the inside of the vehicle facing outwards in such a position that it can be seen by any passenger opening the rear doors. These signs will be supplied by the Council and will show the plate number of the vehicle.

7.4 You must fix and maintain the appropriate no smoking signage required by the relevant regulations.

7.5 You must cause to be fixed and maintained in the vehicle in a conspicuous position and in accordance with the directions of the Council, any sign or notice which can be illuminated or non-illuminated and confined to the nearside and offside front doors, or front and rear windscreens relating to private hire vehicles and which from time to time the Council may require.

8. Meters

8.1 If the vehicle is fitted with a meter for recording the fare it shall display and maintain the statement of fares inside the vehicle in such a position as to be clearly visible at all times to the hirer. The statement of fares must include the minimum hire charge, the rate charged per mile and any additional charges.

8.2 If a private hire vehicle is fitted with a meter for recording a fare it must be of a type approved by the Council, and this must be fixed to the vehicle in such a way that it will not be practical for any person to tamper with it except by breaking, damaging or permanently displacing the seals or other appliances.

8.3 If a pre-booked journey for which the fare has been agreed is carried out in a private hire vehicle with a meter, the meter must be running for the duration of the journey. If the metered fare is cheaper than the agreed fare, the metered fare must be charged.

8.4 The taximeter must be positioned so that all letters and figures on its face must be at all times illuminated and plainly visible to any passenger.

Annex 3 - Private Hire Pre-Licensing Standards and Conditions

8.5 When the taximeter is operating there must be recorded on the face of the meter in clearly legible figures a fare not exceeding that stated in the statement of fares as displayed in the vehicle unless a rate has been separately agreed between the hirer and the licensed private hire operator at the time of booking and prior to the journey commencing.

9. CCTV

9.1 CCTV provided within the vehicle must comply with the Council's CCTV Policy (see Appendix 1)

10. Insurance

10.1 A fully paid up insurance policy in respect of the vehicle covering the carriage of passengers for hire or reward and complying with the requirements of Part VI of the Road Traffic Act 1988, must be in force during the vehicle licence period. The certificate of this policy must be produced to the Council, or any other authorised officer upon request. Failure to provide a copy of a valid insurance certificate will result in the immediate suspension of the licence.

11. Temporary Replacement Vehicles

11.1 Where a vehicle cannot be used because it is being repaired, you may apply for a temporary plate for the replacement vehicle which will enable you to continue to operate. The temporary plate may be used for up to a month; this period may be extended in exceptional circumstances following the approval of the Council.

11.2 The temporary replacement vehicle must be under five years old. If the vehicle is over five years old it 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.

12. Return of Plates

12.1 Private Hire vehicle licence plates remain at all times the property of the Council and must be returned to the Council or other authorised officer if you fail to renew the licence, the licence is revoked or on the death of a sole proprietor or upon their giving up the business.

12.2 On renewal of vehicle licence, the expired plate must be returned to the Council within 7 days of the expiry of that licence.

13. Carriage of Assistance Dogs

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13.1 You must carry guide, hearing and other assistance dogs accompanying disabled people and to do so without additional charge. The dog must be allowed to remain with the passenger.

13.2 Where a notice of exemption has been issued to you on medical grounds, it must be exhibited in the vehicle by fixing it facing outwards either to the windscreen or in a prominent position on the dashboard. You must also at all times carry a tactile exemption certificate which must be made available in appropriate circumstances.

13.3 You must not forge or alter for use a Certificate or Notice of Exemption; lend a Certificate or Notice of Exemption to any other person; allow it to be used by any other person; or make or have in your possession any document which closely resembles a Certificate or Notice of Exemption.

14. Additional specifications for wheelchair accessible vehicles.

14.1 Each vehicle must have been manufactured or properly adapted to carry at least one person seated in their wheelchair (which includes electrically driven wheelchairs) and have an approved wheelchair clamping system installed. The system of clamping a wheelchair must be of a proprietary type and been installed to manufacturers specifications. A certificate of professional fitting by a competent person must be produced.

14.2 Each wheelchair user conveyed must be capable of being properly secured with a lap and diagonal seat belt made available through the vehicle's adaptation or design and separate from the system holding the wheelchair. A certificate of professional fitting by a competent person must be produced. Belts attached to a wheelchair in order to assist a person to remain in it whilst the wheelchair is in use will NOT be sufficient.

14.3 If the vehicle is not fitted with a mechanical ramp, wheelchair ramps must be carried and be available for use. Storage of the ramps when not in use must not impede access or egress of passengers or otherwise compromise their safety. Ramps are to be clearly marked with the vehicles registration number.

14.4 When a designed or adapted vehicle is presented for testing, all seat configurations shall be made known and the interior layout of the seating will be noted. When presented, each vehicle must have a designated space to accommodate at least one wheelchair user. This space will be included in the total number of persons permitted to be carried.

14.5 Whilst available for hire, if such a vehicle is not being used for a passenger in a wheelchair, only a foldaway seat which complies with current construction and use regulations may be used to substitute the wheelchair space.

14.6 Any seats replacing the wheelchair space which have to be bolted or locked into place will not be accepted since these present problems of storage of the displaced seats when wheelchair passengers are being carried.

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14.7 Should any proprietor wish to dispose of a vehicle with the benefit of such a licence, this condition will continue to apply to any new proprietor.

14.8 All drivers, whether proprietor or lessee, who use a wheel chair accessible vehicle must attend a Passenger Assistance Training course and lodge the attendance/pass certificate with the Licensing Team.

14.9 Refusal to accept a wheelchair user as a fare paying passenger, for any reason, will not be tolerated and a prosecution may follow. Any wheelchair accessible vehicle found to be not carrying the necessary ramps or claiming ramps to be damaged will be immediately suspended. On a second offence of this kind, the Council may refer the matter to the Licensing Committee with a view to revoking the vehicle and driver licence.

15. Trailers and Roof Carriers

15.1 A Council licensed Hackney Carriage/Private Hire driver be permitted to tow a trailer whilst driving a licensed vehicle provided that:

- a. The driver holds the appropriate category on his DVLA licence, which must be produced to the Council.
- b. The vehicle towing must be suitable for towing the intended trailer in accordance with the relevant regulations
- c. The trailer to be towed by the licensed vehicle complies with all legal requirements and the following conditions:
 - i. It is presented for and passes inspection by the Council's approved garage prior to its use and again at each inspection of the vehicle by which the trailer is towed. The cost of such an inspection to be borne by you.
 - ii. It is of a type and weight, when laden, recommended by the vehicle manufacturer as being suitable for the weight capacity of the intended towing vehicle i.e. not more than 50% of the kerb side weight of the towing vehicle.
 - iii. No advertising is permitted on any part of the trailer without the written agreement of the Council.
 - iv. When the trailer is used with the vehicle, the additional licence plate issued by the Council specifically for that trailer must be clearly displayed on the rear of the trailer. Such licence plate number must correspond to the plate number of the towing vehicle. The cost of the additional plate will be borne by you.
 - v. If the trailer is towed by a multi seat type vehicle i.e. a minibus, there must

Annex 3 - Private Hire Pre-Licensing Standards and Conditions

be sufficient distance between the rear of the vehicle and the load carrying area of the trailer to allow the rear doors of the towing vehicle to be opened and used in times of an emergency.

- vi. The trailer will be fitted with a properly maintained parking brake which when the trailer is in use and standing uncoupled from a vehicle must be activated.

15.2 A roof box is not to be used without the prior approval of the Council.

16. Alteration of Vehicle

18.1 No material alteration or change in the specification, design, condition or appearance of the vehicle can be made without the approval of the Council, at any time when the vehicle licence is in force.

17. Liquid Petroleum Gas (LPG)

17.1 The following conditions apply to vehicles which are made or adapted to run on LPG. The vehicle must comply with all other pre licensing standards and conditions.

17.2 You must notify the Council if you change your vehicle to run on LPG and you must comply with the following:

- a. The installation of an LPG tank must be undertaken by an LPG approved installer, as recommended by the Liquid Petroleum Gas Association, and the certificate of compliance presented to the Council.
- b. The vehicle must display on the front and rear windscreen a sticker stating that the vehicle has been fitted with an LPG tank; this is to alert the emergency services in the event of an accident.
- c. You must notify the DVLA of the change.
- d. The vehicle must be serviced annually by a person competent in LPG powered vehicles and a certificate of compliance must be presented to the Council.

Appeals

If you are aggrieved by any of the conditions attached to the licence you may appeal to the Magistrates Court within 21 days of the service of the licence and the attached conditions on you. Any appeal must be made in writing to the Magistrates Court,

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Essex Magistrates Court, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, CM2 5PF.

Application and Renewal Process

Details of the application and renewal process are available separately and on the Council's website.

Determination of Application

The Council will deal with applications as follows –

1. The application will be reviewed by a member of the Licensing Team and if any issues are identified the applicant/licence holder will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those that are identified are resolved, the application will be granted. In all other cases a report will be prepared for the Licensing Manager setting out the facts of the matter to be considered.
3. The Manager will review the case file and, where appropriate, will interview the applicant/licence holder and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
4. In the first instance the applicant/licence holder has a right of appeal to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of the decision.
5. If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.
6. There is a further right of appeal to the Magistrates Court. Any such appeal must be made in writing, within 21 days from the date of the decision/notification of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.

Annex 3 - Private Hire Pre-Licensing Standards and Conditions

Implementation 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.

Annex 4 - Operator Pre-Licensing Standards and Conditions

1.1 The key consideration of the Council in licensing private hire operators is the safety of the travelling public. This encompasses those using an operator's premises and the vehicles and drivers arranged through them.

1.2 Whilst hackney carriage vehicles are allowed to ply and rank for hire, a private hire vehicle must be pre-booked.

1.3 If you are taking a booking, through a booking office, telephone booking line, website or App, you must have an operator's licence issued by the Council

Pre-Licensing Standards

In order to be licensed as a private hire operator you must –

1.1 Complete the application form and supply the required fee and documentation to support your application including -

- a current Passport or Birth Certificate verifying your identity
- evidence that you may legally work in the UK
Please note - If circumstances come to light during the lifetime of the licence that you no longer have a right to work in the UK, the licence will be revoked.
- a Basic Disclosure from DBS Scotland. The disclosure must be less than one month old when the application is made.
- a Basic Disclosure from DBS Scotland for all staff taking bookings.

1.2 Be found to be a fit and proper person to hold a private hire operator's licence by the Council having regard to its Hackney Carriage/Private Hire Licensing Policy.

1.3 If you take bookings in person you must have a physical office in the Borough.

1.4 If you accept bookings only via a website or App you must have an operator's licence issued by the Council

Planning Consent - To operate a private hire business from a residential dwelling, planning permission for such business use may be required. All applications for an operator's licence are forwarded to the Planning Department. It is your responsibility to ensure that any necessary planning permissions are in place.

CONDITIONS OF LICENCE

As the holder of an operator's licence you must comply with the following conditions at all times:

Annex 4 - Operator Pre-Licensing Standards and Conditions

1. Records

1.1 You must keep records, as set out below, for a period of not less than five years following the date of the last entry, in a suitable form that does not permit backdating, and in a format that can be easily inspected and/or downloaded at the request of a licensing officer/police officer.

Bookings

1.2 In respect of every booking for hire, whether for journeys booked from premises based in Colchester or those accepted from private hire operator's licensed by other authorities, you must record and keep the following details of every booking -

- date and time of the booking
- name of the hirer
- time and date of the pick-up
- address of the point of pick-up
- destination
- whether the hirer has any special requirements
- any fare quoted at the time of booking
- the licence number of the vehicle assigned to the booking
- the licence number of the driver assigned to the booking
- the details of the hiring operator (if the booking was made as a result of it being sub-contracted to you)

Drivers

1.3 In respect of drivers working for you, you must record and keep the following –

- proof of the name and address of the driver, their right to work documentation, their licence number and its expiry date, and a copy of the licence issued to them by the Council. [Please note](#) - you must keep records of the checks completed in relation to the verification of the above matters
- the call sign allocated to the driver
- copies of relevant insurance documentation
- the date of when a new driver begins service
- the date of when a driver ceases service

Vehicles

1.4 In respect of all vehicles operated under your licence you must record and keep the following –

- name and address of the licensed proprietor of the vehicle
- make and registration number of the vehicle

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- date the vehicle commenced operating under your operator's licence
- the vehicle plate number and its expiry date
- make, colour and engine size
- the year of manufacture
- name and address of licensed driver(s) of the vehicle and the badge number(s)
- a copy of licenses issued by the Council, for the private hire vehicles you operate.
- copies of the current licences of drivers and vehicles must be retained by you whenever they are working for you
- the date the vehicle ceased to accept work under your operator's licence

2. Duties as a licence holder

2.1 As the holder of an operator's licence you must maintain a current, consecutively dated, legible manual or computerised record of –

- the DVLA drivers' licence held by every driver accepting work and ensure that, at all times, the licence is valid.
- all alterations made to that driver's licence (i.e. endorsements, disqualification and medical conditions) and inform the Council immediately or in any case within seven days of any alterations.
- documents that provide you with proof of the driver's immigration status and their right to work in the UK.
- the current insurance certificate/cover note of all vehicles accepting work under your operator's licence and ensure that, at all times, they are consecutive and comply with the statutory requirements and licensing conditions.
- the continuous test certificates of all vehicles accepting work under your operator's licence and the action taken where a vehicle has failed its MOT or is not considered roadworthy.

2.2 You must take all reasonable steps to ensure that, at all times, vehicles operating under your operator's licence comply with the statutory requirements and licensing conditions appertaining to the mechanical and body condition of the vehicle including cleanliness. You must ensure that the vehicle complies with all the licensing conditions in relation to the door stickers, vehicle licence plate, livery and advertising.

2.3 Not to cause or permit the words 'taxi' or 'cab' on any private hire vehicle operated by or operating under your operator's licence.

2.4 Not to purchase a black vehicle to be used as a private hire vehicle with effect from 1 January 2018.

2.5 Ensure that all proprietors and drivers operating under the operator's licence, when carrying passengers for hire or reward, are dressed in accordance with the conditions attached to licences issued by the Council to drive hackney carriage and private hire vehicles. (These are set out in the Council's Policy).

Annex 4 - Operator Pre-Licensing Standards and Conditions

2.6 On the request of an authorised officer of the Council or any police constable produce your operator's licence for inspection.

2.7 Be responsible for the conduct, appearance and actions of controllers and other staff employed by you in respect of the licensable activities.

2.8 Ensure that details of all bookings accepted are recorded in such a way that the contract between the operator and the hirer can be honoured either by you or by the operator to whom the booking has been subcontracted

2.9 Be responsible for reimbursement to the hirer in the event of a contract not being satisfactorily honoured.

2.10 Notify the Council of all cars and drivers operating under your licence and provide an updated list every six months.

2.11 Produce evidence that you have in force a current public and employers' liability insurance policy.

3. Standards of Service

3.1 You must at all reasonable times provide a prompt, efficient and reliable service to members of the public. In particular you should ensure that -

- when a vehicle has been hired, it arrives punctually at the appointed place and time unless unexpectedly delayed or prevented from satisfying the booking by sufficient cause.
- telephone facilities and radio equipment are maintained in good working order.
- all vehicles operated by you are maintained in a satisfactory and road worth condition.
- without prejudice to any other liabilities imposed under the act, that all drivers of vehicles owned, controlled or operated in association with you observe and perform to the conditions of their licence.
- the premises provided for the purpose of hiring or waiting are kept clean, adequately lit, heated and ventilated and that any waiting area provided has adequate seating facilities.
- any sanitary conveniences and washing facilities provided for customers and/or licensed drivers and vehicle proprietors are placed at readily accessible areas in the building. They and the rooms containing them should be kept clean, be adequately ventilated and lit. Washing facilities should have running hot and cold water, soap and clean towels or other means of cleaning or drying. Men and women should have separate facilities unless each facility is in a separate room with a lockable door and is for use by only one person at a time.

Annex 4 - Operator Pre-Licensing Standards and Conditions

4. Notifications to the Council

4.1 If you become aware that any driver is suffering from any illness, disability or a condition which may affect their ability to drive you must inform the Council immediately.

4.2 You must notify the Council in writing of any change affecting your licence, including a change of address (including any address from which you operate or otherwise conduct your business). This notice must be given, within 7 days of the change.

4.3 You must report to the Council, in writing within seven days, any convictions, cautions, arrests or fixed penalty notices you have received since the completion of the application form for your licence. If you operate as a company or partnership, this requirement applies if any of the directors or partners receives a conviction or fixed penalty notice.

4.4 Report to the Council immediately or in any case within 72 hours, details of ANY accident or other damage sustained by a vehicle operating under your operator's licence.

