

12 June 2025 at 7pm

Council Chamber, Civic Centre, Chelmsford

Membership

Councillor D. Clark (Chair)
Councillor H. Clark (Vice-Chair)

and Councillors

N. Chambers, A. Davidson, S. Davis, J. Frasca, R. Lee, S. Manley, L. Mascot, V. Pappa, J. Potter, S. Scott, and P. Wilson

Local people are welcome to attend this meeting, where your elected Councillors take decisions affecting YOU and your City. There will also be an opportunity to ask your Councillors questions or make a statement. These have to be submitted in advance and details are on the agenda page. If you would like to find out more, please email committees@chelmsford.gov.uk or telephone (01245) 606480

Regulatory Committee

12 June 2025

AGENDA

1. Apologies for Absence

2. Minutes

To consider the minutes of the meeting held on 27 March 2025.

3. Declaration of Interests

All Members are reminded that they must disclose any interests they know they have in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they become aware of the interest. If the interest is a Disclosable Pecuniary Interest they are also obliged to notify the Monitoring Officer within 28 days of the meeting.

4. Public Question Time

Any member of the public may ask a question or make a statement at this point in the meeting. Each person has two minutes and a maximum of 20 minutes is allotted to public questions/statements, which must be about matters for which the Committee is responsible.

The Chair may disallow a question if it is offensive, substantially the same as another question or requires disclosure of exempt or confidential information. If the question cannot be answered at the meeting a written response will be provided after the meeting.

Any member of the public who wishes to submit a question or statement to this meeting should email it to committees@chelmsford.gov.uk at least 24 hours before the start time of the meeting. All valid questions and statements will be published with the agenda on the website at least six hours before the start time and will be responded to at the meeting. Those who have submitted a valid question or statement will be entitled to put it in person at the meeting.

5. Business and Planning Act 2020 – Application to appeal the decision of a pavement licence

6. Pavement Licence Policy Review

7. Refusal of Vehicle Licence Applications (Vehicles Over 12 Years Old)

8. Urgent Business

To consider any other matter which, in the opinion of the Chair, should be considered by reason of special circumstances (to be specified) as a matter of urgency.

MINUTES OF THE
REGULATORY COMMITTEE

held on 27 March 2025 at 7pm

Present:

Councillor R. Lee (Chair)

Councillors D. Clark, H. Clark, A. Davidson, J. Frasca, J. Hawkins and P. Wilson

1. Apologies for Absence

Apologies for absence were received from Councillors Chambers, Mascot, Pappa and Scott.

2. Minutes

The minutes of the meeting held on 27 February 2025 were agreed as a correct record and signed by the Chair.

3. Declaration of Interests

All Members were reminded to declare any Disclosable Pecuniary interests or other registerable interests where appropriate in any items of business on the meeting's agenda. None were made.

4. Public Question Time

Two public questions were asked at the meeting on Item 5, [which can be viewed via this link](#). The details of the questions and the responses can be seen under Item 5.

5. Beaulieu Park Train Station - Taxi Rank Permit Scheme

The Committee received a report, asking them to consider the consultation responses on the introduction of a Taxi Rank Permit Scheme at Beaulieu Park Station and to make a recommendation to Cabinet for a decision. The Committee had initially considered the proposal on 23rd January 2025 and a consultation had then been carried out between 24th January and 7th March 2025. The Committee were informed that 19 responses had been received, a number of which had been identical submissions and that members of the taxi trade had been consulted, in addition to other interested parties such as Greater Anglia, Essex Highways and the South Essex Parking Partnership. The Committee heard that the majority of the responses were against the principle of being charged to use the rank, amongst concerns about the level of fee and likelihood of short journeys from the station.

The Committee noted that the key issue in setting up the scheme was to ensure a sufficient number of taxis were available for rail passengers to use and therefore a balance had to be struck in terms of the fee to be charged and the appeal for drivers. It was noted that a lower annual fee of £500 had been recommended with regard to

this and it was acknowledged that there would be some risk associated with signing up, due to some unknowns about taxi demand at the new station. It was also noted any income generated from the scheme would be used to cover the costs of administering the scheme, along with the ongoing management and maintenance of the rank and other City Council owned parts of the station complex.

The Committee noted that the proposal was for 30 initial permits, with applicants selected at random and that the scheme would be kept under continuous review so that demand, use and operations could be assessed. The Committee were also informed that they were only being asked to make a recommendation to Cabinet and that a final decision on the scheme, would be for Cabinet to make.

The Committee heard concerns from two members of the public, that the proposed scheme was financially motivated and that it did not comply with the key principles of Taxi Licensing. The Committee heard that a seamless end to end service in terms of public transport was crucial and that the services should not be subject to restrictions or financial burdens, that could compromise the ability to effectively serve the public. The Committee also heard that the proposal was short sighted and might result in rail users being unable to access taxi services. The Committee were also reminded of the difficulties for the taxi trade in recent years, due to the pandemic, rising costs and were asked to reject the proposals.

In response to the concerns raised, the Committee was informed by officers that the proposal was about permitting access to City Council land and not in relation to the role of the Council as a Licensing Authority. The Committee also heard that the priority was to ensure a sufficient number of taxis and that was why views had been sought and had been a key consideration in setting the fee, along with the fee contributing to the Council's costs in maintaining the areas of the site under their control and administering the scheme. It was noted that the number of taxis accessing the rank needed to be controlled, to ensure the pickup area and nearby public highways were not blocked. The Committee also heard that the scheme was voluntary and the fee had been set at a level that should encourage drivers to apply, with the new station expected to assist in easing passenger congestion at Chelmsford and providing a rail option for residents of Beaulieu Park and other nearby areas.

The Committee discussed the proposal and stated that they agreed with the principle of charging for the rank as it would cost money to maintain the rank and other City Council owned areas of the station. Furthermore, Network Rail itself charged for the use of the taxi rank at Chelmsford station. The Committee felt that the fee should be adjusted however, to encourage drivers to sign up, by offering a 6 month permit for £200 so drivers could assess demand for 6 months, before deciding whether to continue, which if so would then require a £300 payment for the remaining 6 months. It was noted that this would be for the first 30 permits issued and anyone signing up at a later date, would be required to pay the full £500 for 12 months. The Committee agreed that this would act as an incentive to drivers, in turn leading to sufficient provision of taxis at the rank once the station opened, but with less risk involved for taxi drivers. The Committee's legal advisor confirmed that the option was one the Committee could take without re consultation as it was a minor amendment, involving as it did staggered payments and did not result in an increase in the overall cost of the permits.

The Committee heard from two members of the taxi trade, who appreciated the reduced fee, but their concerns still remained about the scheme, including if it would be utilised and that due to the location of the station it would be more logical to fully open up access to drivers. In response to a question about similar schemes from other Local Authorities, officers confirmed that they were not aware of any similar and that most taxi ranks were privately owned, similar to the one at Chelmsford station by Network Rail.

RECOMMENDED to Cabinet that the details of the scheme be endorsed by the Committee and that it should be approved with the below amendments;

1. The scheme be amended to include an initial £200 payment for 6 months, with the option to extend for a further 6 months for £300 for the first 30 permits issued.
2. Any permits issued after the initial 30, to be charged the full £500 for 12 months.

(7.02pm to 7.35pm)

6. [Business and Planning Act 2020 – Application to appeal the decision of a pavement licence](#)

The Committee were requested to consider an application to appeal the decision made by the Licensing Authority, in relation to the refusal of a pavement licence. The Committee heard that the initial application had been refused in accordance with the Council's Pavement licence policy, after receiving representations from the Council's Planning department, City Centre Management and the Markets and Shop mobility Manager.

The Committee heard that the application had been rejected because of high footfall in the area, navigation challenges and the proximity to nearby bus stops. It was also noted that the unique positioning of the premises, high pedestrian usage and the constraints posed by existing street infrastructure made the location unsuitable for the proposals and granting as applied for would have compromised public safety, accessibility and the character of the City Centre.

The Committee heard from the planning agent representing Gail's, who asked the Committee to reconsider the decision made by officers. They stated that Gail's had made a commitment to the local economy and that outside seating was an integral part of their business model and would enhance the viability of the City Centre. The Committee also heard that the concerns were understood, but the revised application now being considered had included a reduction on the New London Road side, allowing 2.8m of pedestrian passing space, compared to the required 2.5m which they felt would be sufficient to allay concerns. The Committee also heard that if both frontages of the shop were unacceptable, an alternative option agreeable to Gail's, would be for 5 tables along Conduit Street with none on New London Road. They also reiterated that community safety and accessibility was of course important, but that it should be balanced against business needs and that they felt their application was policy compliant.

The Committee also heard from the City Council's City Centre Manager, who reiterated their concern about seating along New London Road as it would create a

pinch point for those with mobility issues, but that they were less concerned about the Conduit street element of the application. The Committee also heard from the City Council's Market's Manager, who reiterated their concerns about seating on Conduit Street, due to the high footfall, the narrow nature of the street and concerns regarding access for those with disabilities accessing that part of the High Street.

The Committee discussed the merits of the application and views were expressed about the unsuitability of the location to have a Pavement Licence, due to the high footfall at such a busy section of the City Centre. The Committee agreed that it was important to support businesses and that a potential compromise for a smaller amount of tables and chairs could be a solution. The applicant also highlighted that when their client had looked at the policy, they understood that the location was viable as it was not included on the separate area of the High Street with specific designations and that a minimum of 2.5m from the frontage was acceptable. They also highlighted other branches of Gail's in busy parts of London that had outside seating.

Officers confirmed that the policy was a guide and that there would be examples where 2.5m might not be sufficient in certain areas of the City Centre, it was also clarified that the policy said licences would not be granted where there was less than 2.5m, not that they would explicitly be allowed otherwise.

A proposal was made and seconded to permit a lesser application providing for one table with two chairs to the left of the entrance doors and one table and two chairs to the right of the entrance doors. The Committee's legal advisor confirmed that by virtue of section 3(4) of the 2020 Act this was an option that was open to the Committee. The legal advisor further advised the Committee that it was appropriate for officers to be given delegated authority to confirm/settle any finer points of the application (e.g. precise location) and the applicant confirmed they could supply a drawing on that basis, to be included as part of the granted licence and they also stated that due to the smaller areas being granted, their preference would be to not have barriers around the seating which would introduce extra clutter. The City Council's City Centre Manager and the Markets Manager, confirmed they were both content with the amended proposal.

RESOLVED that;

1. The Director of Public Places be granted delegated authority to approve the application with a reduced area, to provide one table with two chairs, either side of the entrance doors and to agree any finer points involved e.g. the precise location points.
2. The applicant be requested to provide a drawing on the above basis that would be incorporated as part of the licence.

(7.36pm to 8.08pm)

Exclusion of the Public

Resolved that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for Items 7,8 & 9 on the grounds that they involved the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

7. Local Government (Miscellaneous Provisions) Act 1976 – Application for the renewal of a Hackney Carriage Vehicle Licence

Public interest statement: It is not in the public interest to disclose the content of the report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee considered a request from Mr X to licence a vehicle as a Private Hire Vehicle, where the specification did not meet with the pre-licensing criteria. The Committee was informed that the vehicle failed to meet the conditions due to it being over 12 years old. Members were advised that they could either grant the licence as applied for, for an additional year or for a shorter period or refuse the application.

The owner of the vehicle attended the meeting to explain to the Committee, why they felt the vehicle should still be licenced and was of special characteristics. They highlighted their own personal circumstances, which had prevented them from saving for a replacement vehicle and asked the Committee, to grant them an extension due to their personal circumstances. They also highlighted that the vehicle in question, was a wheelchair accessible vehicle.

RESOLVED that the Hackney Carriage Vehicle Licence be refused.

Reasons for decision

The Committee had sympathy for the applicant, but from an objective standpoint the vehicle itself had no special characteristics which might justify a departure from the policy. The applicant was, in effect, asking the Council to make an exception for his vehicle on the basis of his financial circumstances and the current cost of living crisis. The Committee did not feel able to allow this request. To do so would completely undermine the 12 year policy as it would set a precedent for dealing with future similar requests. The Committee had not agreed any similar requests in recent years and reminded the applicant that they were still able to use their driver's licence to drive other licenced vehicles.

(8.09pm to 8.38pm)

8. Local Government (Miscellaneous Provisions) Act 1976 – Application for the renewal of a Hackney Carriage Vehicle Licence

Public interest statement: It is not in the public interest to disclose the content of the report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee considered a request from Mr X to licence a vehicle as a Private Hire Vehicle, where the specification did not meet with the pre-licensing criteria. The Committee was informed that the vehicle failed to meet the conditions due to it being over 12 years old. Members were advised that they could either grant the licence as applied for, for an additional year or for a shorter period or refuse the application.

The owner of the vehicle attended the meeting to explain to the Committee, why they felt the vehicle should still be licenced and was of special characteristics. They highlighted their own personal circumstances, which had prevented them from saving for a replacement vehicle and asked the Committee, to grant them an extension due to their personal circumstances. They also highlighted that the vehicle in question, was a wheelchair accessible vehicle and that previous MOT failures on the vehicle had been emissions based but had been quickly resolved.

RESOLVED that the Hackney Carriage Vehicle Licence be refused.

Reasons for decision

The Committee had sympathy for the applicant, but from an objective standpoint the vehicle itself had no special characteristics which might justify a departure from the policy. The applicant was, in effect, asking the Council to make an exception for his vehicle on the basis of his financial circumstances and the current cost of living crisis. The Committee did not feel able to allow this request. To do so would completely undermine the 12 year policy as it would set a precedent for dealing with future similar requests. The Committee had not agreed any similar requests in recent years and reminded the applicant that they were still able to use their driver's licence to drive other licenced vehicles.

(8.39pm to 9.03pm)

9. Local Government (Miscellaneous Provisions) Act 1976 – Application for a new Hackney Carriage/Private Hire Dual Driver's Licence

Public interest statement: It is not in the public interest to disclose the content of the report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider an application for a new Hackney Carriage/Private Hire Dual Driver's Licence by Mr X, who had six penalty points on their DVLA record which they had declared as part of their application. The Committee heard that licences could be granted at officer level, if the applicant had six penalty points or less, but due to the circumstances of the points, officers had felt it was appropriate for a member level decision to be taken.

Mr X attended the meeting to speak to the Committee and answer questions about how they had received the points and they explained the circumstances to the Committee. They acknowledged that they understood they had made a mistake which led to them receiving the points, but reiterated the circumstances and highlighted their extensive experience working as a bus driver for TFL and other bus companies in the past, which would assist them with being a licenced taxi driver in Chelmsford.

RESOLVED that the licence be granted as applied for.

Reasons for decision

The Committee considered the representations made by Mr X and accepted their explanation of the circumstances surrounding the six penalty points. The Committee felt that Mr X had learnt a lesson and would not repeat the offence. On balance, therefore, the Committee was satisfied that Mr X was a fit and proper person to hold a driver's licence. A repeat offence, however, would result in Mr X being brought back to the Committee and their licence almost certainly revoked.

(9.04pm to 9.37pm)

10. Urgent Business

There were no matters of urgent business.

The meeting closed at 9.37pm

Chair



Chelmsford City Council Regulatory Committee

12th June 2025

Business and Planning Act 2020 – Application to appeal the decision of a pavement licence

Report by: Director of Public Places

Officer Contact:

Kate KOBER, Licensing Officer, Katherine.kober@chelmsford.gov.uk 01245 606446

Purpose

The Committee is requested to consider an application to review the decision that the licensing authority made in relation to the refusal of a pavement licence.

Options

Members are advised that they have the following options when determining this application.

-
1. To uphold the decision to refuse the licence.
 2. To grant the licence as applied for.
 3. To grant the licence with specific conditions or modifications.
-

1. Introduction

- 1.1 Pavement licences were introduced under the Business and Planning Act 2020 ('the 2020 Act') and allows someone who has a business premises for the sale of food and/or drink to apply for a licence to place removable furniture on a highway. The furniture can be used for the sale or service of food or by the business's customers. On receipt of an application, there is a 14- day period of public consultation followed by a 14-day period of determination. Before

determining an application, the local authority must consider any representations received during the consultation period and must consult the Highways Authority. If a local authority does not make a determination within the 14-day determination period, the licence is deemed granted.

- 1.2 Chelmsford City Council's Policy permits furniture placement only in specific areas at the top of the High Street, as detailed (hatched red) on the attached plans, due to the redevelopment of the area. A copy of our policy including plans is attached as **Appendix A**.
- 1.3 Legislation does not provide a statutory right to appeal for these decisions. However, councils may consider granting an informal review process to their Regulatory Committee.

2. Background

- 2.1 The premises is situated at 9-10 High Street, Chelmsford, towards the top of the high street and is surrounded by businesses and other restaurants. A google map image showing the location of the premises in satellite is attached **Appendix B**.
- 2.2 Wendy's neighbouring premises, Queenies, Costa Coffee and Pret A Manger currently have pavement licences.

3. Application

- 3.1 On the 19th March 2025, a complete application was received from Wendy's located at 9-10 High Street Chelmsford Essex CM1 1DX, in accordance with section 2(1) & (2) of the Business and Planning Act 2020 using the Council's application form and procedures. Please see attached as **Appendix C**.
- 3.2 Wendys included the plans and details of the furniture within the application form itself and submitted a separate site location plan which is attached as **Appendix D**.
- 3.3 Consultations were sent out to all responsible authorities on the 19th of March 2025 with a closing date of 2nd April 2025. The final day for determination was 16th April 2025.

4. Representation and consideration

- 4.1 During the course of the application, two representations were made during the consultation period from Chelmsford City Council's Public Health and Protection department and Chelmsford's Planning department. These are attached as **Appendix E**. Essex Highways did not object to the application.
- 4.2 The Licensing Authority, in accordance with Chelmsford City Councils policy, refused the application and a letter of refusal containing the reasons why was

sent to Wendy's representative via email on 10th April 2025. This is attached as **Appendix F**.

- 4.3 To summarise, the representations received were due to the proposed furniture reducing pedestrian flow which would also create a pinch point at this point of the high street. The objectors also commented that the proposed plans would be outside of the current pavement licence policy (**see appendix A**)
- 4.3 Chelmsford City Council received an email of appeal on 30th April 2025 regarding the refusal of the pavement licence application. The appeal, attached as **Appendix G**, highlights that Wendy's believe the application falls inside the policy remit, such as leaving a suitable distance away from the fixed public seating. They also reference the above-named neighbouring premises who currently have pavement licences.

5. Conclusion

- 5.1 In conclusion, while upholding the decision to refuse the licence aligns with existing policies and regulations, an alternative option could be to grant the licence as applied for, or grant with specific conditions or modifications, thereby addressing concerns while supporting local business operations.

List of appendices:

- Appendix A – Policy & Plans
- Appendix B - Google image of premise
- Appendix C – Application
- Appendix D – plans and photograph of proposed furniture.
- Appendix E – objections from consultees
- Appendix F – CCC refusal letter
- Appendix G – Applicants letter of appeal.

Background papers:

Business and planning Act 2020

Corporate Implications

Legal/Constitutional:

The Council must ensure a fair and transparent review process, allowing the appellant to present their case and respond to any evidence. In reviewing any decision to refuse an application, the Committee must have due regard (and accord due weight) to Chelmsford City Council's pavement licensing policy, which outlines permitted areas and conditions for approval.

Financial:

A successful Judicial Review could lead to potential costs for the council, including legal fees or compensation if the refusal is deemed unreasonable.

Potential impact on climate change and the environment:

Granting a pavement licence may increase foot traffic, noise, and waste generation. Proper waste management and environmental considerations should be in place.

Contribution toward achieving a net zero carbon position by 2030:

None

Personnel:

Staff resources are required to manage the appeal process, enforce compliance, and address any emerging concerns.

Risk Management:

Key risks include legal challenges, reputational damage, and accessibility concerns. The council must balance business interests with public safety and urban planning policies.

Equality and Diversity:

Decisions must ensure accessibility for all, including individuals with disabilities and consider the impact on the wider community.

Health and Safety:

The council must ensure pedestrian safety, emergency access, and adherence to fire and noise regulations. Outdoor seating should not obstruct pathways or create hazards.

Digital:

Records of applications and appeal processes should be maintained electronically with appropriate data security measures.

Consultees:

Legal, Democratic Services

Relevant Policies and Strategies:

Business and planning Act 2020

Pavement Licensing Policy

1. Introduction

The Business and Planning Act 2020 (as amended) was introduced as temporary legislation to assist businesses and remove existing bureaucracy around what were known as Tables and Chairs Licences under the Highways Act. The Business and Planning Act 2020 has now been amended by the Levelling Up and Regeneration Act 2023 which makes the Pavement Licence regime permanent.

The Act allows Chelmsford City Council to permit specified furniture to be placed on the highway (mostly footpaths and pedestrianised areas) although where applicable, businesses may still need the activity to be licensed, for example, sale of alcohol.

2. Definition of ‘pavement licence’

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, and for certain purposes.

3. Eligible Businesses

A person (which includes a body corporate) which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, ice cream parlours or similar.

A licence permits the business to use furniture placed on the highway in order to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

A pavement licence does not licence the activity, only the placing of the furnishings. The pavement licence is issued to a person or incorporated body. Where there is a change to that person or incorporated body then the licence will lapse, and a further application will need to be made by any new person.

