



# **Hackney Carriage & Private Hire Licensing Policy**

Colchester Borough Council

October 2021

## Foreword

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

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

We recognise that drivers and operators need a licensing service which is dynamic and responsive, capable of adapting to changes in the economy in which they operate and with this in mind we have made a number of significant changes to the policy.

The policy sets out the relevant information on how applications will be determined and how drivers and operators are expected to operate to pursue and promote the following licensing objectives:

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

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

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

## Contents

1 Introduction and Guide to the policy	4
The Strategic Plan and Aspirations for the Borough	5
Fees	5
Relevant Legislation and Definitions	6
Consultation on and Implementation of the Policy	6
2 Protection of the Public; Safeguarding Children and Vulnerable Persons; and the Prevention of Crime	7
Fit and Proper Test	7
Sharing Information in the Interests of Public Safety	9
Protection of the Public	10
Safeguarding Children and Vulnerable Persons	10
3 Safety and Health of Drivers	12
Driver Safety	12
Taxi Rank Marshalling	12
Driver Health	12
Age Limits	13
4 Establishment of Professional and Respected Hackney Carriage and Private Hire Trades	14
Competency Tests	14
Training	14
Dress Code	15
Enforcement	15
Complaints	16
Penalty Point Scheme	16
Cross Border Working	16
Fares	16
Number of Vehicles	17
5 Vehicle Safety, Comfort and Access	18
Accessibility	18
6 Encouraging Environmental Sustainability	19
Air Pollution	19
7 Promoting Colchester as a vibrant, prosperous, thriving and welcoming place	20
Ambassadors for the Borough	20

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

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

## Introduction and Guide to the Policy

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

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

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

1.3 The aim of the Policy is to regulate and support the licensed trade as front-line ambassadors in promoting Colchester to residents and visitors alike and to facilitate well operated and responsible businesses which form a vital and integral part of Colchester's integrated transport strategy. The Council will work with partner agencies in order to promote the policy objectives and aims.

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

1.5 The Policy applies to:

- **Hackney carriages** – a public transport vehicle with no more than 8 passenger seats, which is licensed to ply for hire. This means it may stand at ranks or

- can be hailed in the street by members of the public
- **Private hire vehicles** – licensed to carry no more than 8 passengers but must be booked in advance by customers through an operator and may not ply for hire in the street
- **Drivers** of hackney carriage and private hire vehicles
- Proprietors of hackney carriage and private hire vehicles and those with a registered interest in the vehicle
- **Private hire operators**

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

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

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

## **The Strategic Plan and Aspirations for the Borough**

1.7 The Council's strategic plan is the overarching strategy for the Borough setting out the direction and potential for the Borough and integrating social, economic and environmental strategies to create a Borough that is vibrant, prosperous and welcoming. The Council seeks to promote its vision for the Borough by focusing on the priorities of growth, responsibility, opportunity and wellbeing.

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

## **Fees**

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

## **Relevant Legislation and Definitions**

1.10 In writing the Policy and in exercising its functions the Council has had and will continue to have regard to all relevant legislation including, but not limited to, the Town Police Clauses Act 1847 and 1889; Local Government (Miscellaneous Provisions) Act 1976 (as amended); Transport Act 1985 and 2000; Crime and Disorder Act 1998; Environmental Protection Act 1990; Equality Act 2000; Road Traffic Acts; Health Act 2006; Human Rights Act 1998.

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

## **Consultations and Implementation of the Policy**

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

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

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

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

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

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

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

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

2.1 The key consideration of the Council in licensing hackney carriage and private hire drivers, operators and proprietors is the safety of the travelling public. The protection of the public; safeguarding children and vulnerable persons; and the prevention of crime are therefore key factors in this Policy.

### **Fit and Proper Test**

2.2 The application of the fit and proper test is essential to ensure that the Council's licensing scheme protects the public. The test requires that –

- The Council must not grant a licence unless it is satisfied that the applicant is a fit and proper person to hold a licence.
- The Council is also entitled to suspend or revoke a licence or may issue points under this Policy if there is evidence to suggest that the individual is not a fit and proper person, and specifically
  - if they have been convicted, or there has been an out of court disposal, since the grant of the licence of an offence involving dishonesty, violence or indecency.
  - for non-compliance with the licensing requirements of the relevant and related legislation.
  - for any other reasonable cause.

2.3 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. The Council must therefore be assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

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

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

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

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

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

and has regard to the following –

"Its purpose therefore is to prevent those being given to or being used by those who are not suitable people, taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers". (Leeds City Council v Hussain2002)

2.6 To assist in determining the question of whether a person is fit and proper, safe and suitable, the Council has drawn up a Convictions Policy to categorize and assess the risk to the public of a wide variety of criminal and motoring convictions. It should be noted that the convictions listed are by no means exhaustive; it is anticipated that any convictions not listed will have close enough themes to enable parallels to be drawn from other listed convictions.

2.7 The Convictions Policy works alongside the Council's Penalty Point Scheme and points can be given under both schemes. Where the total of these points exceeds 12 in any one year a licence holder should expect consideration to be given by authorised officers and the Committee to the suspension or revocation of their licence.

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

- Right to Work in the United Kingdom
- Certificate of Good Conduct where relevant
- Convictions, cautions, penalty notices and other formal action etc. in line with the Council's Convictions Policy
- Disclosure and Barring report
- Notification of any convictions disclosed as part of the application process
- Police National Computer check where appropriate
- Penalty Points issued under the Council's Penalty Point Scheme
- Any complaints and allegations
- Any intelligence made available to the Council by the Police and other partner agencies
- Anything considered by the Courts which hasn't resulted in a conviction
- Motoring convictions and penalty notices in line with the Council's Convictions



#### Policy

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

## Sharing Information in the Interests of Public Safety

2.9 The Council is empowered by law to carry out verification with the Disclosure and Barring Service to confirm the existence and content of any criminal record and any other intelligence held in the person's name. The Council may also contact other agencies such as the Home Office, Police, National Anti-Fraud Network and benefits agencies to verify and request information held on a person and will share information with such bodies where it is appropriate to do so.

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

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

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

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

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

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

## **Protection of the Public**

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

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

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

2.17 The Council has investigated a small number of complaints concerning drivers who have used details supplied to them for the purposes of their business to contact a passenger at a later date. Drivers must not engage in sexual conversations, make inappropriate comments or have sexual contact with passengers on or after their duty, even where there is consent. Any allegation of such behaviour will result in the Council carrying out a full investigation and may result in action being taken to prevent a person from driving even where evidence has not been tested in any other arena. Licence holders must not use contact details obtained in the course of their business for any purpose other than that business, neither should they respond to overtures from customers.

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

## **Safeguarding Children and Vulnerable Persons**

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

2.20 To support this role, and recognising the importance of licensed drivers in the local night time economy, the Council has introduced mandatory safeguarding training as part of the application process for licensed drivers wishing to obtain or renew a driver's licence. This training will address a variety of safeguarding concerns including child sexual exploitation, gangs and trafficking. Applicants who haven't completed the training will not be granted their licence and existing drivers who do not complete the training within the required timescale will be suspended unless they can prove exceptional circumstances that prevent them from complying. The Council's

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

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

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

2.23 The Council acknowledges that a small minority of licensed drivers across the country have abused their position of trust to sexually exploit children. Therefore, where there are safeguarding concerns in relation to licence holders, that arise from intelligence, the Council will carry out a full investigation; every decision will be made with the safety of the vulnerable person foremost. This may mean that action is taken to revoke a licence even where evidence has not been tested in any other arena.

## **Safety and Health of Drivers**

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

### **Driver Safety**

3.2 The Council's mandatory safeguarding training and its Code of Conduct for Working with Vulnerable Persons is designed not only to ensure that drivers are aware of the issues around safeguarding but also to ensure that they are aware of the steps they need to take to protect themselves from possible allegations of misconduct.

3.3 Licensed drivers provide a service to the public and there is a reciprocal aspect to this trade. In recognition of this the Council supports the use of a Driver and Passenger Charter which sets out the behaviour that drivers can expect of their passengers together with that expected of them. Drivers are encouraged to display this in their vehicles.

3.4 The Council supports the installation of security measures such as a screen between the driver and passengers however care must be taken to ensure such measures don't impede the ability of the driver and passenger to communicate.

3.5 The installation of CCTV has proved to be an essential tool for drivers in protecting themselves against allegations of misconduct and in helping to identify culprits in where problems have occurred. The Council is committed to investigating the feasibility of its introduction in all licensed vehicles.

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

### **Taxi Rank Marshalling**

3.7 The Council values greatly the work of the taxi marshals; their work helps to ensure the orderly management of queues, reducing the potential for conflict between drivers and passengers and helping to ensure the swift dispersal of patrons from town centre venues. Where taxi marshals are operating, the Council expects its licensed drivers to pay them due regard.

### **Driver Health**

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

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

3.9 In recognition of the fact that drivers report increasing difficulty in booking a doctor's appointment for their medical, and that the cost of such appointments are rising, the Council has lifted the requirement from drivers to use their own GP to carry out the medical. Drivers will now also be able to use Cotswold Medical Limited to carry out the Group 2 medical in addition to their own GP.

## **Age Limits**

3.10 The Council does not set maximum age limits for drivers beyond the statutory periods for holding a full driver licence. Applicants and licensed drivers seeking to renew their licence will be considered on an individual basis.

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

## **Establishment of Professional and Respected Hackney Carriage and Private Hire Trades**

4.1 The Council supports the aim of regulating and supporting the licensed trade by setting clear and transparent standards and procedures and enforcing these in a consistent and fair manner. These standards and procedures are set out in Policy including its annexes and appendices.

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

### **Competency Tests**

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

4.4 In line with its duty to ensure the safety of the travelling public and in order to address the persistent complaints relating to driver standards the Council requires all new drivers to complete and pass a hackney carriage/private hire driver assessment test with a Council approved driving assessor. The standard of the test complies with the former Driver and Vehicle Standards Agency taxi driver assessment.

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

### **Training**

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

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

## Dress Code

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

### Permitted clothing

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

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

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

## Enforcement

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

4.10 Effective hackney carriage and private hire regulation depends on partnership working and in particular the relationship between the trade, Council departments, the Police, DBS Service, DVLA and VOSA. The Council has an intelligence sharing protocol in place with Essex Police that enables relevant information to be shared even before an arrest or conviction is made.

4.11 The principles of enforcement are:

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

## **Complaints**

4.12 Customers are able to report complaints online using the Taxi Complaint Form or via the Council's Customer Service Centre. All complaints will be assessed by the Licensing Team and those found to be genuine will be investigated.

## **Penalty Point Scheme**

4.13 The Council's Penalty Point Scheme provides a stepped enforcement process for those licence holders who have contravened licence conditions or associated legal provisions. This scheme does not prejudice the Council's ability to take any other action it is entitled to take under conditions, bylaws or regulation. In relevant cases, where it is considered necessary, an existing licensed driver may also be required to take the Council's knowledge test and/or driving assessment at their own expense.

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

## **Cross Border Working**

4.15 The Council recognises that cross border hiring, whereby private hire vehicles and/or drivers which have been licensed to operate by another Council work in the Borough, is a potential problem. The driver and/or vehicle may have been licensed by an authority which has lower standards than those that apply in the Borough. The Council has no powers to take direct action where any conditions of the licence are broken or the driver provides poor service to customers; the contraventions must be referred on to the relevant local authority. This matter is being kept under review by the Essex Licensing Officers Forum.

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

## **Fares**

4.17 The hackney carriage tariff for fares is determined by the trade and implemented at its request by the Council. The Council takes the view that the fees scales are best determined by the trade itself as they have a direct relationship with the market and are also best placed to determine their costs.

4.18 The tariff is a maximum tariff and the Council welcomes competition, particularly in relation to telephone bookings, with firms offering a differentiation in services, for example off peak reductions.

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



## Number of Vehicles

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

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

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

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

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

## **Vehicle Safety, Comfort and Access**

5.1 The Council has a duty of care to the public and central to this duty is the safety of licensed vehicles. To maintain standards of safety the Council has set out its requirements in terms of vehicle testing, accident reporting and the age of vehicles etc. in its Private Hire Vehicles Licensing Standards and Conditions and Hackney Carriage Licensing Standards and Conditions.

### **Accessibility**

5.2 The Council is committed to social inclusion and therefore considers it a high priority that people with disabilities have access to all forms of public transportation.

5.3 The trade has a duty to provide a service to people with disabilities in the same way as it provides a service to any other passenger and therefore the Council is committed to work with operators and drivers to improve drivers' awareness of the needs of disabled people and to ensure best practice. Where complaints have been made in relation to the carrying of a disabled passenger any driver may be required to undertake disability awareness training at their own expense.