5. Sub-Contracting and Cross Border Working

5.1 Where you accept a booking and then are subsequently unable to honour it, or if you do not have a vehicle immediately available, the booking may be sub-contracted to another operator, including an operator licensed by another local authority and at the same rate and same standard as the Council's operators. In these circumstance you must –

- a) keep a record of the initial booking details for audit purposes.
- b) contact the hirer to advise that the booking can no longer be honoured and to ask whether or not they wish the booking to be sub-contracted to an alternative private hire operator.
- c) identify an alternative private hire operator and advise the original hirer of that operator's details.
- d) provide full details of the booking to the alternative private hire operator and keep a record of the private hire operator to whom the booking was sub-contracted.
- e) keep a record of the alternative private hire operator's licence details as follows-
 - i) name of the issuing authority
 - ii) licence number
 - iii) grant date of the licence
 - iv) expiry date of the licence.

All records kept must be available for inspection on request of an authorized officer of the Council or Police officer.

5.2 In relation to cross border working it should be noted that –

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- You can only hold a private hire operator's licence issued by the local Council in whose area you have your operating base.
- If you intend to take bookings from outside the Council area you must apply for an operator's licence from the local Council in which your operating base is located.
- You can only use vehicles and drivers who are licensed by the same local Council who issue your operator's licence.
- You can accept bookings made from outside the borough but the address where the bookings are taken, your operating premises, must be within the area of the Council who issued your operator's licence.
- You may pass work to drivers who are declared on your operator's licence application form; the drivers and cars must be licensed by the same Council as issued the operator's licence.

6. Other staff

6.1 In relation to other staff employed by you at the premises you must –

a) Carry out sufficient checks on the background of your control room staff to ensure they are a fit and proper person to carry out their tasks and duties in a professional and confident manner. These checks may include the following –

- A Basic Criminal Disclosure (Scotland) or a Police National Computer Check (PNC) issued within the previous 3 months
- A Certificate of Good Conduct for the relevant foreign nationals
- Proof of Right to work documentation
- Character references from previous employer(s).

b) Provide appropriate training, including safeguarding training, and maintain training records of all staff in customer service and data protection.

c) Have an appropriate policy in place in respect of alcohol, illegal substances or the abuse of prescription drugs in respect of control room, office and drivers whilst at work.

d) Ensure that no alcohol shall be consumed by ANY person on your premises.

e) If it comes to your notice, that a driver of one of your vehicles may be under the influence of alcohol, illegal substances or abusing prescription drugs, you must not allow the driver to continue on duty and must inform the driver accordingly. You must then inform the Council within 72 hours of the incident.

f) Ensure that you comply with all legislation regarding the employment of staff, health & safety etc., and provide adequate staff facilities.

Annex 4 - Operator Pre-Licensing Standards and Conditions

7. Complaints

7.1 You must/are advised to have a published complaints procedure that deals with Customer and Employee complaints. Copies of this document must be provided to the Council and available at the operator's office for reference by customers and staff. The complaints procedure must be used when dealing with any complaint and a member of staff must be named as the complaints officer responsible for ensuring the procedure is satisfied.

8. Display of Terms and Conditions

8.1 You must keep a copy of these conditions at all premises used for your business and make them available for inspection by customers and on request by Authorised Officers of the Council and Police officers.

9. Licence Duration

9.1 Your operator's licence will last for 5 years from the date of its grant. In certain circumstances a licence may be granted for a shorter period of time.

10. Operator Category

10.1 If, during the lifetime of your licence, you wish to change your operator category you must pay the relevant fee to effect the change plus the new category fee calculated on a pro-rata basis.

Category A	1 vehicle
Category B	2-5 vehicles
Category C	6-10 vehicles
Category D	11+ vehicles

11. Use of Website and Booking Apps

11.1 Any Website or Booking Apps used in the operation of the business must be capable of recording all the information required under these conditions (specified in Condition 1).

Right of Appeal

12.1 If you disagree with the imposition of any of the conditions set out in this document, this must be raised at the time the application is submitted and if

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appropriate the matter will be referred to the Licensing Manager for consideration in the first instance and then to the Licensing Sub-Committee, if required, for consideration and determination.

12.2 If you wish to appeal the Council's refusal to grant you an operator's licence you must do so in writing to the Licensing Manager who will, in the first instance, consider your appeal. There is a further right of appeal to the Licensing Sub-Committee.

12.3 Any applicant aggrieved by the refusal of the Council to grant an operator's licence, or by any conditions attached to the grant of such licence, may appeal to a Magistrates' Court within 21 days.

Implementation 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.

Annex 5 - Convictions Policy

1. Introduction

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

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

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

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

1.5 In the Policy the Council has categorized and assessed the risk to the public of a wide variety of criminal and motoring convictions. The convictions listed are by no means exhaustive however it is anticipated that any convictions not listed will have close enough themes to enable parallels 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

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

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

Annex 5 - Convictions Policy

3. General principles

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

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

3.3 By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 'taxi' drivers are an exempt occupation for the purposes of the 1974 Act and convictions are therefore never spent. The Council is therefore able to take into account spent convictions but will do so in a fair and proportionate way. Operators are not an exempt occupation.

3.4 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.

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

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

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

- the nature of the offence and any penalty imposed
- the length of time since the offence
- the individual's age when the offence was committed
- the history and pattern of offending
- whether the matter has previously been considered
- the intent or harm that was or could have been caused
- any other relevant matter

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

Annex 5 - Convictions Policy

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

4. Investigation and Determination Procedure

4.1 The Council will deal with offences as follows –

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

Annex 5 - Convictions Policy

5. Application of Points

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

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

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

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

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

Annex 5 - Convictions Policy

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	
Manslaughter	
Manslaughter or culpable homicide while driving	Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for such an offence
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	

Annex 5 - Convictions Policy

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

Offences (including but not limited to) –

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

Annex 5 - Convictions Policy

Level 3 - Dishonesty crime

Offences (including but not limited to) –

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

Level 3 – Smoking offences

Offences (including but not limited to) –

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

Annex 5 - Convictions Policy

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

Annex 5 - Convictions Policy

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

Years since conviction received (or part year)		1	2	3	4	5	6	7	8	9	10
Code	Offence	Number of Points (Points are doubled for a term of imprisonment)									
AC10	Failing to stop after an accident	12	12	12	12	12	8	6	4	2	1
BA10	Driving while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
BA30	Attempting to drive while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
CU80	Breach of requirement as to control of the vehicle, mobile phone etc.	12	12	12	12	12	8	6	4	2	1
DD10	Causing serious injury by dangerous driving	12	12	12	12	12	8	6	4	2	1
DD40	Dangerous driving	12	12	12	12	12	8	6	4	2	1
DD90	Furious driving	12	12	12	12	12	8	6	4	2	1
DG10	Driving or attempting to drive with drug level above the specified limit	12	12	12	12	12	8	6	4	2	1
DG40	In charge of a vehicle while drug level above a specified limit	12	12	12	12	12	8	6	4	2	1
DR10	Driving or attempting to drive with alcohol level above the limit	12	12	12	12	12	8	6	4	2	1
DR20	Driving or attempting to drive while unfit through drink	12	12	12	12	12	8	6	4	2	1
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	12	12	12	12	12	8	6	4	2	1
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity	12	12	12	12	12	8	6	4	2	1
DR40	In charge of a vehicle 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	4	4	4	4	4	3	2	1	0	0
DR80	Driving or attempting to drive when unfit through drugs	12	12	12	12	12	8	6	4	2	1
DR90	In charge of a vehicle when unfit through drugs	12	12	12	12	12	8	6	4	2	1
AC20	Failing to give particulars or report an accident within 24 hours	12	12	12	12	12	8	6	4	2	1
AC30	Undefined accident offences	12	12	12	12	12	8	6	4	2	1
IN10	Using a vehicle uninsured against third party risks	8	7	6	5	4	3	2	1	0	0
LC20	Driving otherwise than in accordance with a licence	8	7	6	5	4	3	2	1	0	0
MS50	Motor racing on the highway	12	10	8	7	6	5	4	3	2	1
MS90	Failure to give information as to the identity of a driver etc.	6	5	4	3	2	1	0	0	0	0
UT50	Aggravated taking of a vehicle	12	12	12	6	4	3	2	1	0	0

Annex 5 - Convictions Policy

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
CU20	Causing or likely to cause	3	3	3	3	2	1	0	0	0	0

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

Annex 5 - 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)										
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. Totting Up

6.1 If the number of current points on the DVLA licence exceeds 12 points a new

Annex 5 - Convictions Policy

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

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

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

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

7. Repeated convictions

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

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

8. Failure to report a disqualification

8.1 It may be that by the time the Council becomes aware of a disqualification, the period has passed and the driver is able to drive again. By being dishonest the intentions of the policy have been evaded.

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

Annex 5 - Convictions Policy

8.3 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.

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

9. Immediate Suspension or revocation

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

10. Police Bail

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

11. Police intelligence

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

12. Right of Appeal

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

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

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

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

Implementation 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.

Annex 5 - Convictions Policy

Annex 6 - Penalty Point Scheme

1. Introduction

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

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

2. Relevant legislation

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

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

3. General Principles

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

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

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

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

Annex 6 - Penalty Point Scheme

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

Please note – the failure to respond to an investigating officer's repeated attempts to make contact, in order to properly investigate a matter, may result in points being applied without having had the licence holder's input.

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

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

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

3. Investigation and Committee Procedure

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

- a. On receipt of a complaint or where there is an alleged breach of the Council's conditions or other relevant statutory provisions, a member of the Licensing Team will assess whether they believe there is a case to answer.
- b. If it is considered there is a case to answer, a member of the Licensing Team will investigate the facts which may include interviewing the relevant individuals under caution.
- c. Upon completion of the investigation, penalty points may be applied. Notification that points have been given will be sent in writing to the licence holder and, where appropriate, a copy will be sent to their vehicle proprietor or operator within 7 days of the decision.
- d. If following completion of the investigation there are matters of significant concern and/or the number of points to be issued results in the accumulation of 12 or more points the matter will be reported to the Licensing, Food & Safety Manager (the Manager). Notification of the Manager's decision will be sent in

Annex 6 - Penalty Point Scheme

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. Where a licence holder accumulates 12 or more points in a 12 month period the following **suspension periods** apply -
- 28 consecutive days for the first occasion of the accumulation of 12 or more points within a 12 month period.
 - 56 consecutive days for the second occasion of the accumulation of 12 or more points within a twelve month period.
 - Revocation for any third accumulation of 12 points within a twelve month period.
- f. There is a 21 day period in which to appeal the award of points and suspension/revocation of the licence. This period runs from the day after the date of the letter notifying of the award of penalty points or suspension/revocation. Appeals must be made in writing, within the appeal period, to licensing.team@colchester.gov.uk or by writing to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG.
- Please note - Appeals should only be made if you wish to dispute the evidence that resulted in the award of points or other enforcement action. If you committed the offence, points will be applied in accordance with the penalty points table. Any disputes regarding the number of penalty points applied will be referred to the Licensing Committee who, in addition to dismissing or upholding your appeal, have the discretion to award a greater number of points than displayed on the Penalty Point Table.**
- g. If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.
- h. There is a further right of appeal to the Magistrates Court only in cases of suspension/revocation of a licence; there is no further right of appeal in relation to the imposition of penalty points. Any such appeal must be made in writing, within 21 days from the date of the decision/notification of the decision, to the Clerk of the Court, Essex Magistrates' Courts, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford, Essex, CM2 5PF.
- i. Where an appeal has been made the implementation of any suspension or revocation will be held over until the determination of the appeal.

3.2 The Council may as part of its investigations into an alleged offence/complaint or similar matter request a Police National Computer check (PNC) from the Police to ensure that 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

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in the light of new evidence. On occasions this may result in a licence, previously granted, being revoked.

Penalty Point Table

<p style="text-align: center;">Town Police Clauses Act 1847</p> <p style="text-align: center;">Matters list below are direct contraventions of the legislation and may result in prosecution in addition to any points penalty incurred</p>					
No.	Offence/Breach of Conditions	Maximum Points applicable	Driver	Vehicle Owner	Operator
1	S40 - Giving false information on a hackney carriage licence application	6	x	x	-
2	S44 – Failure to notify the Council of a change of address on a hackney carriage licence 1 st offence 2 nd offence	3 9	x	x	-
3	S45 – Plying for hire without a hackney carriage licence 1 st offence 2 nd offence	9 12	x x	- -	- -
4	S47 – Driving a hackney carriage without a hackney carriage driver's licence	12	x	-	-
5	S47 - Lending or parting with a hackney carriage driver's licence.	9	x	-	-
6	S47 – Hackney carriage proprietor permitting or employing an unlicensed driver to drive a hackney carriage vehicle	12	x	x	-
7	S48 – Failure of a proprietor to retain in his/her possession	3	-	x	-

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

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19	S62 – Driver leaving a hackney carriage unattended	4	x	-	-
20	S64 – Hackney carriage driver obstructing other hackney carriages	4	x	-	-
21	S68 – Breach of Byelaws	3-6	x	x	-

Local Government (Miscellaneous Provisions) Act 1976 Matters list below are direct contraventions of the legislation and may result in prosecution in addition to any points penalty incurred					
No.	Offence/Breach of Conditions	Maximum Points applicable	Driver	Vehicle Owner	Operator
22	S46 (1)(a) – A licensed driver using an unlicensed vehicle for private hire purposes	12	x	-	-
23	S46(1)(b) - Driving a private hire vehicle without a private hire driver's licence	12	x	-	-
24	S46(1)(c) - Proprietor of a private hire vehicle permitting or employing an unlicensed driver to drive a private hire vehicle	12	-	x	-
25	S46(1)(d) - Operating a private hire vehicle without a private hire operators' licence	9	-	-	x
26	S46(1)(e) - Operating an unlicensed vehicle as a private hire vehicle	12	x	x	x
27	S46(1)(e) - Operating a private hire vehicle when the driver is not licensed as a private hire driver	12	x	x	x

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28	S48(6) - Failure to display a private hire vehicle plate.	4	x	x	x
29	S49 – Failure to notify the transfer of a vehicle licence	3	-	x	x
30	S50(1) - Failure to present a hackney carriage or private hire vehicle for inspection upon request	6	-	x	-
31	S50(2) - Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3	-	x	-
32	S50(3) - Failure to report an accident to the Council within seventy two hours	6	x	x	-
33	S50(4) - Failure to produce the vehicle and/or insurance upon request	6	x	x	-
34	S53(3) Failure to produce a driver's licence upon request	6	x	-	-
35	S54(2) Failure to wear a private hire driver's badge	3	x	-	-
36	S56(2) - Failure of a private hire operator to keep proper records of all bookings, or failure to produce them upon request of an authorised officer of the Council or a police officer within reasonable time / or time specified	4	-	-	x
37	S56(3) - Failure of a private hire operator to keep proper records of all private hire vehicle licenses and driver licenses, or failure to produce them on request of an	4	-	-	x

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	authorised officer of the Council or a police officer within reasonable time / or time specified				
38	S56(4) - Failure of a private hire operator to produce his licence upon request	4	-	-	x
39	S57 - Making a false statement or withholding information to obtain a hackney carriage/private hire driver's	12	x	-	-
40	S58(2) - Failure to return a plate after notice has been given following expiry, revocation, or suspension of a hackney carriage or private hire vehicle licence	6	-	x	-
41	S61(2) - Failure to surrender a driver's licence or badge on or after suspension, revocation, or refusal to renew	6	x	-	-
42	S64 - Permitting a private hire vehicle to wait on a hackney carriage rank	6	x	-	-
43	S66 - Hackney Carriage charging more than the meter fare for a journey ending outside the District, without prior agreement	8	x	-	-
44	S67 - Hackney Carriage charging more than the meter fare when a hackney carriage is used as a private hire vehicle	8	x	-	-
45	S69 - Unnecessarily prolonging a journey	8	x	-	-
46	S71 - Interfering with a private hire taxi-meter with intent to mislead	12	x	x	-

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47	S73(1)(a) - Obstruction of an authorised officer of the Council or a police officer	6	x	x	x
48	S73(1)(b) - Failure to comply with a requirement of an authorised officer of the Council or a police officer	6	x	x	x
49	S73(1)(c) - Failure to give information or assistance to an authorised officer of the Council or police officer	6	x	x	x

Annex 6 - Penalty Point Scheme

Licensing Policy					
No.	Offence/Breach of Conditions	Maximum Points applicable	Driver	Vehicle Owner	Operator
50	Failure to ensure the safety of passengers	12	x	x	x
51	Concealing or defacing a vehicle licence plate	6	x	x	x
52	Failure to attend or attend on time for a pre- arranged appointment at the request of the Council without reasonable cause	4	x	x	x
53	Conveying a greater number of passengers than permitted	6	x	-	-
54	Failure to give reasonable assistance with passengers luggage	3	x	-	-
55	Private Hire soliciting for hire or accepting a fare that is not pre-booked	6	x	-	-
56	Operating/using a vehicle that is not properly maintained internally /externally 1 st offence 2 nd offence	6 12	x	x	x
58	Driving without the consent of the proprietor	12	x	-	-
59	Drinking or eating in the vehicle whilst carrying passengers	3	x	-	-
60	Smoking in the vehicle at any time 1 st offence 2 nd offence 3 rd offence	3 + FPN 12 + FPN 12 + P	x	-	-

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

Annex 6 - Penalty Point Scheme

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

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

Annex 6 - Penalty Point Scheme

	operator to keep the operating premises in accordance with Council requirements	3	-	-	x
91	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	4	-	-	x
92	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	6	-	-	x
93	Driving or allowing a hackney carriage vehicle to be driven with tinted windows which do not conform to licence conditions	3	x	x	-
94	Driving or allowing a hackney carriage or private hire vehicle to be driven without displaying the door signs or attaching the signs other than in accordance with the Council's Policy	3	x	x	x
95	Allowing a hackney carriage vehicle to be driven with a top sign that is in breach of the licence conditions	3	-	x	-
96	Illegal ranking	6	x	-	-
97	Failure to comply with Council Livery	6	x	x	x
98	Smoking or allowing smoking in an operator's premises 1 st offence 2 nd offence	6 12	- -	- -	x x
99	Driver allowing a customer to smoke in a licensed vehicle	6	x	-	-

Annex 6 - Penalty Point Scheme

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

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111	Failure to carry plate exemption notice in the vehicle	6	x	-	-
112	Failure to notify the Council of having being arrested, cautioned or charged for an offence or being the subject of a criminal investigation within 7 days of the said action	6	x	x	x
113	Failure to comply with the Highway Code	6	x	-	-
114	Failure to have a valid MOT	6	x	x	x

FPN – Fixed Penalty Notice

P – Prosecution

Implementation of the Scheme - The Scheme 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 Scheme may be made without consultation.