4. Eligible Locations

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

This policy is applicable throughout the Chelmsford City Council district, although its main impact is within the city centre as other areas with demand for tables and chairs tend to be on privately owned land.

From 8 High Street northwards to the top of the High Street tables and chairs are only permitted in the hatched areas of the plan at Appendix 1. There must be a minimum width of 3 metres between the business façade and the tables and chairs, and a minimum 5 metre clear route along the centre of the street. The maximum depth of the area licensed for tables and chairs to be 2.5 metres.

To the south of 8 High Street, including Springfield Road and Moulsham Street, tables and chairs to be placed abutting the façade. The maximum depth of the area licensed for tables and chairs is to be 2.5 metres. Maximum depth of 2.5 metres does not apply to Exchange Square or Backnang Square.

Tables and chairs can only be placed in front of the façade the licence holder is responsible for.

Tables and Chairs will not be permitted where they would restrict any pedestrianised public highway to less than 2.5 metres in width or impede any designated cycle route.

Any application for tables and chairs in front of Shire Hall must be considered by the Council's Regulatory Committee.

5. Type of furniture permitted

Seating, tables and, if required, umbrellas and heaters (together with a secure base) as well as any proposed barriers to enclose the seating area are permitted.

The furniture must be fit for purpose and designed specifically for commercial outdoor use (and comply with all relevant BS standards). It must be kept in good order; damaged or faded items must be replaced.

This furniture is required to be removable, meaning that it is not a permanent fixed structure, and is able to be moved easily, and should be stored away when the premises are closed for activity.

There is an expectation that the type and style of furniture would be 'in keeping' with the local area.

Picnic benches and plastic tables and chairs designed for domestic use (e.g. white plastic furniture) are not permitted.

Any form of gazebo or enclosed shelter with one or more sides is not permitted.

6. Barriers

When tables and chairs are in place a standard barrier consisting of a fabric banner and associated post/rail system shall be used. The function of the barriers is to demarcate and contain the tables and chairs but also to give a clear warning particularly to people with visual impairments.

The barriers shall be secured by a purpose designed post and rail system with weighted post bases to prevent being knocked or blown over and be of a height range of 800mm to 1000mm so to not visually obstruct views down the street or be an obstructing hazard

Street café barriers should be of a design to complement the character of the surrounding area. Banners should be of one design, in a plain style and can incorporate the business name or brand logo. Posts and rails should be stainless steel, chrome plated or powder coated.

7. Times of Operation

The tables and chairs can be placed on the highway only when the premises are open for business and in any event not before 6.00 am and normally until the close of business.

Where nuisance is likely to be caused to residents e.g. late at night, businesses may be required to remove the tables and chairs before the close of business.

8. Planning Permission

Once a licence is granted the applicant will also benefit from deemed planning permission to use the land for anything done only pursuant to the licence while the licence is valid, but not for any other purpose.

9. Consultation

Applications are consulted upon for 14 days, starting with the day after that on which the application is made to the Council (an application will not be considered to have been properly made unless each requirement has been met).

The Council will publish details of the application on its website at www.chelmsford.gov.uk/business/licensing/find-a-licence/pavement-licence

The Council is required by law to consult with the Essex County Council Highways Authority. In addition, to ensure that there are no detrimental effects in granting such a licence the Council will also consult with:

- Chelmsford City Council Environmental Health Service
- Chelmsford City Council Planning Department
- Essex Police
- The appropriate Local Ward Councillor(s)
- The appropriate Parish or Town Council

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider in their determination of the application.

10. Cost

There is an application fee and a renewal fee payable every two years. Details can be found on the application form and Chelmsford City Council website.

11. Insurance

Operators must indemnify both Chelmsford City Council and Essex County Council in respect of injury, damage or loss arising out of the grant of permission (unless such claims arise out of the Councils' negligence). All operators must have public liability insurance in the sum of £10,000,000 in respect of any one event. A copy of this insurance must be produced to the Council before a licence will be issued.

The Licence holder shall make no claim or charge against the Council in the event of the furniture or other objects being lost, stolen or damaged in any way.

12. Litter

Refuse and litter deposited on the highway in the vicinity of the chairs and tables must be collected at not less than hourly intervals (or more frequent intervals if required under the Environmental Protection Act 1990).

Litter is not to be placed in the litter bins situated on the highway for use by the general public, but in the trade refuse bins.

All tables must be cleared as soon as practicable after being vacated by customers to avoid litter being deposited unnecessarily on the highway.

13. Miscellaneous Conditions

The Licence holder must remove any furniture if required to do so to permit works in or the use of the highway by the Council, the County Council, the emergency services any statutory undertaker or telecommunications code operator or where the Licence holder has been notified of a special event taking place.

No charge can be made by the Licence holder for the use of the furniture.

All licences are renewable every two years.

Appendices

Appendix 1

Map of Chelmsford City High Street with permitted areas for tables and chairs

Creation date	Version No.	Changes Approved:
June 2024	2	Policy updated to include legislative changes, adopt new and renewal fees and take into account decision of regulatory committee on 17/3/2022 to introduce specific restrictions in Chelmsford Town Centre



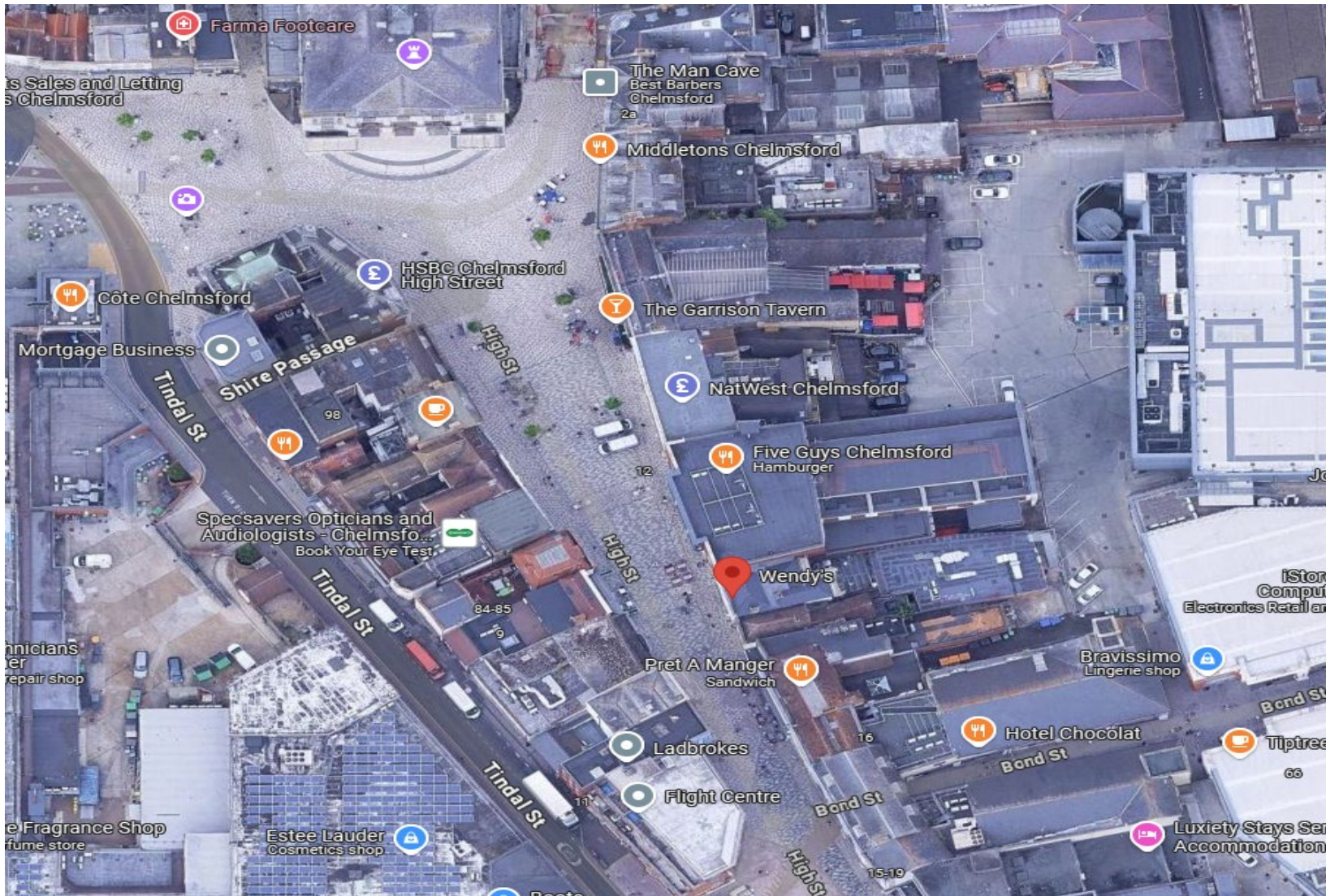
Appendix B

Google map image of the premises



Appendix B

Satellite view



Appendix C

Redacted application

BUSINESS AND PLANNING ACT 2020
Levelling Up and Regeneration Act 2023 Schedule 22



APPLICATION FOR THE GRANT/RENEWAL OF A PAVEMENT LICENCE

Before completing this application please read any associated guidance that can be found on our website at www.chelmsford.gov.uk .If you need to provide additional information please do so on a separate appendix to this application and submit with all required documentation as requested

APPLICANT DETAILS		
Title:	First name(s):	Surname:
Post Town:	Post Code:	
Phone (Home):	Phone (Mobile):	
e-mail address:		
Date of Birth:	NI number:	
BUSINESS PREMISES DETAILS		
Trading Name: Wendys		

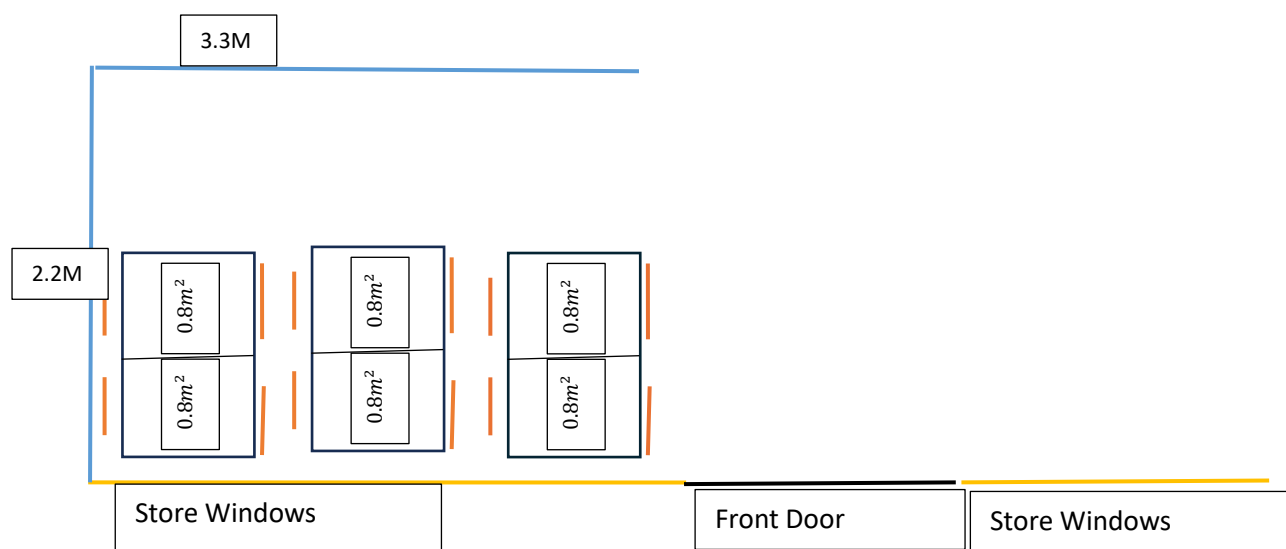
Postal Address: 9-10 High St Chelmsford Essex CM1 1BE	
Purpose for which the business premises are used? (please tick one of the following options)	
Use as a public house, wine bar or other drinking establishment	
Other use for the sale of food or drink for consumption on or off the premises	<input checked="" type="checkbox"/>
Both of the above uses	

14

AREA OF HIGHWAY PROPOSED TO BE USED

Please provide a description of the area of the highway to which this application relates:
(Please note you are required to submit a scale plan of this area with your application)

Outside our own shops fascia, not protruding onto any other trader's property or obstructing any Walk or High ways, A area Cordoned off by barriers on the Side of the Building With Barriers at the front with a Gap for Access to the outdoor seating area, and the restaurant. With 2.2M Of Width with it starting directly at the Edge of the Building, and then 3.3M Along the high street.



RELEVANT PURPOSE THE APPLICATION RELATES TO:

Which of the following relevant purposes do you wish to put furniture on the highway for? (please tick one of the following options)

To sell or serve food or drink supplied from, or in connection with relevant use of, the premises	
For the purpose of consuming food or drink supplied from, or in connection with relevant use of, the premises	<input checked="" type="checkbox"/>
Both of the above purposes	

DAYS AND TIMES

During what times do you propose to place furniture on the highway on each of the following Please use the 24hr clock.

days:



Mondays	0700 to 2000	Fridays	0700 to 2000
Tuesdays	0700 to 2000	Saturdays	0700 to 2000
Wednesdays	0700 to 2000	Sundays	0800 to 2000
Thursdays	0700 to 2000		


24

FURNITURE TO BE PLACED ON THE HIGHWAY

Please provide a description and quantity of the furniture you propose to place on the highway.
(Please note you are required to provide photographs or brochures of the proposed furniture with your application)

6 x 0.8M sq White laminate Tables set out in 3 sets of 2 together to makes 3 sets of tables as shown in the description of the area. With each table, they will have 4 Grey Steel chairs. Making a Total of 12 Chairs, Encased on two sides by Banners

IMAGE	DESCRIPTION	QTY
	White Compact Laminate Table Top 800 800mm, 12mm Thick on Black Aluminium Flip Top Base, Dining Height	6 x
	Bolero Slatted Steel Side Chairs, Grey	24



Checklist:

I have paid the fee of £500 for a new grant or £350 for a renewal application	Rec. Ref	61653571
<ul style="list-style-type: none">I have attached photographic evidence of the public noticeI have enclosed a plan showing the extent of the area and layout of furniture I understand that I must now advertise my application.I understand that if I do not provide information requested that my application will be rejected.I understand that there is no assumed right of permission unless not determined within the required period. Where council refuse permission I understand that fees will not be refunded.	<div><input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/></div>	



I understand that I am required to give notice of my application in accordance with the requirements of the Business and Planning Act 2020 and that failing to do so will lead to the revocation of any licence granted.

I understand I must hold and maintain public liability insurance up to a value of £10million.

I understand my application will not be considered until all the required documents and information have been provided and the application fee of £500 has been paid.

I understand that the application fee paid is non-refundable if my application is refused or if any licence granted is subsequently surrendered or revoked.

I understand that the Authority is under a duty to protect the public funds it administers, and to this end may use the information I have provided on this form for the prevention and detection of fraud. I understand that it may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

I understand that should my application be granted I will adhere to the conditions on the licence and that if conditions are breached then the licence could be revoked.

I understand that failing to remove furniture following a revocation of the licence could mean that the council can recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until costs have been paid.

I understand that failing to pay the recovery costs to the council within 3 months, the council may dispose of the furniture by sale or other means and retain the proceeds.

I declare that the information given above is true to the best of my knowledge and that I have not wilfully omitted any necessary material. I understand that if there are any wilful omissions, or incorrect statements made, my application may be refused without further consideration or, if a licence has been issued, it may be liable to revocation.

I understand that the Authority is collecting my data for the purposes described on this form and will not be used for any other purpose, or passed on to any other body, except as required by law, without my consent.

Date Submitted: 19/03/25

Signed:

Print Name:

Please return this form with all relevant documents and proof that the application fee has been paid to:

licensing@chelmsford.gov.uk

GUIDANCE NOTES

What should accompany the form?

Deemed licences?

Appendix D

Site location plan.





Seax House 2nd Floor

Victoria Road South

Chelmsford

Essex CM1 1QH

Date: 31 March 2025

Our Ref: TC/RC/129

Dear Chelmsford City Council

Business and Planning Act 2020

Application for a Pavement Licence – Wendy's, 9 -10 High Street Chelmsford CM1 1BE

I refer to your correspondence to the County Council's Highways Department, and consultation in respect of your Council exercising its powers to grant permission to **Matthew Muldowney** ("the Licensee") for the placing of **3 tables, 12 chairs, a maximum of 2 removable barriers** ("the table, chairs and barriers") on the footway outside **Wendy's, 9 -10 High Street Chelmsford CM1 1BE** ("the premises"), for the purpose of providing refreshment facilities at the location marked on the plan provided. I am now able to formally notify you of the highway authority's view.

I am pleased to advise that subject to the below conditions, completion of any other statutory procedures required, and to the grant of any planning permission needed, the Highway Authority hereby consent to your Council granting permission under section 3 of the said Act to the proprietors of the premises to provide and operate refreshment facilities involving the placing of the tables and chairs within the highway. The area of the highway, to which this consent relates has been indicated on the plan provided by yourselves.

Site Specific Conditions



1. Furniture will only be permitted between the hours of 07:00 to 20:00 Monday to Saturday and Sundays 08:00 to 20:00.
2. The area to be occupied shall measure 2.2M by 3.3M as defined by the location plan supporting the application.
3. Tables and chairs can only be placed in front of the façade the licence holder is responsible for.

Section 3 of the Business and Planning Act 2020 authorises your Council to grant a person permission only if the authority considers that, taking into account any conditions subject to which it proposes to grant the licence, nothing done by the licence holder pursuant to the licence would have an affect specified in subsection 6.

It is important to note the grant of a pavement licence only permits the placing of furniture on the highway. A pavement licence does not negate the need to obtain approvals under other regulatory frameworks, such as the need for a licence to sell alcohol, and the need to comply with registration requirements for food businesses.

Applicants will still need to apply for permission to carry out activities not licensable under the Pavement Licensing regime, under the Highways Act 1980. Examples of such activities include the placement of furniture that is not removeable, such as bolted to the ground or cannot be reasonably removed, or placement of furniture other than tables, chairs, or stools on the highway.

Essex County Council Terms and Conditions

1. The permitted times for the tables/chairs/barriers/posts/bin/heater/planters/umbrella to be on the highway are between the hours agreed by your Council and at all other times all the furniture must be removed.
2. The table/chairs/barriers/posts/bin/heater/planters/umbrella to be placed in the permitted area of highway should not exceed what has been given consent for. All other furniture associated with the premises such as bins and A boards must be placed within the permitted area and not outside.
3. The Licensee to provide removable barriers to separate the tables and chairs from the users of the highway. Barriers must have a minimum overall height of 800mm and a gap of no more than 150mm between the base or tapping rail

and the ground. Barriers must be manoeuvrable enough to allow them to be removed from the highway into the main premises at the close of business. It is recommended that the barriers are in a contrasting colour to the highway surface to provide maximum impact for the visually impaired

4. The authorised area of public highway to be used will not exceed what has been given consent for.
5. The Licensee shall attach no fixtures to or make excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
6. The authorised area shall be used solely for the purpose of consuming refreshments by persons seated at the tables and chairs provided within the authorised area.
7. No charge shall be made by the Licensee for the use of the tables and chairs.
8. Waste from the Licensee's operations shall not be disposed of in the permanent litterbins situated on the highway for use by the general public provided by the Council.
9. Refuse and litter deposited on the highway in the vicinity of the tables and chairs must be collected and removed each day by the Licensee at the Licensee's expense and not less than hourly intervals, at close of business or at more frequent intervals as may be required by or under the Environmental Protection Act 1990 and the Licensee shall comply with all requirements of any public health legislation for the time being in force.
10. The Licensee shall not permit or suffer the removal of any glassware used for the supply of the refreshment provided by the public from the authorised area. Glasses supplied for the consumption of drinks on the authorized area shall be made of toughened glass or plastic only.
11. The Licensee shall not place furniture on the highway outside the authorised area of use.

12. The authorised area shall be supervised by competent staff or the Licensee at all times during the exercise of this consent who shall take all reasonable steps to ensure compliance with these terms and conditions.
13. The Licensee shall remove from the highway tables and chairs to permit works in or the use of the highway by the County Council, the police, fire and ambulance services, any statutory undertaker or telecommunications code operator and shall make no claim against the County Council for any loss of revenue.
14. The Licensee is responsible for ensuring that no statutory undertakers' apparatus is affected by the exercise of this consent.
15. The Licensee shall at its own expense obtain any necessary statutory consents and approvals required in connection with the exercise of a refreshment facility on the highway and comply with the provisions of all such consents and approvals and all statutes and other obligations imposed by law with regards to the provision, maintenance and operation of the refreshment facility.
16. The Licensee shall make no claim or charge against the County Council in the event of the street furniture being lost, stolen or damaged in any way whatever cause.
17. The Licensee shall not place any tables and chairs or other furniture in the authorized areas before the given and agreed times. For further clarification, no furniture is to be placed or kept on the authorized area when the premises are not open or trading, nor placed on the highway other than what has been stated in this licence.
18. Without prejudice to the ability of the County Council to remove the tables and chairs by reason of Statute, common law, and/or for breach of any of the terms and conditions of this consent, this consent shall remain in force until such time as the applicant seeks to amend its proposal, including, but not limited to, the location and/or number of the tables and chairs to be placed in the highway and/or such time as the Council refuse to issue the related permission.