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

## Encouraging Environmental Sustainability

### Air Pollution

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

6.2 The Council supports measures to reduce the levels of carbon dioxide, nitrogen dioxide and particulate matter emitted. Liquid Petroleum Gas (LPG) conversions are therefore acceptable if carried out by an approved converter.

6.3 Objective 4 of the Colchester Low Emission Strategy is to develop and implement measures to encourage emission reductions in Colchester. In line with the Healthier Air for Colchester Air Quality Action Plan the Council has set the following compliance dates and standards for emissions from licensed vehicles –

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

6.4 The Council further requires that drivers of licensed vehicles turn off their engines when waiting in the Borough's Air Quality Management Areas as set out on the plan at Appendix 1 and when they are sitting stationary. There may be exceptional circumstances when drivers are permitted to wait with their engines idling. An Air Quality Management Area, is an area which is likely to, or already exceeds the limits for the air pollutant Nitrogen Dioxide. These limits are designed for the protection of human health. Vulnerable groups are particularly at risk from the effects of air pollution. These include elderly adults, children, people with underlying heart and lung conditions or diseases and pregnant women.

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

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

## **Promoting Colchester as a vibrant, prosperous, thriving and welcoming place**

7.1 Colchester is proud to be famous for being the oldest recorded town in the Country and receives visitors from all over the world. It is seeking to promote and enhance its reputation as a safe and vibrant, welcoming and prosperous borough and it recognises the importance of the licensed trade in helping to achieve this.

### **Ambassadors for the Borough**

7.2 Licensed drivers are both front line ambassadors in promoting Colchester to residents and visitors alike. The Council therefore welcomes the support of its licensed drivers in fulfilling this role and has acknowledged the importance of this role by including general questions on Borough, tourism and entertainment within the Knowledge Test.

7.3 To be such an ambassador could not be easier and quite simply comes down to the way in which passengers are treated and how the views of our Borough are shared. First impressions are generally lasting impressions and a negative attitude from a licensed driver towards visitors, or the Borough can have a detrimental effect on their stay and whether they return. Visitors support many local trades and businesses and therefore not only directly support many jobs, but also help in the creation of much needed employment for the Borough as a whole.

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

# Annex 1 - Driver Licensing Standards and Conditions

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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 where it is appropriate to do so.

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.

Applications for the grant or renewal of a licence must be made, and will be determined, in accordance with the Policy, its annexes and appendices. There is a right of appeal against the Council's decisions, details of which are set out at the end of this document.

**If you fail to comply with any of these conditions enforcement action will be taken which may result in points being awarded on your hackney carriage/private hire driver's licence and in certain circumstances this may result in the suspension or revocation of your licence.**

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## Pre-Licensing Standards

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

1. Be over 21 years of age and have held a full UK Driving and Vehicle Licence Agency (DVLA) (or equivalent) driving licence for at least three years. You must supply your licence with the application.

**Please note** – If you hold an EU Country driving licence you must obtain a UK counterpart/ghost licence from the DVLA before you can be considered for a hackney carriage/private hire driver's licence and the details must be shared with the Council. Applicants from non-EU countries must apply for a full UK driving licence before being considered for a hackney carriage/private hire driver's licence.

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. Obtain an Enhanced Disclosure from the Disclosure and Barring Service (DBS) as

# Annex 1 - Driver Licensing Standards and Conditions

part of the application process. This must be less than three months old when the application is made.

**Please note** – Applicants for hackney carriage/private hire drivers' licences are exempt from the provisions of the Rehabilitation of Offenders Act 1974. Therefore, you must 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. If you have spent six continuous months or more living outside the UK, provide a criminal record check, or equivalent documentation, or a Certificate of Good Character from the country/countries involved covering the relevant period.

5. Have completed and passed, 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. Exceptional arrangements may be made if you have insulin treated diabetes and are able to meet a series of medical criteria. The 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 3 years to the age of 65 when a medical will then be required annually irrespective of your renewal date.

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

Please note - behaving in an inappropriate manner to Council staff or others involved in the licensing process may result in you being found not fit and proper to hold a licence.

7. Have passed the following competency tests and supplied proof of having done so to the Council; these tests to be completed at your own expense. The tests comprise –

- a. a hackney carriage/private hire driver assessment test with a Council approved driving assessor.
- b. Passenger Assisted Transport Training, if you will be driving a fully adapted disabled assess vehicle, either private hire or hackney carriage (plate numbers 200 onwards),
- c. the English language test
- d. the Council's knowledge test

**Please note** – The knowledge test comprises questions picked at random from the Council's licensing policy, safeguarding training, topographical and tourism questions,

# Annex 1 - Driver Licensing Standards and Conditions

the Highway Code and basic arithmetic. The decision of the adjudicator 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 first test being taken. A different question paper will be selected for each test re-sit. Failure to pass the knowledge tests after 3 attempts will deem the applicant unsuccessful. You will be required to wait for 12 months, from the date of the final test, before you can book a further knowledge test.

8. Have undertaken the Council's Mandatory Safeguarding Training and supplied proof of having done so to the Council.

9. Declare if you have previously held a hackney carriage and/or private hire drivers' licence whether with this authority or another local authority and whether you have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.

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## Driver Conditions

As the holder of a hackney carriage/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. On occasions a licence may be issued for less than the current standard length of 3 years where it is appropriate to do so having regard to the merits of the case, for example, where you have a limited right to remain in the UK.
- 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.

# Annex 1 - Driver Licensing Standards and Conditions

- 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 and it should be produced if requested by the public. 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.
- 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.
- 1.12 You must submit an Enhanced DBS every six months. Failure to do so will result in the Council suspending your licence as a current DBS check is a key element in the Council's determination of whether you are a fit and proper person to hold a licence.
- 1.13 You must sign up to the DBS Update Service. This is a mandatory requirement which will require you to register with the Disclosure and Barring Service online within 30 days from the issue of your DBS certificates (provided by the DBS). To register for the DBS Update Service, you will be required to pay the registration fee (which may be subject to change), which is payable direct to the DBS Service. Payment is taken initially by card, there is no option for direct debit payments. By selecting the option to automatically renew a subscription, the DBS will store your card details to take the subscription on an annual basis. It will be your responsibility to ensure that those payment details remain current and valid i.e., if you change your payment card over the course of the year, the DBS will not be able to take your annual subscription.

## 2. Driver Conduct

### You must -

- 2.1 Behave in a civil, polite and orderly manner at all times in the course of carrying



# Annex 1 - Driver Licensing Standards and Conditions

out your duties as a licensed driver, this includes in your dealing with members of Council staff. 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.
- 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 if you are unfit to do so because you are on legal or illegal drugs and/or you have certain levels of illegal drugs in your blood.
- 2.11 Not drive whilst under the influence of alcohol.
- 2.12 Whilst driving you must not use a handheld mobile phone nor any other handheld mobile device which performs an interactive communication function by transmitting and receiving data.
- 2.13 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.

# Annex 1 - Driver Licensing Standards and Conditions

- 2.14 When hired to drive to a particular destination, subject to any directions given by the hirer, proceed to that destination by the shortest route.
- 2.15 Not, without reasonable cause, unnecessarily prolong in distance or time, the journey for which the vehicle was hired.
- 2.16 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.
- 2.17 Not permit a private hire vehicle to be parked or ply for hire on a taxi rank.
- 2.18 Present the vehicle in a clean and tidy condition for each journey.
- 2.19 Not carry out food deliveries whilst carrying a fare without the express permission of the hirer. Vehicles can be used for the delivery of food (subject to the above condition) but drivers should ensure that the vehicle is clean and odour free before carrying a fare or that the hirer has given their express permission for food to be carried at the same time.
- 2.20 Not use the horn as a means of signaling that the vehicle has arrived for a hire.
- 2.21 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.
- 2.22 Not carry other persons in the vehicle when hired, without the express consent of the person hiring the vehicle.
- 2.23 Ensure compliance with any legislation relating to the length of working hours.

## 3. Dress Code

- 3.1 You are required to be respectably dressed, clean and tidy in appearance and must adhere to the Council's dress code as set out below:

### Permitted clothing-

- Tops, shirts, blouses, t-shirts, polo shirts or sweat tops – These should cover the shoulders and be capable of being worn inside trousers/skirts and shorts. Shirts or blouses can be worn with a tie or open necked.
- Trousers, skirts, shorts - Trousers may either be full length or shorts, if tailored. Clothing should be of sufficient length when the driver is seated as to not offend against decency.
- Footwear – This should be smart and appropriate for driving; and must fit

# Annex 1 - Driver Licensing Standards and Conditions

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, this may be by email. 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 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.
- 4.8 You may charge a customer if, during the duration of their journey, the vehicle is soiled in any way i.e. through vomiting in the vehicle.

# Annex 1 - Driver Licensing Standards and Conditions

## 5. Convictions, Cautions, Criminal Investigations and Penalty Points

### 5.1 You must

- a. Notify the Authority, in writing, within a period of 48 hours, 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. An arrest for any of the offences within this scope will result in the Council reviewing whether you are fit and proper to continue to hold a licence. If you fail to disclose an arrest that subsequently comes to the attention of the Council, this might be seen as behaviour that brings into question your honesty and integrity and therefore your suitability as a licence holder regardless of the outcome of the initial allegation.
- b. 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 48 hours of its return from the DVLA, court of fixed penalty office following the endorsement of the offence.
- c. 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.
- d. 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.

5.2 The Convictions Policy and Penalty Point Scheme will be applied as appropriate.

## 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. Where this affects your ability to assist disabled passengers and you drive a wheelchair accessible vehicle you may be issued with a temporary exemption certificate on production of a letter from your GP or the Council's medical examiner.
- 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 or at a Council approved medical examiner and will be at your 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

# Annex 1 - Driver Licensing Standards and Conditions

standard annually. The certificate of examination must be submitted to the Council. This examination must be carried out at the Surgery with whom you are registered or at a Council approved medical examiner and will be at your expense.

- 6.4 The Council may refer you for a further medical, specifically where you suffer from a medical condition 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 examination is at the expense of the driver and must 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 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 licensed vehicle whilst being hired, any animal which belongs to or is being looked after by yourself, the proprietor or operator of the vehicle.
- 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 cannot charge a fee for carrying an assistance dog when it is acting in its capacity as an assistance dog.

# Annex 1 - Driver Licensing Standards and Conditions

- 8.4 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. Passengers must be permitted to sit in the front seat so that the guide dog can sit in the front foot well.

Assistance Dogs can be identified by their coloured harness which are as follows –

- Guide Dogs – Fluorescent strips around a white harness
  - Hearing Dogs – Burgundy
  - Support Dogs – Blue
  - Assistance Dogs – Purple, yellow or bright red
  - Medical detection dogs – Red
  - Buddy Dogs – Bright blue
  - Autism Dogs – Blue
  - Deaf Blind Guide Dogs – Red and White squared harness
- 8.5 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.
- 8.6 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.
- 8.7 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.

## 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

# Annex 1 - Driver Licensing Standards and Conditions

a way that no danger is likely to be caused to any passenger, in accordance with the Road Vehicles (Construction & Use) Regulations 1986 and any subsequent amendment or re-enactment thereof.

## 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 or any damage to a private hire vehicle within 48 hours of the occurrence.

## 12. Seat Belts and Child Seats

(Please follow links in the paragraphs below)

- 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, child seats, and any other relevant construction and use and safety legislation.

## 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.

## 14. Trailers

- 14.1 You may tow a trailer on a licensed Hackney Carriage vehicle provided that you hold the appropriate category on your DVLA licence, which must be produced

# Annex 1 - Driver Licensing Standards and Conditions

to the Council.

## Appeal against the Conditions

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.

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## Application and Renewal Processes

### Application process for a new Driver's Licence

1. Access the Council's web page for new drivers and read the Hackney Carriage & Private Hire Licensing Policy and Conditions and the information on how to apply and where to book the necessary tests.
2. You will need to complete and pass the following –
  - The English Test.
  - Hackney Carriage/Private Hire Driver Assessment.
  - Knowledge Test.
  - Enhanced Disclosure and Barring Service Check (DBS) including a checked of the barred lists.
  - DVLA check.
  - Group 2 medical with a fitness to drive form.
  - Mandatory safeguarding training.
3. The following documentation must be supplied to the Council -
  - The completed application form.
  - The correct fee.
  - A Group 2 medical certificate.
  - A valid passport or birth certificate.
  - Your DVLA licence registered to your current address.
  - 2 x proof of address (letter from a doctor/utility bill etc.) these must be dated within the last three months.
  - If you have spent six continuous months or more living outside the UK a criminal record check or equivalent documentation is required from the country/countries involved covering the relevant period or a Certificate of Good Character.
  - If you have changed your name either by marriage or deed poll, the change of name document is required.