Appendix 1 - CCTV Policy

Introduction

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

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

1.3 The Council has determined that with effect from 1 January 2019 all newly licensed vehicles should be fitted with CCTV and existing vehicles must be fitted with CCTV within a year of the renewal of their licence. This is in order to address the objectives set out above, and for the following reasons -

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

General principles

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

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

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

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

Appendix 1 - CCTV Policy

2.6 All equipment must comply with any legislative requirements in respect of Motor Vehicle Construction and Use Regulations.

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

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

System Specification And Operation

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

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

Appendix 1 - CCTV Policy

Installation

4.1 All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions.

4.2 The installed CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.

4.3 All equipment must be installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers. For example, temporary fixing methods such as suction cups will not be permitted, or lighting, such as infra-red, which emits at such a level that may cause distraction or nuisance to the driver and/or passengers.

4.4 All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger or driver area or impact on the luggage carrying capacity of the vehicle.

4.5 Equipment must not obscure the view of the road through the windscreen (Motor Vehicle (Construction and Use) Regulations, 1986).

4.6 Equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags/air curtains or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems.

4.7 Viewing screens within the vehicle for the purposes of viewing captured images are not permitted.

4.8 All wiring must be fused as set out in the manufacture's technical specification and be appropriately routed.

4.9 If more than one camera is being installed their location within the vehicle must be specific for purpose i.e. to provide a safer environment for the benefit of the hackney carriage/private hire driver and passengers.

4.10 All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.

4.11 All system components requiring calibration in situ should be easily accessible.

CCTV Activation

5.1 CCTV should be activated as soon as the period of hire commences.

Please note - A direct wired link to the vehicle's taximeter will not be acceptable.

Appendix 1 - CCTV Policy

Audio Recording

6.1 The CCTV system used must record sound. This view has been formed having regard to the problems of investigating the large number and variety of complaints that the Council receives in relation to licensed drivers and their customers. In order to fully investigate matters, in particular when a large percentage of cases involve one person's word against another, evidence provided by CCTV is considered to be invaluable in enabling the Council to reach an informed decision and appropriate outcome for all parties concerned.

Security

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

Retention of data

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

8.2 Data must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle. CCTV equipment selected for installation must include an automatic overwriting function, so that data is only retained within the installed system storage device for a maximum period of 28 days from the date of capture. Where a service provider is used to store data on a secure server, the specified retention period must also only be for a maximum period of 28 days from the date of capture.

Use of recorded data

9.1 Any images and audio recordings must only be used for the purposes as set out in the Policy at Paragraph 1.3.

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

Appendix 1 - CCTV Policy

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

Signage

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

Conditions

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

- No CCTV system, including the installation of cameras, shall be installed in a vehicle unless previously approved in writing by the Council.
- No change shall be made to the CCTV system, including the number and location of cameras, without the prior written consent of the Council.
- A sign must be displayed in at least one prominent position stating that the vehicle carries CCTV. The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle. Signs must be maintained in a clean and legible condition.
- The proprietor shall ensure that the system is properly and regularly maintained and serviced in accordance with the manufacturer's instructions by a suitably qualified person. Written record of maintenance and service shall be kept and made available on request to an authorised officer of the Council or the Police.
- Upon request for CCTV footage/audio recording made by an officer of the Council or Police Officer, the proprietor shall ensure that the CCTV system is

Appendix 1 - CCTV Policy

made available to the system administrator as soon as is reasonably practicable and in any event within 7days.

- The proprietor of the vehicle shall take all reasonable steps to ensure that the driver of the vehicle is made aware of every condition in relation to the CCTV system installed in that vehicle and has been given adequate instruction in its use and the requirements in relation to image retrieval.
- The proprietor shall ensure that notification is lodged with the Information Commissioner to cover the purposes for which the CCTV system is used.

Implementation 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.

Appendix 2 – Policy for the exemption from the requirement to display an external vehicle identification plate

Introduction

1.1. The aim of this policy is to set out how the Council will exercise its discretionary powers to allow 'executive type vehicles' to operate without displaying external licence plates.

1.2 The Local Government (Miscellaneous Provisions) Act 1976 (the Act) requires identification plates to be displayed on licensed private hire vehicles. The display of such plates indicates to the public that the vehicle has been properly licensed.

1.3 There are occasions when the requirement to display external identification plates may adversely affect customer safety by allowing the vehicle to be more readily identified. The display of plates may also on occasion have a detrimental commercial impact on the business by deterring some corporate customers from using the service.

1.4 The Act enables the Council to exercise discretion and issue a dispensation from displaying the identification plate on a licensed private hire vehicle and, where that exemption applies, the requirement for the driver to wear a private hire driver's badge. There is however no 'right' to a plate exemption.

1.5 The Council will only exercise its discretionary powers where it is satisfied that there is a genuine operational business need and where it is certain that the safety of the public will not be compromised as a result.

1.6 The Council may issue a temporary or general plate exemption. A temporary exemption may be issued for a period of time not exceeding one week. A general exemption lasts for the duration of the vehicle's current private hire licence, unless it is otherwise surrendered or revoked.

Application process

2.1 The following process must be followed –

- An application for an exemption must be made in writing by the vehicle proprietor to licensing.team@colchester.gov.uk or to the Licensing, Food

Appendix 2 – Policy for the exemption from the requirement to display an external vehicle identification plate

& Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG (add details)

- The reason for the exemption must be clearly set out.
- Any supporting evidence should be submitted with the application, this includes written evidence of bookings/contract work.
- The application must be accompanied by the relevant, non-refundable, fee.

Please note - An application can only be made in respect of individual vehicles. Applications relating to a fleet of vehicles are not permitted.

Determination of Application

The Council will deal with applications as follows –

- 3.1 The application will be assessed on its own merits by a member of the Licensing Team and any points clarified with the applicant.
- 3.2 The vehicle will be inspected to ensure it is fit for purpose and the Officer will assess whether or not there is a genuine operational business need and whether or not the vehicle is considered to meet the following criteria -
 - Work undertaken is exclusively "chauffeured" in nature and there is written evidence to prove such bookings. The chauffeur and vehicle are specifically hired to provide transport to a company or person, and/or where the display of a licence plate may affect the dignity or security of the persons carried.
 - Vehicles must be of a standard of comfort and equipped to a level equal or above luxury models.
 - The safety of the travelling public will not be compromised by the exemption.
- 3.3 If the Council is satisfied that there is a genuine operational business need and the vehicle is considered to meet the criteria it will issue either –

Appendix 2 – Policy for the exemption from the requirement to display an external vehicle identification plate

- A temporary exemption - a plate exemption notice for a specific licensed private hire vehicle to exempt it from displaying an identification plate on a specified date for a period of time not exceeding one week.
 - A general exemption – a plate exemption notice for a specific licensed private hire vehicle to exempt it from displaying an identification plate for the duration of the vehicle's current private hire licence, unless it is otherwise surrendered or revoked.
- 3.4 In the event of an applicant being dissatisfied with the decision they may in the first instance appeal to the Licensing Manager. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of the decision. The Manager will review the case file and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.
- 3.5 There is a further right of appeal to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of the decision.
- 3.6 If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.
- 3.7 If the Licensing Committee is satisfied that the criteria for a plate exemption are met the plate exemption notice will be issued for the specified vehicle. The Licensing Committee can specify the dates and times the exemption will apply or exempt the vehicle for the whole period the vehicle licence is in force and attach any conditions to the exemption.
- 3.8 If the Licensing Committee considers no genuine operational business need exists for a plate exemption the vehicle proprietor will be notified of the refusal and advised there is no statutory right of appeal against the decision.
-

Appendix 2 – Policy for the exemption from the requirement to display an external vehicle identification plate

Conditions attached to the Notice

4.1 The initial exemption notice will expire on the same day as the expiration of the vehicle's current private hire licence, unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will run concurrently with that vehicle's private hire licence unless either the licence or notice is otherwise surrendered or revoked.

4.2 The exemption notice must be renewed annually. Documentation to confirm that the exemption notice is still necessary must be supplied at the time of the renewal.

4.3 All vehicles must comply with the Council's Driver and Private Hire Vehicle conditions except where to do so would conflict with the requirements of this policy.

4.4 The identification plate and exemption notice provided by the Council shall remain the property of the Council.

4.5 The exemption notice must be carried in the vehicle at all times and produced upon request to an authorised officer of the Council or any Police Officer.

4.6 When issued with an exemption notice, the vehicle will not be required to display any other signs (including the internal licence plate) which the Council may at any time require private hire vehicles to display.

4.7 The proprietor will not display in, on or from the vehicle any advertisement, signage, logos or insignia advertising the operating company or the vehicle's status as a private hire vehicle.

4.8 During the period of the exemption notice, the driver is not required to wear the private hire driver's identification badge but must have it available for immediate inspection by an authorised officer of the Council or any Police Officer on request.

4.9 Before any journey covered by the exemption notice, the hirer must be advised that the vehicle dispatched to collect them will not be displaying the identification plate or any other Council approved notices etc.

Appendix 2 – Policy for the exemption from the requirement to display an external vehicle identification plate

4.10 The proprietor must within 48 hours notify the Council of any change in the use of the vehicle.

4.11 The proprietor shall not use the vehicle for private hire purposes other than for chauffeur use (i.e. not for normal airport journeys or daily private hire use) unless it is plated.

4.12 The exemption will cease to have effect on selling or transferring the vehicle to another party. The person to whom the exemption is granted must inform the council of the sale/transfer of ownership immediately and in writing, and provide details of the new owner. The exemption notice must be returned to the Council along with the private hire vehicle identification plate unless being sold to another private hire operator licensed by the Council; in which case, only the exemption notice must be returned.

4.13 A taximeter must not be installed in the vehicle.

Implementation 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.

Appendix 3 – Horse Drawn Carriages – Licensing and Conditions

Introduction

1.1. The aim of this policy is to set out how the Council will exercise its powers in the licensing of Horse drawn carriages and the conditions to be applied. No Horse drawn carriage may be used without a licence issued by this Council.

Application process

The following process must be followed –

2.1 An application for a licence for a horse drawn carriage must be made to the Licensing Team in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG.

2.2 Any supporting evidence should be submitted with the application.

2.3 The application must be accompanied by the relevant, non-refundable, fee.

Determination of Application

The Council will deal with applications as follows –

3.1 The application will be assessed by a member of the Licensing Team and any points clarified with the applicant.

3.2 The Officer will assess whether the criteria set out in this Policy are met.

3.3 If the Council is satisfied that all the requirements have been met a licence will be issued.

3.4 In the event of an applicant being dissatisfied with the decision they may in the first instance appeal to the Licensing Manager. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of the decision. The Manager will review the

Appendix 3 – Horse Drawn Carriages – Licensing and Conditions

case file and make his determination. The outcome will be conveyed to the applicant/licence holder in writing.

3.5 There is a further right of appeal to the Licensing Committee. The appellant may submit documentary evidence in advance of the hearing and has the right to address the Committee and/or nominate someone else to do so on their behalf. Appeals must be made in writing to licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG within 21 days from the date of notification of the decision.

3.6 If the right of appeal is exercised the Licensing Committee will consider the facts of the case and make its determination.

Criteria for Licensing

4.1 The horse used to draw the carriage must not be less than 14.2 hands in height and shall be of a suitable conformation.

4.2 Details of all the horses to be used for the purposes of the licence must be lodged with the Council and all the horses must be individually identifiable by freeze brand, microchip or by using a marking chart.

4.3 A Certificate of Fitness, issued by an Equine Veterinary, must be produced for each horse to be used for the purposes of this Licence. The Certificate of Fitness may take the form of a letter written by the Vet and must have been issued within 28 days of the proposed grant of any licence or its renewal.

4.4 The applicant is deemed to be a properly qualified, 'fit and proper' person to hold such a licence.

Conditions attached to the Grant of a Licence

5.1 The driver of the carriage must be licensed by the Council and fully qualified to drive any carriage of the type in use.

Appendix 3 – Horse Drawn Carriages – Licensing and Conditions

- 5.2 All drivers must comply with the relevant requirements contained within the Council's Hackney Carriage and Private Hire Driver Conditions except where to do so would conflict with the requirements of this policy.
- 5.3 No horse may be permitted to work in inclement weather, except in the case of a short summer downpour.
- 5.4 At all times when drawing the carriage, the Horse must be well groomed, properly shod and fit.
- 5.5 Any horse shall be taken out of use immediately if any Police Officer, RSPCA Inspector or Authorised Officer of the Council have reason to suspect that it is unfit. It must remain so until it has been examined and found fit by an Equine Veterinary, the cost of such examination being borne by the licensee. Written confirmation that it is fit to work must be supplied to the Council.
- 5.6 Every part of a harness used in the course of drawing a carriage shall be kept fully maintained to ensure the comfort of any horse used and shall be properly attached to the carriage.
- 5.7 Details of the hours worked by the horse and the rest periods must be recorded in a log which shall be made available on request to an authorised officer of the Council, Police office, Veterinary appointed by the Council or RSPCA Inspector.
- 5.8 No horse shall be permitted to draw a carriage or be harnessed to or otherwise attached to a carriage for more than six hours in total in any one day and if it has been so used it cannot be further used in the course of that day for any other purpose.
- 5.9 If the horse is so harnessed to a carriage for a period of three consecutive hours, the proprietor or driver shall ensure that the animal is rested for a period of not less than one hour, during which time the animal must be fed and watered.
- 5.10 No horse shall be used if it is in such a condition so as to expose any person being conveyed in such a carriage, or any pedestrian, on any street, or thoroughfare to risk of injury.
- 5.11 The carriage must be suitable in type, size and design for the purposes of public hire and must be fitted with rubber rimmed wheels.