19. The Licensee shall accept responsibility for, and indemnify and keep the County Council indemnified against, all actions proceedings, claims for incidental damage, loss or injury caused and other reasons, demands, costs and expenses whatsoever which may be brought or sustained or incurred by the County Council by reason of this consent.
20. If nothing changes within this consent (owners/furniture/layout etc.), these terms and conditions do not require renewing each year.
21. The Licensee shall make good, to the County Council's satisfaction, any damage caused to the highway caused by the exercise of this consent and indemnify and keep indemnified the County Council from and against any claims, demands or proceedings in any way arising in regard thereto.
22. The Licensee shall effect a public liability insurance policy for an amount of not less than £10,000,000 (Ten Million Pounds) and it shall maintain this policy in full force and effect for the total period of this consent.
23. Despite this consent, the authorised area shall always remain part of the public highway and users of the highway are still entitled to exercise their right of passage over them.

Yours sincerely

R Crouch

Mrs Rachel Crouch

Network Assurance

Senior Traffic Regulation & Licencing Officer

Appendix E

Representations received during consultation period.

Representation 1

I wish to make representations regarding this pavement licence and object to the application.

The placement of the tables, chairs and associated barriers is not in accordance with the current Pavement Licence Policy. There are no designated areas to the front of the premises at 9-10 High Street where tables and chairs are permitted to be placed as identified with the design of the Tindal Square development and considering the narrowing of the High Street at this point. In addition to this there is fixed street furniture (2 x seats) placed on the High Street approximately 3m from the front of this premises in the central area of the High Street. The proposed placement of tables, chairs and barriers adjacent to Wendy's frontage is not directly opposite these permanent seats but is close enough that it would impede access down the east side of the High Street causing a tight chicane and bottleneck. The Pavement Licence Policy was formed, when developing the top of the High Street, taking into account comments from disability and access groups who highlighted the need for free access down the sides and in the centre of the High Street. This proposal would cause a restriction to access on the eastern side of the High Street and I therefore object to this application.

Lewis Mould

Public Health and Protection Services Manager

Public Health and Protection Services, Public Places

Chelmsford City Council

Representation 2

Wendy's premises 9-10 High Street is a building of local value (townscape and architectural interest), within the Chelmsford Central Conservation Area and the street area is part of the newly created public realm of the City Council led-scheme Tindal Square.

The applicants proposal is a double row of tables in an area of 2.2m depth abutting the façade x 3.3m long.

This will effectively block the building side open walkway along the eastern edge of the High Street. A pedestrian walking south will suddenly have an abrupt stop.

Outside the shop front there is a public bench, it marks the start of the furniture zone for the area north of 12 High Street (the start of the Tindal Square public realm scheme), the bench is purpose designed for a person sitting down to have views south down the High Street. The bench is positioned 3.2m away from the building front, with the intention to keep the footway building side clear of any furniture and the area south also clear to enable views.

Whilst Wendy's proposed tables & chairs area would be south of the entrance doors, so not literally blocking the entire eastern High Street walkway, they would be a distance of 3m at the closest corner to the public bench (see attached plan where this is shown diagrammatically). When a person is sat down at the public bench this will be further reduced by approximately 0.5m, it would be even further reduced if a buggy or wheelchair is situated alongside. This would no doubt disturb the pedestrian flow and create a pinch point for the amount of people moving along the street. This would force an abrupt dog-led pedestrian movement for those south-bound and should be avoided, especially being so close to the established, and designed for, approach for the north end of the high street. Breaking the designed and intended approach of tables & chairs away from the building as part of the central furniture zone gives the feeling of street clutter, which Planning Policy (nationally and locally) heavily aims to avoid, and a key principle behind the Tindal Square public realm heavily invested in by the City Council.

Pret A Manger at 13-14 High Street is some 15 metres away from the public bench and has tables & chairs against the building, this is considered a clear enough distance to not cause an issue to the approach the Council takes for the area north of 12 High Street, however as explained above unfortunately the same can not be said for 9-10 High Street.

By placing any tables and chairs at Nos 9-10 either immediately outside the frontage or opposite in the middle, would further reduce the openness of the pedestrianised area. This is further impacted by the recent decision to allow tables and chairs outside the premises opposite at 90 High Street.

Jamie Cole

Public Realm and Design

Economic Development and Implementation, Sustainable Communities



Chelmsford, Essex CM1 1JE

DX123305 Chelmsford 7
Telephone: 01245 606606
Facsimile :01245 606681
Email: licensing@chelmsford.gov.uk

Our Ref: 25/00155/PAVLI
Officer: Kate Kober
Direct Dial: 01245606727
Date: 10th April 2025

Subject: Pavement Licence Application for Wendy's 9-10 High Street, Chelmsford, Essex, CM1 1BE

Dear,

I hope this letter finds you well. I am writing to inform you that your application for a pavement licence, submitted on 10th March 2025 has been carefully reviewed by the relevant authorities. Regrettably, we must inform you that your application has been refused, and we would like to outline the reasons for this decision.

The main reason for rejecting your application is the proposed tables and chairs area against the building line would obstruct pedestrian flow and because it is not in accordance with the current policy.

Furthermore, we have received comments from other responsible authorities who were consulted with. Their observations are as follows:

1. The proposed placement of tables and chairs directly adjacent to the building frontage would significantly impede the open pedestrian walkway along the eastern side of the High Street. It would create a pinch point for southbound pedestrians, particularly affecting those with mobility aids, wheelchairs, or buggies, and would reduce the accessibility and safety of this key public route.
2. The location of 9–10 High Street lies within the Chelmsford Central Conservation Area and forms part of the Tindal Square public realm scheme, a carefully designed area led by Chelmsford City Council to enhance openness and accessibility in the High Street. The scheme intentionally keeps the area adjacent to building frontages clear of obstructions, including commercial furniture, to maintain uninterrupted views and movement.
3. The proposal is not compliant with the Council's Pavement Licence Policy, which was informed by accessibility and disability groups. The policy identifies designated zones where tables and chairs may be placed, and your application falls outside of these areas. The proximity of your proposed furniture to fixed public seating further narrows the pedestrian route and contributes to a bottleneck, contradicting the core objectives of the policy.
4. Approving furniture in this location would disrupt the consistency of the designed street layout and contribute to the perception of **street clutter**, which is strongly discouraged by both local and national planning policy.

Considering these considerations, we find it necessary to refuse your application for a pavement licence.

PUBLIC PLACES

Director: Keith Nicholson

Please note that there is no formal appeal process under the law for a refused Pavement Licence application. However, the guidance does indicate that local authorities may allow an informal appeal to their licensing committee. This appeal is entirely at the council's discretion and is not guaranteed. If you wish to proceed with an appeal, please confirm your intent in writing and provide a detailed explanation of your grounds for appeal.

We understand the importance of outdoor seating for businesses like yours, and if you choose not to appeal this decision, we encourage you to consider submitting a new application with plans that better align with the council's policy.

Please be aware that local authorities have the power to issue a notice requiring the removal of furniture if an application is refused or not submitted by a specified date. Businesses must refrain from placing furniture on the highway without a Licence. If furniture continues to be placed in violation of the notice, the authority may remove and store the furniture, recover removal and storage costs from the business, and withhold the return of the furniture until those costs are paid. If the costs remain unpaid for three months after the notice, the authority can dispose of the furniture by sale or other means and retain the proceeds.

We appreciate your understanding in this matter.

Should you have any further questions or wish to discuss this decision in more detail, please do not hesitate to contact our office. If you wish to appeal this decision, please confirm in writing and provide an explanation of your reasons for appealing.

Yours sincerely

Daniel Winter
Licensing Lead Officer

Appendix G

Appeal email.

Good Morning,

This is a notice to appeal the outcome of a pavement license application
25/00155/PAVLI

We would like to appeal this due to disagreeing with the decision due to:

Believing the Application falls inside the policy remit, such as leaving a suitable distance away from the fixed public seating.

As well as following the Policy and Neighbours in placement of outdoor seating to limit the effect on pedestrians and limit the creation of any pinch points, while leaving enough space for wheelchairs, buggies etc.

Many Thanks,



Chelmsford City Council Regulatory Committee

12th June 2025

Pavement Licence Policy Review

Report by:

Director of Public Places

Officer Contact:

Lewis Mould, Public Health and Protection Services Manager

01245 606439, lewis.mould@chelmsford.gov.uk

Purpose

To seek approval for officers to carry out a consultation on the revised Pavement Licence Policy.

Recommendations

That the Regulatory Committee agree;

- (i) the revised Pavement Licence Policy is agreed as a 'consultation draft', as set out in Appendix 1;
 - (ii) that a consultation is carried out on proposed changes to the Pavement Licence Policy to obtain views and feedback on the proposal.
-

1. Background

- 1.1. Chelmsford City Council have been issuing Pavement Licences since they were introduced during the pandemic under the Business and Planning Act 2020.

- 1.2. These licences are required for businesses that sell food or drink and have an outdoor seating area on the public highway. They were introduced during the pandemic to provide a quick and light touch process to allow businesses to continue to operate and to do so in a safe manner.
- 1.3. The City Council has a Pavement Licence Policy that has been in place for some years with the most recent version being approved by Regulatory Committee in March 2022 (subject to some minor changes made in 2024 when the legislation changed, and changes to the length and cost of licences were implemented).
- 1.4. The current policy summarises the principles of the licensing regime and outlines where table and chairs would normally be permitted to be placed. The policy includes an appendix which consists of a plan of the Tindal Square development at the top of the High Street showing where tables and chairs are permitted to be placed in this specific area.
- 1.5. This area has a specific plan as it was recently regenerated and as part of this large regeneration scheme expert advice was sought on the design of the area to provide accessibility for all, including those with visual impairments and mobility requirements. The 2022 Pavement Licence Policy took account of these recommendations and the areas that were selected to be permissible for tables and chairs identified. The Policy plan included a 3-metre access on either side of the High Street at the frontages of the shops and maintained a 5-metre width access in the middle of the High Street, to allow sufficient access for emergency and servicing vehicles.

2. Regulatory Committee Decision

- 2.1. At the Regulatory Committee meeting on 27th February 2025 members resolved to overturn a decision to refuse a Pavement Licence and grant a licence to the premises in question. This was against the current Policy in that the licence would permit the premises to have tables and chairs outside of the designated areas in the Tindal Square section of the High Street. The premises were permitted to have furniture abutting the shop front. The Committee requested that, in light of this decision, the Pavement Licence Policy be revisited and reviewed.

3. Policy Amendments

- 3.1. The policy itself does not require a major overhaul, and it has served its purpose well since its introduction giving businesses and officers clear guidance on the process and how licences are considered. Suggested

changes and additions to the Policy are highlighted in the draft policy at Appendix 1.

- 3.2. Clarification has been provided in the 'Eligible Locations' section of the Policy and this is accompanied by an indicative plan covering the City Centre showing areas that tables and chairs will be permitted. The final plan will necessarily be more precise and detailed but for the purposes of the consultation the attached is intended to demonstrate approximate areas and initiate discussions. This is also not meant to be an exhaustive plan, and it may be that locations not identified on the plan would be acceptable for tables and chairs. Any permitted placement of furniture in the City Centre should not impede or take the place of approved Market stalls, for example those that are within the High Street Market. The plan is shown in two parts as Appendix 2 and covers the pedestrianised area of the City Centre.
- 3.3. The amended policy also includes information on enforcement regarding removal of unauthorised furniture and any associated removal, storage and disposal costs to be recharged.
- 3.4. The current Policy will continue to remain in force as it is, for the duration of the consultation and review process, providing members agree to the consultation.

4. Consultation

- 4.1. The amended Pavement Licence Policy document and plan will be made available for consultation and comments requested from relevant stakeholders.
- 4.2. The consultees will include Essex Highways, Chelmsford for You (BID), Chelmsford Area Action Group, Chelmsford City Centre Manager, Chelmsford Market Manager, Public Realm Planning Officer and all current Pavement Licence holders. The consultation will be open for 6 weeks and would be advertised on the City Council website.
- 4.3. Once the consultation has closed the responses will be brought back to a future Regulatory Committee so that members can consider these and agree the final policy as appropriate.

List of appendices:

Appendix 1 – Pavement Licence Policy with highlighted changes

Appendix 2 – Plan of City Centre to show permitted areas

Background papers:

None

Corporate Implications

Legal/Constitutional: None

Financial: None

Potential impact on climate change and the environment: None

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None

Risk Management: None

Equality and Diversity: Impact Assessment not required.

Health and Safety: None

Digital: None

Other: None

Consultees:

See 4.2

Relevant Policies and Strategies:

None

Pavement Licensing Policy

1. Introduction

- 1.1 The Business and Planning Act 2020 (as amended) was introduced as temporary legislation to assist businesses and remove existing bureaucracy around what were known as Tables and Chairs Licences under the Highways Act. The Business and Planning Act 2020 has now been amended by the Levelling Up and Regeneration Act 2023 which makes the Pavement Licence regime permanent.
- 1.2 The Act allows Chelmsford City Council to permit specified furniture to be placed on the highway (mostly footpaths and pedestrianised areas) although where applicable, businesses may still need the activity to be licensed, for example, sale of alcohol.

2. Definition of 'pavement licence'

- 2.1 A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, and for certain purposes.

3. Eligible Businesses

- 3.1 A person (which includes a body corporate) which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, ice cream parlours or similar.
- 3.2 A licence permits the business to use furniture placed on the highway in order to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.
- 3.3 A pavement licence does not licence the activity, only the placing of the furnishings.

- 3.4 The pavement licence is issued to a person or incorporated body. Where there is a change to that person or incorporated body then the licence will lapse, and a further application will need to be made by any new person.

4. Eligible Locations

- 4.1 Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

- 4.2 The Policy is intended to ensure that the locations where tables and chairs are permitted to be placed are such that they do not cause any safety concerns by way of obstructions (for emergency services vehicles) and that the areas remain accessible to all, including those with visual impairment or mobility requirements.

- 4.3 This policy is applicable throughout the Chelmsford City Council area, although its main impact is within the city centre as other areas with demand for tables and chairs tend to be on privately owned land.

- 4.4 Tables and chairs can only be placed in front of the façade the licence holder is responsible for, unless written permission has been obtained from the owner/operator of the premises whose façade the tables and chairs are proposed to be placed.

- 4.5 Tables and Chairs will not be permitted where they would restrict any pedestrianised public highway to less than 2.5 metres in width or impede any designated cycle route. There are certain city centre high footfall locations where 2.5 metres will be an insufficient minimum width, and more space will be required.

Chelmsford City Centre

- 4.6 The Council has approved particular restrictions to the granting of pavement licences in the pedestrianised area of Chelmsford Town Centre. These restrictions reflect the particular aspects and design of the area which is intended for flexible use, the high pedestrian footfall and lines of pedestrian movement, risk of congestion and needs of residents with visual or physical impairment. They also result from the consideration of people using the area who are neuro-divergant. Therefore, only certain parts of the pedestrianised area of the Town Centre are considered suitable for a pavement licence, and particular criteria must be met.

- 4.7 From 11 High Street northwards to the top of the High Street tables and chairs are only permitted in the hatched areas of the plan at Appendix 1. There must be a minimum width of 3 metres between the business façade

and the tables and chairs, and a minimum 5 metre clear route along the centre of the street. The maximum depth of the area licensed for tables and chairs in this area is to be 2.5 metres. Following a decision by Regulatory Committee there is an area to the front of 90 High Street with a depth of 1.6m where tables and chairs will be permitted to abut the front of that premises.

- 4.8 To the south of 11 High Street, including the lower section of the High Street, Springfield Road and Moulsham Street, tables and chairs are to be placed abutting the façade. The maximum depth of the area licensed for tables and chairs is to be 2.5 metres, unless it can be demonstrated that there is sufficient space to allow greater depth without compromising safety. Maximum depth of 2.5 metres does not apply to Exchange Square, Market Square or Backnang Square.
- 4.9 Chelmsford High Street Market: There is an exception to the 2.5 metre depth between Half Moon Square and the Town Sign on the High Street. This area is used for the High Street Market on a number of days of the week and the market stalls are placed in the centre of the High Street. When the stalls are in place they leave a minimum of 3m access on either side of the Street. Any pavement licence in this area must be in accordance with these criteria although the 2.5 metres maximum depth does not apply in this central area as there can be sufficient space for a larger depth. No Pavement Licence will permit tables and chairs to be placed where market stalls are authorised, on market days. Premises immediately adjacent to the ends of the High Street market area would not be permitted to place tables and chairs abutting their premises if this will obstruct the flow of pedestrians and the 3-metre access down the two sides of the High Street.
- 4.10 Any application for tables and chairs in front of Shire Hall must be considered by the Council's Regulatory Committee.

The specific requirements for the pedestrianised City Centre, including designated areas where tables and chairs would be permitted to be placed in addition to Tindal Square, are shown in the attached plan at Appendix 2.

5. Type of furniture permitted

- 5.1 Seating, tables and, if required, umbrellas and heaters (together with a secure base) as well as any proposed barriers to enclose the seating area are permitted.
- 5.2 The furniture must be fit for purpose and designed specifically for commercial outdoor use (and comply with all relevant BS standards). It must be kept in good order; damaged or faded items must be replaced.

- 5.3 This furniture is required to be removable, meaning that it is not a permanent fixed structure, and is able to be moved easily, and should be stored away when the premises are closed for activity.
- 5.4 There is an expectation that the type and style of furniture would be 'in keeping' with the local area.
- 5.5 Picnic benches and plastic tables and chairs designed for domestic use (e.g. white plastic furniture) are not permitted.
- 5.6 Any form of gazebo, or an enclosed shelter with one or more sides, is not permitted.

6. **Toilet Provision**

- 6.1 It is expected that toilets and associated handwashing facilities will be made available for customers. Both indoor and outdoor seating will need to be taken into account when calculating the number of toilets that may be required. In assessing the suitability and sufficiency of customer toilets, regard must be had to the Council's guidance on toilet provision, please contact safe.support@chelmsford.gov.uk for further information.

7. **Barriers**

- 7.1 When tables and chairs are in place a standard barrier consisting of a fabric banner and associated post/rail system **should** be used **if appropriate**. The function of the barriers is to demarcate and contain the tables and chairs but also to give a clear warning particularly to people with visual impairments.
- 7.2 The barriers shall be secured by a purpose designed post and rail system with weighted post bases to prevent being knocked or blown over and be of a height range of 800mm to 1000mm so to not visually obstruct views down the street or be an obstructing hazard
- 7.3 Street café barriers should be of a design to complement the character of the surrounding area. Banners should be of one design, in a plain style and can incorporate the business name or brand logo. Posts and rails should be stainless steel, chrome plated or powder coated.

8. **Times of Operation**

- 8.1 The tables and chairs can be placed on the highway only when the premises are open for business and in any event not before 6.00 am and normally until the close of business.

Where nuisance is likely to be caused to residents e.g. late at night, businesses may be required to remove the tables and chairs before the close of business.

9. **Planning Permission**

- 9.1 Once a licence is granted the applicant will also benefit from deemed planning permission to use the land for anything done only pursuant to the licence while the licence is valid, but not for any other purpose.

10. Consultation

- 10.1 Applications are consulted upon for 14 days, starting with the day after that on which the application is made to the Council (an application will not be considered to have been properly made unless each requirement has been met).
- 10.2 The Council will publish details of the application on its website at <https://www.chelmsford.gov.uk/business/licensing/incoming-licensing-applications/>
- 10.3 The Council is required by law to consult with the Essex County Council Highways Authority. In addition, to ensure that there are no detrimental effects in granting such a licence the Council will also consult with:
- Chelmsford City Council Public Health and Protection Services
 - Chelmsford City Council Planning Department
 - Essex Police
 - The appropriate Local Ward Councillor(s)
 - The appropriate Parish or Town Council

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider in their determination of the application.

11. Cost

- 11.1 There is an application fee and a renewal fee payable every two years. Details can be found on the application form and the Chelmsford City Council website.

12. Insurance

- 12.1 Operators must indemnify both Chelmsford City Council and Essex County Council in respect of injury, damage or loss arising out of the grant of permission (unless such claims arise out of the Councils' negligence). All operators must have public liability insurance in the sum of £10,000,000 in respect of any one event. A copy of this insurance must be produced to the Council before a licence will be issued.

- 12.2 The Licence holder shall make no claim or charge against the Council in the event of the furniture or other objects being lost, stolen or damaged in any way.

13. **Litter**

- 13.1 Refuse and litter deposited on the highway in the vicinity of the chairs and tables must be collected at not less than hourly intervals (or more frequent intervals if required under the Environmental Protection Act 1990).
- 13.2 Litter is not to be placed in the litter bins situated on the highway for use by the general public, but in the trade refuse bins.
- 13.3 All tables must be cleared as soon as practicable after being vacated by customers to avoid litter being deposited unnecessarily on the highway.