# Annex 1 - Driver Licensing Standards and Conditions

- Proof that you have completed and passed a hackney carriage/private hire driver assessment test with a Council approved driving assessor.
- A Passenger Assisted Transport training course certificate if you will be driving a fully adapted disabled access vehicle.
- Proof that you have passed the Council's English test.
- Proof that you have passed the Council's Knowledge test.
- Proof that you have completed the Mandatory Safeguarding training.

## Renewal process for a Driver's Licence

1. Access the Council's web page for information on how to renew and read the Hackney Carriage & Private Hire Licensing Policy and Conditions as they may have changed.
2. You will need to complete and pass the following –
  - Enhanced Disclosure and Barring Service Check (DBS) including a check of the barred lists
  - DVLA check
  - Group 2 medical with a fitness to drive form.
3. The following documentation must be supplied to the Council.
  - The completed application form.
  - The correct fee.
  - Your DVLA licence registered to your current address.
  - If you have spent six continuous months or more living outside the UK a criminal record check or equivalent documentation from the country/countries covering the relevant period or a Certificate of Good Character
  - If you have changed your name either by marriage or deed poll, the change of name document/marriage certificate.
  - A completed medical (please ensure you have both the medical and the covering declaration from the GP/medical examiner stating that you are fit to work).

**Please note –** 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. It is your responsibility to ensure that you have booked the necessary appointments and have the necessary paperwork to enable you to complete the renewal process before the expiry date of your existing licence.

# Annex 1 - Driver Licensing Standards and Conditions

## Determination of New and Renewal Applications and the Appeal Process

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 you will be contacted and may be interviewed by a member of the team.
2. If no issues are identified or those identified are resolved, the application will be granted provided that the process has been complied with to the satisfaction of the Council.

If issues are identified the application will be processed in line with the procedures set out in the Convictions Policy and/or Penalty Points Scheme as appropriate.

**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 Licensing Standards and Conditions

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

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## 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 200 onwards must be fully wheelchair adapted; this means having the facility to load and unload wheelchairs directly into the vehicle. All new vehicles on these plates must be adapted; this includes vehicles on renewal.

As a hackney carriage vehicle proprietor, the Council must be satisfied that you are fit and proper, safe and suitable, to hold a hackney carriage vehicle licence. This requirement applies to all those with an interest in the vehicle as declared on the Proprietor Requisition Declaration.

**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.

Applications for the grant, renewal or transfer of a licence must be made, and will be determined, in accordance with the Hackney Carriage and Private Hire Licensing Policy, its Annexes and Appendices.

**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, in the case of a wheelchair accessible vehicle, 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.**

# Annex 2 - Hackney Carriage Vehicles Licensing Standards and Conditions

## Pre Licensing Standards

Only those vehicles which comply with the specification detailed below, and those proprietors who are fit and proper, safe and suitable, can be granted a hackney carriage vehicle licence by Colchester Borough Council.

### 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
- From 2025 all new registrations to meet an LPG, low emission or electric hybrid

# Annex 2 - Hackney Carriage Vehicles Licensing Standards and Conditions

standard

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.

## 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 and Tyres

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

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

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

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

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

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

5.7 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

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

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

5.8 A vehicle must not be presented for examination and test with a space saver spare tyre in use.

### 6. Steering

6.1 The vehicle must be right hand drive.

### 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.

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 Factory fitted tinted windows are permitted in the rear of the vehicle only.

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

9.3 The vehicle must not 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.
- 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 appropriate equipment for the loading of a wheelchair and passenger. Provision must be made for any removable device used for loading 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. Electrical Equipment

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

### 13. Seat Belts

(Please follow the links in the paragraphs below for the current law on seat belts)

# Annex 2 - Hackney Carriage Vehicles Licensing Standards and Conditions

13.1 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.

## 14. Vehicle Proprietors

14.1 In order to hold a hackney carriage vehicle licence you must –

- Be 18 years or over
- Complete the application form and pay the required fee
- Complete the Proprietor Requisition Declaration

14.2 The application form must be accompanied by the following documentation for all parties with an interest in the vehicle -

- A current passport or birth certificate
- Evidence that you may legally work in the UK
- A basic DBS less than three months old when the application is made. This must be accompanied by a statutory declaration listing all previous convictions, whether or not they are spent, and any other relevant material information.

If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

- Proof that you have completed the Council's Mandatory Safeguarding Training

14.3 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, its Annexes and Appendices. 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.

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

14.5 The Convictions Policy and Penalty Point Scheme will be applied as appropriate in respect of any breaches of the legislation and/or conditions.

## 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.



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

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 a Council approved testing station; and the Authority has received the appropriate notification.

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

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

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

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

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

### 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. The plates should be displayed on the front and the rear of 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.

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

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.

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 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

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

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](mailto: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](mailto: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 the standard size of 61cm and say Colchester. 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 for which must have been sought from the Council or other authorised supplier. The roof sign will be supplied by the Council at cost price. Roof signs indicating the tariff may be introduced at a later date.

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, 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 this 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 fix and maintain in the vehicle any signs or notices required by the Council.

7.8 You may display on the rear doors of the vehicle signs that give your business name and contact number. You must obtain prior approval from the Council in writing

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

before they are used. Any signage should be the same size as the front door signs supplied by the Council.

### 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.

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 taximeter must be turned on at the start of every journey and 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. Named Driver(s) on the Licence

10.1 You are permitted, either at the time the licence is granted or during the lifetime of the licence, to allow another licensed driver(s) to drive your vehicle. You are responsible for insuring the vehicle with any additional driver(s) noted on the policy as a named driver. In every case you must notify the Council of the name of the driver(s) and supply the Council with a copy of the insurance certificate showing the named driver(s) within 7 days. You will continue to be responsible either individually,

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

severally or jointly for compliance with the licence conditions, statutory requirements and byelaw provisions.

**Please note** - Any agreement between you and a third party in relation to the use of the vehicle is of no concern to the Council and you should obtain your own legal advice.

### 11. Livery

11.1 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.

11.2 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.

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

### 12. Insurance

12.1 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.

### 13. Temporary Replacement Vehicles

13.1 Where a vehicle cannot be used because it has been involved in an accident or is unusable for mechanical reasons, 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. At the end of the period the plate must be returned to the Council.

13.2 The temporary replacement vehicle, which can be any colour, should 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.

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

### 14. Return of Plates

14.1 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 giving up the business.

### 15. Additional specifications for wheelchair accessible vehicles.

15.1 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.

15.2 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.

15.3 All devices used and carried in the vehicle in connection with access to and egress from the vehicle must be carried in such a way as not to impede access or egress of passengers or otherwise compromise their safety. All such devices to be clearly marked with the vehicle's registration number.

15.4 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.

15.5 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.

15.6 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.

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

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

apply to any new proprietor.

15.8 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.

15.9 Refusal to accept a wheelchair user as a fare paying passenger, without an appropriate exemption, for any reason, will not be tolerated and a prosecution may follow.

15.10 Any damage to the equipment to facilitate access and egress by a wheelchair user must be reported immediately to the Council and must be repaired within 7 days.

15.11 Any wheelchair accessible vehicle found to be not carrying the necessary equipment to facilitate access and egress or found to be carrying damaged equipment 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.

### 16. Trailers

16.1 A trailer can be towed by a licensed Hackney Carriage vehicle provided that:

- a. The vehicle towing is suitable for towing the intended trailer in accordance with the relevant regulations.
- b. 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 2 - Hackney Carriage Vehicles 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.

### 17. Alteration of Vehicle

17.1 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.

### 18. Liquid Petroleum Gas (LPG)

18.1 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.

18.2 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 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.

### 19. Wheels

19.1 Space-saver spare tyres, where supplied as standard equipment to the vehicle, will be accepted for use in an emergency. However, they may only be used to enable passengers to be taken, at an appropriate speed, to their destination. The vehicle may not then be used to convey passengers until the appropriate repairs have been made. 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.



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

### 20. Seat Belts

(Please follow the electronic links in the paragraphs below for the current law on seat belts)

20.1 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 and children's car seats.

### 21. Card Payment Devices

21.1 Where the vehicle is fitted with or carries a card payment device, the Council considers this to be part of the vehicle and as such it must be working at all times.

21.2 If the card payment device is not working this must be reported immediately to the Council. The Council must be notified when any problems have been resolved and the card machine is again operational.

21.3 If there is concern that the card payment device may not work at the destination point, a fare may be agreed and paid in advance for the journey. This is permitted on condition that the meter is used, and in the event that the metered charge is less than the agreed payment for the journey, the overpayment is refunded.

### 22. Disclosure and Barring

22.1 You must, as a vehicle proprietor or person with a registered interest in the vehicle, submit a basic disclosure and barring certificate to the Council. This disclosure must have been issued within the previous 3 months. The DBS must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. The DBS and accompanying list of previous convictions etc is required every year on renewal of the plate. If you are also a licensed driver with the Council this DBS and accompanying statement, where relevant, is not required.

22.2 On the transfer of the vehicle licence to a new owner, the new owner must, as a vehicle proprietor or person with a registered interest in the vehicle, submit a basic disclosure and barring certificate to the Council. This disclosure must have been issued within the previous 3 months. The DBS must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. The DBS and accompanying list of previous convictions etc is then required annually on renewal of the plate. If you are also a licensed driver with the Council this DBS and accompanying statement, where relevant, is not required.

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

22.3 If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

### 23. Selling a Vehicle

23.1 If you transfer your interest in the vehicle to someone else, who is going to use it for hackney carriage/private hire work, you must inform the Council in writing within 14 days of the name and address of the person to whom you have transferred your interest. If this is not done you, as the existing owner, will remain responsible for the hackney carriage vehicle licence until such time as the new owner completes the change of owner paperwork.

### 24. Vehicle Proprietors and those with a registered interest in the vehicle

#### 24.1 You must

- Notify the Authority, in writing, within a period of 48 hours of any conviction, caution or charge for a criminal offence, motoring offence, disqualification or fixed penalty notice imposed or if you are the subject of criminal investigation whilst the licence is in force.
- 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.

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## 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.

# Annex 2 - Hackney Carriage Vehicles Licensing Standards and Conditions

## Application and Renewal Process

### Application Process

1. Access the Council's web page for information on how to license a vehicle and read the Hackney Carriage & Private Hire Licensing Policy and Conditions.
2. The vehicle will need to be inspected at a Council approved garage, currently Riverside. An inspection is not required if the vehicle is brand new.
3. The following documentation must be supplied to the Council by the registered vehicle proprietor.
  - Vehicle registration document - the full log book must be presented. If you do not currently hold the full log book, the green new keeper slip will only be considered if accompanied by a comprehensive Bill of Sale showing the vehicle type, registration number, purchase details, colour of vehicle, make and model, number of passengers and the date the vehicle was first registered.
  - A current insurance certificate or cover note showing compliance with part vi of the Road Traffic Act 1988 and the use of the vehicle for public/private hire and reward. Please note that any named person on the policy must hold a Colchester Borough Council hackney carriage/private hire driver's badge.
  - A current MOT Certificate if the vehicle has been registered for one year or more.
  - Your DVLA driving licence (a copy is not acceptable) the address shown on the driving licence must correspond with that shown on the registration document.
  - The Pass Slip from the garage inspection.
  - The correct fee.
  - The completed application form and Vehicle Proprietor Declaration.
  - A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

The application form must be accompanied by the following documentation for all parties with a registered interest in the vehicle, as declared on the vehicle proprietor declaration—

- A current passport or birth certificate
- Evidence that you may legally work in the UK
- A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is

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

not possible a Certificate of Good Character is required.

- Proof that you have completed the Council's Mandatory Safeguarding Training

4. Once the application process has been completed to the Council's satisfaction, it will issue the licence plate.

### Plate Renewal Process

1. Access the Council's web page for information on how to renew a vehicle licence. Read the Hackney Carriage & Private Hire Licensing Policy and Conditions as they may have changed.

2. The vehicle will need to be inspected at a Council approved garage, currently Riverside. An inspection is not required if the vehicle is brand new.