Appendix 3 – Horse Drawn Carriages – Licensing and Conditions

- 5.12 The carriage must display the Council's identification plate upon the rear of the carriage, such plate must not to be concealed from public view.
- 5.13 The proprietor or driver of the carriage shall not carry or permit to be carried in that carriage any greater number of passengers than the number of passengers which the carriage is licensed to carry.
- 5.14 The carriage shall be produced for examination and inspection by an authorised Officer of the Council, or such other agency as the Council may think fit, and the cost of such inspection shall be borne by the Licensee.
- 5.15 The Council shall be notified of any proposed alteration to any part of the carriage before such alteration is carried out.
- 5.16 The carriage shall be fitted with a sufficient drag-chain and slipper or other sufficient brake.
- 5.17 The floor of the carriage shall be covered with mats of a suitable material.
- 5.18 The seats of the carriage shall be properly cushioned or covered, fittings and furniture shall be kept clean and adequate for the convenience of persons conveyed therein.
- 5.19 Where the carriage is fitted with a roof or means of protection against the weather, such roof or means of protection must be watertight and there must be a means of opening and closing any windows fitted.
- 5.20 The proprietor or driver of the carriage must keep all of its fittings and equipment in a clean and safe condition, well maintained and in every way fit for public service.
- 5.21 The proprietor or driver of the carriage must not at any time when the carriage is plying for hire or used to carry passengers, drive or allow it to be driven wantonly or recklessly.
- 5.22 In addition to a fully paid up policy of Insurance in respect of Hire and Reward, insurance relating to public liability must be in force during the period of the Licence covering the carriage when it is being used for the purposes of hire and reward in the sum of £5m. Such Insurance must be produced to a Police Officer or an Authorised Officer of the Council at such times and at such places as may be reasonably required.
- 5.23 The proprietor or driver of the carriage must not, in any street within the Borough, feed or allow to be fed any animal whilst harnessed or otherwise

Appendix 3 – Horse Drawn Carriages – Licensing and Conditions

- attached to the carriage, except with food contained in, a proper nose bag suspended from the head of the animal, from any centre pole of the carriage, or which is in a proper container or which is being held and delivered with the hand of the person feeding the animal.
- 5.24 The proprietor or driver of the carriage must have available the means of providing water and hay for any horse used to draw the carriage and the said horse shall have access to such water / hay at regular intervals.
- 5.25 The licence holder shall be responsible, when in charge of the vehicle, for the collection and satisfactory hygienic disposal of horse excrement, as soon as is reasonably practicable, after the excrement has been deposited.
- 5.26 The proprietor or driver of a carriage must display clearly the charges for the journey and ensure that the schedule of charges is legible at all times.
- 5.27 The driver of the carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in, entering or alighting from the carriage.
- 5.28 The proprietor or driver of the carriage when standing or plying for hire shall not, by calling out or otherwise, importune any person to hire such carriage and shall not make use of the services of any other person for the purposes.
- 5.29 The proprietor or driver, or any person travelling on or using the carriage shall not blow or play upon any horn or other musical instrument, or ring any bell.
- 5.30 The Council reserves the right to suspend or revoke a Licence at any time should the proprietor or driver fail to keep within these conditions or fails to operate the carriage on a regular basis during the period of the Licence.
- 5.31 The Council shall give 21 days' notice of their intention to revoke or suspend a Licence.
- 5.32 In the event that the Licence holder wishes to appeal against the Council's intention to revoke or suspend a licence they may, within 21 days from the date of the Council's letter, appeal in writing to the Licensing Manager by writing to the licensing.team@colchester.gov.uk or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG .
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Appendix 3 – Horse Drawn Carriages – Licensing and Conditions

Implementation 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.

Appendix 4 – Stretched Limousines, Vintage/Classic Vehicles and Fire Engines – Licensing and Conditions

Introduction

1.1. These conditions made under the Local Government (Miscellaneous Provisions) Act 1976 are specific to a stretched limousine. A stretch limousine is usually a saloon type vehicle that has undergone an increase in length by extending the wheelbase after manufacture. The purpose of these conditions is to protect public safety; they apply in addition to the Councils standard vehicle conditions

General Conditions

2.1 Seating capacity must be limited to eight passengers even if the vehicle is capable of carrying more than eight passengers.

2.2 All Operators will be required to sign a declaration stating that the vehicle will not carry more than eight passengers and at the time of the booking, this restriction will be explained to the hirer.

2.3 No passengers will be carried in the front compartment

2.4 Every seat shall be at least 400mm in width measured along the seat base.

2.5 Every seat shall have fitted a suitable seat belt or restraint.

2.6 It is the driver's responsibility to ensure that passengers use seat belts provided when the vehicle is moving.

2.7 Passengers must remain seated when the vehicle is moving.

2.8 Children under the age of 14 years shall not be carried in a stretched limousine unless accompanied by a responsible adult, excluding the driver.

2.9 No alcohol shall be provided in the vehicle unless there is in force an appropriate licence permitting the sale or supply of same.

Appendix 4 – Stretched Limousines, Vintage/Classic Vehicles and Fire Engines – Licensing and Conditions

Vehicle Conditions

- 2.1 A valid SVA (single vehicle approval) certificate must be provided for the vehicle.
 - 2.2 A valid certificate of conversion by an approved USA converter (either a Qualified Vehicle Modifier (QVM) or a Cadillac Master Coachbuilder (CMC) must be provided for the vehicle.
 - 2.3 A DVLA V5 or equivalent shall be produced to confirm registration. A plate affixed to the door pillar shall confirm the weight of the vehicle.
 - 2.4 The vehicle shall be equipped with a minimum of four road wheels and a full sized spare wheel.
 - 2.5 The vehicle will be equipped with tyres designed and manufactured to support the maximum permitted axle weight for the axle when the vehicle is driven at the maximum speed.
 - 2.6 Seat belts must be fitted in accordance with the current Road Vehicle (Construction and Use) Regulations.
 - 2.7 Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction and Use) Regulations.
 - 2.8 A stretch limousine will be subject to a twice yearly vehicle inspection, at intervals to be specified by the Council, at an authorised testing station. A third test may be required, if deemed appropriate.
-

Vintage/Classic Cars

These conditions apply in addition to the Council's standard vehicle conditions –

- 3.1 A Single Vehicle Approval (SVA) certificate or equivalent for the vehicle is to be submitted.
- 3.2 Seat belts complying with current legislation must be fitted in respect of each passenger seat.

Appendix 4 – Stretched Limousines, Vintage/Classic Vehicles and Fire Engines – Licensing and Conditions

3.3 The vehicle will be equipped with tyres designed and manufactured to support the maximum permitted axle weight for the axle when the vehicle is driven at the maximum speed. The full size spare wheel that is required, must also be fitted with the same class of tyre.

3.4 Vehicles licensed under these conditions will be subject to a twice yearly vehicle inspection, at intervals to be specified by the Council, at its authorised testing station. A third test may be required if deemed appropriate.

Fire Engines/Novelty Engines

These types of vehicle are licensed in general accordance with the standard Hackney Carriage / Private Hire vehicle and Driver conditions. The conditions that follow also apply to these types of vehicle-

4.1 The vehicle will be examined and issued with a certificate of fitness (in the form of an MOT or a HGV equivalent) prior to licensing. A further test, at the discretion of the Council, will be then be required during the twelve month validity of the certificate.

4.2 The driver shall hold a full driving licence suitable for the vehicle concerned.

4.3 Seating capacity must be limited to eight passengers even if the vehicle is capable of carrying more than eight passengers.

4.4 All Operators will be required to sign a declaration stating that the vehicle will not carry more than eight passengers and at the time of the booking, this restriction will be explained to the hirer.

4.5 Children under the age of 14 years shall not be carried in the vehicle unless accompanied by a responsible adult, excluding the driver.

4.6 Suitable steps will be carried on the vehicle to assist access and egress from the passenger compartment.

4.7 All passengers must enter or leave the vehicle by the passenger doorway adjacent to the pavement.

Appendix 4 – Stretched Limousines, Vintage/Classic Vehicles and Fire Engines – Licensing and Conditions

4.8 Seating is to be secured anchored to the floor and seatbelts complying with current legislation must be fitted in respect of each passenger seat.

4.9 Suitable signage shall be displayed in the passenger compartment advising passengers to wear seat belts.

4.10 An audible alarm system shall be fitted to the passenger compartment doors, to alert the driver should the door be opened, and shall be in a tested working condition whenever the vehicle is carrying passengers.

4.11 The floor area of the vehicle must be kept unobstructed at all times.

4.12 All external lockers on utility vehicles must be kept locked at all times.

4.13 In the case of the use of a fire engine all reflective tape and lettering is to be removed. Blue lights and the siren are to be disabled. No person involved in the operation of the vehicle is to wear a uniform or hat which may give the public the impression that the individual is a member of the fire service.

4.14 No alcohol shall be provided in the vehicle unless there is in force an appropriate licence permitting the sale or supply of same.

Implementation 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.

Appendix 5 – Hackney Carriage Plate Allocation Policy and Process

Introduction

1.1. This policy sets out the Council's proposed approach to the allocation and reallocation of Hackney Carriage Plates.

1.2 In line with legislative requirements an unmet demand survey was carried out in 2015 to review the number of hackney carriage vehicle plates to be available in the Borough of Colchester. The current limit is set at 131 plates. This is unlikely to change until an unmet demand survey highlights the need to add numbers or until the limit is removed by legislation.

1.3 The overall objective of the policy is to enable the Council to allocate or reallocate a hackney carriage plate in a fair and open manner, should a plate become available.

Eligibility

2.1 In order to qualify for the allocation process the following eligibility criteria must be met:

- The applicant must not already hold a hackney carriage plate.
- The applicant must not have had a licence suspended or revoked during a five year period immediately prior to the start of the process.
- The applicant must be compliant with all conditions within the Council's current policy and have not received penalty points within one year prior to the start of the process.

Vehicle Specification

3.1 The vehicle must be compliant with the Council's vehicle conditions for a hackney carriage licence.

3.2 The vehicle must be adapted for wheelchair/disabled accessibility.

Appendix 5 – Hackney Carriage Plate Allocation Policy and Process

- 3.3 The vehicle must meet the Council's current policy in terms of age and specification at first registration.
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Process

- 4.1 All persons who have indicated an interest will be notified of a plate becoming available and the relevant process. A public notice will be placed in a local newspaper and on the Colchester Borough Council website. This will detail the process and indicate a closing date for registration to apply and be entered in a randomly generated draw.
- 4.2 Those who apply and meet the relevant criteria detailed above will be entered into a draw that will consist of an excel based programme to randomly pick an applicant.
- 4.3 To avoid any ambiguity the draw will be carried out at a meeting of the Licensing Sub-Committee at a specified date and time.
- 4.4 The number of draws will depend on the number of plates available.
-

Timescales

- 5.1 The Licensing Team will notify the successful applicant within one week of the draw.
- 5.2 The successful applicant will need to carry out the full application process within 28 days of the notification. Failure to do so will result in another draw being held at the next Licensing Sub-Committee meeting.
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Conditions

- 6.1 The plate that is newly re-issued cannot be sold or transferred for a period of five years from issue.

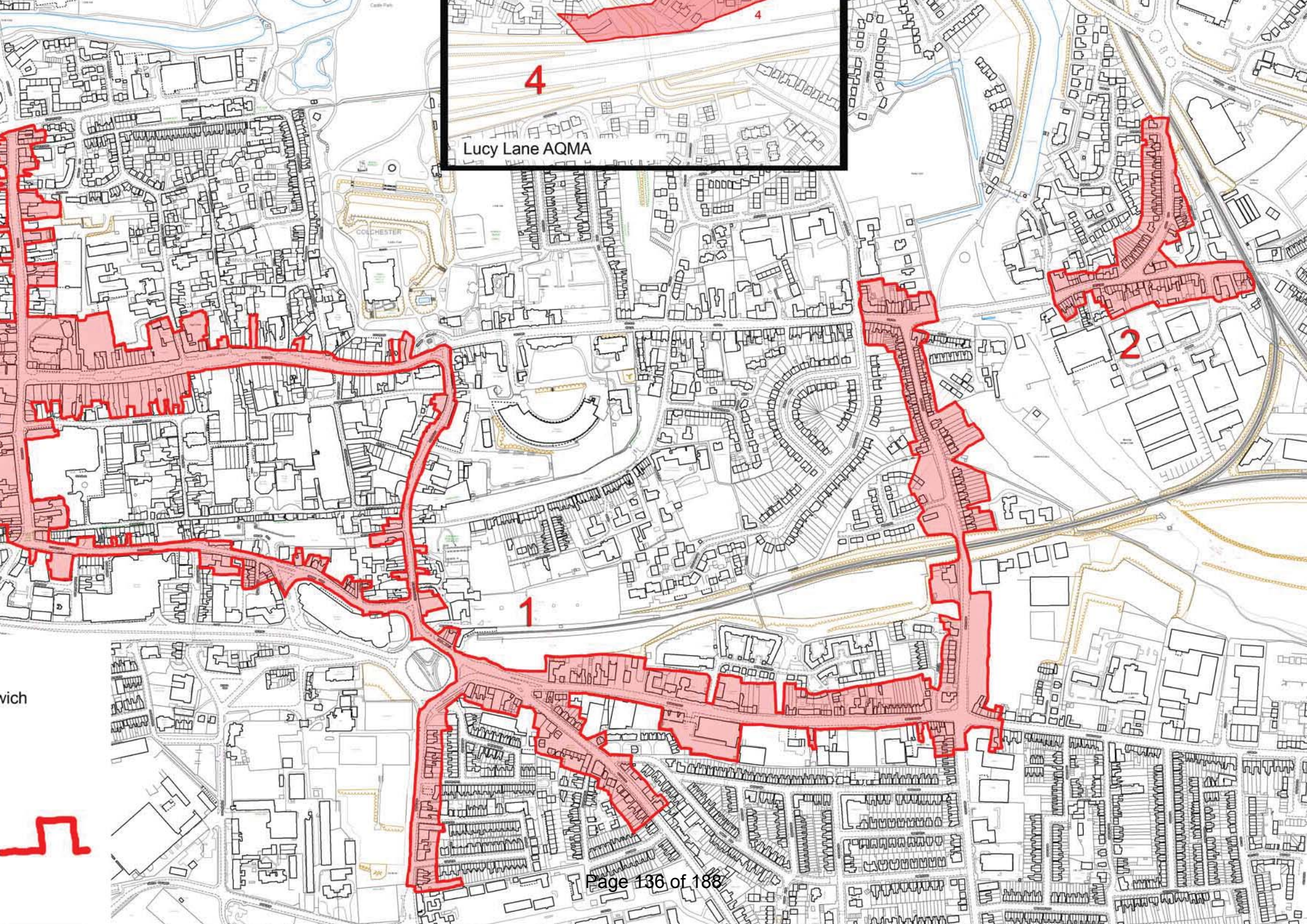
Appendix 5 – Hackney Carriage Plate Allocation Policy and Process

- 6.2 Should the successful applicant be an existing hackney carriage plate holder, they will not be allowed to sell or transfer any existing plate for a period of five years.
- 6.3 The outcome of the draw is final.
-

Declaration

- 7.1 Any new driver wishing to register an interest in the allocation process will be required to complete a statutory declaration confirming that they meet the requirements of this policy.
-

Implementation 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.



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Lucy Lane AQMA

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Report of	Licensing, Food and Safety Manager	Author	Jon Ruder
Title	Amendments to the Licensing Policy		☎ 282840
Wards affected	Not applicable		

This report details proposed changes to the Statement of Licensing Policy

1. Decisions Required

- 1.1 Members are asked to consider the proposed amendments to the Licensing Policy marked in bold on the attached policy at Appendix 1.

2. Reasons for Decisions

- 2.1 The Licensing Policy, approved in January 2016, has been reviewed in the light of experience gained.

3. Alternative Options

- 3.1 To leave the Policy unchanged.

4. Matters for consideration

- 4.1 The Policy was approved by full Council in December 2015 and implemented with effect from 1 January 2016. Since its implementation a number of applications have been made and officers have had the opportunity to test the Policy. It has become apparent that the wording of the Policy, in particular in relation to the Old Town Zone is causing some misunderstanding amongst applicants.
- 4.2 The Policy as approved by Council made reference to a Special Policy for the Old Town Zone. It has never been the case that this area was designated as a cumulative impact area and as such the presumption in favour of grant is reversed. However, it has become apparent that applicants are making this assumption. In order to clarify the matter the wording has been changed and these changes are marked in bold on the attached Appendix. It makes it clear that applications are considered on their own merits, in relation to the licensing objectives and that the Council has an expectation that applicants will have regard to the Policy and the guidance it contains when submitting an application.

5. Strategic Plan References

- 5.1 The Statement of Licensing Policy attempts to strike a difficult but reasonable and proportionate balance between the different and often competing aspirations of licensed businesses and residents. This Policy recognises the importance of widening the choice

and appeal of licensed premises and the development of cultural, social and community activities while at the same time offering reasonable and proportionate protections to local residents, visitors and other non-licensed businesses. The policy is in line with the Council's vision to create a Borough that is vibrant, prosperous, thriving and welcoming.

6. Consultation and Publicity Considerations

- 6.1 The original Policy was the subject of an extensive consultation process as prescribed by the Licensing Act 2003. In view of the fact that the revisions are clarification and do not change the Policy it is not considered that a wholesale consultation is necessary; the revised Policy will be placed on the Council's website.

7. Financial Implications

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

8. Equality, Diversity and Human Rights Implications

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

9. Community Safety Implications

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

10. Health and Safety Implications

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

11. Risk Management Implications

- 11.1 A flexible yet robust revised Statement of Licensing Policy will continue to provide both the Council and the Licensing Authority with a sound basis for decision making in relation to licensed premises and a secure platform from which to promote the four licensing objectives as outlined in the Licensing Act 2003.



Statement of Licensing Policy 2016–2021

Colchester Borough Council

1 January 2017

Foreword

Welcome to the latest edition of Colchester's Statement of Licensing Policy.

We have made a number of significant changes to this policy following a collaborative proactive approach to licensing. We have built on the success of our multi-agency Licensing Enforcement Group and used the experience gained to shape our aspirations to promote and enhance Colchester's reputation as a safe and vibrant, welcoming and prosperous borough. We want to make sure that Colchester continues to offer a diverse range of high quality and well managed venues and experiences; valued by those who live here, work here and come to visit.