14. **Cumulative impact**

- 14.1 The Council can take into account the cumulative impact of multiple pavement licences in close proximity to each other. In particular, specific evidence that this may create a build-up of furniture and cause potential obstruction on the footway, particularly for disabled people, may cause the application to be rejected.

15. **Enforcement**

- 15.1 Notwithstanding the fact that a pavement licence has been granted under the legislation and the terms of this policy, if it appears that the permitted furniture or its use is causing obstruction, risks to public health or safety, anti-social behaviour or nuisance, the Council will consult with the licence holder to amend the licence or take the appropriate steps for its revocation.
- 15.2 If tables and chairs are being placed on the highway without the required licence the Council can remove these. This would be carried out following a Notice being issued to the premises operator to advise that they will be removed if not taken off the highway within a specified time period.
- 15.3 The Council reserves the right to charge reasonable removal and storage costs for the furniture if the owner wishes for it to be returned. The removal costs will be calculated using the officer time taken to arrange and carry out the removal. Any third-party storage costs will be charged back to the owner. The Council also reserves the right to dispose of unclaimed furniture as it sees fit and to invoice licence holders/owners for all costs associated with collection, storage and disposal of such furniture that has been removed in accordance with legislation.

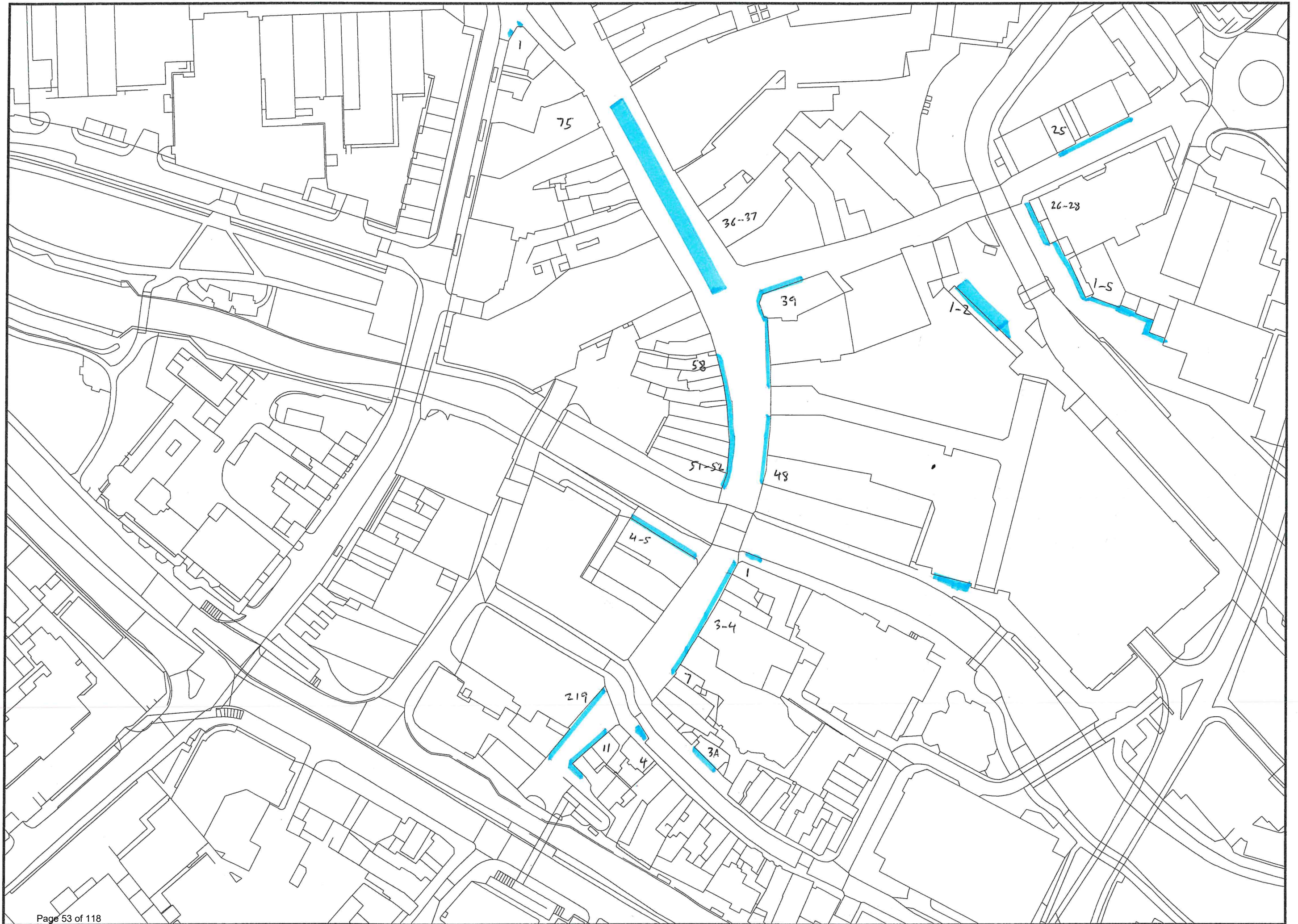
16. **Miscellaneous Conditions**

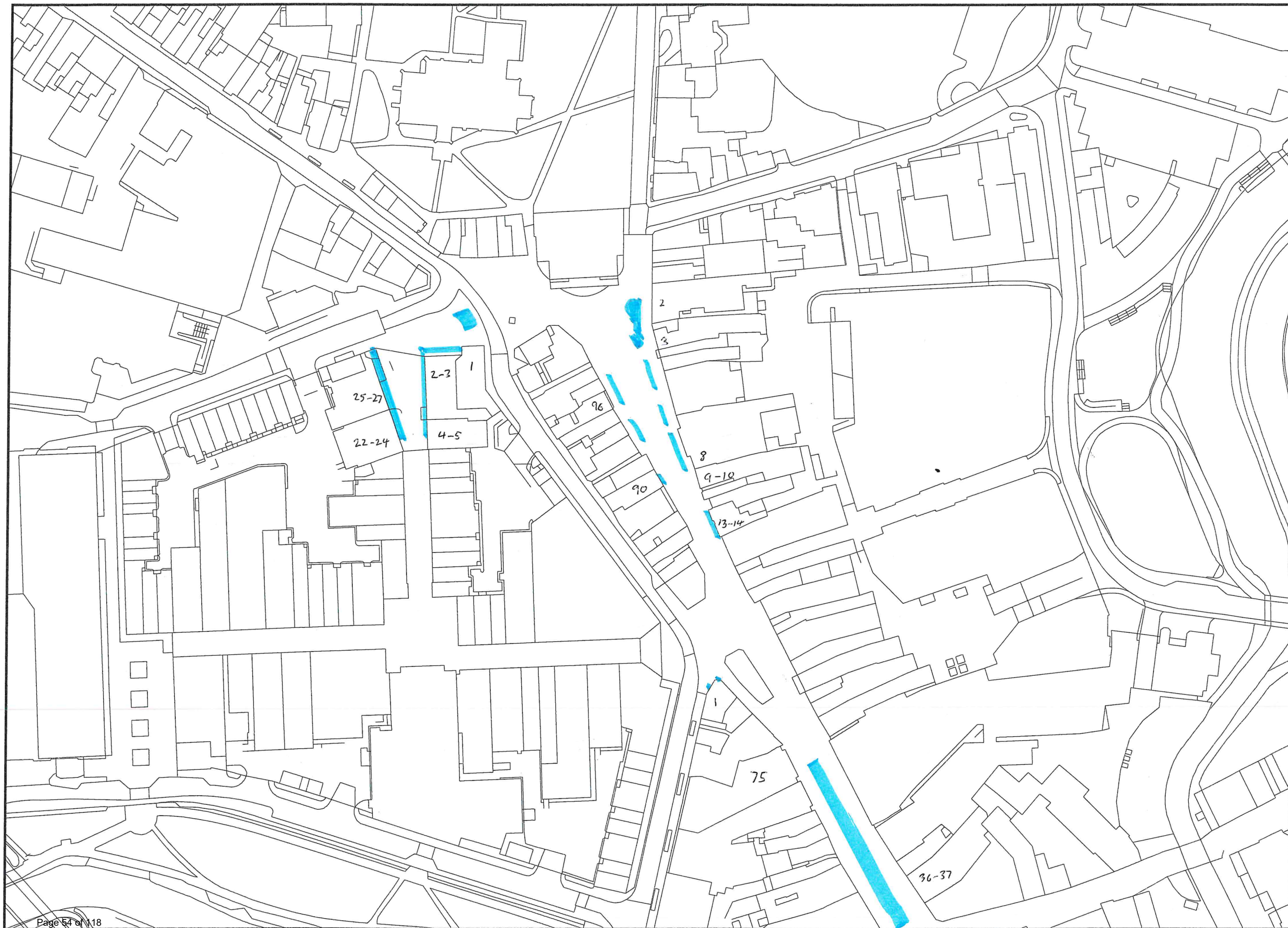
- 16.1 The Licence holder must remove any furniture if required to do so to permit works in or the use of the highway by the Council, the County Council, the emergency services any statutory undertaker or telecommunications code operator or where the Licence holder has been notified of a special event taking place.

No charge can be made by the Licence holder for the use of the furniture.

All licences are renewable every two years.

DRAFT







Chelmsford City Council Regulatory Committee

12 June 2025

Refusal of Vehicle Licence Applications (Vehicles Over 12 Years Old)

Report by: Daniel Winter - Lead Licensing Officer

Officer Contact: Daniel.winter@chelmsford.gov.uk
01245 606317

Purpose

To seek approval from the Regulatory Committee to delegate authority to licensing officers to determine appeals against the refusal of vehicle licence applications for vehicles over 12 years old, where no special or exceptional circumstances have been provided by the applicant.

Recommendations

That the Regulatory Committee:

- Approves delegated authority to licensing officers to determine appeals against the refusal of vehicle licence applications for vehicles over 12 years old where no special circumstances are submitted.

1. Background

- 1.1. The Council's taxi and private hire licensing policy (see **Appendix A** section 3.4.7 and 8) states that neither Hackney Carriage nor Private Hire vehicles over 12 years old will normally be licensed unless exceptional circumstances apply. This

reflects the Council's focus on passenger safety, vehicle reliability, and reducing emissions.

- 1.2. Applicants whose vehicles do not meet the age requirement may still apply, and any refusal can be appealed. Currently, such appeals are routinely referred to the Regulatory Committee, even where the decision reflects a straightforward application of policy, and no supporting evidence of exceptional circumstances is provided.
- 1.3. A review of appeal cases over the past few years shows multiple examples where appellants have cited personal financial hardship as the primary reason for retaining an older vehicle. While such circumstances may be sympathetic, they have not typically been considered sufficient grounds to justify a departure from the Council's policy

2. Delegation Proposal

- 2.1 Officers routinely receive appeals that offer no new information or supporting evidence of exceptional circumstances. These are often matters of straightforward policy application and do not benefit from Committee intervention.
- 2.2 The proposal is to allow officers to determine such appeals under delegated powers, while maintaining the option to refer complex or discretionary cases to Committee where appropriate.

3. Legal and Operational Considerations

- 3.1 The Council's Constitution permits the Regulatory Committee to delegate decision-making powers to officers. This recommendation aligns with existing governance practices and supports proportional use of committee resources.
- 3.2 All decisions would continue to be made in accordance with the licensing policy and with due regard to fairness, consistency, and the applicant's right to be heard.

4. Conclusion

- 4.1 Delegating authority to officers to determine these specific appeal cases will ensure more efficient use of member and officer time, without compromising transparency or accountability.
- 4.2 Officers will retain discretion to refer cases to the Regulatory Committee where circumstances are complex, raise policy considerations, or may reasonably justify a departure from the standard vehicle age policy.

List of appendices:

- Appendix A – Extract from Taxi and Private Hire Licensing Policy: Vehicle Age Criteria

Background papers:

- Chelmsford City Council Constitution – Part 3
 - Taxi and Private Hire Licensing Policy
-

Corporate Implications

Legal/Constitutional: Requires amendment to the scheme of delegation in the Council's Constitution.

Financial: Minimal; efficiency savings through reduced Committee time and officer preparation.

Potential impact on climate change and the environment: Supports environmental goals by reinforcing the policy to reduce older, more polluting vehicles.

Contribution toward achieving a net zero carbon position by 2030: Encourages compliance with vehicle age standards, contributing to lower emissions across the licensed fleet.

Personnel: Frees officer time for other regulatory duties.

Risk Management: Ensures only appropriate cases are escalated to members; discretion retained for complex cases.

Policy is applied consistently; appeals considered on a case-by-case basis with scope to refer where appropriate circumstances exist.

Health and Safety: None

Digital: None

Other:

Consultees:

Jane Smith, Lewis Mould, William Butcher, Heather Binns

Relevant Policies and Strategies:

Taxi Licensing Policy

Taxi Licensing Policy

Hackney & Private Hire Vehicles



Effective [17/06/2021] v9.5

Public Health and Protection Services	Reference: Version No. 1
Statutory Taxi & PHV Standards 2020	Date Created: September 2020 Next Review Due by: June 2026 Originating Officer: Nigel Dermott
Taxi & PHV Policy	Approved by: Full Committee

Committee meeting	Version No	Changes Made	Changes made by	Date of Change
18/11/21	9.1	Updates 2.8	N. Dermott	22/11/21
18/11/21	9.2	Updates 1.13.6 – 1.13.8	N. Dermott	22/11/21
18/11/21	9.3	Updates 3.18.1, Hackney condition 3 and PHV condition 4	N. Dermott	04/01/2022
27/1/2022	9.4	Vehicle licence conditions re signage	N. Dermott	28/1/2022
17/3/2022	9.5	Adds at 2.2.2 & 4.1.7	N. Dermott	18/03/2022

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Introduction

Chelmsford City Council is responsible for the licensing of Hackney Carriages and Private Hire Vehicles within the District boundary.

This policy draws together previously adopted policies relevant to this area of licensing and takes into account the statutory guidance issued by the Department for Transport in July 2020. In doing so the aim of this policy is to provide clear guidance as to how the Council will discharge its responsibilities. Accordingly, this policy explains how local regulation is achieved and decisions are taken in order to provide a consistent, transparent and proportionate licensing regime.

The Policy has been developed after consultation with interested parties. A period of consultation operated from 25/02/2021 until 06/04/2021. The list of consultees is maintained separately and is available from the Licensing Service.

In drafting the Policy the Authority has given regard to legislation, available guidance and given proper weight to the views of those it has consulted.

The policy is laid out in 4 main parts plus appendices:

PART 1 - includes background and the general principles that direct the priorities of Chelmsford City Council in consideration of its responsibilities as Licensing Authority for all aspects of this policy including arrangements for consideration of an application and enforcement.

PART 2 - additional policy and procedural matters relevant to the licensing of drivers of private hire vehicles and hackney carriages

PART 3 - additional policy and procedural matters that are relevant to licensing vehicles (Private Hire Vehicles or hackney carriages)

PART 4 - additional policy and procedural matters relevant to the issue of Operator's licences

When implementing the Policy, the Authority will maintain appropriate links with partner agencies and stakeholders to ensure the objectives laid out in this policy are met including:

- Essex Police
- Essex County Council
- Department for Transport
- Vehicle Operator and services Agency (VOSA)
- The vehicle testing station of the Council (Freighter House)
- The Hackney Carriage and Private Hire Trade Forum

- Appropriate Governmental departments
- Other licensing authorities in Essex or elsewhere

PART 1

Role of Chelmsford City Council as the Licensing Authority

1.1. Summary of licensing requirements

- 1.1.1 Chelmsford City Council is the Licensing Authority (the Authority) for the purposes of licensing vehicles and persons regulated by this regime.
- 1.1.2 The activities subject to regulation under the licensing regime are as follows;
- Vehicles for up to 8 passengers provided for hire or reward
 - Those that can be hailed in the street (Hackney Carriage Licence)
 - Those vehicles that need to be pre-booked in advance (Private Hire Vehicles)
 - A person who drives a hackney carriage or a private hire vehicle (a licensed driver)
 - A person who owns a licensed vehicle (vehicle owner/proprietor)
 - A person who takes bookings for private hire vehicles (a Private Hire Operator)
- 1.1.3 Note: Hackney Carriages and Private Hire Vehicle are always Hackney Carriages and Private Hire Vehicles and as such cannot be driven by anyone other than a driver licensed by the same Authority that licenses the vehicles. In the case of Private Hire Vehicles, they must operate under the authority of an Operator who holds an Operator's Licence, also issued by the same licensing Authority¹. Vehicles, drivers and operators that are licensed by one licensing authority can operate in another local authority area provided the journey is booked and arranged in accordance with current legislation.
- #### **1.2. Legal Background and Policy Rationale**
- 1.2.1 The operation of Hackney Carriages and Private Hire Vehicles has a specific role to play in an integrated transport system. They can provide services where public transport is not available (for example in rural areas, or outside "normal" hours of operation such as in the evenings or weekends), and for those with mobility difficulties. This Policy sets out the approach the Authority will take in the licensing of Hackney Carriages and Private Hire Vehicles, Drivers and Operators when considering and making decisions on applications made under this regime. The Authority will aim to apply this Policy in a consistent manner; however, the Authority may depart from this Policy if it has reason to do so but will give justification for such departure.
- 1.2.2 Nothing in this Policy will undermine the rights of any person to apply for a variety of authorisations under this licensing regime and have each application considered on its individual merits. However, outside of the legislative framework the Authority

¹ Benson v Boyce [1997] RTR 226

has absolute discretion in setting the requirements of this Policy and will expect all applicants and licence holders to abide by its content.

1.2.3 This Policy was approved by the Council on the 17th June 2021 and shall be effective from the 18th June 2021 and shall remain in effect for five years; The Policy will be reviewed at the end of this period, but may also be subject to review in response to changes in regulation or guidance or other relevant significant issues which necessitate a review of Policy.

1.2.4 The main legislation and guidance referred to in this policy is:

1. [Local Government \(Miscellaneous Provisions\) Act 1976](#) (the 1976 Act)
2. [Town Police Clauses Act 1847](#) (The 1847 Act)
3. [Department for Transport Statutory & Private Hire Vehicle Standards July 2020](#) (DfT guidance)
4. Chelmsford Hackney Carriage [By-Laws](#)

Other references are shown throughout.

Common offences under items 1 & 2 above can be found [here](#)

1.3. **Scope**

1.3.1 This policy covers the following licences:

- Hackney Carriage and Private Hire Driver Licences (Driver Licences)
- Private Hire Vehicle Licence
- Private Hire Operators Licence (Operator Licence)
- Hackney Carriage Vehicle Licence

1.3.2 This Policy covers all permissions provided for in respect of the above licences. Including new applications, transfers, replacements and (where required) relicensing. This Policy also includes the review (where required) of any authorisation (License), which could lead to a range of sanctions available to the Authority including, where circumstances justify, the suspension or revocation of an authorisation.

1.3.3 All relevant application forms and guidance are available via the Chelmsford City website or from the Council's licensing services at licensing@chelmsford.gov.uk or telephone 01245 606606

1.3.4 New licence applications and 'renewal'; applications received after the introduction of this Policy will be expected to comply with all the relevant requirements.

1.4. **Aims and Objectives**

1.4.1 The primary and overarching aim of the licensing regime governing hackney carriages and private hire vehicles is the protection of the public. In support of this aim, in carrying out its functions, the Authority will promote the following objectives:

- The protection of public health and safety;
- The promotion of a professional and responsible Hackney Carriage and Private Hire trade;
- Equality of provision and access to an efficient and effective Taxi and Private Hire transport service Reduce the impact on the environment.

At the core of the licensing regime is the need to ensure, above all else, the safety of passengers. Any complaint or other intelligence relating to driver behaviour that puts passenger safety at risk will be investigated including working with other relevant and partner authorities. Paramount will be the protection of children and vulnerable adults.

1.5. **Administration and Delegation of Functions**

1.5.1 The Authority discharges its functions as described within the Council's Constitution. Licensing matters relating to this policy are discharged through the Regulatory Committee (The Committee) with delegations to The Director of Public Places and the Public Health and Protection Services Manager. Restrictions on the exercise of delegated functions are detailed in the scheme of delegation [under Part 03 \(Responsibility for Functions\)](#).

The full terms of reference for the various committees, the arrangements for delegation and officer functions are detailed in the Council's Constitution which is published on the Council's website

1.5.2 The Committee determines policy, applications for licences and issues relating to existing licences where officers do not have the delegated authority to act. Any matter can be referred by the Director to committee for consideration. This may include the following:

- Applications where any pre-licensing conditions are not met

- Matters falling outside policy guidance
- Matters giving rise to serious concern that the granting or the continuation of the licence may undermine policy objectives.

1.5.3 Chelmsford City Council Directors have the authority (general power of competence) to act in relation to all matters within their area of responsibility with the exception of any matter expressed to be specifically delegated to a particular officer under any part of the Council's Constitution or following a decision of the Council, the Cabinet or any other Committee of the Council.

1.5.4 Valid applications (those meeting all pre-licensing conditions and requirements), matters within policy parameters and any matters delegated by the Committee can be dealt with in full by Licensing Officers under authority of the Director of Public Places or the Public Health and Protection Services Manager.