3. The following documentation must be supplied to the Council by the registered vehicle proprietor.

- Vehicle registration document - the full log book must be presented.
- A current insurance certificate or cover note showing compliance with part vi of the Road Traffic Act 1988 and the use of the vehicle for public/private hire and reward. Please note that any named person on the policy must hold a Colchester Borough Council hackney carriage/private hire drivers badge.
- A current MOT Certificate if the vehicle has been registered for one year or more.
- Your DVLA driving licence (a copy is not acceptable) the address shown on the driving licence must correspond with that shown on the registration document.
- The correct fee.
- The Pass slip from the garage inspection (currently Riverside)
- The completed application form.
- A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

The application form must be accompanied by the following documentation for all parties with a registered interest in the vehicle, as declared on the vehicle proprietor declaration –

- A current passport or birth certificate
- Evidence that you may legally work in the UK
- A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide

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

criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

- Proof that you have completed the Council's Mandatory Safeguarding Training

4. Once the renewal process has been completed to the satisfaction of the Council, it will issue the licence plate.

**Please note** – A vehicle can be consecutively licensed, for the 12 year period, as a private hire vehicle or hackney carriage if the vehicle is over five years old provided that it remains, at all times, licensed by the authority.

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### Determination of an application for a new licence or renewal

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

The transfer of a plate is usually occasioned by the sale of a business. The Council has no interest in the sale of the business; any agreement between you and a third party in relation to the use of the vehicle is of no concern to the Council and you should obtain your own legal advice.

The plate however is owned by the Council and remains its property at all times. The transfer of the plate to another owner requires the consent of the Council and the following process should be followed –

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

1. Permission to transfer the plate, which is the property of the Council, must first be sought from the Council. Please put your request in writing to the Licensing Manager at [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk) or to the Licensing Manager at Communities, Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester CO3 3WG. Permission to transfer must be sought by all parties with an interest in the plate (i.e. all those named on the Vehicle Proprietor Declaration). The request must be signed by all parties and proof of identity will need to be provided (the ID provided will need to prove name, address and signature). Where the Council is not satisfied with the proof of identity provided it reserves the right to require all parties to attend the Council offices to confirm their agreement to the transfer of the plate.
2. You will receive confirmation in writing of the Council's decision.
3. If the Council has authorised the transfer of the plate you need to call the Contact and Support Centre on 01206 282520 to make an appointment for a hackney carriage plate transfer. The old and new holder of the plate will need to attend this meeting. (It is not necessary for all joint holders to be at this meeting except in the circumstances outlined in point 1 above).
4. Please bring with you to the appointment the following documentation –
  - Vehicle registration document - the full log book must be presented in the name of the new holder of the plate.
  - A completed hackney carriage change of owner form.
  - The completed letter of release.
  - A basic DBS for the proposed new plate holder if they do not hold a current hackney carriage/private hire driver's licence. The DBS must be less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.
  - A certificate of insurance in the new plate holder's name, with all proposed taxi drivers listed as named drivers.
  - A PATs certificate if the vehicle holds a disabled plate.
  - A Vehicle Proprietor Declaration completed by the new holder of the plate.
  - The correct fee (to be paid by credit or debit card).

The application form must be accompanied by the following documentation for all parties with a registered interest in the vehicle, as declared on the Vehicle Proprietor Declaration –

- A current passport or birth certificate
- Evidence that you may legally work in the UK
- A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide

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

criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

- Proof that you have completed the Council's Mandatory Safeguarding Training

5. Once the application process has been completed to the Council's satisfaction, it will issue the licence plate.

6 There is no right of appeal in the event that the Council refuses the transfer of the plate.

**Please note** – the Council has no interest in the business however, if the full vehicle registration documentation is not available the Council will in some circumstances agree to transfer of the plate subject to appropriate proof being provided of the transfer of the business. Plate holders in this position should expect to be asked to provide a Bill of Sale proving that the proposed new holder of the plate has purchased the vehicle (the Bill of Sale should include full details of the car, the name and address of both the buyer and seller, and should be signed by both parties and dated) and a bank statement showing the exchange of monies.

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**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 Licensing Standards and Conditions

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

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## 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.

As a private hire vehicle proprietor, the Council must be satisfied that you are fit and proper, safe and suitable, to hold a private hire vehicle licence. This requirement applies to all those with an interest in the vehicle as declared on the Proprietor Requisition Declaration.

**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.

Applications for the grant, renewal or transfer of a licence must be made, and will be determined, in accordance with the relevant process and procedures set out in the Policy, its annexes and appendices.

**Once your vehicle has been licensed it cannot be driven by anyone else unless they hold a hackney carriage/private hire driver's licence. 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.**

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# Annex 3 - Private Hire Licensing Standards and Conditions

## Pre Licensing Standards

Only those vehicles which comply with the specification detailed below, and those proprietors who are fit and proper, safe and suitable can be granted a private hire vehicle licence by Colchester Borough Council.

### 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.

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
- From 2025 all new registrations to meet an LPG, low emission or electric hybrid standard.

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

# Annex 3 - Private Hire Licensing Standards and Conditions

manner.

## 3. Colour

3.1 Private hire vehicles **must not** be black and black wrapping of vehicles is not permitted. 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.

## 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 and Tyres

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

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

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

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

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

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

5.7 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

# Annex 3 - Private Hire Licensing Standards and Conditions

5.8 A vehicle must not be presented for examination and test with a space saver spare tyre in use.

## 6. Steering

6.1 The vehicle must be right hand drive.

## 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.

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 Factory fitted tinted windows are permitted in the rear of the vehicle only.

9.3 The vehicle must not be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.

# Annex 3 - Private Hire Licensing Standards and Conditions

## 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.
- 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 appropriate equipment for the loading of a wheelchair and passenger. Provision must be made for any removable device used for loading 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. Electrical Equipment

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

## 13. Seat Belts

(Please follow the electronic links in the paragraphs below for the current law on seat belts)

# Annex 3 - Private Hire Licensing Standards and Conditions

13.1 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 and children's car seats. This will however ordinarily exclude limousines and vintage cars.

## 14. Vehicle Proprietors

14.1 In order to hold a private hire vehicle licence you must –

- Be 18 years or over
- Complete the application form and pay the required fee
- Complete the Proprietor Requisition Declaration

14.2 The application form must be accompanied by the following documentation for all parties with an interest in the vehicle -

- A current passport or birth certificate
- Evidence that you may legally work in the UK
- A basic DBS less than three months old when the application is made. This must be accompanied by a statutory declaration listing all previous convictions, whether or not they are spent, and any other relevant material information.

If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

- Proof that you have completed the Council's Mandatory Safeguarding Training

14.3 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, its annexes and appendices. 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.

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

14.5 The Convictions and Penalty Point Scheme will be applied as appropriate in respect of any breaches of legislation and/or conditions.

## Conditions of Licence

### 1. Vehicle Testing

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

# Annex 3 - Private Hire Licensing Standards and Conditions

- 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 a Council approved testing station; and the Authority has received the appropriate notification.

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

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

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

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

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

## 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. The plates should be displayed on the front and the rear of 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.

## Annex 3 - Private Hire Licensing Standards and Conditions

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

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.

# Annex 3 - Private Hire Licensing Standards and Conditions

## 6. Notification of Changes affecting the Licence

6.1 You must notify the Council, in writing 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](mailto: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](mailto: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](mailto:eps.support@colchester.gov.uk) within 28 days of its issue.

## 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.

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

7.3 Vehicles must display on the front doors of the vehicle a sign stating the trade name, address and telephone number of the Private Hire Operator. This sign must contain the words 'pre-booked only' and 'private hire'. 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.

7.4 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. 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.
- b. 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.
- c. 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



## Annex 3 - Private Hire Licensing Standards and Conditions

proprietor to make sure that they do so (available at [www.cap.org.uk](http://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.
- d. All product advertising must be applied by a professional company and no reflective materials may be used.
- e. Wheelchair accessible vehicles may display the disability symbol on the wheelchair access door(s) only.
- f. 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.
- g. Any damaged or disfigured advertisement signs must be removed immediately.

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 fix and maintain in the vehicle any signs or notices required by the Council.

# Annex 3 - Private Hire Licensing Standards and Conditions

## 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 turned on at the start of the journey and 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.

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. Insurance

9.1 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.

## 10. Temporary Replacement Vehicles

10.1 Where a vehicle cannot be used because it has been involved in an accident or is unusable for mechanical reasons, 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. At the end of the period the plate must be returned to the Council.

10.2 The temporary replacement vehicle, which can be any colour, should 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

# Annex 3 - Private Hire Licensing Standards and Conditions

Riverside Workshop, Unit 7, Westside, Stanway CO4 3QE.

## 11. Return of Plates

11.1 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. Additional specifications for wheelchair accessible vehicles.

12.1 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.

12.2 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.

12.3 All devices used and carried in the vehicle in connection with access to and egress from the vehicle must be carried in such a way as not to impede access or egress of passengers or otherwise compromise their safety. All such devices to be clearly marked with the vehicle's registration number.

12.4 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.

12.5 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.

12.6 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.

12.7 All drivers who use a wheelchair accessible vehicle must attend a Passenger Assistance Training course and lodge the attendance/pass certificate with the Licensing Team.

## Annex 3 - Private Hire Licensing Standards and Conditions

12.8 Refusal to accept a wheelchair user as a fare paying passenger, without an appropriate exemption, for any reason, will not be tolerated and a prosecution may follow.

12.9 Any damage to the equipment to facilitate access and egress by a wheelchair user must be reported immediately to the Council and must be repaired within 7 days.

12.10 Any wheelchair accessible vehicle found to be not carrying the necessary equipment to facilitate access and egress or found to be carrying damaged equipment 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.

### 13. Trailers and Roof Carriers

13.1 A trailer can be towed by a licensed private hire vehicle provided that:

- a. The vehicle towing is be suitable for towing the intended trailer in accordance with the relevant regulations
- b. 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 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

## Annex 3 - Private Hire Licensing Standards and Conditions

when the trailer is in use and standing uncoupled from a vehicle must be activated.

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

### 14. Alteration of Vehicle

14.1 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.

### 15. Liquid Petroleum Gas (LPG)

15.1 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.

15.2 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.

### 16. Wheels

16.1 Space-saver spare tyres, where supplied as standard equipment to the vehicle, will be accepted for use in an emergency. However, they may only be used to enable passengers to be taken, at an appropriate speed, to their destination. The vehicle may not then be used to convey passengers until the appropriate repairs have been made. 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.

# Annex 3 - Private Hire Licensing Standards and Conditions

## 17. Seat Belts

(Please follow the electronic links in the paragraphs below for the current law on seat belts)

17.1 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 and children's car seats.

## 18. Selling a Vehicle

18.1 If you transfer your interest in the vehicle to someone else, who is going to use it for hackney carriage/private hire work, you must inform the Council in writing within 14 days of the name and address of the person to whom you have transferred your interest. If this is not done you, as the existing owner, will remain responsible for the private hire vehicle licence until such time as the new owner completes the change of owner paperwork.

## 19. Disclosure and Barring

19.1 You must, as a vehicle proprietor or person with a registered interest in the vehicle, submit a basic disclosure and barring certificate to the Council. This disclosure must have been issued within the previous 3 months. The DBS must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. The DBS and accompanying list of previous convictions etc is required every year on renewal of the plate. If you are also a licensed driver with the Council this DBS and accompanying statement, where relevant, is not required.

19.2 On the transfer of the vehicle licence to a new owner, the new owner must, as a vehicle proprietor or person with a registered interest in the vehicle, submit a basic disclosure and barring certificate to the Council. This disclosure must have been issued within the previous 3 months. The DBS must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. The DBS and accompanying list of previous convictions etc is then required annually on renewal of the plate. If you are also a licensed driver with the Council this DBS and accompanying statement, where relevant, is not required.

19.3 If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

# Annex 3 - Private Hire Licensing Standards and Conditions

## 20. Vehicle Proprietors

### 20.1 You must

- Notify the Authority, in writing, within a period of 48 hours of any conviction, caution or charge for a criminal offence, motoring offence, disqualification or fixed penalty notice imposed or if you are the subject of criminal investigation whilst the licence is in force.
- 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.

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## 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.

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# Annex 3 - Private Hire Licensing Standards and Conditions

## Application and Renewal Process

### Application Process

1. Access the Council's web page for information on how to license a vehicle and read the Hackney Carriage & Private Hire Licensing Policy and Conditions.
2. The vehicle will need to be inspected at a Council approved garage, currently Riverside. An inspection is not required if the vehicle is brand new.
3. The following documentation must be supplied to the Council by the registered vehicle proprietor.
  - Vehicle registration document - the full log book must be presented. If you do not hold the full log book, the new green registered keeper slip will only be considered if accompanied by a comprehensive bill of sale showing the vehicle type, registration number, purchase details, colour of vehicle, make and model, number of passengers and the date the vehicle was first registered.
  - A current insurance certificate or cover note showing compliance with part vi of the Road Traffic Act 1988 and the use of the vehicle for public/private hire and reward. Please note that any named person on the policy must hold a Colchester Borough Council hackney carriage/private hire drivers badge.
  - A current MOT Certificate if the vehicle has been registered for one year or more.
  - Your DVLA driving licence (a copy is not acceptable) the address shown on the driving licence must correspond with that shown on the registration document.
  - The Pass slip from the garage inspection (currently at Westside).
  - The correct fee.
  - The completed application form and Vehicle Proprietor Declaration.
  - A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

The application form must be accompanied by the following documentation for all parties with a registered interest in the vehicle, as declared on the vehicle proprietor declaration—

- A current passport or birth certificate
- Evidence that you may legally work in the UK
- A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is



## Annex 3 - Private Hire Licensing Standards and Conditions

- not possible a Certificate of Good Character is required.
  - Proof that you have completed the Council's Mandatory Safeguarding Training
4. Once the application process has been completed to the Council's satisfaction, it will issue the licence plate to the vehicle licence holder.