We have:

- set out what we aim to encourage
- identified how we want the town to grow and diversify
- made clear the high standards we expect premises to achieve
- identified that the Town Centre Zone is under pressure
- reordered the Policy to make it easier to read, and
- set out our commitment to creating a vibrant, prosperous, thriving and welcoming town, open to all ages to enjoy the nightlife in a safe environment.

We are mindful of the balance that has to be struck between the sometimes competing needs of our residents and those of our business community. It is essential to ensure our residents can peacefully enjoy their homes and environment whilst also encouraging responsible and positive investment and economic growth.

We hope that this revised Statement of Licensing Policy is clear and easily understood and reflects the needs of all our communities.

Colchester Borough Council, Essex Police and our partner agencies on the Licensing Enforcement Group are committed to working in partnership to provide a responsive licensing approach. We commend it to you and sincerely believe that it will make a positive difference.

Councillor Michael Lilley, Cabinet Member for Safer Communities and Licensing
Nick Cope, Chairman of the Licensing Committee
Chief Inspector Elliott Judge, Essex Police

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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. It is also a vibrant, thriving, prosperous and welcoming town and the existence of a large University and Garrison contribute to its overall diversity. The Borough is 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 evening and night time economy in the Borough, which attracts 1.14 million visitors a year and is worth £64.4 million, is predominantly centred in the town of Colchester. The unique geography of the town centre means that the vast majority of licensed venues are located within the area circled by the old roman wall; within this area and close by are a number of residential communities. The challenge for the Council as the Licensing Authority is to balance the sometimes opposing demands of this sector with those of residents.

A recent survey of the evening and night-time economy commission by the Council and carried out in May/June 2015 identified that those surveyed wanted to see a greater variety of things to do; anti-social behaviour addressed; and action taken to reduce excessive drinking. This supports the Council's view that to attract businesses, visitors and residents the town needs to offer a variety of venue choices and to move away from a night-time economy centred on high volume drinking establishments. The survey results showed that whilst 31.3% indicated they visited the town for the purposes of clubbing, a broadly similar number, 30.5%, visited in order to eat out and that couples and families accounted for 40.5% of the users of this economy.

Introduction

1.1 This Statement of Licensing Policy (hereafter referred to as the 'Licensing Policy') is published under Section 5 of the Licensing Act 2003 and states how the Council as the Licensing Authority will exercise its licensing functions in order to promote the four licensing objectives which are:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety
- The protection of children from harm

1.2 Unless otherwise stated this licensing policy will not depart from the Secretary of State's Guidance (known as Section 182 Guidance (as amended)). Therefore to reduce repetition if matters are detailed in the Guidance they may not be included in this policy.

1.3 The aim of this Licensing Policy is to ensure desirable destinations for a wide range of age groups and uses. Premises that will extend the diversity of entertainment and attract a wider range of participants are encouraged rather than premises mainly or exclusively focused on the sale of alcohol. The Licensing Authority believes that achieving this will promote the licensing objectives as well as support other important Council strategies.

1.4 The Licensing Policy is integral in managing the role licensed premises play throughout the Borough. A key aim of the policy is to ensure that licensed premises have a positive impact on their locality and where any premises do cause problems, they are addressed swiftly and in the most appropriate manner. This Policy aims to develop a more inclusive night time economy, ensure high standards of management for licensed premises, and promote high-quality premises that can contribute positively to their locality.

Links to Other Strategies, Policies and Initiatives

1.5 In preparing this Policy, the Council has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development. The Policy therefore integrates, as far as is reasonably practicable, with other key Council policies to ensure the promotion of the Council's strategic plan and with key initiatives to improve the night time economy

The Strategic Plan

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

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

1.7 This Policy aims to contribute to this vision through promoting a wider range of high-quality attractions that encourage an increased range of customers in order to lead to longer term economic viability. Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the Borough. Additionally, effective regulation plays an essential role in enabling businesses to thrive and contribute to the Borough's economy.

Aspirations for the Borough

1.8 The Council is committed to achieving the goals set out in its Strategic Plan to create a vibrant, prosperous, thriving and welcoming town. In relation to the evening and night time economy this Policy will support the plans to

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

Enhance the diverse retail and leisure mix supporting independent businesses valued by residents and visitors

Create the right environment for people to develop and flourish in all aspects of

life both business and pleasure.

Create a business friendly environment, encouraging business start-ups, support to small and medium sized enterprise and offer development in the right locations

Develop a strong sense of community across the Borough by enabling people and groups to take more ownership and responsibility for their quality of life

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

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

Be clear about the major opportunities to work in partnership with public, private and voluntary sectors to achieve more for Colchester than we could on our own

Improve sustainability, cleanliness and health of the place by supporting events that promote fun and wellbeing

Make more of Colchester's great heritage and culture so that people can enjoy them and draw inspiration for their creative talents

Cultivate Colchester's green spaces and opportunities for health, wellbeing, and the enjoyment of all.

Make Colchester confident about its own abilities, to compete with the best of the towns in the region to generate a sense of pride.

1.9 Licensed premises can have a major effect on these aspirations and so when relevant to the promotion of the licensing objectives, the Licensing Authority will aim to support the aspirations to ensure premises are only licensed that contribute positively to the Borough.

1.10 The Licensing Authority will seek to ensure that premises contribute positively to the area in which they are situated with respect to the licensing objectives having regard to the nature of its locality. Operators of licensed premises are encouraged to consult with local residents and businesses prior to submitting applications.

Community Safety Team and the Safer Colchester Partnership

1.11 This policy is closely aligned with the work of the Community Safety Team enhancing and supporting its work. There is a significant degree of overlap in the work of Community Safety and Licensing around the areas of alcohol and safety and in particular addressing evening and nighttime economy crime. Key Priority 5 of the Annual Partnership Plan is to address evening and night time economy crime. Key Priority 3 deals with the issue of alcohol misuse. Alcohol together with drug misuse fuels most of the violent and antisocial behavior that takes place in the Town Centre.

The Partnership seeks ways to support projects and initiatives that tackle the problems both in the night time economy and also during the day with street drinkers. The initiatives, identified in the plan, include a street drinkers' task and finish group and sharing data to identify issues.

SOS Bus

1.12 The Town Centre benefits from the operation of the SOS bus and support mini bus which operates in Colchester High Street every Friday and Saturday night. The bus, which is staffed by a manager, coordinator and trained volunteers, offers a safe haven, helps diffuse trouble and provides medical support to people who need it. Its operation demonstrably reduces demand for accident and emergency attendances and helps reduce the negative impact of the night time economy on business, residents and the town in general. This Policy supports the work of the SOS staff and recognizes the essential role it plays in making the Borough vibrant, prosperous, thriving and welcoming. The SOS bus relies on voluntary contributions to fund its operation. The Council welcomes the financial contributions made and support given by members of the licensed trade which help to ensure the continued operation of the SOS bus and therefore its mitigation of the problems that can occur in the night time economy.

Local Development Framework

1.13 The Council's adopted Local Plan emphasizes the importance of the Town Centre and regeneration. Planning policies direct development towards the most accessible and sustainable locations and plans for the provision of transport, employment and community facilities to support the growth areas of the Borough. This Policy supports these development aims; it recognizes the need to ensure that licensed premises are suitable for the area in which they are situated and encourages a diverse range of entertainment facilities to meet the needs of growing communities.

Contributing to achieving wider aspirations

1.14 The Council recognizes there is no public health licensing objective and therefore cannot conduct its licensing function in order to promote public health. However, it also recognizes the impact of alcohol misuse in the Borough, and it is hoped that through the implementation of this Policy the promotion of the four licensing objectives will in turn have a positive effect on preventing alcohol misuse. For example, by ensuring licensed premises refuse sales of alcohol to children, or those attempting to purchase it on behalf of children, this will impact positively on a reduction in child alcohol-related health problems. Additionally, by preventing the use of illegal drugs on licensed premises, it is hoped this might reduce combined alcohol and drug misuse. Through ensuring the responsible selling of alcohol, this may impact on reducing a person's drinking at harmful or hazardous levels. The Council, through its Licensing Enforcement Group (LEG), receives information on admissions to A&E and ambulance call outs and this information is used in profiling premises and areas of the borough. However, it is accepted that any such positive impact will be as a coincidence of the Licensing Authority conducting its licensing function under the Act to promote the licensing objectives.

Pubwatch

1.15 The Council encourages participation in the town centre Pubwatch scheme. The Council encourages licensees to participate in Pubwatch, or for them to seek to establish new ones where none currently exist, and endeavours to provide as much support as possible to any members of the trade looking to work together with neighbouring residents and businesses to ensure the promotion of the licensing objectives. By acting together Pubwatch can be a powerful group to affect change in the night time economy addressing not only issues of concern but also acting together raise the profile of the town as a vibrant, prosperous, thriving, and welcoming night time destination.

Consultation and Implementation of the Policy

1.16 In accordance with Section 5(3) of the Act, the Licensing Authority carried out extensive consultation between 17 August 2015 and 31 October 2015. The comments received in response to this consultation were considered by the Licensing Committee at its meeting on 26 November 2015.

1.17 This Statement of Licensing Policy will take effect on 1 January 2016 and will remain in force for a period of not more than five years from this date. The Policy will be monitored and reviewed on a regular basis. Any proposed significant changes will be subject to full consultation in accordance with the Act. Minor amendments which do not affect the substance of the policy may be made without consultation.

Integration with Planning

1.18 The use of premises for the sale or provision of alcohol, regulated entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.

1.19 The planning and licensing regimes involve consideration of different (albeit related) matters. The Licensing Sub-Committee is not bound by the decision made by a Planning Committee and vice versa. Where the hours granted by planning are different to the licensing hours, the licensee must observe the earlier closing time. Premises operating in breach of their planning permission may be liable to prosecution or other enforcement under planning law.

1.20 The grant or variation of a licence does not negate the requirement for the licensee to ensure that relevant planning permission (or building control approval) is in place prior to the premises operating. Applications for premises licences should normally be from businesses with planning consent for the property concerned. However applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority. It is strongly recommended that applicants contact the Planning Authority in advance of making a licensing application to seek advice on the planning constraints in respect of their

premises and so ensure that in operating the premises planning and licensing requirements are compatible.

Consideration of need

1.21 The Licensing Authority is not able to take into account need or the commercial demand when exercising any licensing function; this is a matter for the market.

Duplication with other regulatory regimes

1.22 In exercising its licensing functions, the Licensing Authority shall seek to avoid duplication with any other existing legislation and regulatory regimes that already place obligations on employers and operators e.g. the Management of Health and Safety at Work Regulations 1999, the Regulatory Reform (Fire Safety) Order 2005, or the Environmental Protection Act 1990.

Other Licensing Policies

1.23 The Council has policies to deal with applications made under the Gambling Act and for applications in relation to sex establishments.

2. Guide to the Licensing Policy

2.1 This Licensing Policy sets out the relevant information on how licence applications will be determined and how licensed premises are expected to operate, as well as explaining how licensing integrates with other related strategies for the Borough.

2.2 The aims of this Licensing Policy are to pursue and promote the licensing objectives by encouraging:

- Desirable destinations for a wide range of age groups
- Licensed premises suitable for the area within which they are located
- Diversity of entertainment throughout the town centre that appeals to a wider audience
- A wide range of uses of premises

2.3 Licensed premises are an integral part of town and wider Borough and this Policy is a key tool in ensuring the different circumstances of our identified areas are taken into account when considering licence applications. After careful consideration and having regard to evidential data including the most recent night time economy survey data completed in May/June 2015, the Council **has set out additional measures that it wishes to see considered by applicants when making applications in the Town Centre Zone and also its expectations in relation to the management of premises.**

2.4 The Council, as the Licensing Authority, is committed to ensuring that licensed premises are an asset to their locality and respect the character and identity of the area through the implementation of this Licensing Policy. However, where licensed premises fail to promote the licensing objectives, the Licensing Authority will take appropriate steps to address any such licence related issues.

2.5 Residents can play a significant role in contributing to the effective implementation of this Licensing Policy. The impact of licensed premises will naturally be most felt at a local level and it is important that residents and businesses have an active involvement in the licensing process and understand how they can do this.

2.6 The Licensing Authority considers it extremely important that licensed premises operate as good neighbours within their community. Operators of licensed premises are encouraged to consult with local residents and businesses prior to submitting applications to ensure they are aware of, and can address, any needs or concerns they may have.

2.7 Additionally, existing licensed premises are encouraged to have regular dialogue with residents and businesses in the local area to ensure the promotion of the licensing objectives on an ongoing basis.

2.8 This Policy contains a number of Key Factors, which are the primary issues it expects to be considered by licensees when identifying the steps they intend to take to promote the licensing objectives in respect of their licensed premises:

Key Factors

- KF1 What we aim to encourage** – desirable destinations for a wide range of groups and uses
- KF2 The location of licensed premises** – venues in the right place
- KF3 Hours for licensed premises** – operating at the right hours
- KF4 Standards to promote the licensing objectives** – excellent management
- KF5 Off sales of alcohol** - operating to the highest standards

Operation of the Policy

2.9 Applicants are expected to consider all the matters relevant to their application; these include key factors and where appropriate special guidance in relation to the Town Centre Zone.

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

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

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

2.13 The Licensing Authority will always consider the circumstances of the case and whether granting the application will undermine the licensing objectives.

2.14 In considering conditions to be attached to licences and certificates, the Licensing Authority will ensure that conditions must:

- be specific for the premises;
- not duplicate existing provisions;
- be capable of being met;
- be appropriate and proportionate for the promotion of the licensing objectives: and
- be tailored to the individual style and characteristics of the premises and events concerned.

2.15 It is acknowledged that conditions can only be imposed that seek to manage the behaviour of customers when they are on the premises and within the control of the licensee or in the immediate vicinity of the premises.

2.16 Where, following relevant representations and a hearing, the Licensing

Authority is not satisfied that amendments to the application and/or the imposition of conditions will ensure the promotion of the licensing objectives the application will be refused. The amendments that will be taken into consideration include –

- excluding licensable activities
- amendments to the times for licensable activities
- a reduction in the licensable area

2.17 Licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control, and licensing law will always be part of a holistic approach to the management of the evening and night time economy in the Borough.

2.18 This Policy sets out the Licensing Authority's vision for the regulation of licensed premises throughout the Borough and outlines the minimum standards expected in order to ensure the promotion of the licensing objectives. Applicants are advised that where their application falls outside the guidance set out in the policy in relation to times and activities etc. they will be required to demonstrate that their proposals will not undermine the licensing objectives.

3 Key Factors

3.1 The key factors set out in the Policy are intended to address the principle issues related to licensed premises. Licensed premises and activities can play an important role in ensuring that the Borough is vibrant, prosperous, thriving and welcoming. However, if premises are not managed responsibly they can also impact negatively on an area by causing a wide variety of problems.

3.2 Our aim is to promote an 'inclusive' evening and night time economy throughout the Borough to ensure people of all ages can participate in and enjoy a range of activities. These Key Factors are designed to ensure that all licensed premises throughout the Borough operate to promote the four licensing objectives in order to ensure they contribute positively to the Borough. The Key Factors are:

KF1 What we aim to encourage

KF2 The location of licensed premises

KF3 Hours for licensed premises

KF4 Standards to promote the licensing objectives

KF5 Off sales of alcohol

3.3 A key aim is to ensure the diversity of licensed premises and particularly avoid premises simply focused on the consumption of alcohol. Where relevant representations are made applicants wishing to operate premises that facilitate quick drinking through a lack of seats (vertical drinking), loud music, and particularly those which aim to attract a particular audience to the exclusion or detriment of other groups will need to be able to demonstrate through appropriate measures that their application will not have an adverse impact on the licensing objectives; the reliance on continuing good practice is unlikely to be sufficient where such applications for new or material variations are sought.

3.4 We will also ensure that due consideration is given to the proximity of licensed premises not only to local residents and businesses, but also in relation to other licensed premises to ensure they are located in a position that does not adversely affect their ability to ensure the promotion of the licensing objectives.

3.5 While it is recognized that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided, the Licensing Authority will consider restricting hours to ensure the promotion of the licensing objectives, subject to relevant representations being made in relation to the hours applied for, should the Licensing Authority deem this appropriate and proportionate following a hearing.

3.6 Where no relevant representations are received against an application for a Premises Licence or Club Premises Certificate, it shall be granted automatically subject to mandatory conditions under the Licensing Act and conditions consistent with the licensee's operating schedule.

3.7 Failure to address the Key Factors contained within the Policy may increase

the possibility of representations being made against applications, particularly by Responsible Authorities.

3.8 Every application will be treated in accordance with the Act, the Guidance and this Licensing Policy. The licensee is expected to consider the Key Factors and the potential impact upon the licensing objectives relevant to them. The Licensing Policy is applicable to all premises providing any licensable activity, and it is important that all premises have regard to it and can demonstrate this. In particular premises located within the Town Centre Zone should have regard to both the provisions set out in Paragraph 3.14 and those set out in 9.5.