Summary of delegations

1.5.5 **The Director of Public Places** has Responsibility for 'Licensing functions within the responsibility of the Authority', and the specific authority to;

- grant licences and consents
- make onward delegation of any matter to another officer (subject to any statutory restriction or restriction contained in the Council's Constitution)

1.5.6 **The Public Health and Protection Services Manager** has specific delegated authority to

- Refuse applications for Hackney Carriage and Private Hire Vehicle Driver's Licences in case of four consecutive failed local knowledge tests and advise applicants that no further application is likely to be granted within twelve months

1.5.7 **The following restrictions apply to the authority of the Director of Public Places and Public Health and Protection Services Manager and must be referred to the Regulatory Committee:**

- applications (including renewals) for hackney carriage and private hire licences where the applicant has more than 6 penalty points on his/her licence or does not meet the current policy requirements, save where the Regulatory Committee has previously determined that an application need not be referred back to it, and can instead be determined by officers under delegated powers;
- applicants for private hire licences who have convictions or who do not meet the current policy requirements; and
- applications for renewal of private hire licences where the circumstances of the applicant have changed since the grant of the previous licence

1.5.8 The scheme of delegations allows that in the absence of any officer to whom a delegation is made, for that delegation to be made by that Officer's Manager.

1.6. **Committee Hearings**

1.6.1 Committee hearings are arranged to determine policy, any applications or existing licences that cannot be dealt with under delegated powers and any other matter that may be referred by the Director. All matters presented to the Committee will be in the format of a written report, a copy of which will normally be provided or made available to the applicant or licence holder no later than 5 days before the Committee meeting, unless emergency procedures are required.

1.6.2 Each case will be determined on its individual merits and the Authority will give appropriate weight to:

- The relevant legislation and/or relevant case law (if appropriate)
- The information provided by parties at a hearing
- Available and appropriate guidance
- This policy

1.6.3 Unless an urgent matter requires determination, hearings are held at set dates throughout the year and published on the Council's website. Applicants and licence holders should therefore note that there may be a delay before their application or licence can be determined by Committee. The Committee will conduct a quasi-judicial consideration of the application based upon the evidence presented. The business of the Committee is dictated by the number of matters presented for determination at that time. Accordingly, the duration of each session can vary.

1.6.4 A legal advisor, advocate or friend may represent any applicant or licence holder where such person chooses not to represent themselves.

1.6.5 Unless determining matters of policy, the Committee will usually meet in private in order to protect the personal and sensitive information relating to an applicant. To ensure impartiality, all Officers (apart from the Council's legal advisor and the Democratic Services Officer) are absent during the decision-making process.

1.6.6 Applicants and licence holders will be informed of the decision of the Committee on a stated date after the hearing, whereupon a written copy of the decision will be provided. The decision determined by the Committee will be accompanied with the reasons for that decision.

1.6.7 To make a fair decision, it is important that the Committee is aware of all of the facts relating to any given case. Accordingly, the Committee will need to understand why the applicant feels that they should be granted a licence or why an existing licence holder should keep their licence within the context of the matters brought before the Committee. The hearings procedure ensures that applicants and licence holders have the opportunity to present suitable and sufficient evidence to support their case.

1.7. Ex-parte Hearings (Without the subject present)

1.7.1 In the unusual and rare event that a licence holder is unavailable for a hearing e.g. persistently refuses to engage, is on remand, or known to be out of the country for a prolonged period, a matter **may** be heard by the authority ex-parte (in their absence). This is expected to be a very rare occurrence but acknowledged that it may legally be possible where a matter is so serious that it is considered justifiable to do so. In such a situation and assessment will be made as to whether such a hearing will take place and take account of the nature of the information/allegation, balancing the right of a fair hearing against whether or not it is in the public interest to hold the hearing ex-parte.

1.8. Decision making

1.8.1 In determining any application or considering a report relating to an existing licence the Authority has to satisfy its duty in respect of public safety and make a judgement as to whether the applicant or existing licence holder is a 'fit and proper' person to hold a licence. This judgement is based on the balance of probabilities and the following tests are used for the basis of its decision:

Drivers

"Would you (as a member of the committee or other person delegated with the ability to determine the ongoing status of a Hackney Carriage / Private Hire 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?"²

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?"³

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 be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?"⁴

1.8.2 In determining an application referred to it, the committee may:

- Grant the licence as applied for
- Grant the licence with additional conditions
- Require pre-conditions to meet before granting and delegate the authority to

² Button on Taxis – Licensing Law & Practice 4th Ed. Bloomsbury Professional para. 10.21

³ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 12.35

⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 8.98

- grant once those pre-conditions are met
- o Grant the licence subject to a shorter expiry date
- o Refuse the licence

1.8.3 In considering a report relating to an existing licence, the committee may

- o Take no action
- o Issue a warning
- o Require the licence holder to undertake specific actions in order to keep the licence
- o Apply additional conditions to the licence
- o Suspend the licence pending particular actions being completed or until further information is received
- o Revoke the licence

1.8.4 Members of The Committee are provided with appropriate training to undertake their duties as members of the regulatory committee.

1.9. **Appeals**

1.9.1 Following a hearing, the Authority will notify the applicant or licence holder of the decision. This will be done in writing on a stated date following the Committee meeting.

1.9.2 There is a right of appeal against the decision. An appeal would normally be lodged with the Justices' Chief Executive of the Chelmsford Magistrates' Court within a period of 21 days, beginning from the day on which the Authority notified the applicant of the decision (i.e. the day the decision is provided).

1.9.3 Unless indicated otherwise the decision of the Regulatory Committee will not take effect until the application to appeal a decision has been decided.

1.9.4 On determining an appeal, the Magistrates' Court may:

- Dismiss the appeal;
- Substitute the decision for any other decision which could have been made by the Authority;
- Remit the case back to the Authority to dispose of it in accordance with the direction of the court;
- Make such order as to costs as it thinks fit.

1.9.5 As soon as the decision of the Magistrates' Court has been made, the Authority will not delay its implementation and necessary action will be taken forthwith unless

ordered by a higher court to suspend such action (for example as a result of a judicial review).

1.10. Emergency Procedures Relating to Existing Licence Holders

1.10.1 In certain circumstances, it may be necessary for the Authority to take urgent action.

- Driver and Operator licences: This would include where intelligence received by the Authority brings into question whether an existing licensed driver or Private Hire Operator is a fit a proper person to hold a licence. For example, allegations of ⁵ or convictions of ⁶ a serious offence
- Hackney Carriage licence or Private Hire Vehicle licence. Such circumstances may include where the vehicle is alleged to have been involved in criminal activity.

1.10.2 In such cases, the Director of Public Places or Public Health & Protection Services Manager have delegated authority to take emergency action to suspend. The matter may also be referred to Committee

1.10.3 A licence holder can appeal the decision of a local authority to the Magistrates Court where an application has been refused, or licence suspended or revoked. Information relating to any appeal procedure will be provided together with the notice of a decision.

1.10.4 If a licence has been suspended, the period of suspension may be reviewed, extended or reduced by the Director or PHPS Manager or be referred to Committee.

1.10.5 If an application for renewal of a suspended licence is received, the circumstances being changed from the original application, it will be referred to the Committee for decision.

1.10.6 If an application has been received that relates to any licence that has previously been revoked, it will be referred to Committee for decision.

1.11. Enforcement and Compliance

1.11.1 The Authority undertakes a risk-based, intelligence-led approach to enforcement. This benefits both passengers and the responsible members of the Hackney Carriage and Private Hire trades. The Authority intervenes where it is necessary and proportionate to do so, having regard to the objectives set out in this Policy

1.11.2 Well directed enforcement activity benefits not only the public, but also the responsible people in the Hackney Carriage and Private Hire trades. Therefore, the Authority will make arrangements to monitor drivers, vehicles (including proprietors) and operators and take appropriate enforcement action. Enforcement activity may be carried out as a response to a complaint(s) or as part of any proactive or targeted initiative.

⁵ Leeds CC v Hussain CO/1376/2002

⁶ S. 61 Local Government (Miscellaneous Provisions) Act 1976

- 1.11.3 Enforcement action will be in accordance with the [Regulators Code](#) issued by the Minister of State for Business and Enterprise in accordance with section 23 of the [Legislative and Regulatory Reform Act 2006](#). Regulators are obliged to have regard to this Code when developing policies and operational procedures that guide their regulatory activities.
- 1.11.4 The Authority may seek cross boundary agreements to enforce licensed vehicles from other local authority areas and may have reciprocal arrangements through the provision of cross border authority.
- 1.11.5 The following enforcement actions are available to the Authority:
- **Warnings** - In respect of minor breaches of licence conditions or complaints regarding the conduct or behaviour of a licence holder the Authority may issue a verbal, written or final written warning as may be appropriate to the circumstances;
 - **Production of relevant documentation** - An authorised officer (including those with cross border authority) may require a licence holder to produce certain documentation upon request (or following a notice to supply), for example, any issued licence, driving licence or proof of insurance. Any failure to produce the requested documentation or within the time stipulated on any notice may result in prosecution;
 - **Suspension of vehicle licences** - Licensed vehicles shall be kept at all times in a safe, tidy and clean and reasonably efficient condition. Compliance with the vehicle specifications and conditions of licence is essential and will be enforced by periodic, random vehicle inspections by the Authority;
 - **Vehicle Defect Rectification Notice** - Where any vehicle is not being properly maintained and/or reveals a defect(s), a rectification notice shall be served on the Vehicle Proprietor and/or driver who must have the vehicle repaired and produce the vehicle to be rectified at the testing station (Freighter House). Depending on the nature and extent of the defect(s), the vehicle may be suspended until the defect(s) have been remedied. A suspension will not be lifted until the vehicle has undergone a further test at the proprietor's expense and been passed as fit for use and returning the rectification notice to the Authority confirming the same. If defects subject to a "rectification notice" have not been remedied within the period specified, the vehicle may be suspended. Such notice may be issued by a test centre vehicle examiner. Where a suspended vehicle remains suspended after a period of two months the licence is deemed to be revoked⁷. Any breach of the suspension may be subject of prosecution.
 - **Revocation and suspension of driver licences** - Unless action is taken under the emergency action procedure; where a licence holder has been referred to the Committee, the Committee may order the revocation or suspension of the licence. Such action may be taken with immediate effect dependent upon the individual circumstances of the case;
 - **Prosecution** - The Authority may prosecute licence holders for relevant

⁷ S.68 Local Government (Miscellaneous Provisions) Act 1976

offences in accordance with the statutory Regulators Compliance Code and its own Enforcement Policy. An offence may be referred for consideration for prosecution in addition to any other matters that might be heard by the Committee.

1.12. Information Sharing

- 1.12.1 The Council encourages partnership working alongside many other enforcement agencies such as the Police, HM Revenue and Customs, the Home Office, DVSA, Department of Work and Pensions, benefit fraud etc. The Council will ensure that information is shared lawfully and fairly in accordance with its information sharing agreement. The Council is legally required to provide information if lawfully requested to do so, which is normally pursuant to the investigation of a criminal offence, or to detect fraud, or investigate immigration offences.
- 1.12.2 Our primary source of information will come from the DBS (Disclosure and Barring Service). However, the Council will lawfully share and seek information elsewhere where it is justified and necessary to do so under common law police disclosure in order to receive timely and relevant information as it might relate to an arrest, charge, caution etc. where there might be significant risk to the public in not doing so swiftly. The Authority may also look at any history of complaints and concerns raised by the public or others when considering the 'fit and proper person test'. In the interests of public safety, Chelmsford City Council will not issue a licence to any individual that appears on the barred lists for children or adults.
- 1.12.3 The Licensing Authority maintains close ties with all local authorities across the county of Essex through an established Licensing Officers Forum. Through this group we will seek to further share information, align policy and develop best practice in order to reduce attractiveness of being licensed outside of our area and thereby maintain the objectives of this policy.
- 1.12.4 At the time of consulting on this policy the Council are mindful of future proposals by Government, contained within the Finance Bill 2020-21 that are likely to require applicants to provide the council with proof of registration with HMRC as a requisite part of the initial and ongoing licence application process.
- 1.12.5 In some circumstances it may be appropriate under the Safeguarding and Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. ***A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to children or vulnerable adult, should be referred to the DBS.*** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. The DBS recommends that licensing authorities should make referral to the DBS when it is thought that:
- An individual has harmed or poses a risk of harm to a child or vulnerable adult;
 - An individual has satisfied the 'harm test'; or
 - Received a caution or conviction for a relevant offence and;
 - The person they are referring is, has or might in future be working in regulated activity.

If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to the barred list.

- 1.12.6 These referrals may result in the person being added to the barred list enabling other licensing authorities to make informed decisions.

1.13. **Complaints**

- 1.13.1 Complaints which are pursued by the Council are based upon the driver's fitness to hold a licence and/or the condition of the licensed vehicle or offences alleged to have been committed (including breach of licence conditions). Accordingly, any complaints about crime or driving manner will be directed to Essex Police.

- 1.13.2 Each step of any complaint investigation will be recorded as there is potential for the complaint to progress to being heard in Court and / or may be disclosable in connection with any police investigation.

- 1.13.3 The public can submit concerns about licensed drivers, vehicles (including proprietors) and operators online at

[Feedback about a taxi \(chelmsford.gov.uk\)](https://chelmsford.gov.uk/feedback-about-a-taxi)

In order to progress an investigation a complainant should aim to provide the following information where available:

- Date and time of the incident;
- Vehicle identification (plate number, description of vehicle etc.);
- Identification of Licensed Operator (if applicable);
- Identification of the driver (licence number, personal description);
- Description of the incident

- 1.13.4 The investigating officer may require the complainant to confirm information in writing.

- 1.13.5 A formal response outlining the conclusion of an investigation will be provided to the complainant. Where a matter has been reported to the police - in order to avoid compromising any investigation - licensing officers will usually wait on the outcome of that investigation before considering any further action.

- 1.13.6 In order to help customers correctly identify and report a driver who may give cause for complaint, the Authority requires that certain information is to be displayed inside all licensed vehicles in the form of an internal vehicle notice.

- 1.13.7 The format of the notice will be provided by the licensing authority and shall be clearly displayed and visible from the rear seating area of the vehicle. Driver identification can additionally be found either worn by the driver or on the dashboard of the vehicle

1.13.8 The notice is to include:

- a photograph of the driver,
- the vehicle licence plate number
- a QR code that connects to a Council URL address;
- the licence number of the driver; and
- the email address of the Licensing Authority

1.13.9 Complaints that are made anonymously unless of a serious nature may be recorded for intelligence purposes only and may not be investigated unless substantiated by a secondary source.

1.13.10 Complaints of a minor nature may be recorded for intelligence purposes only but may not be pursued unless a history of complaints indicates a potential matter of wider concern.

1.13.11 Complaints will not be investigated if it is made with vexatious intention, frivolous or has been made repeatedly and previously been subject of investigation.

1.13.12 Where a complaint potentially indicates a criminal offence enforced by the police or another regulatory body or authority, the information relating to that complaint may be shared with that body or authority.

Complaints Received by the Licence Holder

1.13.13 Complaints recorded in respect of a licence holder of any description will be retained on their record for the duration that they are licensed by this authority. As matters are considered 'on the balance of probability' and the safety of the public is of prime importance - depending on the nature of any current consideration - appropriate weight will be given to those complaints that may be considered as irrelevant, not sufficiently proven or have already been taken into consideration and determined in conjunction with any previous matter.

1.13.14 Where a journey is pre-booked and digital technology exists, the vehicle details including licence plate number and how to make a complaint are to be sent to the customer when the booking is confirmed.

1.13.15 Proprietors and Operators who operate via a website must provide information about how to make a complaint on their website or mobile App. This requirement is incorporated as a condition of the operator's licence.

1.13.16 All Proprietors and Operators must maintain a record of all complaints received. This may be electronic or written. If written it will comprise of bound numbered pages. Each complaint will contain the following information:

- Date and time of incident

- Location of incident
- Details of complainant ***including contact details***
- Driver details and licence number
- Details of the complaint
- Outcome of investigation

1.13.17 Where the nature of the complaint amounts to an offence e.g. public order, traffic violation, assault, taxi related offence etc the licensing authority must be informed as soon as possible.

1.13.18 Proprietors and Operators are legally obliged⁸ to co-operate with any enquiry by the Authority and disclose records relating to complaints where lawfully required to do so. Any refusal, undue delay or obstruction to that investigation may bring into question the suitability of the licence holder to remain so which may lead to prosecution, suspension or revocation of the licence or referral to the Regulatory Committee.

1.13.19 Where an operator is under a contract to provide services in respect of children and vulnerable persons they will inform the Licensing Authority of any complaint in respect of the driver or the vehicle as soon as possible, howsoever received.

1.14. **Whistleblowing**

1.14.1 Chelmsford City Council is committed to the highest possible standards of openness and accountability and anyone can report any suspected malpractice or wrongdoing. Our Whistleblowing policy (Public Interest Disclosure Act 1998 (PIDA) and further information can be found at: <https://www.chelmsford.gov.uk/your-council/have-your-say/report-wrong-doing/>

1.15. **Policing and Crime Act 2017**

1.15.1 The Council will give full regard to any guidance issued by the Secretary of State regarding the protection of children, and vulnerable individuals who are 18 or over, from harm. If any changes to any parts of this policy or related appendices are necessary following the formal adoption of this policy, then this policy will be amended at the earliest opportunity. Failure to update this policy will not amount to a defence.

1.16. **Taxi Ranks**

1.16.1 The Authority shall work with the Hackney Carriage trade and other stakeholders to keep taxi ranks under constant review. Details of the locations of all taxi ranks in the Borough can be found [here](#)

⁸ S. 73 Local Government (Miscellaneous Provisions) Act 1976

1.17. Fees and fee setting

- 1.17.1 Legislation provides that fees charged to applicants should be sufficient to cover the costs of the application process and [where permitted by legislation] administering the regulation of, and provisions for, the Hackney Carriage and Private Hire trades. The Authority cannot make a surplus or deficit from licensing fees.
- 1.17.2 Fees for any given year are normally set from the 1st April. A schedule of the proposed fees for any given year will be advertised in the local press if there are any proposed changes and any comments received will be presented to the Committee for determination. Details of current licence fees are available at chelmsford.gov.uk/licensing
- 1.17.3 The preferred method of payment is by debit/credit card. (Note: a charge may be levied for some debit/credit card transactions). Payment by cheque is accepted only in exceptional circumstances and by prior agreement with licensing officers. Licences will not be issued until a cheque has been cleared for payment. Cash payments are no longer accepted.
- 1.17.4 Fees that are required on application will be refunded where a licence is either not granted or the application is withdrawn. In the case of a driver licence application a suitable deduction will be made in respect of services provided to enable a knowledge test.

PART 2

Driver Licences

- 2.1. The Authority is empowered⁹ to attach such conditions to a Driver's licence as are considered necessary. These are supported by:
- Driving licence [preconditions](#) and [by-laws](#) requirements must be met in order for the application to be considered and
 - Conditions attached to the licence issued. [The Dual Driver Licence conditions](#) as set out are considered reasonable, necessary and appropriate to maintain passenger safety although further conditions may be added to a licence on a case-by case basis by the Committee .
- 2.2. **Hackney Carriage and Private Hire Dual Driver Licence**
- 2.2.1 This Authority currently issues a Dual Driver Licence that authorises the holder to drive both Hackney Carriages and Private Hire Vehicles. Presently, for the purposes of this Policy, the Hackney Carriage and Private Hire Dual Driver Licence is referred to using the term 'Dual Driver Licence'

⁹ S. 46 Town Police Clauses Act 1847 and Chelmsford Borough Council By-Laws

2.2.2 A Dual Driver Licence is issued for a maximum period of 3 yrs. Someone applying for a Driver Licence must:

- Submit of completed, signed application and pay the application fee
- Be at least 21 years of age;
- Hold a full UK or European driving licence for at least 2 years and held a full UK licence for at least one year;
- Complete a signed statutory declaration (see below);
- Be legally allowed to work in the UK (immigration status)
- Must register with HM Revenue and customs and provide the licensing authority with a tax check code (This is an absolute legal requirement and the licensing authority are unable to grant a licence without this information) *
- Satisfy the Council's criteria for a 'fit and proper person' This is described in detail separately, but in summary requires:
 - a satisfactory result from an advanced search undertaken by the Disclosure and Barring Service (DBS) Enhanced Disclosure provided for the purpose of the application, (to be checked every six months)
 - If submitted with the application, the enhanced DBS certificate must be appropriate *and* issued not more than 28 days before date of application
 - If sought on application (or following a successful knowledge test) there may be a delay in processing the application
 - All applicants will be required to register for the DBS Update Service, which requires an annual fee to ensure continuation of the service;
 - Fees associated with applying for a DBS check are born entirely by the applicant and do not form part of the application fee.
 - a satisfactory return from the Driver and Vehicle Licensing Agency (DVLA) licence history, required on application (which will be checked annually)
 - a satisfactory medical certificate
 - The form is supplied by the Authority and completed by the applicant's own general practitioner or qualified medical health practitioner.
 - (The medical practice may charge for this service which must

be borne by the applicant);

- Completion of the approved training course together with a test at the completion of the course,
 - the cost of any training has to be met separately by the applicant and does not form part of the application fee. (The training must be provided by the Council's approved training provider).
- Passing a driver topographical test in addition to the test at the end of the training course.
 - the first and second test attempts are included within the training fee. The costs of any subsequent tests must also be met separately by the applicant
 - An application is only permitted to attempt the training and topographical test 4 times. If they fail after 4 attempts, their application will be refused - no new application may be made within 12 months.