### Plate Renewal Process

1. Access the Council's web page for information on how to renew a vehicle licence. Read the Hackney Carriage & Private Hire Licensing Policy and Conditions as they may have changed.
2. The vehicle will need to be inspected at a Council approved garage, currently Riverside. An inspection is not required if the vehicle is brand new.
3. The following documentation must be supplied to the Council by the registered vehicle proprietor.
  - Vehicle registration document.
  - A current insurance certificate or cover note showing compliance with part vi of the Road Traffic Act 1988 and the use of the vehicle for public/private hire and reward. Please note that any named person on the policy must hold a Colchester Borough Council hackney carriage/private hire drivers badge.
  - A current MOT Certificate if the vehicle has been registered for one year or more.
  - Your DVLA driving licence (a copy is not acceptable) the address shown on the driving licence must correspond with that shown on the registration document.
  - The correct fee.
  - The Pass slip from the garage inspection (currently at Westside).
  - The completed application form.
  - A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

The application form must be accompanied by the following documentation for all parties with a registered interest in the vehicle, as declared on the vehicle proprietor declaration –

- A current passport or birth certificate
- Evidence that you may legally work in the UK
- A basic DBS less than three months old when the application is made. This must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, provide criminal records information from the country concerned or where this is

## Annex 3 - Private Hire Licensing Standards and Conditions

- not possible a Certificate of Good Character is required.
  - Proof that you have completed the Council's Mandatory Safeguarding Training
4. Once the renewal process has been completed to the satisfaction of the Council, it will issue the licence plate to the vehicle licence holder.

**Please note** – A vehicle can be consecutively licensed, for the 12 year period, as a private hire vehicle or hackney carriage if the vehicle is over five years old provided that it remains, at all times, licensed by the authority.

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### Determination of Application for the Grant or Renewal of a Licence and the Right of Appeal

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

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**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 Licensing Standards and Conditions

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.

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

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

Applications for the grant or renewal of a licence must be made, and will be determined, in accordance with the Council's Hackney Carriage and Private Hire Licensing Policy, its annexes and appendices.

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## Pre-Licensing Standards

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

- 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.
- Have a basic DBS less than three months old when the application is made. This must be accompanied by a statutory declaration listing all previous convictions, whether or not they are spent, and any other relevant material information. If you have spent six or more continuous months outside the UK, you must provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.
- Have completed the Council's safeguarding training and provide evidence of having done so to the Council.

Please note - Where the application is made by a company or partnership, the Council will apply the 'fit and proper' test to each of the directors or partners in that company or partnership and the provisions in relation to the DBS, as outlined above, apply for each party.

- Provide a copy of your policy on employing ex-offenders in roles that relate to the booking and dispatch of vehicles.
- 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.

**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

# Annex 4 - Operator Licensing Standards and Conditions

ensure that any necessary planning permissions are in place.

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## CONDITIONS OF LICENCE

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

### 1. Records

1.1 You must keep a rolling record of bookings data for a minimum of 12 months, 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, howsoever booked, you must record and keep the following details -

- 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 including a breakdown of any additional charges to be levied for additional drop offs/ baggage etc.
- the final fee charged where this is different from the original fare quoted
- 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)
- the name of any individual who responds to the booking request
- the name of any individual who dispatches the vehicle

You have a duty under data protection legislation to protect the information you record. Please ensure you are familiar with the guidance issued by the Information Commissioner's Office on registering as a data controller and how to meet your obligations.

#### Drivers

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

# Annex 4 - Operator Licensing Standards and Conditions

- 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 details –

- name and address of the licensed proprietor of the vehicle
- make and registration number of the vehicle
- date the vehicle commenced operating under your operator's licence
- the vehicle plate number and its expiry date
- make and colour
- 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.
- all staff that take bookings or dispatch vehicles.
- the register of checks carried out in relation to the DBS requirement for other

## Annex 4 - Operator Licensing Standards and Conditions

staff.

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 You must not cause or permit the words 'taxi' or 'cab' on any private hire vehicle operated by or operating under your operator's licence.

2.4 You must not purchase a black vehicle to be used as a private hire vehicle with effect from 1 January 2019.

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 the drivers' licence issued by the Council to drive hackney carriage and private hire vehicles. (These are set out in the Council's Policy).

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 You are responsible for reimbursement to the hirer in the event of a contract not being satisfactorily honoured where the Council finds in favour of the complainant after a full investigation.

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.

2.12 Ensure that those drivers using fully wheelchair adapted vehicles have undertaken a Passenger Assisted Transport training course.

2.13 Ensure that your drivers and other staff are aware of and adhere to the Code of Conduct for Working with Vulnerable Persons. In the case of App based operators it is expected that the business will be able to demonstrate that the appropriate area managers have completed the necessary safeguarding training and ensure that their drivers and other staff are aware of and adhere to the Code of Conduct for Working with Vulnerable Persons.

## **Annex 4 - Operator Licensing Standards and Conditions**

2.14 Prior to employment of staff, you must carry out sufficient checks on the background of your control room staff, responsible for bookings and the dispatch of vehicles, to ensure they are a fit and proper person to carry out their tasks and duties in a professional and confident manner. These checks must include the following –

- A basic Disclosure and Barring Service report issued within the previous 3 months
- Proof of Right to work documentation

And may include the following –

- A Certificate of Good Conduct for the relevant foreign nationals
- Character references from previous employer(s)

You are permitted to use a responsible organisation to request the check on your behalf.

2.15 Provide appropriate training, including safeguarding training, customer service and data protection and maintain training records for all staff.

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

2.17 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.

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

2.19 You must notify the Council of any change in directors or partners and ensure that where changes are made the requirements in relation to the provision of the DBS and accompanying information are fulfilled.

### **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, app programmes and radio equipment are maintained in good working order.



# **Annex 4 - Operator Licensing Standards and Conditions**

- 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.

## **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 48 hours, 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.

4.5 You must notify the Council of any complaints received.

## **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 either in Colchester or elsewhere. It is against the law for you to pass bookings directly to a private hire vehicle or driver who is not licensed by the same Council as you.

5.2 If you have offices or bases in multiple council areas (for which you will need licences from each Council concerned) you can pass bookings between your offices/bases, but cannot give jobs directly to drivers licensed by the other council(s). You will also need to maintain separate records for each council area, which also show every job that has been contracted to or from another office. In these circumstances you must –



## Annex 4 - Operator Licensing Standards and Conditions

- a) charge the fare agreed at the time of booking.
- b) keep a record of the initial booking details for audit purposes.
- c) 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.
- d) identify an alternative private hire operator and advise the original hirer of that operator's details.
- e) 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.
- f) 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.
- g) make all records available for inspection on request of an authorized officer of the Council or Police officer.

5.3 You may sub-contract jobs to hackney carriage proprietor, although this must remain a minority part of the overall work undertaken by the hackney carriage vehicle.

5.4 Where you outsource booking and dispatch functions you must keep evidence that comparable protections in relation to children and vulnerable adults are in place and are applied by the company to whom you outsource these functions.

### 6. Carrying Vehicles (PSV) Licensed Drivers

6.1 Members of the public are entitled to expect when making a booking with you that they will receive a private hire licensed vehicle and driver. Therefore, the use of a driver who holds a PSV licence and the use of a PSV vehicle such as a minibus to undertake a private hire vehicle booking is not permitted without the informed consent of the booker. Where a private hire vehicle is unsuitable because a larger vehicle is needed to fulfil the booking, the booker should be informed that a PSV is necessary, and that a PSV licensed driver will be used who is subject to different checks and not required to have an enhanced DBS check.

### 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.

# **Annex 4 - Operator Licensing Standards and Conditions**

## **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, where it is appropriate to do so, 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 + 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).

## **12. Convictions and Penalty Points**

12.1 The Convictions Policy and Penalty Point Scheme will be applied as appropriate.

## **14. Disclosure and Barring Requirements**

14.1 You must submit a basic disclosure and barring certificate to the Council. This disclosure must have been issued within the previous three months. The DBS must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. The DBS is required every year on the anniversary of the date of the grant of the operator licence.

# Annex 4 - Operator Licensing Standards and Conditions

14.2 If you have spent six or more continuous months outside the UK, you must provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

Please note - Where the licence is held by a company or partnership, the provisions in relation to the DBS apply to each of the directors or partners in that company or partnership. If you are already a licensed driver with the authority, this requirement will not apply.

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## 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.

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## New and Renewal Application Process

1. Access the Council's web page for information on how to apply for or renew an operator licence and read the Hackney Carriage & Private Hire Licensing Policy and Conditions.

2. You must pay the required fee and complete the relevant application form supplying the following documentation –

- A current Passport or Birth Certificate
- 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.
- Insurance certificate showing public liability of £2 million or more
- A basic disclosure and barring Check. This disclosure must have been issued within the previous three months. The DBS must be accompanied by a list of all previous convictions, whether or not they are spent, and any other relevant material information. The DBS is required on application and then every year on the anniversary of the date of the grant of the operator licence. If you have spent six or more continuous months outside the UK, you must provide criminal records information from the country concerned or where this is not possible a Certificate of Good Character is required.

Please note - Where the licence is held by a company or partnership, the provisions in relation to the DBS apply to each of the directors or partners in that company or

## Annex 4 - Operator Licensing Standards and Conditions

partnership. If you are already a licensed driver with the authority, this requirement will not apply.

In the case of a new application you will also need to provide -

- Insurance certificates for any vehicle already owned

In the case of the renewal of an application you will also need to provide -

- List of the drivers working for you.
- List of cars operating under your licence.

3. Your operator's licence will be granted if the paperwork has been completed to the satisfaction of the Council and no matters of concern have been identified.

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# Annex 4 - Operator Licensing Standards and Conditions

## Determination of Application for the Grant or Renewal of a Licence and the Right of Appeal

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

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**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, proprietors and operators are trustworthy with no propensity for dishonesty.

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

1.4 Any decision, taken by officers of the Council and/or the Licensing Committee, needs to be justified, proportionate and consistent. The Policy has been drawn up to assist applicants, licence holders, officers and members of the Licensing Committee means exhaustive however, it is anticipated that any convictions not listed will have close enough themes to enable parallels to be drawn from other listed convictions. Also included within the Policy is the stance to be taken on other forms of intelligence which can be considered by the Council as part of its fit and proper test.

## 2. Relevant Legislation and Guidance

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

2.2 There is an ongoing responsibility under the 1976 Act for the Council to ensure that licence holders continue to meet the 'fit and proper' test for the duration of the licence period and Sections 61 & 62 of the '1976 Act', give the Council the power to suspend, revoke or to refuse to renew a driver or operator licence. Section 60 (1)( c) of the Local Government (Miscellaneous Provisions) Act 1976 permits the Council to

## Annex 5 - Convictions Policy

suspend, revoke or refuse to renew a vehicle licence.

2.3 The Council has had regard to the Statutory Taxi & Private Hire Standards in the formulation of its Policy and in meetings its ongoing obligation to ensure that a licensee remains safe and suitable to hold a licence.

### 3. General principles

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

3.2 Reference to 'applicants and 'licence holders' in this policy includes drivers, proprietors, those with a registered interest in the vehicle, and operators as appropriate.

3.3 By virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 'taxi' drivers are an exempt occupation for the purposes of the 1974 Act and convictions are therefore never spent. The Council is therefore able to take into account spent convictions but will do so in a fair and proportionate way.

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

3.5 The Policy also deals with any civil actions including injunctions, breaches of licensing conditions or byelaws, complaints, allegations, cautions and intelligence made available to the Council by the Police or other partner agencies, and anything considered by the Courts that hasn't resulted in a conviction.

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

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

## Annex 5 - Convictions Policy

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

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

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

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

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

3.12 The tables included within the Policy, at Paragraph 5 below, set out the number of points that will be attached for each offence when determining an application or when a licence is renewed or reviewed. The points may be applied to new applicants and existing licence holders. The points will remain on the licence as specified in the table.