3.9 The Licensing Authority expects licensees to have due consideration to the Standards to Promote the licensing objectives (Key Factor 4) when determining how they operate their premises. However, it is a matter for them to propose the measures they consider appropriate with respect to their individual circumstances.

3.10 The Licensing Authority expects licensees to implement all measures they consider appropriate to promote the licensing objectives with respect to their individual circumstances. The Standards may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to consideration of those measures outlined in the Licensing Policy. It is proper that they address all issues they consider appropriate to promote the licensing objectives.

3.11 The Licensing Authority expects licence holders to operate their premises in accordance with the application and commitments made to the Committee in order to obtain the grant of the licence. Where evidence indicates that this is not the case premises licence holders may expect an application will be made to Review the licence. Applicants wishing to operate a restaurant will be expected to provide evidence of the premises operation as such when requested by the Licensing Authority; such evidence to include, but not limited to, wet and dry and door entry figures.

3.12 The Council will actively support and encourage premises that seek to meet the harmonization of the day and nighttime economy.

KF1 - What we aim to encourage

3.13 The aim is to ensure desirable destinations that cater to a wide range of age groups and uses. Premises that are encouraged are:

Those that will extend the diversity of entertainment and attract a wider range of participants and in particular venues that offer diversity within the night time economy such as late night cinema, without the sale of alcohol, and live music venues. Venues that offer original material, are encouraged particularly to provide a range of live performances and styles of music, provided that such entertainment does not undermine the licensing objectives.

Family friendly venues, where people with children can attend, are

encouraged.

Quieter and Smaller 'local-style' venues able to promote a sense of community and familiarity for customers.

Wind-down or chill-out venues that enable people to begin or end their nights out in a quieter venue where customers can sit down in a relaxed environment, particularly without alcohol.

Restaurants and Cafés as well as other less alcohol-dominated venues.

Theatres and Cinemas

3.14 Subject to compliance with the other policies the types of licensed premises set out in the Matrix below will generally be considered acceptable, unless relevant representations are made and/or the Licensing Authority considers that the application will undermine the licensing objectives. The Council wishes to see wider diversity in the night time economy and in particular wishes to encourage premises whose primary purpose is not the sale of alcohol.

Please note

- The times given in the Matrix above are for licensable activities.
- In the case of premises which encompass two or more uses it is incumbent on the applicant to state the primary use of the premises; this use must be supported by the management plan/operating schedule.
- **Any applicant who wishes to operate outside the times given in the Matrix will need to demonstrate that its operation supports the Key Factors without undermining the Licensing Objectives. This must be shown in the operating schedule and must demonstrate that there will be no derogation in the licensing objectives, including from departing customers. Reliance on continuing good practice is unlikely to be sufficient where such applications for new or material variations are sought.**

Primary Function	Residential	Mixed Commercial and Residential	Commercial
Restaurant	Yes until midnight	Yes until 00.30	Yes until 01.00
Late Night Takeaways *	Yes until 22.00	Yes until midnight	Yes until 01.00
Pub ** Bar	Yes until 23.00, midnight Friday and Saturday	Yes until midnight	Yes until 02.00
Non-Alcohol Led – e.g. Theatres etc.	Yes until 23.00	Yes until midnight	Yes until 01.00

Off-licence	Yes until 22.00	Yes until midnight	Yes until midnight
Members' Club	Yes until 23.00	Yes until midnight	Yes until 02.00
Village and Community Halls	Yes until 23.00, midnight Friday and Saturday	Yes until midnight	Yes until 02.00
Wine Bars **	Yes until 23.00 midnight Friday and Saturday	Yes until midnight	Yes until 02.00
Sports Clubs	Yes until 23.00	Yes until 00.30	Yes until 01.00
Coffee Shops	Yes until 23.00	Yes until midnight	Yes until 02.00
Caravan/Camping/Holiday Parks	Consideration will be given to the licensable activities to be provided when determining an appropriate time		
Garages/Service Stations	Consideration will be given to the licensable activities to be provided when determining an appropriate time		

*premises with limited or no seating and primarily focused on the sale of hot food to take away including delivery

** premises where customers are generally seated, the density of the premises is lower and the age spread of the customer base is wider

KF2 - The location of licensed premises

3.15 The Licensing Authority considers the following as key issues in relation to the location of licensed premises:

- The proposed operation of the premises having regard:
to the licensable activities applied for,
the size, structure and proposed capacity,
the type/nature of the business
- The proximity of the premises to local residents.
- The proximity of the premises to other local businesses that could be affected
- The general character of the surrounding area including crime and antisocial behaviour levels
- The availability of transport to and from the premises

3.16 Consideration will be given to the capacity for vertical drinking at the premises. Vertical drinking has been linked with encouraging binge drinking and an increased potential for violence and antisocial behaviour.

3.17 Additionally, a number of premises closing simultaneously would lead to larger numbers leaving at the same time thereby increasing the risk of disorder and disturbance, as well as creating spikes in demand for taxis and other sources of transport.

3.18 There is the need to balance the needs of residents with that of the night time economy. Licensees should consider how their premises could impact upon the needs of local residents and businesses. Particular consideration is expected to be given to:

Prevention of noise or vibration escaping from the premises due to volume of music or plant and machinery noise

Prevention of noise disturbance from people entering and leaving the premises (e.g. queue management, dispersal policy)

Prevention of disturbance by people outside the premises (e.g. smoking areas)

Litter from the premises (This issue is considered particularly relevant in respect of late night takeaways and smoking-related litter outside of licensed premises)

Disturbance caused by deliveries and collections at the premises including waste and bottle collection

3.19 Consideration should be given to the effective availability of transport in relation to the premises including the proximity of public transport in order to ensure customers are able to get home safely and without causing disturbance.

KF3 - Hours for licensed premises

3.20 The Licensing Authority considers that measures must be taken to address the causes of crime and disorder and public nuisance linked to the night time economy.

3.21 The Licensing Authority will have particular regard to the hours applied for and considers that later hours will typically be more sensitive and higher risk in causing problems, especially related to drunkenness and particularly after midnight. Consequently, the Licensing Authority expects a higher level of control measures to be implemented at the premises when an application is made for later hours.

3.22 The Licensing Authority will have particular consideration to the location of premises and their likely effect on the locality when considering whether the hours requested are appropriate to the area and consistent with promoting the four licensing objectives (see the Matrix in paragraph 3.14). Opening hours will not generally be regulated but each application will be considered on its own merits and in particularly noise sensitive locations it may be appropriate to consider the opening hours of a premises.

3.23 Where relevant representations are made, premises that are considered to meet the criteria 'What we aim to encourage' will normally be given greater freedom to

operate than premises that could be considered more likely to have a detrimental impact upon the licensing objectives, such as youth-oriented, alcohol- driven premises.

3.24 It is expected that hours for licensed premises will be particularly relevant having consideration to the location of the premises. Consequently, the hours applied for licensable activities should be appropriate with regard to the nature of the location of the premises. It is recognized that in spite of the quality of the operation of the business, where patrons are out of the control of the licensee, the lateness of the terminal hour for the premises will often be a contributory factor in the potential for disturbance.

3.25 The Licensing Authority will not consider the fact that other premises in the vicinity already have later hours as a justification for granting similar or extended hours and each application will be considered on its individual merits.

KF4 – Standards to promote the licensing objectives

3.26 An application for a new premises licence application, provisional statement, or a variation to an existing licence, must contain an operating schedule which identifies robust proposals to promote the licensing objectives.

3.27 Where no relevant representation is received against an application, conditions consistent with the steps proposed in the operating schedule will be attached to the licence (in addition to the mandatory conditions).

3.28 We have identified the standards we expect licensees to consider when preparing their operating schedules in order to promote the four objectives. However, it is a matter for them to consider and propose the measures they regard as appropriate to promote the licensing objectives with respect to the individual circumstances of their application. These measures are not exhaustive and the Licensing Authority will have regard to any relevant issues raised in any representation that may fall outside the standards.

3.29 All relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in this Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives. They may also wish to liaise with the responsible authorities and local residents or businesses in considering whether any additional issues may be relevant.

3.30 All persons, including responsible authorities, should also consider these standards in relation to making any representation against an application.

3.31 Where there are relevant representations in respect of an application, these standards will be applied by the Licensing Authority to ensure licensed premises operate in the manner expected, where appropriate, by the Licensing Policy.

3.32 When it is considered by the Licensing Authority to be appropriate and proportionate in order to promote the licensing objectives, the policy is to attach conditions in accordance with the standards to promote the licensing objectives

outlined in this Policy

3.33 While the standards have been separated under distinct titles of the four licensing objectives, many of them will be relevant for the promotion of multiple objectives. Where a measure may address more than one licensing objective it need only be included once.

KF5 Off-sales of alcohol

3.34 The Council has implemented a Public Space Protection Order for the St Botolph's Street area and has a Designated Public Place Order in the town centre in order to help address and prevent numerous problems caused by public consumption of alcohol. Street drinking can be a major cause of antisocial behaviour, often involving underage persons, which gives rise to disorder, concerns over public safety and harm to children. Additionally, it is widely reported that consumption of alcohol by persons on the way to on-licensed premises gives rise to problems of drunken and disorderly behaviour.

3.35 The Licensing Authority therefore, without prejudice to the other policies contained within this policy, will adopt the following stance in relation to premises licensed for the sale of alcohol for consumption exclusively off the premises:

- Where any Responsible Authority makes representation against the grant of a licence for off-sales and, following a hearing the committee are satisfied that there is evidence of serious concerns over demonstrable problems of street drinking or disorder associated with the off-sale of alcohol in the area, there shall be a presumption against granting a licence. Applications will only be granted, following a hearing, where the Licensing Authority is satisfied the grant of the licence would not harm the licensing objectives.
- Where relevant representations are made, the Licensing Authority will also have particular consideration to the hours requested for sales of alcohol. Persons who are alcohol-dependent may be drawn to particular premises if they are licensed to sell alcohol at earlier times than other premises. Additionally, if there are issues related to late-night disorder, the hours for alcohol sales from the premises may be restricted.

3.36 Other conditions may be imposed directed at avoiding problematic street drinking in the vicinity of the premises. Another particular concern will be irresponsible drink promotions that do not follow best practice, would appeal to underage drinkers or street drinkers, or encourage excessive consumption.

3.37 There has in recent years been a significant rise in applications to the Licensing Authority seeking to permit off sales from premises before 08.00. In light of the factors set out in 3.35 above the Licensing Authority has a presumption against granting a licence for the off sale of alcohol before 08.00 and applicants wishing to sell alcohol before this time must demonstrate a genuinely exceptional case to justify departure from the Policy. The reasons for the exception should be shown in the operating schedule and must demonstrate that there will be no derogation in the licensing objectives, including from departing customers.

4 The Prevention of Crime and Disorder

4.1 The Licensing Authority expects licensees to implement all measures they consider appropriate to promote the Prevention of Crime and Disorder licensing objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation, to every premises, but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to considering only those measures outlined in the Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

CD1 Implementation of effective security measures at the premises

It is expected that there should be a defined policy that documents the security measures in place for the premises. A defined policy should ensure a consistent approach and explain the standards expected of staff. It is expected that premises hold security review meetings on a regular basis to help identify and resolve issues and ensure that staff are fully aware of important issues. Relevant issues could include the prevention of thefts, or identifying problematic individuals.

CD2 The effective management of queues outside the premises

Queues should be managed effectively to prevent any nuisance or disorderly behaviour. There should be a consistent approach to the management of customers waiting to enter the premises and licensees are expected to demonstrate how they will manage queues to the premises.

CD3 The control of entry to and exit from the premises, including assessing the need for door supervisors

Consideration should be given to how capacity will be controlled and how already drunk or disorderly individuals will be prevented from being admitted. A relevant consideration will be whether security staff will be employed at the premises. It is expected that the need for security staff will be determined by documented risk assessment.

Where door supervisors are provided, it is expected that licensees have consideration of the following:

- High-visibility identification – It is expected that door supervisors shall be easily identifiable by wearing high-visibility clothing.
- Appropriate number of staff – Door supervisors should be employed at specified times with regard to the individual circumstances of the premises. The need for door staff should also be regularly reviewed and risk-assessed and appropriate security employed.
- The role of door supervisors in ensuring effective dispersal of patrons from the premises at the end of the night – Door supervisors should be instructed to encourage persons leaving the premises do so without causing disturbance and in an orderly fashion.
- Consideration of SIA-approved contractor scheme companies – The

objective of the SIA's Approved Contractor scheme is to raise performance standards. Approved contractors are demonstrably committed to customer service and the compulsory licensing of their staff, ensuring that every private security operative deployed on a premises will be working within the law.

- Holding security briefings at the start and end of duty.
- Maintaining a register of door supervisors on duty.

CD4 Operation of a documented policy in respect of searching patrons entering the premises.

Consideration should be given to whether searches of customers entering the premises are required. It is expected that the need for searches will be determined by risk assessment.

Any search policy is expected to include provision for the following circumstances:

- Records maintained of searches and seized items – Records should be maintained of any searches where prohibited items are seized and removed. Records should be made available to the Police.
- Circumstances under which searches will be conducted – Risk assessments should be conducted to consider when searches are appropriate.
- Location of where searches will take place – Areas should be covered by CCTV and not in isolated areas.
- Use of detection devices to detect weapons and drugs and when and where they will be used – Consideration for appropriate detection devices should be risk- assessed and employed as appropriate.
- Putting procedures in place for the seizure and retention of recovered drugs and other prohibited items – Items recovered should be kept in a secure location and the Police notified.

CD5 Designing out crime in the layout of the premises

Consideration should be had to best-practice advice such as the 'Licensed Property: Security by Design' (BBPA) or at www.securedbydesign.com (ACPO).

CD6 Comprehensive risk assessments for activities at the premises

Risk assessments should be regularly reviewed and any appropriate action implemented immediately. Risks identified should be recorded and updated when appropriate. Consideration should be given to the risks associated with the activities of the business, the clientele, the Key Factors in this Licensing Policy, the nature of the area the premises is located, as well as any appropriate individual circumstances.

CD7 Use of town link radio service at the premises

Late-night premises in the town centre are expected to consider subscribing to the town link radio service which enables the rapid dissemination of information on criminal activity throughout the town centre.

CD8 Implementation of documented reporting procedures at the premises

Important and relevant incidents that occur at the premises should be recorded. Such records should be made available upon request by a Responsible Authority.

Recordable incidents could include:

- Accidents
- Lost and found property
- Refused sales of alcohol
- Thefts
- Banned and ejected persons
- Other incidents
- Injuries
- Allegations against staff.

CD9 Ensuring responsible management of externally promoted events at the premises

Promoters should be required to complete the promoter pro-forma and notification be given to Essex Police and the Licensing Authority no later than 28 days before the event.

CD10 Provision of comprehensive documented staff training

Documented staff training should be conducted relevant to the prevention of crime and disorder issues on the premises, to include (but not limited to):

- Age restrictions in respect of products
- Responsible Alcohol Service, including recognizing signs of drunkenness, refusal skills, drugs awareness
- Company policies and reporting procedures (see above)
- Managing and resolving conflict
- Action to be taken in the event of an emergency, including the report of a crime, fire, or request for emergency medical attention
- Licence conditions
- Relevant obligations and offences under the Licensing Act 2003, including those associated with the sale of alcohol.

Records of all training should be documented and kept on the premises available for inspection by the Responsible authorities.

CD11 Implementation of effective measures to prevent and deal with drunkenness at the premises

Premises licensed for the sale of alcohol for consumption on the premises should have a written policy in relation to drunkenness. Premises should not admit persons who are visibly intoxicated and staff should be trained regarding responsible alcohol sales, identifying drunkenness and preventing alcohol sales to them.

Consideration should also be given to:

- Taking practical steps to prevent drink driving

Displaying responsible drinking information and posters throughout the premises including the toilet areas
Ensuring alcohol free options are readily available
Making appropriate arrangements to ensure the safe transport home of vulnerable customers

CD12 Ensuring only responsible drinks promotions are operated at the premises

Consideration should be given to how any promotions could impact upon the mandatory licence condition for on-licensed premises prohibiting irresponsible promotions. It is expected licensees have reference to recognized codes of practice in respect of the responsible sale and promotion of alcohol products such as those issued by the British Beer and Pub Association, Portman Group and Drinkaware Trust.

CD13 Effective monitoring of the premises (both interior and exterior) including the use of CCTV

It should be demonstrated how the premises will be effectively monitored, e.g. patrols by staff, which areas will be covered by CCTV, whether security staff will be employed and, if so, where – as well as any other appropriate measures. Additionally, appropriate monitoring of external areas, e.g. immediately outside the entrance to the premises, smoking shelters or beer gardens, should be addressed where relevant.

Details of CCTV cameras should be provided (both internal and external). CCTV should be installed in liaison with, and to a standard approved by, Essex Police.