* Guidance is provided on the Council's website Taxi application pages. As part of the determination process the validity of the tax check code will be verified

2.2.3 Once issued the licence holder is subject to annual medical certification and 6 monthly DBS checks

2.3. Existing Licence holders

2.3.1 An existing driver licence holder may apply to 'renew' their existing driving licence. It should be noted that the term 'renewal' has no legal status and that each application is a new application. For administrative purposes the term renewal enables the fee to be slightly reduced and involves marginally less processing.

2.3.2 'Renewals' can only be made within one month **PRIOR TO** the expiry of the previous licence and **before** its expiry. Where that application is valid and complete (see also 2.3.4 below) a new licence will be issued, and the previous licence surrendered. Licence holders will not be able to operate with an expired licence without the authority of the Licensing Authority. It is therefore the responsibility of the applicant to make the application in good time, allowing at least 3 complete working days for the issue of a further licence after all information has been received.

2.3.3 It will not be the responsibility of the Authority to remind a licence holder that a licence is due to expire although it will endeavour to do so.

2.3.4 Where an application to 'renew' a licence is incomplete or submitted AFTER the expiry date of the existing licence it will expire on the date shown. The Driver will have to apply as per a new application and will be unable to drive a licensed vehicle until or unless a new licence is issued.

2.3.5 In order to make a **valid** application to re-apply for a Dual Driver Licence from a previously held licence holder the applicant must:

- complete driver licence application form and submit with the relevant fee
- Continue to be assessed as a 'fit and proper person':
 - have a current appropriate DBS disclosure certificate or be signed up to the update service (accessible by the licensing authority),
 - have a satisfactory DVLA licence (the Authority can access this information separately)
 - submit a valid medical certificate
 - Provide a current certificate in respect of the required training
- Provide specific Immigration status documentation if applicable (para. 2.5.2)

2.3.6 Where an application is made to re-licence but fails to meet the policy criteria (DBS or DVLA checks) it may be granted without prejudice and referred to the Regulatory Committee for a decision e.g. domestic driving licence endorsements exceed 6 points. A licence will not be granted if there are serious or significant concerns that relate to public safety.

2.4. Incomplete Driver Licence Application Process

2.4.1 Where an application for a driver licence is incomplete within a period of two years (for example due to repeated failure of the knowledge test) the application will be deemed to have been withdrawn and the application fees refunded by the same means as payment with reasonable deductions in respect of the first knowledge test (if undertaken) and any other expenses incurred by the Authority e.g. DBS/DVLA checks if applicable.

2.5. Fit and Proper Person Criteria

2.5.1 The assessment of the applicant as being 'Fit and Proper' for the purposes of determining an application for a Driver's Licence and/or the suitability of a driver to keep a Driver Licence includes the following:

- Immigration status
- Driver knowledge
- Assessment of criminal and other offences
- Previous history as a licensed driver
- Completion of related training
- Medical certification

- Adherence to [a code of driver conduct](#)
 - including compliance with requirements relating to assistance of wheelchair passengers and vulnerable clients and the acceptance of assistance dogs
- Adherence to an appropriate [dress code](#)

2.6. Immigration Status

2.6.1 Licences will not be granted to applicants and will be removed from existing licence holders by reason of their immigration status if:

- The person requires leave to enter or remain in the UK and has not been granted it; or
- The person's leave to enter or remain in the UK:
 - Is invalid;
 - Has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise); or
 - Is subject to a condition preventing the person from doing work of that kind.

2.6.2 Licences will not be granted to applicants and will be removed from existing licence holders if they are subject to a condition on their permission to be in the UK that prevents them from holding such a licence, for example, they are subject to an immigration restriction that does not permit them to work.

2.6.3 Specific documentation is required to demonstrate immigration status on application and then on each renewal of the licence. Please contact the Licensing Service using the details at licensing@chelmsford.gov.uk for more information. Further information is also available from the Home Office www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks

2.7. Applicants who have lived outside the United Kingdom

2.7.1 If the applicant has, from the age of 10 years, spent six continuous months or more living outside of the United Kingdom, they are required to provide evidence to the Authority of a criminal record check to a similar standard to the DBS Enhanced Disclosure from the county/countries covering the relevant periods required. Where required, please note that any such information must be produced with an English translation. Please contact [the Licensing Service](#) for further information.

2.8. Driver knowledge testing

- 2.8.1 Following the training required under paragraph 2.10 the training providers will test the knowledge of delegates before issuing a pass certificate. The test will comprise of all elements contained within the syllabus. In addition, applicants will also need to complete a topographical (or 'geographical') element, testing their knowledge of roads, places of interest and routes.
- 2.8.2 An applicant must pass the test requirements within 2 years of the date of completing the training and will be allowed 4 attempts (including one test directly following the training). Where an applicant fails to pass the tests they will be required to wait a period of at least one calendar year before reapplying.
- 2.8.3 In the event that an applicant is found undermining the integrity of the test they will be considered as having disqualified themselves from any further attempts and not fit and proper to be the holder of a licence and the application refused as if failing the tests.
- 2.8.4 By prior arrangement, candidates who are dyslexic or have other need for special arrangements may apply to the training provider to make suitable and reasonable adjustments arrangements to accommodate their needs. Tests are supervised by officers or trainers.
- 2.8.5 Applicants are advised not to apply for an enhanced DBS disclosure certificate or undergo a medical examination until the tests have been passed. A DBS disclosure certificate must be no older than 30 days at the time an application process is completed. The applicant must also sign up to the DBS 'update service'.

2.9. Assessment of criminal and other offences

2.9.1 Disclosure and Barring Service

- 2.9.1.1 A criminal record check of a driver is seen as an important safety measure. Enhanced Disclosure through the DBS is required as these disclosures provide details of any convictions, Police Cautions and other relevant information. The Authority carries out these checks using the electronic service (eDBS) to ensure accuracy, security and to minimise delay for applicants. The Authority will process the eDBS disclosure application and applicants will be charged an appropriate additional fee.
- 2.9.1.2 The applicant for an eDBS Enhanced Disclosure will be sent a disclosure certificate to their home address from the DBS. The Authority does not receive a copy of the report, but the Authority is informed of the content and of any relevant information. Where necessary the applicant may be requested to produce the original certificate to the Authority. The Authority will not process an application where it is not satisfied with the outcome of that disclosure.

- 2.9.1.3 Whilst it is the responsibility of the applicant to ensure the eDBS application process is correctly completed, Licensing Officers will follow the progress of that enquiry. Applicants should be aware that incorrectly processed enquiries may delay their application as licences will not be issued until the process is correctly completed (with satisfactory results).
- 2.9.1.4 No application shall be processed where the eDBS Enhanced Disclosure is older than 28 days.
- 2.9.1.5 All applicants for a licence requiring an enhanced DBS check will be required to subscribe to the DBS update service via the Authority's third party checking service. Licence holders **must** register with the DBS update service, which involves paying an annual fee to ensure continuation of that service. The service must be signed up to before the expiry of 28 days following the **issue** of the disclosure certificate. Failure to maintain a subscription to this service will involve a further full eDBS check at the applicants' own expense. Provided the update service fee is kept up to date there will be no further DBS charges. Through the update service, disclosure status is checked on behalf of the Authority a minimum of every *six months*.

2.9.2 **Relevance of convictions, cautions etc. for applicants**

- 2.9.2.1 In assessing whether the applicant is a fit and proper person to hold a licence, the Authority shall consider each case on its merits. It will take account of the details of the DBS enhanced disclosure report, but only in so far as they are relevant to the application for a licence.
- 2.9.2.2 Accordingly, upon receipt of a DBS Enhanced Disclosure Licensing Officers will assess whether any or all of the conviction(s) and/or any additional information received is capable of having any relevance to the application as to whether the applicant is a 'fit and proper' person to hold a licence. Licensing Officers will refer an application before the Committee where the number and/or nature of the convictions, formal cautions and/or other information relating to the applicant raise doubts as to whether that individual is a fit and proper person to hold the respective Driver licence. Where any applicant has been charged with any offence and is awaiting trial, the Authority may defer the determination of the application until that outcome has been established.
- 2.9.2.3 The Committee determines applications that do not meet the pre-licensing criteria. Whilst each case is judged on its merits, matters revealed by an enhanced DBS check will be of particular concern if they may impact on the safety of passengers. For the information of applicants and the general public, the Authority has regard to its '[Convictions Policy](https://www.chelmsford.gov.uk/business/licensing/taxis/driver-licence/)' which is published on the Council website at : <https://www.chelmsford.gov.uk/business/licensing/taxis/driver-licence/>
- 2.9.2.4 When deciding what action is appropriate, the Committee need only consider an evidential argument that the applicant is not a 'fit and proper person' on the 'balance of probabilities', rather than 'beyond reasonable doubt'. Accordingly, the Committee is not restricted to taking action **only** where an applicant has been convicted of an offence. The Committee may also take account of formal cautions, criminal charges, police intelligence or any other material provided during the

application process. Furthermore, it is **not** the responsibility of the Committee to determine the innocence or guilt of an applicant in relation to any offence or to be considered appearing to re-try an offence. The consideration of the Committee is on a balance of probabilities whether the applicant is a 'fit and proper person' to hold a Driver's Licence and satisfy the Authority's duty in respect of public safety. When determining such matters, the Committee will use the following test as the basis for its decision:

"Would you (as a member of the Regulatory Committee or other person delegated with the ability to grant 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?"¹⁰

2.9.3 Statutory Declaration

2.9.3.1 The Rehabilitation of Offenders Act 1974 does not apply to applicants for Hackney Carriage and Private Hire Drivers' licences by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 at Schedule 2 paragraph 4. Therefore, all applicants are required to disclose all convictions and/or cautions. This means the applicant must disclose each and every conviction and/or caution recorded against them during their lifetime on initial application and then confirmed on every subsequent renewal application.

2.9.3.2 Where an applicant fails to declare any convictions and/or cautions this may result in prosecution or referral to the Committee, or both. For renewal applications only: if an applicant fails to declare any convictions and/or cautions that have not already been declared on a previous renewal application, they will be issued with a written warning on one occasion only. If the same applicant fails to declare any convictions and/or cautions on any subsequent renewal application following the issue of a written warning, this may result in prosecution or referral to the Committee, or both. If that omission is relevant for the purpose of the application, it will be given due consideration and processed according to our policies.

2.9.4 Convictions, formal cautions or other matters during the period of the licence

2.9.4.1 An enhanced DBS certificate is required on application and at 6-month intervals during the life of the licence. In order for this to be managed in an effective way, the Authority requires drivers to do this electronically with an "eDBS" Enhanced Disclosure on application with the licensed driver being required to subscribe to a DBS Update Service, whereby the Licensing Authority can be made aware of any relevant offences leading to conviction, formal caution and/or charge

2.9.4.2 The DBS update Service will allow an Authority to check the DBS status of licensed drivers during the period of licence. In addition to this requirement, drivers who are arrested and released, charged or convicted, must disclose the arrest, conviction, caution and/or charge of any sexual offence, any offence involving dishonesty or

¹⁰ Button on taxis – Licensing Law and Practice 4th Ed. Bloomsbury Professional at para. 10.21

violence and any motoring offence as well as any penalty imposed in writing to the Authority without delay, and in any event within **48 hours**. [For these purposes a fixed penalty motoring offence amounts to a conviction].

2.9.4.3 If a licensed driver ceases to have a valid DVLA driving licence their Private Hire driver's licence issued by this Authority is automatically invalid.

2.9.4.4 Where any driver fails to notify the Authority of any convictions and/or formal cautions this may result in prosecution or referral to the Committee, or both as failure to notify calls into question their status as a 'fit and proper person'.

2.9.4.5 Where the Authority is made aware of any matter that would question a driver's on-going status as a fit and proper person this may result in prosecution or referral to the Committee, or both. Furthermore, it is **not** the responsibility of the Committee to determine the innocence or guilt of an existing licensed driver in relation to any offence and/or issue of concern, but instead on a balance of probabilities whether the existing licensed driver is still a fit and proper person to be licensed as a Private Hire Driver and satisfy the Authority's duty in respect of public safety. When determining such matters, the Committee will use the following test as the basis for its decision:

"Would you (as a member of the Regulatory Committee or other person delegated with the ability to determine the ongoing status of a Hackney Carriage / Private Hire 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?"¹¹

2.9.5 Previous History as a Licensed Driver

2.9.5.1 All new applicants are required to declare whether they have previously had any application for a driver licence refused by any other local authority and/or whether they have had any previously held driver licence revoked by any other local authority. To this end, the Authority may verify this information with the National Anti-Fraud Network (NAFN) National Register of Taxi Licence Revocations and Refusals database – known as [the] NR3. The Authority also contributes where an application has been refused or licence revoked by the Authority and will provide 28 days' notice to the licence holder or applicant before doing so.

2.10. Training

2.10.1 All drivers must undertake equality, diversity, disability, and safeguarding training and produce a certificate of completion with our training provider. Applicants must complete this training before a licence is issued. During training, account will be taken of language proficiency in addition to a geographical knowledge test if required. The knowledge test referred to at para 2.8 will form part of the training.

2.10.2 The Authority will identify a suitable training provider which can be found on the Council's website

¹¹ Button on taxis – Licensing Law and Practice 4th Ed. Bloomsbury Professional at para. 10.21

2.10.3 Existing holders of a driver's licence will complete the training within a period of 18 months following the formal adoption of this policy. Where a licence is allowed to expire before re-application the full training will be required. A further licence will not be issued until the training has been completed.

2.10.4 The holder of an issued driver's licence will be expected to undertake refresher training prior to each application to re-licence thereafter (or renew).

2.10.5 The Authority may require drivers to undertake other specified training during the life of the licence where it is proportionate and necessary to do so e.g. as directed by the Regulatory Committee following a formal hearing.

2.11. Driving Proficiency

2.11.1 The Driving Standards Agency (DSA) provides a driving assessment specifically designed for both Private Hire and Hackney Carriage Drivers. This Authority believes that the standard DVLA driving test provides sufficient evidence of driving competency for drivers of Private Hire and Hackney Carriage vehicles within that the area of Chelmsford City Council. It is considered that introducing a requirement that drivers pass the specific DSA test would not produce benefits, which are commensurate with the costs involved.

2.12. Driver Qualification

2.12.1 At present there are no additional requirements for a driver qualification. The Authority wishes to support drivers so they can offer a high standard of service throughout the City. It may be necessary on occasion for the Regulatory Committee to consider recommending specific driver training as part of their determination.

2.13. Medical Certification

2.13.1 The Authority requires Group 2 Standards of Medical Fitness to Drive, as applied by DVLA to the licensing of HGV and PSV drivers as the appropriate standard for licensed Private Hire Drivers to be carried out by a suitably qualified medical practitioner. Exemptions and grandfather rights available to HGV and PSV are not available to applicants for taxi licences.

2.13.2 Applicants are required to undertake a medical examination at each application. Medical examinations will be required at the licence holders 65th birthday and annually thereafter. Licences will be issued for three years duration.

2.13.3 Licence holders shall advise the Authority of any deterioration in their health that may affect their driving capabilities. Where there is any doubt as to the medical fitness of the applicant, the Authority may require the applicant to undergo and pay for a further medical examination by a medical Doctor appointed by the Authority. Where there remains any doubt about the fitness of any applicant, the Committee will review the medical evidence and decide based upon the evidence made available. No licence shall be issued until satisfied that the medical requirements have been met.

2.14. Code of Driver Conduct & Dress Code

2.14.1 Only applicable when a licensed driver is operating a licensed vehicle; The standards expected of drivers are set out in the [code of conduct](#) which should be read in conjunction with the other statutory and policy requirements set out in this document. The code ensures maintaining a standard of behaviour that is considered 'fit and proper'.

2.15. **Assistance to restricted mobility passengers**

2.15.1 S.165 of the Equality Act 2010 places duties on drivers of designated wheelchair accessible Hackney Carriages and Private Hire Vehicles.

2.15.2 Those duties are:

- To carry the passenger in the vehicle whilst in the wheelchair;
- Not to make an additional charge for doing so;
- If the passenger chooses to sit in a passenger seat to carry the wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried on the vehicle in safety and reasonable comfort;
- To give the passenger such mobility assistance as is reasonably required.

2.15.3 S.167 of the [Equality Act 2010](#) allows the Authority to maintain a list of "designated vehicles" - i.e. a list of wheelchair accessible Hackney Carriages and Private Hire Vehicles licensed in its area. The consequence of being on this list is that the driver must undertake the duties detailed in Section 165.

2.15.4 S. 167 of the Equality Act 2010 gives designated vehicles statutory effect. Any owner of a designated vehicle has the right to appeal against the Authority's decision to include his or her vehicle on the list. The appeal will be heard by the Magistrates' Court. All Hackney carriage licences numbered 077 onwards are to be designated as wheelchair accessible and therefore considered to be designated vehicles for the purpose of s.167 of the Equality Act 2010.

2.15.5 S.166 of the Equality Act 2010 allows the Authority to exempt drivers from the duties to assist passengers in wheelchairs, but only if they are satisfied that it is appropriate on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

2.15.6 Drivers of designated wheelchair accessible Hackney Carriages or Private Hire Vehicles can apply to the Authority for exemption to assist passengers in wheelchairs on either a temporary or permanent basis. In summary, an application will require a supporting letter from the applicant's own general practitioner and a Temporary Exemption Notice may be issued for up to a maximum period of 3 months. Where a longer period of exemption is requested, the applicant must obtain a detailed report from their GP and make an appointment with the Authority's appointed medical advisor. All costs of the medical report and consultations are to be borne by the applicant. If approved, the Authority will provide the driver with an Exemption Certificate and Exemption Notice. The Notice

must be displayed in the vehicle. The form and manner of the Notice must be in accordance with relevant regulations. If an application for exemption is refused, the applicant has the right of appeal to the Magistrates' Court. A similar exemption can be applied for on medical grounds for the driver to refuse the acceptance of guide and assistance dogs to travel in their vehicle.

2.16. Guide dogs and assistance dogs

2.16.1 S.168 to 171 of the Equality Act 2010 address the carriage of guide dogs and other assistance dogs. Under this legislation, Hackney Carriage and Private Hire Vehicle Drivers (and Private Hire Vehicle Operators) have a duty to accept assistance dogs.

2.16.2 This process is designed to ensure a smooth transition from the assistance dog's provisions in the Disability Discrimination Act 1995 to those contained in the Equality Act 2010. Therefore, the legislation will ensure that:

- The Exemption Notice Regulations (i.e. the Disability Discrimination Act 1995 (Hackney carriages) (Carrying of Guide Dogs etc.) (England and Wales) Regulations 2000 (SI2000/2990) (as amended) and The Disability Discrimination Act 2003 (Private Hire Vehicles) (Carriage of Guide Dogs etc.) (England and Wales) Regulations 2003 (SI 2003/3122) (as amended)) made under Sections 37 and 37A of the Disability Discrimination Act 1995 will continue to have effect – as though they had been made under the Equality Act 2010;
- Hackney Carriage and Private Hire Vehicle Drivers who were previously exempt from the duty to carry guide/assistance dogs can continue to rely on their certificate of exemption issued by the Authority even though the certificate refers to the Disability Discrimination Act 1995;
- The Authority must issue a driver with a certificate exempting the driver from the offence under s.170(3) (an 'exemption certificate') of the Equality Act 2010;

2.16.3 The Authority will assess applications for exemption certificates in line with Regulations and approved Policy. If granted, the Authority will provide the driver with an Exemption Certificate which must be displayed in the vehicle. If an application for exemption is refused, the applicant has the right of appeal to the Magistrates' Court.

2.16.4 Common Law Police Disclosure will also be sought in order to establish an applicant's status as a 'fit and proper person' through the lawful sharing of information.

2.16.5 In line with relevant legislation, the code of conduct contains requirement that prohibits drivers smoking in their vehicle. This legislation applies equally to passengers using the vehicle. This includes e cigarettes (or similar devices).

2.17. Re-Licensing of an Expired Drivers Licence

- 2.17.1 It is not the responsibility of the Licensing Authority to remind a licence holder that a licence is due to expire, however Chelmsford City Council will endeavour to issue a 'reminder' to existing licence holders that their licence(s) are due for renewal. Application forms, can be down-loaded from the Council's website at <https://www.chelmsford.gov.uk/business/licensing/taxis/driver-licence/> or requested from the licensing team who can also provide information relating to fees and supporting documentation. It is the licence holder's responsibility to ensure that licences are renewed prior to their expiry.
- 2.17.2 Not being sent or not receiving a reminder is not an acceptable reason for late application for a 'renewal'.
- 2.17.3 Licences will not be extended beyond the expiry of the previous one where a licence holder fails to make a valid application to renew their licence on or before the respective expiry date. Where they fail to do so the licence will lapse and become invalid. Licence holders that allow their licence to expire will be required to make a new application in full (including knowledge test) and unable to drive as a licensed driver for hire or reward until a new licence can be issued. This may involve a significant time delay and have cost implications in being unable to work. Licence holders are therefore strongly advised to ensure that they renew their licences prior to the expiry date. The pre-existing licence holder may apply for re-licensing as a continuation of the previous licence to the regulatory committee only in exceptional circumstances and may not operate until that determination has been made. If the licence holder is aware of any good reason why they may not be able to renew their licence before expiry, they must inform the Licensing team as soon as possible and before the expiry date.