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



# Annex 5 - Convictions Policy

## 4. Application of Points

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

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

**Orange (5 to 8 points)** - Where the convictions of an applicant result in the accumulation of between 8 and 5 points an applicant should expect their application to be referred to the Licensing Committee for determination.

**Green (0 to 4 points)** - Where the convictions of an applicant result in the accumulation of 4 or less points the application is likely to be granted with the relevant number of points attached to the licence. An existing licence holder should expect that the points will be applied to their licence. The application of points in both circumstances can be appealed to the the Licensing Committee.

**Please note – In addition to points for convictions, licence holders may also receive penalty points for breaches of policy etc. under the Council's Penalty Points Scheme. These points will be added to those given under this Policy and where 12 or more points are reached in any one year the licence holder should expect consideration to be given to the suspension or revocation of their licence. Points will not be given under both Policies for the same offence.**

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

# Annex 5 - Convictions Policy

## 5. Investigation, Determination and Appeal Procedure

### Applicants for a New Licence

5.1 The Council will deal with offences as follows –

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

## Annex 5 - Convictions Policy

considers that the case has been proved by the applicant that there were genuine and mitigating circumstances.

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

### Existing Licence Holders

5.2 The Council will deal with offences as follows –

- a. On receiving a disclosure from the DBS or other notification a member of the Licensing Team will assess whether any of the convictions and/or any of the additional information received has any relevance as to whether the licence holder is a fit and proper person to hold a licence,
- b. A member of the Licensing Team will investigate the facts, which may include interviewing the licence holder under caution where an offence has been committed under the relevant legislation. Interviews under caution will not take place in relation to breaches of policy or general complaints. The Council may also, as part of its investigation, request a Police National Computer Check (PNC) from the Police to ensure it has all the evidence necessary to properly investigate the matter; this evidence will be made available to the Committee to assist it in reaching its decision. This may mean that matters that formed part of a previous decision are reconsidered in the light of new evidence and this may result in a licence, previously granted, being revoked.
- c. If following completion of the investigation (set out in 5.2 a and b above) there are matters of significant concern regarding an existing licence holder that requires urgent action, and which circumstances and/or the Policy indicates should result in the revocation of the licence or the refusal to renew an existing licence, the process set out at 5.3 below will be followed. This will usually, but not always, mean that the matters of concern have placed the licence holder into the red category on the Council's tables indicating that a licence holder should expect consideration to be given to the revocation of their licence on the grounds that they are not fit and proper, safe and suitable, to hold a licence. In such circumstances there is no right of appeal to the Licensing Committee. The right of appeal is to the Magistrates Court.
- d. In all other cases (i.e. where 5.2.c does not apply), upon completion of the investigation, points may be applied. Notification that points have been given will be sent in writing to the licence holder and, where appropriate, a copy will be sent to their vehicle proprietor or operator within 7 days of the decision.
- e. The award of points can be appealed to the Licensing Committee and this should be done within 21 days of being notified of the award of points. Appeals must be made in writing to [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk) or to the Licensing, Food & Safety Manager, Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester CO3 3WG.

## Annex 5 - Convictions Policy

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

### Revocation or refusal to renew an existing licence

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

# **Annex 5 - Convictions Policy**

## **Examples of how the scheme will operate**

### **New Applicants**

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

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

### **Existing Licence Holders**

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

# 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	Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for any of the offences listed in this table
Manslaughter	
Manslaughter or culpable homicide while driving	
Causing death by dangerous or careless driving	
Gross indecency with a female	
Gross indecency with a male	
Indecent assault on a female	
Indecent assault on a child under 16 years	
Buggery	
Rape	
Indecent exposure	
Indecent exposure to the annoyance of residents	
Indecent exposure with intent to insult a female	
Unlawful sexual intercourse	
Importuning	
Living of immoral earnings	
Prostitution	
Possessing or distributing obscene material	
Exploitation *	

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

## 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	12	12	12	8	6	5	4	3	2	0
Breach of the Peace	3	2	1	0	0	0	0	0	0	0
Drunk and Disorderly	3	2	1	0	0	0	0	0	0	0
Obstruction	12	12	12	6	4	2	0	0	0	0
Indecent/nuisance telephone calls	12	12	12	12	12	8	6	4	2	1

## Annex 5 - Convictions Policy

### Level 3 - Dishonesty crime

Offences (including but not limited to) –

<b>Dishonesty Crime</b>										
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) –

<b>Smoking</b>										
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
<b>BA40</b>	Causing death by driving while disqualified	<p>12 for all offences listed in this table</p> <p>Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for such an offence.</p> <p>A current licence would be revoked in all but the most exceptional circumstances</p>
<b>BA60</b>	Causing serious injury by driving while disqualified	
<b>CD40</b>	Causing death through careless driving when unfit through drink	
<b>CD50</b>	Causing death by careless driving when unfit through drugs	
<b>CD60</b>	Causing death by careless driving with alcohol level above the limit	
<b>CD70</b>	Causing death by careless driving then failing to supply a specimen for alcohol analysis	
<b>CD80</b>	Causing death by careless or inconsiderate driving	
<b>CD90</b>	Causing death by driving: unlicensed, disqualified or uninsured drivers	
<b>DD60</b>	Manslaughter or culpable homicide while driving a vehicle	
<b>DD80</b>	Causing death by dangerous driving	
<b>DG60</b>	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)									
<b>AC10</b>	Failing to stop after an accident	12	12	12	12	12	8	6	4	2	1
<b>BA10</b>	Driving while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
<b>BA30</b>	Attempting to drive while disqualified by order of court	12	12	12	12	12	8	6	4	2	1
<b>CU80</b>	Breach of requirement as to control of the vehicle, mobile phone etc.	12	12	12	12	12	8	6	4	2	1
<b>DD10</b>	Causing serious injury by dangerous driving	12	12	12	12	12	8	6	4	2	1
<b>DD40</b>	Dangerous driving	12	12	12	12	12	8	6	4	2	1
<b>DD90</b>	Furious driving	12	12	12	12	12	8	6	4	2	1
<b>DG10</b>	Driving or attempting to drive with drug level above the specified limit	12	12	12	12	12	8	6	4	2	1
<b>DG40</b>	In charge of a vehicle while drug level above a specified limit	12	12	12	12	12	8	6	4	2	1
<b>DR10</b>	Driving or attempting to drive with alcohol level above the limit	12	12	12	12	12	8	6	4	2	1
<b>DR20</b>	Driving or attempting to drive while unfit through drink	12	12	12	12	12	8	6	4	2	1
<b>DR30</b>	Driving or attempting to drive then failing to supply a specimen for analysis	12	12	12	12	12	8	6	4	2	1
<b>DR31</b>	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
<b>DR40</b>	In charge of a vehicle while alcohol level above limit	12	12	12	12	12	8	6	4	2	1

## Annex 5 - Convictions Policy

<b>DR50</b>	In charge of a vehicle while unfit through drink	12	12	12	12	12	8	6	4	2	1
<b>DR60</b>	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
<b>DR61</b>	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
<b>DR70</b>	Failure to provide a specimen for breath test	12	12	12	12	12	8	6	4	2	1
<b>DR80</b>	Driving or attempting to drive when unfit through drugs	12	12	12	12	12	8	6	4	2	1
<b>DR90</b>	In charge of a vehicle when unfit through drugs	12	12	12	12	12	8	6	4	2	1
<b>AC20</b>	Failing to give particulars or report an accident within 24 hours	12	12	12	12	12	8	6	4	2	1
<b>AC30</b>	Undefined accident offences	12	12	12	12	12	8	6	4	2	1
<b>IN10</b>	Using a vehicle uninsured against third party risks	12	10	8	7	6	5	4	3	2	1
<b>LC20</b>	Driving otherwise than in accordance with a licence	12	10	8	7	6	5	4	3	2	1
<b>MS50</b>	Motor racing on the highway	12	10	8	7	6	5	4	3	2	1
<b>MS90</b>	Failure to give information as to the identity of a driver etc.	12	10	8	7	6	5	4	3	2	1
<b>UT50</b>	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

## Annex 5 - Convictions Policy

<b>CU20</b>	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3	3	3	3	2	1	0	0	0	0
<b>CU30</b>	Using a vehicle with defective tyre (points given per tyre)	3	3	3	3	2	1	0	0	0	0
<b>CU40</b>	Using a vehicle with defective steering	3	3	3	3	2	1	0	0	0	0
<b>CU50</b>	Causing or likely to cause danger by reason of load or passengers	3	3	3	3	2	1	0	0	0	0
<b>CD10</b>	Driving without due care and attention	10	9	8	7	6	5	4	3	2	1
<b>CD20</b>	Driving without reasonable consideration for other road users	10	9	8	7	6	5	4	3	2	1
<b>CD30</b>	Driving without due care and attention or without reasonable consideration for other road users	10	9	8	7	6	5	4	3	2	1
<b>SP10</b>	Exceeding goods vehicle speed limits	3	3	3	3	2	1	0	0	0	0
<b>SP20</b>	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3	3	3	3	2	1	0	0	0	0
<b>SP30</b>	Exceeding statutory speed limit on a public road	3	3	3	3	2	1	0	0	0	0
<b>SP40</b>	Exceeding passenger vehicle speed limit	3	3	3	3	2	1	0	0	0	0
<b>SP50</b>	Exceeding speed limit on a motorway	3	3	3	3	2	1	0	0	0	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)									
<b>MS10</b>	Leaving a vehicle in a dangerous position	3	3	3	3	2	1	0	0	0	0
<b>MS20</b>	Unlawful pillion riding	3	3	3	3	2	1	0	0	0	0
<b>MS30</b>	Play Street Offences	2	2	2	2	1	0	0	0	0	0
<b>MS60</b>	Offences not covered by other codes (as appropriate)	3	3	3	3	2	1	0	0	0	0
<b>MW10</b>	Contravention of special roads regulations (excluding speed limits)	3	3	3	3	2	1	0	0	0	0
<b>PC10</b>	Undefined contravention of pedestrian crossing regulations	3	3	3	3	2	1	0	0	0	0
<b>PC20</b>	Contravention of pedestrian crossing regulations with moving vehicle	3	3	3	3	2	1	0	0	0	0
<b>PC30</b>	Contravention of pedestrian crossing regulations with stationary vehicle	3	3	3	3	2	1	0	0	0	0
<b>TS10</b>	Failing to comply with traffic light signals	3	3	3	3	2	1	0	0	0	0
<b>TS20</b>	Failing to comply with double white lines	3	3	3	3	2	1	0	0	0	0
<b>TS30</b>	Failing to comply with 'stop' sign	3	3	3	3	2	1	0	0	0	0
<b>TS40</b>	Failing to comply with direction of constable/warden	3	3	3	3	2	1	0	0	0	0
<b>TS50</b>	Failing to comply with traffic sign (excluding 'stop' signs)	3	3	3	3	2	1	0	0	0	0
<b>TS60</b>	Failing to comply with school crossing patrol sign	3	3	3	3	2	1	0	0	0	0
<b>TS70</b>	Undefined failure to comply with traffic directions sign	3	3	3	3	2	1	0	0	0	0

## 6. Driving Offences

## Annex 5 - Convictions Policy

6.1 If the number of current points on the DVLA licence exceeds 12 points a new application will be refused or a current licence suspended or revoked.

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

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

### Failure to report relevant matters

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

6.5 A licence would not normally be granted or a suspension lifted until the completion of a 'driving life skills' training with a nationally recognised and accredited driving assessment programme.

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

**Implementation and Review of the Policy** - The Policy will be monitored and reviewed on a regular basis. Any proposed significant changes will be subject to full consultation; minor amendments which do not affect the substance of the Policy may be made without consultation.

# **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, proprietors, 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 provided 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 and Guidance**

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

2.2 There is an ongoing responsibility under the 1976 Act for the Council to ensure that licence holders continue to meet the 'fit and proper' test for the duration of the licence period. Sections 61 & 62 of the '1976 Act', give the Council the power to suspend, revoke or to refuse to renew a driver or operator licence. Section 60 (1)( c) of the Local Government (Miscellaneous Provisions) Act 1976 permits the Council to suspend, revoke or refuse to renew a vehicle licence.

2.3 The Council has regard to the Statutory Taxi and Private Hire Vehicle Standards in meeting its ongoing obligation to ensure that a licensee remains safe and suitable to hold a licence.

## **3. General Principles**

3.1 The Scheme applies to all hackney carriage and private hire drivers and vehicle proprietors, including those with a registered interest in the vehicle, and operators.



## Annex 6 - Penalty Point Scheme

3.2 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.

3.3 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, regulations and its own Policy.