CD14 Ensuring all alcohol sales are properly authorised

The Licensing Authority considers it good practice for alcohol-licensed premises to ensure that there is a Personal Licence-holder on site at all times the premises is open for the sale of alcohol. Depending on the size of the premises, it may be appropriate for multiple Personal Licence-holders to be on duty, e.g. if the premises has more than one bar or is particularly large. The Licensing Authority expects to see written evidence of the delegation by the DPS to other persons of the authority to sell alcohol at the premises

CD15 Prevention of illegal drug use and anti-spiking at the premises

A zero-tolerance policy should be implemented regarding the use of illegal drugs on the premises. A drugs policy should be in writing and include how drugs will be prevented from being brought into the premises, what action the venue will take should anyone be caught with drugs on the premises, and how the drugs will be disposed of. The use of toilet attendants, regular documented toilet checks and searches of the premises could be conducted. Licensees for on-licensed premises should also consider what action will be taken to prevent the spiking of drinks at the premises. This could include encouraging customers to ensure that drinks are not left unattended, and the use of publicity material to ensure customers remain vigilant.

CD16 Operation of a documented glass policy for the premises

Glass injuries are a serious problem in the UK, with approximately 5,500 glassings

reported each year, and glasses or bottles being used in 5% of all violent crime. A documented risk assessment should be conducted for the use of glassware on the premises and safer drinking vessels, such as toughened glass or polycarbonate, should be used when appropriate. Risk assessments should also include the use of glass in external areas (if appropriate) as well as how glass collections will be managed throughout the premises, including the frequency of such collections.

CD17 Support for the SOS bus and other mitigation measures

The SOS bus works with other teams out and about in the night time economy – the street pastors, enforcement officers, doormen of licensed premises, police and ambulance service – to mitigate the effects caused by patrons of premises operating in the night time economy and to assist those premises in dealing with problems at their venue. Licensees are expected to demonstrate how they can offer support to ensure the continued operation of the SOS bus. This can take the form of financial contributions, display of promotional material, fundraising and actively working in a positive way with volunteers, as well as other initiatives such as taxi marshaling.

CD18 The operation of the premises

The Licensing Authority expects licence holders to operate their premises in accordance with the application and commitments made in order to obtain the licence. Applicants should demonstrate their commitment to the proposed use of the premises by the inclusion of such conditions that support this use of the premise and to limit the operation of the premises to the use applied for.

5 Public Safety

5.1 The Licensing Authority expects licensees to implement the measures they consider appropriate to promote the public safety objective regarding their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

PS1 Maintaining a safe capacity and recording customer numbers

Capacity should be managed effectively and in accordance with an appropriate risk assessment to prevent overcrowding. Advice should be sought from Essex Fire and Rescue in relation to the safe capacity for premises and how it should be managed.

PS2 Ensuring Fire Safety procedures are in place and up to date

Licensed premises should:

- Conduct a Fire Risk Assessment for the premises, which is reviewed as required, and as a minimum every 12 months. An assessment template and guidance notes are available on the Essex County Fire & Rescue Service website.

- Ensure all fire equipment is inspected/serviced as per its relevant British Standard (generally, but not always, annually) and documented.

PS3 Use of a daily pre-opening and closing checklist

Consideration should be given to implementing such checklists as they can help ensure that all appropriate and routine actions are conducted consistently, ensuring good practice.

PS4 Provision of comprehensive documented staff training

Documented staff training should be provided to ensure adequate public safety on the premises, including (but not limited to):

- First Aid
- Fire safety procedures
- Evacuation procedures
- Terrorist threats (predominantly town centre venues)
- Overcrowding.

PS5 Implementation of appropriate anti-terrorism measures

Licensed premises, particularly those located in the town centre, should have regard to the National Counter Terrorism Security Office (NaCTSO) publication 'Counter Terrorism Protective Security Advice for Bars, Pubs and Nightclubs'.

PS6 Operation of a documented glass collection and spillage policy

Premises licensed for the sale of alcohol for consumption on the premises should have a policy and procedure in place to ensure effective and efficient collection of glasses and the cleaning-up of spillages throughout the premises.

PS7 The Use of Special Effects

Premises intending to use any form of special effects should carry out an appropriate and documented risk assessment and notify the Licensing Authority of their intended use.

PS8 Hypnotism, mesmerism or similar acts

Premises intending to provide, as part of their entertainment an exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process should carry out an appropriate and documented risk assessment and notify the Licensing Authority of their intended use. This does not absolve the premises licence holder from applying for and gaining any other necessary permissions

PS9 Large Scale Events

Premises holding large scale events are expected to have regard to the management standards set out in the policy and have in place an Event Management Plan that addresses , but is not limited to, the following –

- Overall event safety control
- Production details
- Medical and first aid provision
- Site management and the structural integrity of all temporary structures
- Crowd management, stewarding and security
- Fire safety and control
- Configuration and control of sound systems
- Management of any on-site and off-site car parking
- Management of concessions and franchises
- Provision and maintenance of water supplies
- Welfare and provision of information
- Provision and maintenance of sanitary facilities
- Reception collection and removal of litter and other waste
- Liaison with local residents and businesses
- An alcohol management plan

PS10 Care and Safety of Persons, including vulnerable persons, leaving the premises

A vulnerable person is one who for a variety of reasons may be unable to look after themselves and protect themselves from harm or exploitation. People may be vulnerable for a variety of reasons including but not restricted to – intoxication levels,

substance misuse, illness or medical conditions, mental health issues, age, gender/risk of sexual predator or exploitation, and social impact factors.

Premises are expected to have in place a policy in relation to the care of vulnerable persons which should consider but is not limited to the following –

- Identifying whether the person is alone or with friends.
- Assigning a member of staff to keep an eye on them.
- Making contact with a relative or friend to ensure the person is taken home safely.
- Caring for the person in a safe place within the premises and away from the general public area.
- Contacting the SOS bus, Street Pastors and/or Police/Ambulance Service to provide care/assistance.
- In the event the person wanders away from the premises, notify CCTV and asking them to keep a watch on the individual and communicate with other premises via the town link service
- Assisting the person and/or friends in finding a route home.
- Recording the incident in the premises log book.

Premises are also expected to give consideration to implementing measures designed to encourage safe journeys home including (but not limited to) -

- Discouraging drink driving by promoting schemes such as designated driver, with notices clearly displayed throughout the premises.
- Displaying information to customers with regard to safe options for travelling home such as Cabwise. Information should include access to licensed taxi cabs or licensed private hire vehicles, the location of taxi ranks and public transport facilities including night bus options. Providing a free taxi phone service and a safe waiting area for customers inside the premises

6 The Prevention of Public Nuisance

6.1 The Licensing Authority expects licensees to implement the measures they consider appropriate to promote the prevention of public nuisance objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

PN1 Prevention of noise breakout from the premises

This relates to both internal and external areas. Measures such as double-glazing, the use of an acoustic lobby, noise limitation devices and soundproofing for internal areas may be relevant. Licensees should demonstrate the measures taken to address such issues.

PN2 Use of a last entry time for the premises

Consideration should be given to a curfew on entry times, which can reduce the possibility of persons causing noise and disturbance late at night who may have been attracted to the premises.

PN3 Communication and integration with local residents and businesses

Licensees are encouraged to consult with local residents and businesses prior to submitting an application for a new licence or variation of an existing licence to ensure that any issues that may arise in respect of the proposed operation of the premises can be addressed at the earliest possible stage and ensure the promotion of the licensing objectives.

Licensees are expected to communicate with local residents and businesses, to address and resolve relevant problems. This could include giving contact telephone numbers to local residents so they can report any issues to the premises for them to be dealt with. It is expected that contacts at the premises would be persons in a position of responsibility who are contactable whenever the premises is open to the public so that any issues can be addressed without delay. Licensees could also arrange regular meetings with neighbours to ensure good relations.

PN4 Effective management of exterior spaces (e.g. beer gardens, smoking areas)

Where the premises include any exterior areas, licensees should demonstrate what measures are in place to prevent issues that may give rise to problems. Relevant considerations should include:

- a limit on the number of patrons in such areas
- whether there is a curfew on using them
- how they will be delineated, if relevant
- how will premises be kept clean and free of litter, particularly at the end of trading
- what supervision will be in place?

will the premises be covered by CCTV?
How will the area be lit to avoid nuisance to neighbours?
will glasses be allowed outside?
what glass collection arrangements will be in place?
how to avoid customers causing noise disturbance
how the premises will prevent begging at, and in the immediate exterior of, the premises.

PN5 Cleansing arrangements and ensuring the premises and surrounding area are kept clean and free of litter

Where the licensable activities could give rise to litter being dropped in the vicinity of the premises, the measures in place to prevent this occurring and/or tidy it up should be demonstrated. Such measures could include regular litter inspections during the hours of operation and at the close of business, the placing of litter bins in prominent areas of the premises, reducing packaging, and the use of branded packaging.

PN6 Responsible management of the use of flyers and other promotional material

The irresponsible use of flyers can cause major litter problems. Any use of flyers and other promotional material should be done in a responsible and appropriate manner. It should be noted that permits are required for handing out flyers in various areas of the Borough.

PN7 Ensuring adequate arrangements for secure and responsible storage of refuse

Adequate and secure storage for refuse should be provided that is appropriate for the nature of the business. Particular regard should be given to the management of glass bottles to prevent them being taken outside the premises as potential weapons, and to the emptying of bottles into refuse containers at times that could disturb local residents or businesses.

PN8 Appropriate arrangements for deliveries and collections

Consideration should be given to how and at what times deliveries are made to the premises to avoid disturbance to local residents and business and avoid any obstruction. Equally, this would apply to any collections from the premises, e.g. refuse collections by private contractors.

PN9 Prevention of customers causing disturbance when leaving the premises

Licensed premises need to ensure the orderly exit and dispersal of customers from the premises. Relevant considerations could include:

- Prominent display of notices requiring courtesy for neighbours
- Preventing customers from congregating outside
- Providing advice and directions to available public transport
- Providing contact details for taxi/private hire firms and provision of a call-back service
- Use of a dedicated taxi/private hire service
- Implementing a dispersal policy based upon good practice
- Use of a winding-down period
- The role of door supervisors in managing persons leaving.

PN10 Membership of any local Pub and Club Network/Off Licence Forum or other recognized partnership group

Licensees should commit to work in partnership through local business groups, which can provide useful forums to keep abreast of local issues and developments when they operate in the area.

7 The Protection of Children from Harm

7.1 The Licensing Authority expects licensees to implement the measures they consider appropriate to promote the protection of children from harm licensing objective with respect to their individual circumstances. The standards below may not be appropriate to apply in every situation to every premises but all relevant measures appropriate to the premises will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives.

CH1 Risk assessment for when children are on the premises

Regard should be had to specific risks that may arise when children are on the premises. The risk assessment should be documented and available for inspection by the Responsible authorities upon request. Relevant considerations could include:

- Will access be restricted to certain areas of the premises?
- Is there adequate supervision?
- Are the areas covered by CCTV?
- Will alcohol sales be restricted in areas where children are permitted?
- How will children be prevented from accessing alcohol?

Special consideration is expected to be given to promoted events in licensed premises aimed at, or likely to attract, persons under 18. The Licensing Authority expects robust measures to be in place to address potential risks associated with such an activity.

CH2 Ensuring any gambling machines on the premises are appropriately located and properly monitored

Consideration should be given to the ability to supervise their use regarding location to ensure underage persons do not use them with regard to any code of practice issued by the Gambling Commission (gambling machines) and advice from the Licensing Authority.

CH3 Ensuring entertainment at the premises is age-appropriate

Where adult-only entertainment is provided, children should be prevented from being on the premises when such entertainment is taking place.

CH4 Taking action to prevent proxy sales of alcohol from the premises

Premises licensed for the sale of alcohol should take proactive steps to prevent this occurring. Possible measures include:

- Regular checks around and/or outside the premises for underage persons encouraging adults to purchase alcohol for them
- Use of CCTV, particularly in external areas

Displaying prominent notices in the premises explaining the law in relation to purchasing alcohol on behalf of persons under 18 and the penalties involved.

CH5 Proper management of any child performers

It is expected that any child performers are properly licensed and a nominated adult is present to act in a supervisory capacity.

CH6 Ensuring age restrictions are enforced effectively when showing films

Where age-restricted films are displayed, appropriate and effective measures must be in place to ensure relevant age restrictions are complied with.

CH7 Prevention of underage sales of age-restricted products and underage persons access

Effective and appropriate measures must be taken to ensure age restrictions are enforced at the premises. Relevant considerations include:

- Implementation of Challenge 25
- Details of what forms of ID are acceptable
- The use of till prompts
- The maintenance of refusal logs
- Staff training.

CH8 Provision of comprehensive documented staff training

Documented staff training is expected, particularly in relation to activities consistent with the licensing objectives, including (but not limited to):

- Identification and refusal of underage sales
- Age-restricted products
- Any access restrictions to the premises by children.

CH9 Display of child welfare information in public areas of the premises

Where children are allowed on the premises, information should be available on what to do if there is a cause for concern regarding a child's welfare.

CH10 Operation of under 18 events at premises

Where under 18 events take place, premises are expected to put in place appropriate measures to ensure the safety and welfare of those attending the event.

8 Off-sales of Alcohol

8.1 The Licensing Authority expects licensees to consider the standards below in relation to the operation of their premises; they may not be appropriate to apply in every situation but where they are such measures will be expected to be incorporated as part of the operating schedule. Licensees are not restricted to only those measures outlined in the Licensing Policy and it is proper that they address all issues they consider appropriate to promote the licensing objectives and in particular those set out in the preceding sections on the measures to promote the licensing objectives.

OF1 Taking action to prevent the purchase and sale of counterfeit or non-duty paid alcohol

Premises should take proactive steps to prevent this from occurring. Such measures include:

- No alcohol purchased from sellers calling at the shop
- Reporting to Trading Standards any caller to the shop attempting to sell alcohol
- Keeping invoices (or copies) on the premises for all alcoholic goods purchased for inspection by authorised officers
- Operation of a stock control system
- Use of an ultraviolet pen or light to check the UK Duty Stamp on spirits

OF2 To control the sale of alcohol for delivery

Regard should be given to the specific risks, of selling and supply alcohol to persons underage, that are presented by the ordering of alcohol by telephone or internet and the delivery to a residential address where the person receiving the alcohol be underage. Premises should take proactive steps to prevent the sale and delivery of alcohol to underage persons. Possible measures include:

- Pre-ordering by telephone or internet prior to delivery
- Carrying Invoices relating to delivery on the delivery vehicle
- Production of invoices and record of orders on request to any authorised officer
- Operation of a "Challenge 25" scheme
- A refusals book

9. Town Centre Zone

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

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

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

9.5 With this in mind, **and subject to compliance with the other requirements of the policy (in particular paragraph 3.14),** the following guidance for new licences and material variations, where relevant representations have been made, is offered:-

- a. The following venue types are strongly encouraged provided they do not undermine the licensing objectives and therefore the licensing policy:
 - Restaurant
 - Non-alcohol led premises
 - Live entertainment venue
 - Coffee shops
- b. **There is a strong presumption against the following venue types because of their potential to undermine the licensing objectives and therefore the licensing policy.**
 - Late night takeaway
 - Nightclub
 - High Volume Vertical Drinking establishment
 - Pub/Bar
 - Off licences

Please note

- In the case of premises which encompass two or more uses it is incumbent on the applicant to state the primary use of the premises; this use must be supported by the management plan/operating schedule.
- **Any applicant who wishes to operate a premises for which there is a strong presumption against within the Policy must demonstrate in its application that there will be no derogation in the licensing objectives, including from departing customers, and that its operation actively supports the Key Factors. Reliance on continuing good practice is unlikely to be sufficient where such applications for new or material variations are sought. Neither should reliance be placed on the size of the venue.**

9.6 Key Factor 4, Standards to Promote the Licensing Objectives, sets out many measures that the Licensing Authority considers to be appropriate in order to ensure the promotion of the licensing objectives.

9.7 Having regard to the issues within the Town Centre Zone the Licensing Authority has also set out particular matters to which it expects operators to pay special attention in order to ensure their operation will not add to the problems within this area. Operators are not required to do so, but where the authority's discretion is engaged, any applications which fail to address all appropriate matters may be refused or have appropriate conditions applied.

9.8 These measures shall be considered in conjunction with the policy approach set out above and may be more or less appropriate depending on the style of operation applied for. Applicants are not limited to only these proposed measures and should propose all measures they consider appropriate in the promotion of the licensing objectives.