PART 3

Proprietors and Licensed Vehicles

3.1. Vehicle Proprietors who are not licensed drivers

- 3.1.1 In relation to both Hackney Carriages and Private Hire Vehicles (generically referred to as 'taxis' and 'PHV's'), the Authority has an absolute discretion over granting the licence¹² and this policy is equally applicable on applications to transfer or replace a vehicle as it is in respect of grant applications. The Licensing Authority considers its discretion to be more involved than considering the vehicle itself, and therefore any person who owns and/or operates a Hackney Carriage or Private Hire Vehicle (who is not also a licensed Hackney Carriage, Private Hire Driver or Private Hire Operator) must provide the required information as part of an application for the vehicle itself.
- 3.1.2 No powers exist for Licensing Authorities to limit the number of PHV's that they licence and there is no limit in Chelmsford on the number of Taxi's. However, currently all Hackney Carriage vehicles from plate number 77 onwards must be wheelchair accessible vehicles (WAV).
- 3.1.3 Proprietors are required to meet the 'suitable person' criteria and will need to be at least 18yrs of age. In many cases they may also be licensed as drivers themselves. Where they are not licensed as drivers, they will need to provide a Basic DBS certificate annually. Relevant convictions will be considered from among the following:
- Any unspent convictions for serious offences, for example theft, burglary etc.;
 - Any unspent convictions for violence or threats of violence, for example assault, grievous bodily harm, wounding etc.;
 - Any unspent convictions for sexual and/or indecency offences;
 - Any unspent convictions for serious aggravated offences, for example manslaughter, murder etc.;
 - Any unspent convictions related to the supply of drugs;
 - Any unspent convictions for deception and/or fraud;
 - Any other unspent conviction that would suggest that the applicant is not a fit and proper person to hold the respective licence.

¹² S.37 of the Town Police Clauses Act 1847 in relation to Hackney carriages and s. 48 local Government (miscellaneous Provisions) Act 1976

3.2. **Vehicle Specification and Conditions**

- 3.2.1 Local Authorities have a wide range of discretion over the types of vehicle that they can licence as taxis and PHV's. Government guidance suggests that local licensing authorities should adopt the principle of specifying as many different types of vehicle as possible and encouraged to make use of the "type approval" rules within any specifications they determine. Accordingly, the Authority will require European Whole Vehicle Type Approval for all new licensed vehicles.
- 3.2.2 The Authority shall impose such conditions, as it considers reasonably necessary in respect of taxis and PHV's. These vehicles provide a service to the public, so it is appropriate to set criteria for the standard of the external and internal conditions of the vehicle, provided that these are not unreasonably onerous. A list of [vehicle preconditions](#) [Private Hire Vehicle conditions](#), and [Hackney Carriage vehicle conditions](#) can be found on our website or by clicking the relevant link.
- 3.2.3 All vehicles will in general be licensed for the carriage of up to four passengers, but applications in relation to larger vehicles that can accommodate up to eight passengers shall be accepted, provided that there is compliance with the specification applicable to such vehicles.

3.3. **Vehicle Accessibility**

- 3.3.1 The aim of the Council is to enable an accessible public transport system where people with reduced mobility have the same opportunities to travel as other members of the community. The Council expects Proprietors, Drivers and Operators to ensure that they provide a service to all members of society, without discrimination.
- 3.3.2 The Authority is committed to social inclusion and ensuring a wide variety of opportunities is available to those with mobility difficulties in order to enjoy a high quality of life. It fully supports the view of the Equality and Human Rights Commission that,

"Making successful journeys is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities. Their access to education, shopping, employment, healthcare, as well as social and family life is significantly improved when journeys become accessible."
- 3.3.3 For this reason, the Authority considers it important that people with disabilities have access to all forms of public transportation and encourages Hackney Carriage proprietors and Private Hire Operators and Drivers to use vehicles that will assist those passengers with mobility difficulties, making it compulsory for all hackney carriages from HC077 onwards as being WAV's.
- 3.3.4 It is arguable that different accessibility considerations should apply between Hackney Carriage and Private Hire Vehicles in that Hackney Carriages can be hired directly in the street or at a Hackney Carriage stand ("taxi rank"), by the customer dealing directly with a licensed driver. However, Private Hire Vehicles can only be booked through a licensed Private Hire Operator. It is, therefore, considered

particularly vital that a person with disabilities should be able to hire a Hackney Carriage on the spot with the minimum delay or inconvenience and requiring a substantial number of these being WAV's achieves that aim.

- 3.3.5 Vehicle proprietors and Drivers should be aware of a good practice guide produced by the Equality and Human Rights Commission, as drivers have a duty under the Equality Act 2010 to ensure disabled people are not discriminated against or treated less favourably.
- 3.3.6 All licensed vehicles must convey assistance dogs at no additional charge. It is a breach of the Equality Act to refuse to carry an assistance dog, unless the driver has applied for, and been issued with an exemption certificate.
- 3.3.7 The Council encourages all Private Hire Operators to include wheelchair accessible vehicles amongst the fleet and to ensure that no additional costs are levied for conveying passengers with reduced mobility and/or their assistance dogs.
- 3.3.8 Private Hire Vehicles fitted with a tail lift for wheelchairs must provide a valid LOLER (Lifting Operations Lifting Equipment Regulations) certificate of compliance to prove that the tail lift has been tested and checked to the required standards. The Tail lift must be re-tested every six months as per HSE (Health and Safety Executive) requirements.
- 3.3.9 When a vehicle has been modified post manufacture to provide access or special facilities for reduced mobility passengers, the vehicle must have all modifications and adaptations (including all seats, seat belts and anchorages), retested or approved to meet either European Whole Type Approval or the UK Low Volume Type Approval (ESVA or IVA) that meets the required standard. Prior to the first licensing of the vehicle, the proprietor and/or driver **must produce certification** that the vehicle meets the required standards. The insurers must be made aware of any modifications to the manufactured vehicle.
- 3.3.10 S.167 of the Equality Act 2010 allows the Authority to maintain a list of "designated vehicles" - i.e. a list of wheelchair accessible Hackney Carriages and Private Hire Vehicles licensed in its area (para. 12.2). The consequence of being on this list is that the driver must undertake the responsibilities detailed in s.165 of the Equality Act 2010. See Paragraphs 12.46-12.55.
- 3.3.11 S.167 of the Equality Act 2010 gives such a list of designated vehicles statutory effect. Any owner of a designated vehicle has the right to appeal against the Authority's decision to include his or her vehicle on the list. The appeal will be heard by the Magistrates' Court. Those designated vehicles have specific obligations under s.165 of the Equality Act 2010. Whilst not on a specific 'list' all Hackney Carriages numbered 78 onwards are classed as 'designated vehicles' under this legislative requirement.

3.4. **Maximum age of vehicles / environmental considerations**

- 3.4.1 PHV's and Taxis are an essential form of transport in the Chelmsford City Council area. Many people depend on both for travel that other forms of transport are

incapable of making. It is, however, clearly important that emissions from all licensed vehicles are reduced as far as possible.

- 3.4.2 The Authority is ambitious to continually improve air quality and has taken account of how emissions impact on this issue and consider how far this Policy can and should support any local environmental initiatives to reduce emissions. This would include the use of low emission vehicles (and the encouragement of their use), setting vehicle emissions standards or promoting cleaner fuels, as well as ensuring a modern standard of its licensed vehicles.
- 3.4.3 Current emission requirements for all mass-produced new cars sold after September 2015 are contained in the Euro 6 emissions standard. This standard builds on previous versions to reduce harmful pollutants from petrol and diesel vehicle exhausts, with different emissions standards for each fuel, which reflects the different pollutants the two fuels produce.
- 3.4.4 All new and replacement vehicles licensed after 1st April 2020 are required to comply with the Euro 6 emissions standards. All vehicles that remain licensed after 1st April 2024 are also required to meet this standard and will need to be replaced. In the interests of improving air quality, any application for the renewal of a Taxi or PHV licence that fails to meet this standard will be refused.
- 3.4.5 A Hackney Carriage Vehicle shall not be older than (1) one year from the date of first registration at the date of first being licensed and no more than (6) six years from date first registered on replacement (during the life of the licence).
- 3.4.6 A PHV shall not be older than (4) four years at the date of first registration and (6) years from date first registered on replacement, and if plate exempt no older than (4) four years on replacement.
- 3.4.7 Neither a taxi nor a PHV will be licensed beyond 12 years from date of first registration at the time it was last renewed.
- 3.4.8 Where a taxi or PHV is a vehicle of **special characteristics** the applicant will need to present their case for the Regulatory Committee in order for them to consider authorising any extension of the 12-year period.
- 3.4.9 The Council may provide incentives, financial or otherwise, to encourage electric vehicles within the fleet. Such vehicles may be exempt from the requirement to be wheelchair accessible taking into account equality and diversity requirements.

3.5. **MOT's & Mechanical Vehicle Inspections**

- 3.5.1 Taxis and PHV's are used for hire and reward purposes and as such are subject to much higher annual mileages, and more arduous driving than normal private vehicles. Therefore, in the interests of passenger and other road user's safety, a more stringent maintenance and inspection regime is required. This Policy considers the MOT Inspection Manual for Car & Light Commercial Vehicle Testing issued by VOSA as the basic inspection standard for both types of vehicle. However, the standards contained in the Hackney Carriage and Private Hire [Vehicle Inspection Standards](#) are in addition to those in the MOT Inspection Manual.

Therefore, when assessing the mechanical condition of a vehicle, it is more likely an item which would ordinarily pass an MOT test with an advisory note, might fail the Hackney Carriage and Private Hire Vehicle inspection standards. In addition to any statutory MOT inspection requirement, Hackney Carriages will be required to be MOT compliant one year from date of first registration and PHV's three years from date of first registration, and annually for both thereafter.

- 3.5.2 In addition to the MOT test inspection, both Taxi's and PHV's will be subject to a separate and distinct mechanical and compliance inspection at the Council Vehicle Testing Station, Freight House, Chelmsford at the time of first being licensed and every six months thereafter except where licensed as a brand new vehicle where only a compliance check will initially be required.
- 3.5.3 All Taxi's and PHV's must be maintained to no less than the standards set out in the VOSA publication 'MOT Inspection Manual – Private Passenger and Light Commercial' (as amended) and the Chelmsford City Council Hackney Carriage and Private Hire [Vehicle Inspection Standards](#).
- 3.5.4 The purpose of the Taxi and PHV inspection is to confirm vehicles meet the more stringent standards set out in this Policy. Vehicles must be submitted fully prepared for the inspection. It is not intended that the test be used in lieu of a regular preventative maintenance programme. It is an offence under the Road Traffic Regulations to use a vehicle that is not roadworthy on the public highway. Hackney Carriage and Private Hire Vehicle licence holders who fail to maintain their vehicles in a safe and roadworthy condition may have their licence(s) suspended or revoked by the Authority.
- 3.5.5 The inspection regime for vehicles has not been designed to create obstacles for the Taxi and PHV trades but primarily to promote vehicle safety for the protection of passengers and not for the benefit of operators. The Authority therefore considers the inspection requirements to be justified by the risks it aims to address.
- 3.5.6 If mechanical inspections are undertaken within one month of the expiry of the previous certificate the six-month period will be deemed to commence from the date of expiry of the previous one, much like an MOT.
- 3.5.7 Where considered justified, necessary and proportionate to do so, licensing officers may require a third mechanical inspection of any Taxi or PHV within any calendar year at the expense of the licence holder.
- 3.5.8 Where a vehicle fails the mechanical inspection, vehicle examiners at Freight House have the authority to issue a vehicle defect rectification notice in respect of defects of a minor nature that are not detrimental to its safety, requiring the vehicle defect to be rectified within 10 days. Where the vehicle is not retested before the due date the vehicle licence will be suspended by officers. The process for rectifying a mechanical fault and/or subsequent suspension can be found [here](#).
- 3.5.9 Where a vehicle fails the mechanical inspection test and in the opinion of the examiner presents a significant risk to road users and passengers, they may suspend the vehicle forthwith and require it to be presented for a retest. If the

vehicle is not presented for retest of the mechanical inspection within 2 months the licence will be 'deemed' as revoked¹³.

- 3.5.10 Licensed vehicles are not permitted Driver Protection screens or CCTV equipment installed unless these were examined as part of an inspection. In order to be considered approved they must be fitted at the time of undergoing the mechanical inspection
- 3.5.11 Vehicles that fail the test, deemed unsafe and suspended shall not be re-presented for test with unaccountable mileage of more than 150 miles on the odometer.
- 3.5.12 If the vehicle is damaged by any means during the period of licence, the Driver in charge of the vehicle at the time the damage occurred, or the Proprietor must report this to the Licensing Service within 72hrs¹⁴.

3.6. Vehicle Appearance and Presentation

3.6.1 Overall Appearance

- 3.6.1.1 Vehicles must be safe and comfortable, the passenger compartments must be clean and dry – including upholstery – without rips, tears or sharp protrusions. Proprietors, Drivers and Operators must ensure that the vehicles that they use meet the expectations of the council and their passengers.
- 3.6.1.2 The exterior of the vehicle must be reasonably clean in order to ensure that passengers can board and alight the vehicle without getting soiled. Drivers must also ensure that the licence plate and registration plate remain clean, visible and undamaged.

3.6.2 Licence Plates

- 3.6.2.1 All licensed vehicles must display the licence plate externally at the front and rear of the vehicle, unless it is a private hire vehicle and has applied for and is authorised not to display these through a Plate Exemption Certificate.
- 3.6.2.2 A licence plate must be securely fixed to the bracket which should be bolted or screwed to the outside rear of the vehicle in such a manner that the plate is not obscured from view by fixtures or fittings and the plate does not obscure the vehicle registration plate. The plate must also be able to be easily removed by an authorised council officer or police officer: magnetic fittings are not permitted.

3.6.3 Signage, Livery and Advertising

- 3.6.3.1 It is important that the public should be able to identify and understand the difference between a Hackney Carriage and a Private Hire Vehicle. Private Hire Vehicles shall not display roof-mounted signs of any description.

¹³ S.68 Local Government (Miscellaneous Provisions) Act 1976

¹⁴ S.50(3) Local Government (Miscellaneous Provisions) Act 1976

- 3.6.3.2 Vehicle identification plates are a key feature in helping to identify vehicles that are properly licensed and assist with identification in respect of any complaints. All licensed vehicles, except those PHV's authorised as exempt, shall display plates to the front and rear of the vehicle.
- 3.6.3.3 Taxi's and PHV's shall display door signs as provided by the Authority. These will not be fitted using magnetic backings.
- 3.6.3.4 It is not permissible to display any written or other material on any window of a vehicle with the exception of those permitted by the conditions of licence.
- 3.6.3.5 It is not permissible to display or advertise written or other material on a Private Hire Vehicle's bodywork. However, express permission may be obtained on a case by case basis in accordance with the conditions of licence.
- 3.6.3.6 Hackney Carriages shall be black in colour.
- 3.6.3.7 PHV's will have affixed on the rear passenger doors in a prominent location signage stating, 'Private Hire Vehicle – Pre-booked Hirings Only'.
- 3.6.3.8 The term 'Taxi' must not be used/displayed anywhere on a PHV.
- 3.6.3.9 Advertising is specifically covered under the Councils [vehicle pre-licensing criteria](#)

3.7. **Security/CCTV**

- 3.7.1 The Council permits the installation of CCTV within a licensed vehicle but does not require it to be installed as mandatory and only where inspected as part of the mechanical inspection. The presence of audio and visual data may help both identify and prosecute offences but its installation as a compulsory requirement is considered disproportionate and unjustifiable in accordance with Data Protection guidance on this matter. It is important that the Authority keep this matter under review, and it consult on the mandating of audio and visual recording during the life of the Policy.
- 3.7.2 The installation of CCTV in licensed vehicles can be both a deterrent to would-be troublemakers and a source of evidence in the case of disputes between drivers and passengers, other incidents and accidents. If fitted correctly, it can assist the police and insurance companies with their investigations and must be recording at all times when working as a licensed vehicle but this is a matter for each owner to assess and document the need in accordance with data protection legislation. Further information can be obtained at <https://ico.org.uk/for-organisations/data-protection-self-assessment/cctv-checklist/>
- 3.7.3 Where fitted, proprietors and/or operators will become 'data controllers' and must notify the Council prior to installation and register with the ICO (Information Commissioners Office) - where required - and comply with all aspects of data protection and the CCTV codes of practice, including clear signage that the vehicle uses CCTV. Further information can be found on the following link <https://ico.org.uk/>

- 3.7.4 Where audio/ audio visual recording equipment is fitted within a licensed vehicle, it may be subject to specific conditions on a case by case basis.
- 3.7.5 CCTV (and where applicable, dashcams) must be installed by a competent person to ensure no interference with other equipment and in such a manner that it does not increase the risk of injury or discomfort to the driver and passengers, or affect any other safety system or in any way breach the motor vehicle construction and use regulations. It must be regularly checked and maintained, be clearly visible and the vehicle must display the required signage. It is not the intention of the authority to limit approval of devices and equipment to specific suppliers, only to ensure the safety of passengers and compliance with legislation.
- 3.7.6 CCTV must not routinely be used to record conversations of passengers. Sound must only be used by way of a panic switch as specified by the ICO and can be activated by either the driver or passenger which can be used in extreme circumstances such as in response to a threat of physical violence. The footage may only be accessed by the Police or authorised officer of the council, not by either the proprietor or driver. Footage must be kept for no longer than necessary and in accordance with the owner's own data retention policy.
- 3.7.7 Where CCTV (including audio recording) is in use there must be appropriate signage visible externally that informs passengers before they alight the vehicle.
- 3.8. **Driver protection screens**
- 3.8.1 The Council does not require driver protection screens to be fitted as mandatory. However, where these are fitted, the following requirements will apply and may be required as licence conditions. If a licenced vehicle is subsequently fitted with a driver protection screen, the Proprietor is required to notify the Authority as a significant alteration to the vehicle so that appropriate conditions can be attached to the licence.
- 3.8.2 Where a vehicle owner decides to have a protection screen fitted, they must do so at their own expense and:
- Inform their insurance company of the modification
 - Ensure that the screen is certified as safe and meets appropriate safety standards.
 - Should be of the solid polycarbonate type and not plastic sheeting
 - Ensure that the screen does not interfere with the vision of the driver through the windscreen or left and right of the vehicle
 - Ensure that the screen does not interfere with the airbags
 - Ensure that any fixtures and fittings do not protrude such that they affect the safety of passengers
 - Ensure that the screen is fitted by a competent person

Before having a driver protection screen fitted, if there is any doubt as to whether it will meet safety standards, proprietors should seek advice from our vehicle testers/examiners at Freightier House, Chelmsford before having one fitted. Evidence that the above criteria will be met will be via the mechanical inspection and otherwise as must be provided to the Authority. The licence may be amended and re-issued to reflect additional conditions if added during the life of the licence.

- 3.8.3 The Licensed Private Hire Car Association secured government guidance on the matter of protection screens. That guidance can be found at following website address: <https://www.gov.uk/government/publications/coronavirus-covid-19-safety-screens-for-taxis-and-phvs/coronavirus-covid-19-safety-screens-for-taxis-and-phvs>

3.9. **Hackney Carriage and Private Hire Vehicle Application Procedure**

- 3.9.1 Application procedures for a Taxi or PHV is not prescribed but shall be made using the specified application forms available on the Council Website are as provided by our Licensing service at licensing@chelmsford.gov.uk

3.10. **Consideration of applications**

- 3.10.1 The Authority shall consider all applications on their own merits once it is satisfied that all appropriate mandatory criteria have been met and the application form and supporting documents are validated. In the case of re-licensing (renewals), where officers are unable to grant due to limitations in respect of delegated authorities and in respect of Policy or pre-conditions e.g. age of vehicle, the licence may be '*granted without prejudice*' and referred to the Committee for determination. The applicant may need to show a compelling or special reason why the Committee should depart from policy in doing so. In the case of a new application the matter will be referred to the Committee to consider where officers are unable to grant.
- 3.10.2 The Authority will endeavour to issue a 'reminder' to licence holders that their licence(s) are due for relicensing. Application forms, appropriate fees, and supporting documentation shall be submitted to the Authority in good time before the expiry of the preceding licence. It will remain the licence holder's responsibility to ensure that licences are re-licensed prior to their expiry. **Incomplete** applications will be considered invalid and not be processed. In which case a new application will need to be completed before the vehicle may continue to be used and fail policy requirements in respect of vehicle age.
- 3.10.3 It is advised that vehicles should be examined and tested at the Authority's approved testing station within one month prior to the application in case the vehicle examination identifies the need for repair work and re-testing which can then be undertaken prior to the expiry of the licence.
- 3.10.4 Where a mechanical inspection is undertaken within one month of the expiry of the previous certificate the six-month period will be deemed to commence from the date of expiry of the previous one, much like an MOT.