3.4 On occasions it may be determined not to award points but to proceed immediately to the revocation of a licence on the grounds that the Council considers that the licence holder is not fit and proper to hold a licence. In such cases the right of appeal will be direct to the Magistrates' Court.

3.5 Points issued under this Penalty Point Scheme will remain current for 12 months from the date they are issued. At the conclusion of a period of suspension 6 penalty points will remain on the licence.

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

3.7 If a licence holder fails to report a conviction, 4 points will be applied to the licence under this Scheme in addition to those that would be applied under the Council's Convictions Policy. If the conviction is reported only those points for the conviction will be applied to the licence

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

3.8 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.

3.9 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.

3.10 The Council may as part of its investigations into an alleged offence/complaint or similar matter request a Police National Computer check (PNC) 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 in the light of new evidence and may result in a licence, previously granted, being revoked.

## Annex 6 - Penalty Point Scheme

3.11 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 12 or more points are reached in any one year the licence holder should expect consideration to be given to the suspension or revocation of their licence. With the exception of points given for the failure to declare a conviction or similar matter, points will not be given under both Policies for the same offence. Points given under the Convictions Policy are not removed by a period of suspension.

### 4. Investigation, Committee and Appeal Procedure

4.1 The Council will deal with all genuine 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 where an offence has been committed under the relevant legislation. Interviews under caution will not take place in relation to breaches of policy or general complaints.
- 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. The award of points can be appealed to the Licensing Committee and this should be done within 21 days of being notified of the award of points. Appeals must be made in writing to [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk) or to the Licensing, Food & Safety Manager, Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester CO3 3WG
- d. 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
- e. The Committee will make its decision based on the evidence presented at the hearing and may exercise its discretion to increase or reduce the number of points that are applied. The number of points may be reduced where it considers that the case has been proved by the applicant that there were genuine and mitigating circumstances.
- f. The determination of the Licensing Committee is final and there is no right of appeal to the Magistrates Court.

## Annex 6 - Penalty Point Scheme

**Please note – it is important to exercise the right of appeal if the licence holder does not believe the points should have been awarded and wishes to challenge the evidence that resulted in the award of points. If further points are awarded and the 12 point threshold is reached, the earlier impositions of points cannot be challenged at a later suspension hearing. Points must be challenged in line with the process set out above. It is important to note that the Licensing Committee, in addition to dismissing or upholding the appeal, have the discretion to award a lesser or greater number of points than displayed on the Penalty Point Table.**

### Suspension of a licence

4.2 Where a licence holder accumulates 12 or more points the following suspension periods apply -

- 28 consecutive days for the first occasion
- 56 consecutive days for the second occasion
- Revocation for any third accumulation of 12 points on the grounds that the licence holder is not fit and proper or safe and suitable to hold a licence.

4.3 In cases where the licence holder has reached the threshold for suspension, the licence holder will be notified in writing that their licence is suspended following the accumulation of 12 or more points. The award of points can be appealed to the Licensing Committee and this should be done within 21 days of being notified of the award of points. Appeals must be made in writing to [licensing.team@colchester.gov.uk](mailto:licensing.team@colchester.gov.uk) or to the Licensing, Food & Safety Manager, Colchester Borough Council, Rowan House, 33 Sheepen Road, Colchester CO3 3WG

4.4 In cases where the licence holder has reached the threshold for revocation, the licence holder will be notified in writing that their licence is revoked following the accumulation of 12 or more points on the grounds that they are not fit and proper or safe and suitable to hold a licence. In such cases there is the right of appeal to the Magistrates Court. Appeals must be made in writing to the Clerk of the Court, Essex Magistrates' Court's, Osprey House, Hedgerows Business Park, Colchester Road, Springfield, Chelmsford CM2 5PF within 21 days of having been notified of the decision. Where an appeal has been made the implementation of the revocation will be held over until the appeal has been determined unless the licence has been revoked with immediate effect.

# Annex 6 - Penalty Point Scheme

## Revocation

4.5 If following completion of the investigation (set out in 4.1 a and b above) there are matters of significant concern requiring urgent action, which the Policy indicates should result in the revocation of the licence, the following process will be followed –

- a. The matter will be reported to the Licensing, Food & Safety Manager (the Manager) for determination.
  - b. The Manager will consider the matter and confirm his decision in writing to the licence holder. Depending on the nature of the offence the decision may be either to revoke the licence but allow the licence holder to operate until the appeal has been determined or revoke with immediate effect and not permit operation.
  - c. There is no right of appeal to the Licensing Committee in the case of revocation. The right of appeal is to the Magistrates' Court as set out in Paragraph 4.4 above.
-

# Annex 6 - Penalty Point Scheme

## Examples of how the scheme will operate

- a. A driver may be given 6 points for failing to report an accident within 72 hours. These points will stay on their hackney carriage/private hire driver's licence for 12 months from the date they are given. If the driver also has 3 points on their licence from a previous conviction they will carry 9 points for the duration of that year. After this time the 6 points will be removed and the points for the conviction will reduce in line with the Convictions Policy.
- b. If a driver already has 3 points under the convictions policy and then receives 9 points for plying for hire without a hackney carriage licence the driver should expect a 28 day suspension of the licence.

# Annex 6 - Penalty Point Scheme

## Penalty Point Table

No.	Offence/Breach of Conditions	Points Applicable	Driver	Vehicle Owner	Operator
1*	Giving false information on a licence application	6	x	x	x
2*	Failure to notify the Council of a change of address 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	3 6	x x	x x	-
3*	Plying for hire without a hackney carriage licence 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	9 12	x x	- -	- -
4*	Driving a licensed vehicle without a hackney carriage / private hire driver's licence	12	x	-	-
5*	Lending or parting with a hackney carriage / private hire driver's licence.	9	x	-	-
6*	Employing or permitting an unlicensed driver to drive a licensed vehicle	12	x	x	x
7*	Failure of a proprietor to retain in his/her possession copies of any hackney carriage driver's licence that permits them to drive their vehicle	3	-	x	-
8*	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	-

## Annex 6 - Penalty Point Scheme

<b>9*</b>	Failure to display a hackney carriage or private hire identification plate	4	x	-	-
<b>10*</b>	Refusal to take a fare without a reasonable excuse	4	x	-	-
<b>11*</b>	Charging more than the agreed or legal fare	6	x	-	-
<b>12*</b>	Obtaining more than the legal fare (including failure to refund)	6	x	-	-
<b>13*</b>	Travelling less than the lawful distance for an agreed fare	6	x	-	-
<b>14*</b>	Failure to wait after a deposit has been paid	6	x	-	-
<b>15*</b>	Carrying persons other than with the consent of the hirer	6	x	-	-
<b>16*</b>	Driving a licensed vehicle without the proprietor or operator's consent	12	x	-	-
<b>17*</b>	Allowing a person to drive a licensed vehicle without the proprietor or operator's consent	12	x	-	-
<b>18*</b>	Driver leaving a hackney carriage unattended on a rank	4	x	-	-
<b>19*</b>	Hackney carriage driver obstructing other hackney carriages	4	x	-	-
<b>20*</b>	Breach of Byelaws	4	x	x	-

## Annex 6 - Penalty Point Scheme

<b>21*</b>	A licensed driver using an unlicensed vehicle for private hire purposes	12	x	-	-
<b>22*</b>	Operating a private hire vehicle without a private hire operators' licence	9	-	-	x
<b>23*</b>	Operating an unlicensed vehicle as a private hire vehicle	12	x	x	x
<b>24*</b>	Operating a private hire vehicle when the driver is not licensed as a private hire driver	12	x	x	x
<b>25*</b>	Failure to notify the transfer of a vehicle licence	3	-	x	x
<b>26*</b>	Failure to present a hackney carriage or private hire vehicle for inspection upon request	6	x	x	x
<b>27*</b>	Failure to inform the Council where a hackney carriage or private hire vehicle is stored, if requested	3	x	x	x
<b>28*</b>	Failure to report an accident to the Council within seventy two hours	6	x	x	x
<b>29*</b>	Failure to produce the vehicle and/or insurance upon request	6	x	x	x
<b>30*</b>	Failure to produce a driver's licence upon request	6	x	-	-
<b>31*</b>	Failure to wear a driver's badge	3	x	-	-
<b>32*</b>	Failure of a private hire operator to keep proper records of all bookings and driver and vehicle licences, or	4	-	-	x



## Annex 6 - Penalty Point Scheme

	failure to produce them upon request of an authorised officer of the Council or a police officer within reasonable time / or time specified				
<b>33*</b>	Failure of a private hire operator to produce his licence upon request	4	-	-	x
<b>34*</b>	Making a false statement or withholding information to obtain a hackney carriage/private hire driver's	12	x	-	-
<b>35*</b>	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	x	x
<b>36*</b>	Failure to surrender a driver's licence or badge on or after suspension, revocation, or refusal to renew	6	x	-	-
<b>37*</b>	Permitting a private hire vehicle to wait on a hackney carriage rank	6	x	-	-
<b>38*</b>	Hackney Carriage charging more than the meter fare for a journey ending outside the District, without prior agreement	8	x	-	-
<b>39*</b>	Hackney Carriage charging more than the meter fare when a hackney carriage is used as a private hire vehicle	8	x	-	-
<b>40*</b>	Unnecessarily prolonging a journey	8	x	-	-

## Annex 6 - Penalty Point Scheme

<b>41*</b>	Interfering with a private hire taxi-meter with intent to mislead	12	x	x	x
<b>42*</b>	Obstruction, failure to give information or assistance or failure to comply with a requirement of an authorised officer of the Council or a police officer	6	x	x	x

Matters marked with a \* are direct contraventions of either the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976 and may result in prosecution in addition to any penalty points incurred.

### Licensing Policy

<b>No.</b>	<b>Offence/Breach of Conditions</b>	<b>Points applicable</b>	<b>Driver</b>	<b>Vehicle Owner</b>	<b>Operator</b>
<b>43</b>	Failure to ensure the safety of passengers	12	x	x	x
<b>44</b>	Concealing or defacing a vehicle licence plate	6	x	x	x
<b>45</b>	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
<b>46</b>	Conveying a greater number of passengers than permitted	6	x	-	-
<b>47</b>	Failure to give reasonable assistance with passengers luggage	3	x	-	-

## Annex 6 - Penalty Point Scheme

<b>48</b>	Private Hire soliciting for hire or accepting a fare that is not pre-booked	6	x	-	-
<b>49</b>	Operating/using a vehicle that is not properly maintained internally /externally 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 12	x	x	x
<b>50</b>	Driving without the consent of the proprietor	12	x	-	-
<b>51</b>	Drinking or eating in the vehicle whilst carrying passengers	3	x	-	-
<b>52</b>	Smoking in the vehicle, including the use of electronic cigarettes, at any time 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	3 + FPN 12 + FPN 12 + P	x	-	-
<b>53</b>	Causing excessive noise from any radio or sound-reproducing equipment which annoys anyone either in or outside the vehicle	3	x	-	-
<b>54</b>	Playing of a music radio or other sound producing equipment without the express permission of the passenger(s)	3	x	-	-
<b>55</b>	Sounding the horn to signal that the vehicle has arrived and so causing a potential disturbance	3	x	-	-

## Annex 6 - Penalty Point Scheme

<b>56</b>	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	-	-
<b>57</b>	Using a non-hands free mobile telephone whilst driving / engine running 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 + FPN 12 + FPN	x	-	-
<b>58</b>	Failure to advise of a relevant medical condition	12	x	-	-
<b>59</b>	Failure to provide a receipt for a fare when requested	3	x	-	-
<b>60</b>	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	-
<b>61</b>	Failure to notify the Council of relevant change to licence details within the time specified in the associated licence conditions	3	x	x	x
<b>62</b>	Failure to produce a hackney carriage or private hire licence upon request	3	x	x	x
<b>63</b>	Failure to show a private hire driver's licence to the private hire operator at the commencement of employment	3	x	-	-
<b>64</b>	Failure of a private hire operator to request and	3	-	-	x

## Annex 6 - Penalty Point Scheme

	keep a copy all driver's licence in his employ at the beginning of employment				
<b>65</b>	Failure of a licence holder to disclose convictions within 7 days of the conviction	4 plus the points for the actual offence as set out in the Convictions Policy	x	x	x
<b>66</b>	Failing to deal with lost property in an appropriate manner 1 <sup>st</sup> offence 2 <sup>nd</sup> offence	6 12	x	-	-
<b>67</b>	Failure to report an accident within 72 hours	6	x	-	-
<b>68</b>	Failure to comply with requirements for the safe carrying of a wheelchair	6	x	x	-
<b>69</b>	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
<b>70</b>	A Private Hire driver using a Hackney Carriage vehicle without a Hackney Carriage driver licence	12	x	-	-
<b>71</b>	Failure to carry and/or maintain an approved operational fire extinguisher, where fitted	3	x	x	-