9.9 The measures are set out as follows:

Please note – the references below refer to the standards under the licensing objectives
(See pages 22 to 34)

Ref	Matter to be addressed	Measure to be adopted
CD2	Effective management of queues outside the premises	A documented policy addressing how queues outside of the premises will be managed to prevent any nuisance or disorderly behavior
CD3	The control of entry to and exit from the premises, including assessing the need for door supervisors	A documented risk assessment assessing the need for door supervisors at the premises. Where employed, door supervisors shall be easily identifiable (through high-visibility uniform) and employed in appropriate numbers and during appropriate times. Written records to be kept of any door supervisors on duty.
CD5	Designing out crime in the layout of the premises	Positive consideration will be given to the commissioning a Licensing Impact Statement (by Design for Security) and operation of the premises in line with the recommendations of that report.
CD8	Implementation of documented reporting procedures at the premises	Documented records to be kept in respect of: Lost and found property Refused sales of alcohol Thefts Banned and ejected persons Injuries Complaints and any remedial action taken.
CD10	Provision of comprehensive documented staff training	Documented staff training conducted in respect of: Preventing underage sales Preventing drunkenness Managing and resolving conflict Emergency procedures Compliance with the licence

		<p>conditions</p> <p>Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol</p> <p>Identification and refusal of underage sales</p> <p>Positive consideration will be given to the use of accredited training course and recognized industry qualifications (e.g. BII)</p>
CD11	Implementation of effective measures to prevent and deal with drunkenness at the premises	<p>A documented policy in relation to preventing and managing drunkenness on the premises.</p> <p>Access to the premises should not be permitted to any person who is visibly intoxicated.</p> <p>Positive consideration will be given to:</p> <p>The sale of alcohol being subject to the use of waiter/waitress service for consumption by persons seated at tables</p> <p>Substantial food being available at all times</p> <p>Use of the Responsible Alcohol Service Guide</p> <p>Displaying responsible drinking information and posters throughout the premises</p> <p>Ensuring alcohol-free options are readily available</p> <p>Making appropriate arrangements to ensure the safe transport home of vulnerable customers</p> <p>Training of staff in the Responsible Alcohol Service award</p> <p>No promotional activity resulting in a minimum unit price of less than 50p.</p> <p>In relation to off sales - positive consideration will be given to:</p> <p>Voluntary restriction of high strength alcohol (i.e. high ABV beers and cider)</p>

CD13	Effective monitoring of the premises (both interior and exterior) including the use of CCTV	A digital CCTV system installed in conjunction with any specification or recommendations of Essex Police.
CD14	Ensuring all alcohol sales are properly authorised	Positive consideration will be given to there being at least one personal licence holder on duty on the premises at all times it is open to the public.
CD16	Operation of a documented glass policy for the premises	A documented risk assessment in respect of the use of glassware on the premises. Where appropriate plastic or polycarbonate drinking vessels.
CD17	Support for the SOS bus and other mitigation measures	Positive consideration will be given to measures to support the SOS bus and other mitigation measures.
PS1	Maintaining a safe capacity and recording customer numbers	The maximum occupancy of the premises should be prominently displayed at the entrance to the premises and appropriate measures put in place to ensure the capacity is not breached.
PS6	Operation of a documented glass collection and spillage policy	A documented policy to ensure that drinking vessels are not left unattended and the efficient collection of glasses and cleaning up at the premises, especially in outdoor areas.
PN1	Prevention of noise breakout from the premises	Systems to ensure that any noise from the premises, especially regulated entertainment, does not cause disturbance to neighbouring properties, particularly local residents.
PN3	Communication and integration with local residents and businesses	Positive consideration will be given to: Participation in any community local initiatives. Communication with local residents and groups. Provision of a mobile contact number for the DPS or nominated person for the immediate resolution of problems. Hosting of meetings with local

		residents to troubleshoot issues associated with the premises.
PN4	Effective management of exterior spaces (e.g. beer gardens, smoking areas)	Policies in place in relation to: Supervision arrangements. How such areas will be kept clean and free of litter, particularly at the end of trading. Avoiding customers causing noise disturbance.
PN5	Cleansing arrangements and ensuring the premises and surrounding area are kept clean and free of litter	Systems in place to ensure the premises and surrounding area are kept clean and free of litter at all times the premises is open to the public, and at the close of trade. Positive consideration will be given to: Contribution (including financial) to any community local initiatives or infrastructure Cleaning initiatives beyond the immediate vicinity of the premises.
PN6	Responsible management of the use of flyers and other promotional material	The distribution of flyers shall only be conducted in accordance with the terms of the requisite permit to distribute free printed material issued by the Council.
PN9	Prevention of customers causing disturbance when leaving the premises	Policies for the dispersal of customers to ensure orderly conduct and minimize disturbance. Positive consideration will be given to: Supervision of customers leaving including preventing customers congregating outside Use of a winding-down period Providing a dedicated taxi/private hire calling service, which operates a call back facility.
PN10	Membership of any local Pub and Club Network/Off Licence Forum or other recognized partnership group	Positive consideration will be given to: Participation in the local Pubwatch scheme Support of any local resident / community schemes including the

		voluntary hosting of meetings.
CH4	Taking action to prevent proxy sales of alcohol from the premises	Operators should ensure staff are aware of the risks of proxy sales and take appropriate measures to deter offences.
CH7	Prevention of underage sales of age-restricted products and underage persons access	The operation of Challenge 25 with acceptable forms of ID Positive consideration will be given to: The use of till prompts Operation of mystery shopper exercises at own expense.

9.9 The guidance for the Town Centre Zone applies to all new and material variation applications. In relation to variations, this includes any variation that seeks to add a licensable activity, increase the capacity/size of a licensed premises, or extend the hours for licensable activities, but will usually exclude minor variations.

9.10 Each application will be considered on its individual merits.

9.11 Applicants will be expected to have particular regard to all key factors of this Policy.

9.13 The Town Centre Zone will be kept under review and where problems of crime and disorder or public nuisance are not improving, or are worsening, the Policy will be reviewed with a view to introducing a cumulative impact area.

10. The Cumulative Impact of Concentrations of Licensed Premises

10.1 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider in developing its licensing policy statement.

10.2 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increase in crime, anti-social behaviour, noise pollution and disturbance to residents in the vicinity of those premises and other patrons of the nighttime economy. In such cases the amenity of local residents can be placed under severe pressure but the causes may not be attributable to any individual premises and therefore enforcement action taken to ensure adherence to conditions may not always resolve the problems.

10.3 Types of evidence the Licensing Authority will take into consideration when considering whether to implement a cumulative impact policy include:

- Information and intelligence from its own Licensing Enforcement Group
- Alcohol-related crime
- The number and type of licensed premises and the hours and activities for which they are licensed
- Ambulance and A&E data in respect of alcohol-related incidents
- Residential density
- Noise complaints
- The number of consumers attracted to the area and the availability of public transport

10.4 In coming to any decision about a cumulative impact, the Licensing Authority will also have regard to other mechanisms outside of the licensing regime, which may also be available to address the issues, these include but are not limited to:

- Planning controls
- Positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other Council departments
- The provision of CCTV in the town centre, sufficient taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- Police enforcement including the issuing of fixed penalty notices
- Prosecution of personal licence holders or other members of staff who sell alcohol to people who are already drunk
- Confiscation of alcohol from children and adults in designated areas
- Police and Council powers to close down instantly, for 24 hours, a premises or temporary event on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance

- The power to seek the review of a licence

10.5 Such a special policy will be implemented if the Authority is satisfied that there is evidence to support such a decision, and that it is proportionate and the most effective measure to address the problems identified.

11 Temporary Event Notices

11.1 Temporary Event Notices, TENs, can be used to authorise premises for licensable activities for temporary periods or specific occasions.

11.2 Unlike applications for premises licences and club premises certificates, the licensing authority does not grant temporary event notices. Instead the premises user notifies the licensing authority of their intention to hold an event. Only the police and environmental protection can intervene to prevent it taking place or agree modifications to the event arrangements. However, in the interests of public safety the fire authority are notified by the Licensing Authority of all temporary events notices.

11.3 It is strongly suggested that TENS are lodged well in advance of the event to enable the licensing authority to work with event organisers, where necessary, to resolve any potential issues that may arise as a result of the TEN. This is particularly relevant for organisers of events anticipating maximum attendance and/or involving the sale of alcohol. Organisers should also have regard to the relevant parts of the guidance in this policy on large scale events.

11.4 Events such as village fetes which occur on a temporary basis may not require a licence. However, organisers of such events are requested to notify the Licensing Authority to ensure that, in the event that enquiries/complaints are received from members of the public, they can be effectively dealt with.

11.5 Temporary Event Notices do not override the need to have the necessary planning consent in place for the event to be held.

12 Premises Licences for Large-Scale Public Events

12.1 The Council holds a number of Premises Licences for public areas throughout the town centre. If you wish to hold an event in a public space it is strongly recommended that you first contact the Council's Licensing Team.

12.2 Licensees are expected to have regard to the management standards set out in the Policy as well as address the following elements:

- Overall event safety control
- Production details
- Medical and first aid provision
- Site management and the structural integrity of all temporary structures
- Crowd management, stewarding and security
- Fire safety and control
- Configuration and control of sound systems
- Management of any on-site and off-site car parking
- Management of concessions and franchises
- Provision and maintenance of water supplies
- Welfare and provision of information
- Provision and maintenance of sanitary facilities
- Reception collection and removal of litter and other waste
- Liaison with local residents and businesses

12.3 Relevant details in respect of the above may include:

- The proposed capacity of the event
- The provision of plans to agreed scales detailing exits, entrances, temporary bars, marquees and all facilities to be provided within the premises
- Details of proposals for entertainments, together with information regarding any special effects
- Details of proposals for concessionary activities, including food franchises, bars, restaurants and non-food retail sales
- An alcohol management plan, which will include details of:

- The designated premises supervisor
- Personal Licence-holders
- Control of the sale of alcohol
- Proof-of-age policy
- Promotion of responsible drinking
- Appropriate signage

- A Safety Policy and Risk Assessment for the event
- Details of arrangements for co-ordinating and controlling event safety on the site
- A site safety plan, including site safety rules, requirements for construction and breakdown of site, structural safety calculations, drawings of temporary structures and safety barriers, details of electrical installations and lighting arrangements
- Incident contingency and emergency plans (including a Major Incident Plan)
- A crowd management, stewarding and security plan (taking into account the views of Essex Police)
- A medical ambulance and first aid plan
- A fire safety plan
- A traffic management plan
- A sound assessment with details and proposals for monitoring and controlling sound emission
- Details for the provision of cleaning and maintenance of sanitary accommodation, washing facilities and drinking water
- Details for the reception collection, litter and disposal of other waste
- Details of welfare arrangement facilities and provisions for information on site
- Details of the arrangements and facilities for disabled persons.
- Consideration should not solely focus on the activities taking place within the area of the licensed premises. Appropriate measures to address issues outside the licensable area include:
- Putting in place plans that will assist to minimize disruption to the day-to-day lives of local residents, businesses and existing operations for the period of the event
- Providing a robust traffic and transport plan that takes into account the needs of the local community – and minimizes the impact of visitors to the area for the event – while maintaining a safe and convenient point of access and egress for the attendees within the parameters of existing traffic, transport and parking provision
- Putting in place a strategy to manage the consumption of alcohol by visitors

accessing and leaving the event in the public realm and highway

- Putting in place a strategy for the control of access to and egress from the licensed premises for the control of disorderly behaviour.
- Providing facilities external to the licensed area that will assist in the management of the access and egress of visitors to the event – and minimize the impact on the existing public realm – including, but not restricted to, additional toilet facilities and a designated park and ride area
- Putting in place a cleansing strategy beyond the immediate perimeter of the licensed premises in association with the Local Authority
- Providing communication channels for the local community that will enable residents and businesses to access sufficient detailed information prior to the event days
- Providing a hotline and information phone number for residents and local businesses for the duration of the event.

12.4 Licensees should contact the Safety Advisory Group which oversees large scale events in the Borough and have reference to The Event Safety Guide – A Guide to Health, Safety and Welfare at Music and Similar Events, commonly referred to as 'The Purple Guide'.

13 Licensing Enforcement and Monitoring

13.1 It is essential that licensed premises comply with the terms of their licence as well as other requirements of the Licensing Act. Equally important is ensuring that premises not licensed to provide licensable activities are prevented from doing so. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with the licence conditions and the specific requirements of the Act. The Council will also monitor the Borough for unlicensed activities that require a licence and then act accordingly and in line with the Council's Enforcement Policy.

13.2 Enforcement activities to promote the licensing objectives will be targeted and will concentrate on those premises that present a greater risk; have a history of non-compliance with conditions and regulations; or demonstrate poor management practice.

13.3 The Licensing Authority is the lead authority on the Council's Licensing Enforcement Group which comprises representatives from all the responsible authorities and the Garrison. The Group meets monthly to share information on licensed venues and agree any resultant enforcement action.

The Terms of Reference of the Group are to:

- Work together to share knowledge and deal effectively with premises licensed under the Licensing Act 2003 that have been subject to complaints or raised concerns.
- Identify and discuss at an early stage those premises which may be called for review.
- Establish agreed means by which an intervention by the Group rather than by a single responsible authority could be achieved.
- To consider matters of potential serious or escalating concern that may fall outside the Licensing Act 2003 (e.g. taxi problems or disturbance that may be related to the management of one or more licensed premises).
- The aims and responsibilities of the Group are to:
- Improve the local and immediate neighbourhood that is affected by poorly managed premises.
- Raise the levels of compliance and standards of management in licensed premises.
- Prevent a possible escalation of problems with early and coordinated intervention.
- Enable the Licensing Authority to optimise its role as responsible authority under the Licensing Act.
- Improve understanding and foster positive working relationships between all

responsible authorities.

13.4 The Licensing Authority takes a risk-based and proportionate approach to regulatory enforcement and monitoring in relation to the likely impact of the premises upon crime and disorder, public nuisance, problems concerning public safety and the protection of children from harm. Therefore, higher-risk and problem premises will be targeted for enforcement activity whereas a lighter touch approach will be adopted for low risk, well-run premises.

13.5 Failure to promote the licensing objectives may result in licence review and the possible implementation of sanctions by the Licensing Committee, including removal of licensable activities, reductions in hours or, ultimately, revocation of the licence. Additionally, where offences are committed and/or licence conditions are not adhered to, prosecution will be considered.

13.6 The Licensing Authority and partner agencies shall continue to work with the licensed trade through the provision of advice, education and training, information, promotion of good practice and behaviour.

13.7 The principles of enforcement for Licensing Authority focus are:

- Taking firm action against those who flout the law or act irresponsibly
- Assisting businesses and others in meeting their legal obligations
- Promptly acting on issues of concern to local communities.

13.8 The responsible authorities are available to provide advice and support for licensees as well as members of the public in relation to any problems they may be encountering relevant to licensed premises.

Reviews

13.9 The review of a licensed premises is the key protection for residents and businesses where one or more of the licensing objectives are being undermined and these problems can be linked to the operation of a licensed premises. A responsible authority or any other body can ask for the review of a licence.

13.10 When considering a review request, or other possible enforcement action, the Licensing Authority will consider all relevant matters and in particular –

The use of the premises for criminal activities such as the supply of drugs or money laundering
Failure to promptly respond to a warning given by a responsible authority
Failure to engage with the responsible authorities in an effective manner
Previous convictions for licensing offences
Previous failure to comply with licence conditions

13.11 The Licensing Authority will not normally engage its role as a responsible authority

by calling reviews on behalf of other persons, such as local residents or community groups. These individuals are entitled to do so in their own right where there are sufficient grounds to do so.

13.12 Where responsible authorities have concerns about problems identified at a premises, the Licensing Authority considers it to be good practice for them to give the licence holder early warning of their concerns and the need for improvement. Where possible and/or appropriate it would be expected that advice and guidance in addressing the issue(s) should be given, such as using an Improvement Plan before bringing the premises to review. Responsible authorities may seek to amend a licence via review where evidence indicates the need for permanent enforceable conditions to be added to a licence.

13.13 It should be noted that a review can be called without an early warning where a serious situation has occurred and immediate action is required. Where premises are associated with serious crime and/or disorder a senior Police officer may apply for a summary review of a premises licence.

13.14 The outcome of a review hearing will not ordinarily have effect until such time as the period given for appealing (normally 21 days) expires or an appeal is disposed of.

Suspension for Non Payment of Fees

13.15 The Licensing Authority is required to suspend a premises licence or club premises certificate if the annual fee has not been paid when it is due. Where a premises licence or certificate has been suspended, no licensable activities can be lawfully carried out at the premises until the annual fee has been paid. The suspension shall be lifted immediately upon payment of the fee and licensable activities may be resumed.

13.16 If an annual fee has not been paid by the due date, the licence holder shall be notified accordingly by the Licensing Authority and given notice of the date the suspension shall take effect.

13.17 Where payment has not been made by the due date as a result of a genuine administrative error, or because the licence holder disputed liability for the fee before or at the time of the due date, there shall be a grace period of 21 days to resolve the matter before the licence is suspended.

Ability to re-instate conditions upon Review

13.18 Where entertainments authorised under the Licensing Act 2003 have been deregulated and the conditions in relation to those matters no longer apply, the Licensing Authority may reinstate or impose conditions following a review of a premises licence or club premises certificate. The reinstatement or imposition of conditions will be considered where it can be demonstrated that the promotion of the licensing objectives is being undermined and such action is considered to be appropriate.