## Annex 6 - Penalty Point Scheme

<b>72</b>	Modifying a licensed vehicle without the consent of the Council	6-12	-	x	x
<b>73</b>	Failure to display or maintain external plates as issued by the Council or displaying them incorrectly	4	x	x	-
<b>74</b>	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	-
<b>75</b>	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
<b>76</b>	Using a taxi-meter that does not conform to Council requirements	6	x	x	x
<b>77</b>	Using a licensed vehicle with no insurance or inadequate insurance for the vehicle	12	-	x	x
<b>78</b>	Permitting the vehicle to be used for any illegal or immoral purposes	12	x	x	x
<b>79</b>	Failure of a private hire operator to ensure that office staff act in a civil and courteous manner at all times	3	-	-	x
<b>80</b>	Failure of a private hire operator to keep the operating premises in	3	-	-	x

## Annex 6 - Penalty Point Scheme

	accordance with Council requirements				
<b>81</b>	Failure of a private hire operator to ensure that all vehicles operated by him are adequately insured	9	-	-	x
<b>82</b>	Failure of a private hire operator to obtain public liability insurance for the operating premises if the public are allowed access	6	-	-	x
<b>83</b>	Driving or allowing a hackney carriage vehicle to be driven with tinted windows which do not conform to licence conditions	3	x	x	-
<b>84</b>	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	6	x	x	x
<b>85</b>	Allowing a hackney carriage vehicle to be driven with a top sign that is in breach of the licence conditions	3	-	x	-
<b>86</b>	Illegal ranking	6	x	-	-
<b>87</b>	Failure to comply with Council Livery	6	x	x	x
<b>88</b>	Smoking or allowing smoking in an operator's premises	6	-	-	x
	1 <sup>st</sup> offence	12	-	-	x
	2 <sup>nd</sup> offence				

## Annex 6 - Penalty Point Scheme

<b>89</b>	Driver allowing a customer to smoke, including the use of an electronic cigarette, in a licensed vehicle	6	x	-	-
<b>90</b>	Failure to carry an assistance dog without an exemption certificate	12	x	x	x
<b>91</b>	Failing to conform to statutory road signs	4	x	-	-
<b>92</b>	Illegal or inappropriate parking such as to cause an obstruction to pedestrians and /or other road users	4	x	-	-
<b>93</b>	Unacceptable standard of driving, witnessed by authorised officer or police officer	6	x	-	-
<b>94</b>	Late application for the renewal of a licence	6	x	x	x
<b>95</b>	Failure to display internal licence plates	4	x	x	x
<b>96</b>	Failure to produce the tariff or advise of charges when requested by the hirer	3	x	x	x
<b>97</b>	Unsatisfactory appearance of the driver or not conforming to the dress code	4	x	-	-
<b>98</b>	Providing false or misleading information on a licence application form, or failing to provide relevant information	6	x	x	x



## Annex 6 - Penalty Point Scheme

<b>99</b>	Failure of private hire operator / driver to honour a booking without a reasonable excuse	6	-	-	x
<b>100</b>	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	-	-
<b>101</b>	Failure to carry plate exemption notice in the vehicle	6	x	-	-
<b>102</b>	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
<b>103</b>	Failure to comply with the Highway Code	6	x	-	-
<b>104</b>	Failure to have a valid MOT	6	x	x	x
<b>105</b>	Failure to notify the Council of a change in contact details where such failure results in the Council being unable to contact you directly 1 <sup>st</sup> offence 2 <sup>nd</sup> offence 3 <sup>rd</sup> offence	 3 6 9	  x	  x	  x
<b>106</b>	Allowing an engine to idle in one of the Borough's air quality management areas	3	x	-	-
<b>107</b>	Failure to provide a DBS when requested	6	x	x	x
<b>108</b>	Charging more than the agreed fare	6	x	x	x
<b>109</b>	Failure to notify the Council	6	-	x	-

## Annex 6 - Penalty Point Scheme

	of a named driver				
110	Failure to supply to the Council insurance for a named driver	6	-	x	-
111	Refusing a wheelchair fare without reasonable cause	4	x	-	-
112	Unacceptable behaviour or conduct by a licence holder e.g. language	6	x	x	x
113	Carrying food and or drinks in a vehicle as part of a separate delivery without the express consent of the hirer	4	x	-	-

Please note –

FPN – Fixed Penalty Notice

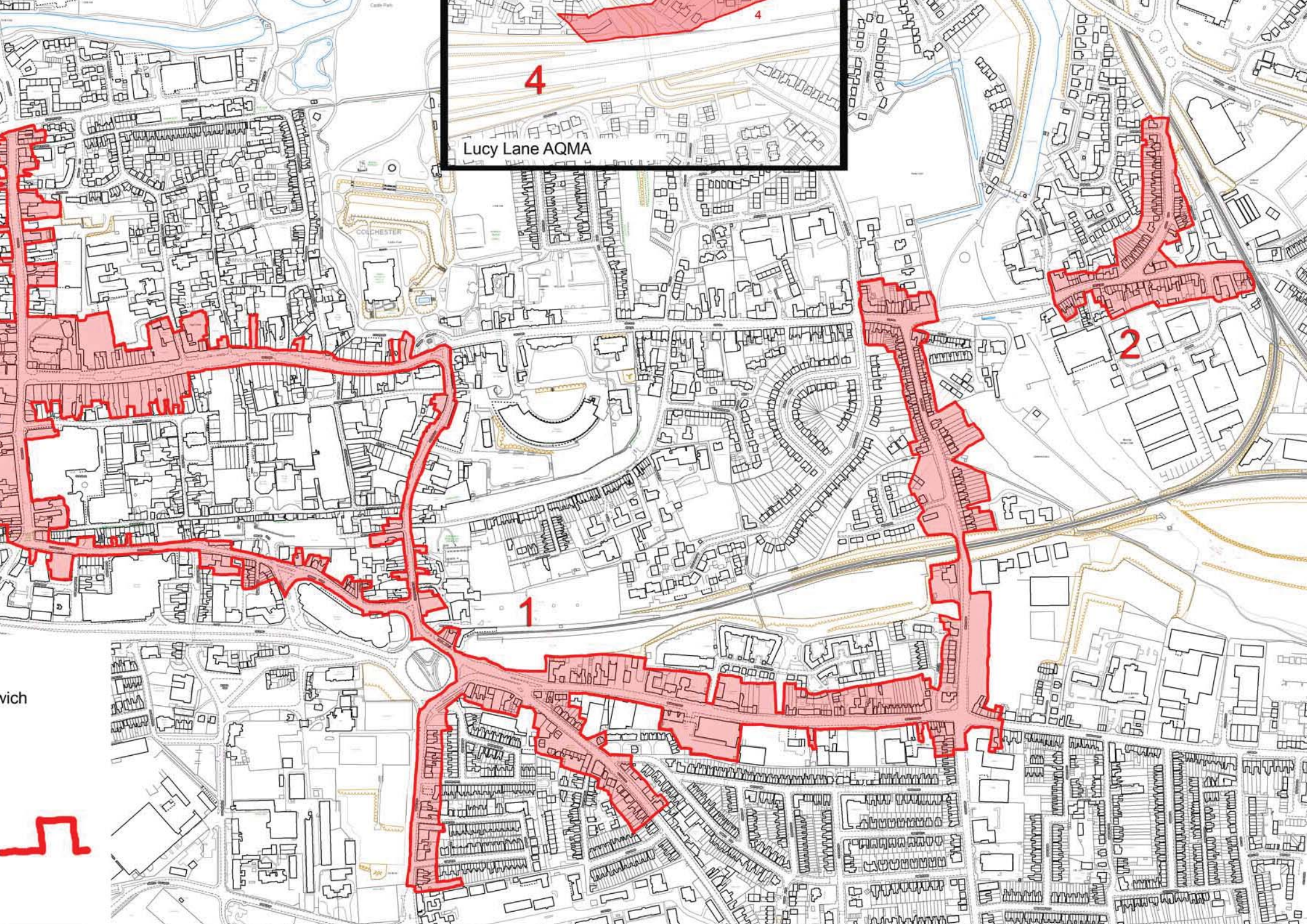
P – Prosecution

**Authorised Officer** - means a member of the Council authorised under its scheme of delegation to carry out matters relating to the enforcement of legislation and the Council's policy in relation to hackney carriage and private hire drivers, operators, proprietors and vehicles.

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**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.





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Lucy Lane AQMA

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# 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.

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## 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](mailto: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.

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### 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](mailto: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](mailto: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.

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

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

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.

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**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.

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## **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](mailto: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.

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## **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](mailto: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](mailto: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.

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### **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.

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### **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 adequate 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 kept 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](mailto:licensing.team@colchester.gov.uk) or to the Licensing, Food & Safety Manager, Rowan House, 33 Sheepen Road, Colchester, CO3 3WG .

## Appendix 3 – Horse Drawn Carriages – Licensing and Conditions

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**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

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## **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.

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### **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.

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**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.

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## 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 notice will be placed 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.
- 

### **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 The vehicle licence granted remains a wheelchair accessible licence in perpetuity.

6.3 The vehicle provided must be accessible to customers seated in either in either a manual or electric wheelchair

6.4 The outcome of the draw is final.

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### Declaration

7.1 Any individual 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.

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**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.

# **Code of Conduct for Working with Vulnerable Persons**

## **Who is vulnerable?**

A vulnerable person is one whose age, disability or health, both physical and mental, means that they are more susceptible to harm than a typical passenger. Passengers may also be vulnerable if their condition renders them more susceptible to harm than would normally be the case, for example through the consumption of alcohol and /or drugs.

## **Taking a booking**

At the point of booking the needs of the vulnerable person must be risk assessed and a record kept of whether the booking is to be accepted or refused. If appropriate measures are not in place that would allow the vulnerable person to use the services of a licensed vehicle/driver without risk to themselves or the driver, the booking should not be taken.

## **As a licensed driver you must –**

- Treat the vulnerable person with respect and courtesy and ask if they need help rather than making this assumption.
- Carry your identification badge and when collecting the vulnerable person produce it to the carer or, where appropriate, to the individual concerned.
- If there is no chaperone, obtain the contact details of the carer.
- If service is refused, inform a carer/responsible person so that alternative arrangements can be made.
- Be aware that your interaction with a vulnerable person may be interpreted by them in a different way to that which you intended.
- Report to the Council any unacceptable behaviour from a vulnerable person or any approaches, verbal or physical, made by the vulnerable person to you, as soon as is reasonably practicable after it occurs.
- Report any safeguarding concerns to the relevant authority.

## **You must not -**

- Double up on bookings without the prior consent of all parties involved.
- Touch the vulnerable person unnecessarily or in an inappropriate way.
- Make inappropriate or offensive comments, this includes swearing.
- Behave in a way that could be construed to be threatening.
- Use personal details obtained in the course of carrying out your business for any other reason whatsoever.
- Promise to keep any information disclosed to you confidential, when by doing so the wellbeing of the vulnerable person would be compromised.
- Respond to any approach made by the vulnerable person that is outside of your normal working relationship with the passenger.
- Accept any abuse, verbal or physical, from any vulnerable person, such abuse must be reported to the Council.
- Give any personal information to the vulnerable person.

## **The Council**

## **Code of Conduct for Working with Vulnerable Persons**

Will take robust action under its Policy to deal with any issues that arise from contraventions of this code of conduct.

# Driver and Passenger Charter

This Charter sets out what you can expect from the driver and what the driver can expect from you.

## **As a Passenger you can expect the driver to –**

- Wear their identification badge at all times and produce it on request.
- Be polite and courteous.
- Take you to your destination by the most direct route unless you ask to take an alternative route.
- Charge no more than the fare on the meter or the agreed fare.
- Provide a receipt on request.
- Refuse to allow other people to share your taxi without your agreement.
- Ask your permission before eating, drinking or playing music in the vehicle.
- Carry your assistance dog without charge.
- Abide by the Code of Conduct for Carrying Vulnerable Persons.

## **The Driver can expect you –**

- To be polite and courteous at all times and behave appropriately in the vehicle; you may be refused travel or be asked to leave the vehicle if you behave in an inappropriate manner.
- To be punctual.
- To pay the correct fare; drivers can ask for the fare or a proportion of the fare in advance.
- Not to eat or drink in the vehicle.
- Not to smoke or consume alcohol in the vehicle; this is an offence.
- To wear your seat belt.
- To ensure children travelling with you are secured appropriately.
- Not to request that more people are carried than is permitted by the licence.
- To pay if, during the duration of your journey, the vehicle is soiled in any way i.e. through vomiting in the vehicle