3.10.5 Licences will not be renewed after expiry unless an application is made to re-licence the vehicle with effect from the date of expiry of the previous licence. If a licence holder fails to renew their licence before the respective expiry date (e.g. they are out of the UK), the licence will lapse and become invalid. Licence holders should note that if they allow their licence to expire, they will be required to make a new application in full and **the vehicle licence number cannot be protected**. This may obviously incur a potentially significant time delay, and dependent upon the age of the existing vehicle, it **may require a change in vehicle to meet the age requirements** set out in this Section. The cost implications of failing to renew a licence could therefore be significant, and licence holders are therefore strongly advised to ensure that they renew their licences prior to the expiry date. If the licence holder is aware of any reason that they may not be able to renew their licence before expiry, they must inform the Licensing Service immediately and explore options available.

3.11. Stretched Limousines and specialty vehicles

3.11.1 Stretched limousines are elongated saloon cars that have been increasingly used for mainstream private hire work. The number of stretched limousines being imported - particularly from the USA - has been increasing. Their use generally includes all private hire work plus special occasions such as days at the races, stag and hen parties and children's birthday parties. This section also includes specialty vehicles that may be vintage or of a special nature.

3.11.2 Licensing Authorities have generally considered there to be some problems preventing stretched limousines from being licensed including:

- Some of the vehicles being capable of carrying more than eight passengers;
- Many of them are left hand drive;
- Many are fitted with all round darkened glass;
- Many have been converted or modified after manufacture;
- Seating space per passenger is 460mm and could give a greater capacity than eight persons; and
- Due to their origin many parts may not be available making adequate maintenance difficult.

3.11.3 Most limousines are imported for commercial purposes and are therefore required to take an Individual Vehicle Approval (IVA) test. The IVA test verifies that the converted vehicle is built to a certain safety and environmental standards. When presented for IVA the vehicle is produced with a declaration that it will never carry more than eight passengers. The importer must inform any person who may use it of this restriction. Any subsequent purchasers must also be informed of the restriction.

3.11.4 The 1976 Act defines a Private Hire Vehicle as a motor vehicle constructed or adapted to carry fewer than nine passengers, other than the Hackney Carriage or

public service vehicle, which is provided for Hire with the services of the driver for the purposes of carrying customers. Section 48 of the 1976 Act requires that before a licence is granted the Authority must be satisfied that the vehicle is compliant with its requirements.

3.11.5 Any stretched limousines, which are offered for Private Hire require a licence. Some operators of these vehicles have a wedding car licence insurance policy on the basis that the vehicle will be used largely during daylight hours, once or twice per week. Before licensing for Private Hire a full policy for Private Hire purposes will, therefore, be required. Applications to licence stretched limousines as Private Hire Vehicles will be treated on their merits. It is, however, proposed that imported stretched limousine type vehicles:

- Be granted an exemption from the requirement under the conditions of licence for Private Hire Vehicles to be right hand drive;
- Be authorised as plate exempt Private Hire Vehicles;
- Be approved for licensing as Private Hire Vehicles subject to [additional conditions](#)

3.11.6 Limousine and specialty vehicles used for the purpose of hire and reward are required to be licensed as private hire vehicles, with a seating capacity for **not more than 8 passengers** or less, and all bookings must be made via a licensed operator.

3.11.7 These are specialist types of vehicles with their own set of pre-conditions, in addition to the standard conditions. Where there is any inconsistency between the standard conditions and these specialist conditions, then these specialist conditions shall prevail. The pre-conditions can be found [here](#)

3.11.8 The Council strongly recommends that anyone wishing to purchase and license a specialty vehicle or limousine, contacts the licensing team **prior to purchase**, to ensure that the vehicle will meet the conditions applied. Each application will be determined on its own merits.

3.12. Funeral and Wedding vehicles¹⁵

3.12.1 Funeral Vehicles

3.12.1.1 A vehicle does not need to be licensed when it is used in connection with a funeral or is being wholly or mainly used by someone carrying out a business as a Funeral Director.

3.12.2 Wedding vehicles

3.12.2.1 A vehicle does not need to be licensed whilst being used in connection with a wedding. The exemption only applies to journeys directly relating to the wedding

¹⁵ S.75 (1)(c) Local Government (miscellaneous Provisions) Act 1976

service. This could be, for example, taking the bride or groom to the service. Transport to other places, such as the airport, would require a licence.

3.13. Plate Exempt Vehicles

- 3.13.1 The Road Safety Act 2006 requires vehicles used for a contract with an organisation or company for carrying passengers for Hire or reward under a contract to be licensed as Private Hire Vehicles. As a general guide this includes executive Hire, chauffeur services, park and ride for private car parks, airport travel, stretch limousines and novelty vehicles.
- 3.13.2 Proprietors of executive type vehicles licensed as Private Hire Vehicles may seek the permission of the Authority to waive certain conditions of licence. The details of these requirements are provided [here](#). Those wishing to licence an executive vehicle should contact the [Licensing Service](#)), ideally prior to purchasing a vehicle, so as to avoid any unnecessary expense should the vehicle or business model not be appropriate to be licensed as executive type or granted plate exempt status.
- 3.13.3 The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles display an identification plate (licence plate) and drivers of those vehicles wear a driver's badge. The same legislation also allows The Authority to exempt vehicles from the need to display an identification plate and, where that exemption applies, the requirement to wear a private hire driver's badge (plate exemptions).
- 3.13.4 Some vehicle Proprietors request that the Council exercises its authority to exempt individual vehicles from the need to display licence plates if the vehicle is intended to be used for executive work, airport transfers or other contract work.
- 3.13.5 Ultimately, vehicles licensed by this authority should be readily identifiable should a passenger or other member of the public have a complaint about standards or driver conduct. It is therefore not the intention of Chelmsford City Council that vehicles be plate exempt as a matter of course. However, in certain circumstances it may be beneficial for requests to be granted both for commercial reasons, and to maintain a more balanced fleet in Chelmsford which can offer a wider variety of vehicles to suit public need. Plate exempt vehicles should evidence a specific customer base and will not be permitted to be involved in other general Private Hire work if they are not easily identified by the travelling public as vehicles licensed by this Authority
- 3.13.6 Chelmsford City Council will consider requests for plate exemptions made in accordance with this policy in relation to individual vehicles only and each application will be considered on its own merit.
- 3.13.7 Vehicles that are issued with an exemption certificate are primarily expected to undertake executive chauffeur work and not normally be used for general daily private hire work e.g. normal airport transport. Exempted vehicles found to be carrying out standard private hire work will be subject to enforcement action and the exemption certificate may be revoked.

- 3.13.8 Exempted vehicles must not display any advertisements, signage, logos, or insignias advertising the operating company inside or outside the vehicle.
- 3.13.9 Operators and proprietors who wish to apply for an exemption certificate must complete an application form, pay the required fee **and** provide sufficient supporting documentation e.g. intended contracts, business cards, advertising materials, web address etc. to establish that the vehicle will be solely used for executive bookings or work as described and the Council may request further supporting information before a determination is made. Plate exempt vehicles will not be permitted to undertake a mixture of both types of hiring's.
- 3.13.10 The decision whether to grant 'Plate Exempt' status is determined by the Licensing Lead Officer on behalf of the licensing authority and the decision may be reviewed by the Public Health & Protection Services Manager should the application be refused. There is a presumption that the exemption will not be granted unless **unless** the applicant can demonstrate a business case that the benefit is mainly one of privacy, safety and security of the customer. This status is unlikely to be granted where the benefit is considered to be solely that of the operator.
- 3.13.11 In granting vehicle plate exemption there is a significant risk – should the vehicle be used other than as intended – that the public will be unable to identify the vehicle and driver in the event of complaint or allegation and that the main safety feature of licensed vehicles is that they are readily recognisable.
- 3.13.12 Examples of the type of services that might benefit from 'plate exempt' status are:
- Contracts with national or local government personnel conveyed on official business
 - Contracts associated with VIP and close protection
 - Weddings
 - Contracted services with large companies to convey personnel and clients
- 3.13.13 Examples of the services that may not be considered suitable for 'plate exempt' status are:
- Council school and social services contracts
 - Routine journeys to airports, seaports or railway stations (where the provision of door stickers etc. are considered a safety feature upon arrival)
 - Routine theatre journeys and sporting events
 - Routine work within the nighttime economy to bars, restaurants and those facilitating 'stag' and 'hen' parties
 - Journeys to school proms (other than specialty vehicles)

The lists are not exhaustive and intended only to be indicative.

- 3.13.14 Limitations may be placed on the exemption licence allowing only **certain** types of work to be undertaken without displaying the otherwise required vehicle and driver licences
- 3.13.15 Additional conditions are applicable to exempted vehicles in addition to the standard conditions. Where there is any inconsistency between the standard conditions and these extra conditions, then these extra conditions shall prevail. The plate exemption conditions can be found [here](#).
- 3.13.16 If an exemption certificate has been issued and the vehicle will no longer be used for the purpose for which initially applied for then the exemption plate and certificate must be surrendered and returned to the council. If the vehicle is still licensed, it will be supplied with and required to display plates and door stickers as required by the conditions for all private hire vehicles. There will be a fee for the replacement plate and door stickers.
- 3.14. **Transfer of and Replacement of a Licensed Vehicle**
- 3.14.1 **Transfer**
- 3.14.2 **Existing owner:** If a Proprietor of either a Hackney Carriage or Private Hire Vehicle transfers their interest in a licensed vehicle to another person, they must complete the required application, providing full details of the new owner of the vehicle as soon as practicably possible, and in any case within 14 days¹⁶. A proprietor who fails to give such notice, without reasonable excuse, is guilty of an offence. The licence holder must return the paper part of the licence to the Authority.
- 3.14.3 **New owner:** Where an application is made by a new owner to transfer the licence ownership into their name the new owner will need to provide proof of ownership (bill of sale) and the consent of the existing licence holder to transfer the licence (confirming the transfer). The new owner will need to provide a Basic DBS check. The vehicle is not to be used for hire or reward until the new licence is issued. The licensing authority retains discretion not to issue or transfer the licence if the proprietor is not deemed a suitable person¹⁷. There is an administration charge for this process to cover the cost of issuing an amended licence, the cost of which is borne by the new owner.
- 3.14.4 The transfer must be supported with either a Bill of sale or a V5 registration document in the name of the new owner. A licence holder must notify a transfer within the statutory 14 days and will consider the question of prosecution where offences are revealed.
- 3.14.5 There is no ability to transfer only the licence itself (including the number). The licence always remains the property of the Council and therefore the number is issued at the discretion of the Authority¹⁸. The Licence and vehicle are one.

¹⁶ S.49 of the Local Government (Miscellaneous Provisions) Act 1976

¹⁷ S.47 Town Police Clauses Act 1847 & s.49 Local government (Miscellaneous Provisions) Act 1976

¹⁸ Challoner v Evans (1986), Times, 22 November

- 3.14.6 The licence of a 'transferred' vehicle expires 12 months from the date that the licence was initially issued and not from the date of transfer. The transfer of a vehicle does not extend the licence period.
- 3.14.7 The transfer of a licence and the vehicle is generally a private business transaction between two parties. The Authority will seek to maintain the same licence number with the transfer but cannot be held liable where this might not be possible, or the new owner deemed unsuitable as a proprietor. For this reason, it is recommended that the parties seek approval in principle from the Council that the licence number will be transferred before concluding any agreement.

3.15. Replacement Vehicles

- 3.15.1 Although the substitution of a vehicle is not mentioned in legislation the process is regarded as similar to a transfer of the licence. Where an existing licensed vehicle is replaced (accident or major repairs), the replacing vehicle must meet all policy requirements in respect of its age and Euro 6 compliance. A replacement fee will be required.
- 3.15.2 At the discretion of the Council (including where the issued plates are inaccessible or damaged beyond use), where a vehicle is replaced, the licence plates for the new vehicle will not be issued until the old plates have been returned to the Authority. Effectively the old licence is surrendered, and a new licence is issued although in practice this tends to be an amended vehicle licence. This process will assign the original plate number to the replacement vehicle.
- 3.15.3 Where the previously licensed vehicle needs to be returned back onto the original licence (for example, the replacement vehicle was a temporary arrangement due to accident damage or major repair to the original vehicle) then following further application it can be reinstated onto the original licence with the age restrictions applied using the same previous criteria. The reinstatement will not be subject to a further replacement vehicle fee; however, fees may be levied where new licences, plates or door stickers have been damaged and require replacement.
- 3.15.4 This process is not be used to specifically circumvent the vehicle age policy and applications may be refused if this is considered to be the case.

3.16. Fares - Hackney Carriages & Private Hire

- 3.16.1 A [Table of Fares](#) ("the tariff") is set by the Authority for Hackney Carriages, but this control does not apply to fares set by Private Hire Vehicle operators unless a taximeter is fitted.
- 3.16.2 Hires that end outside of the City boundary can be negotiated prior to the commencement of the journey but not exceed the maximum tariff.
- 3.16.3 A Table of Fares ("the tariff") must be displayed within the vehicle fitted with a taximeter.

3.17. Receipts

3.17.1 Drivers shall, if requested by the passenger, provide a written receipt for fares paid.

3.18. **Electronic payments**

3.18.1 Vehicles must be fitted with means to accept electronic payments in addition to cash.

Part 4

Private Hire Operators

- 4.1.1 Any person who operates a Private Hire service (who is also not a Hackney Carriage proprietor who permits Hackney Carriages to be used for Private Hire) must apply to the Authority for a Private Hire Operator's Licence. An Operator's Licence shall be issued for a maximum of 5 years. Applications can be obtained via the Council website or from our licensing services at licensing@chelmsford.gov.uk and any material but inconsequential changes to the licence are permitted during the duration of the licence.
- 4.1.2 A Private Hire Vehicle licensed by this Authority shall only be dispatched to a customer by a Private Hire Operator who holds an Operator's licence issued by this Authority. Such a licence permits the operator to make provision for the invitation or acceptance of bookings for a Private Hire Vehicle. A Private Hire Operator shall ensure that every Private Hire Vehicle is driven by a person who holds a Private Hire Driver's licence issued by this Authority.
- 4.1.3 Applications for Operator's licences shall be made on the prescribed form, together with the appropriate fee. The Authority will decide whether the applicant is a 'fit and proper person' to hold an Operator's Licence based on the information provided in support of the application.
- 4.1.4 Where the Operator is a limited company, all Directors and partners must be considered individually as being fit and proper to hold an operator's licence. Once a licence has been issued, the Operator must notify the Council in writing of any change in partnership, directorship, ownership, management or control of the business within 5 working days of that change taking place.
- 4.1.5 A licence cannot be transferred to another individual/company at any time. A new Private Hire Operator application will be required
- 4.1.6 Before an application for a Private Hire Operator's licence is granted, the applicant shall produce evidence that they have appropriate public liability insurance. The minimum value of the cover provided by the insurance must be £5 million.
- 4.1.7 Directors and partners must register with HM Revenue and customs and provide the licensing authority with a tax check code as proof (This is an absolute legal requirement and the licensing authority are unable to grant a licence without this information). Requirement criteria can be found on our website application pages.

4.2. Fit and Proper Person (Operator)

4.2.1 Immigration Status

- 4.2.1.1 Where relevant, licences will not be issued to applicants or will be removed from existing licence holders, by reason of their immigration status if:

- The person requires leave to enter or remain in the UK and has not been granted it; or

- The person's leave to enter or remain in the UK;
- Is or becomes invalid;
- Has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise); or
- Is subject to a condition preventing the person from doing work of that kind.

4.2.1.2 Licences will also not be issued to applicants or will be removed from existing licence holders if they are subject to a condition on their permission to be in the UK preventing them from holding such a licence, for example, they are subject to an immigration restriction that does not permit them to work.

4.2.1.3 Specific documentation is required to demonstrate immigration status on application and upon each further application for a licence. Please contact Licensing officers for further information.

4.2.1.4 Further information is also available from the [Home Office](#).

4.2.2 **Disclosure and barring service (DBS) disclosures**

4.2.2.1 Similar to licensed drivers, a criminal record check on an Operator is seen as an important safety measure. Whilst Operators do not normally have the same frequency and nature of contact with the travelling public as a licensed driver, the risks and related safeguards for the public are equally as important and their employees have access to large amounts of sensitive information held in respect of their customers. To this end, the Authority will adopt the 'fit and proper' test to Operators. However, unlike Hackney Carriage and Private Hire Drivers, Private Hire Operators are not exempt in respect of the Rehabilitation of Offenders Act 1974 and therefore a Basic (rather than an Enhanced) Disclosure is required as part of the application process. Applicants can obtain their own Basic DBS disclosure certificate via the DBS and the Authority will not process an application without one.

4.2.2.2 If an operator is also a licensed driver, they will not be required to produce a Basic disclosure in addition to the enhanced checks to obtain the driving licence. Where the operator is a driver their DBS status will be checked six-monthly. Where not a licensed driver a basic DBS will be required annually. Financially an operator might therefore benefit from subscribing to the update service.

4.2.2.3 Should a licensed driver who is also a licensed Operator have their driver licence suspended or revoked this does not have automatic effect on their eligibility to continue holding an Operator's licence. That decision will be an independent one for the Regulatory Committee to consider and based on all relevant information i.e. it should not consider information that might only have been available via an enhanced DBS check and that that information may only be used for the specific purpose for which it was requested and for which the applicants full consent was given.

- 4.2.2.4 Operators will otherwise be required to produce an annual Basic DBS disclosure, and this will be a requirement of each company director and/or business partners. The licensing authority shall be informed where there are any business changes that might affect this requirement.
- 4.2.2.5 Only the applicant for a DBS Basic Disclosure will be sent a disclosure report to their home address from the DBS. The Authority is informed of any relevant information contained on the disclosure report. Where necessary, it is the responsibility of the applicant to provide the DBS Basic Disclosure report to the Authority or provide access to it electronically.
- 4.2.2.6 No application shall be processed where the DBS Basic Disclosure is older than 28 days. Furthermore, DBS Disclosures are not transferable from one organisation to another. For example, a Disclosure undertaken as part of an application with another Local Authority will not be accepted by this Authority.
- 4.2.2.7 Operators will be required to undertake their own Basic disclosure checks in respect of all staff engaged in the booking or dispatch of vehicles and evidence those checks to licensing officers as and when required to do so.
- 4.2.2.8 Operators must submit a copy of their policy where it allows for the employment of ex-offenders alongside their application.

4.2.3 Relevance of convictions, cautions etc. for applicants

- 4.2.3.1 In assessing whether the applicant is a 'fit and proper person' to hold an Operator's licence, the Authority shall consider each case on its own merit. It will take account of the details of the DBS Basic Disclosure report, but only in so far as they are relevant to an application for a licence. When deciding what action is appropriate, the Committee will have regard to the convictions policy previously referred to and found on our website. The Committee need only consider an evidential argument that the applicant is not a 'fit and proper person' on the 'balance of probabilities', rather than 'beyond reasonable doubt'.
- 4.2.3.2 Accordingly, upon receipt of a DBS Basic Disclosure report from the applicant, Licensing Officers will assess whether any or all of the conviction(s) are capable of having real relevance to the issue of whether or not the applicant is a 'fit and proper person' to hold an Operator's licence. Licensing Officers will only bring a case before the Committee where the number and/or nature of the convictions relating to the applicant raise doubts as to whether that individual is a 'fit and proper person' to hold that respective licence.
- 4.2.3.3 Whilst each case is determined on its own merit, the following matters would be likely to result in an application being presented to the Committee for determination:
- Any unspent convictions for serious offences, for example theft, burglary etc;
 - Any unspent convictions for violence or threats of violence, for example assault, grievous bodily harm, wounding etc;

- Any unspent convictions for sexual and/or indecency offences;
- Any unspent convictions for serious aggravated offences, for example manslaughter, murder etc;
- Any unspent convictions related to the supply of drugs;
- Any unspent convictions for deception and/or fraud;
- Any other unspent conviction that would suggest that the applicant is not a fit and proper person to hold the respective licence.

4.2.3.4 When deciding what action is appropriate, the Committee will have regard to the Authority's [convictions policy](#). When deciding what action is appropriate, the Committee need only consider an evidential argument that the applicant is not a 'fit and proper person' on the 'balance of probabilities', rather than 'beyond reasonable doubt'. Accordingly, the Committee is not restricted in taking action only where an applicant has been convicted of an offence. The Committee may also take account of formal cautions, criminal charges, police intelligence or any other material provided during the application process. Furthermore, it is **not** the responsibility of the Committee to determine the innocence or guilt of an applicant in relation to any offence and/or issue of concern, but instead on a balance of probabilities whether the Applicant is a fit and proper person to be licensed as a Private Hire Operator and satisfy the Authority's duty in respect of public safety. When determining such matters, the Committee will use the following test as the basis for its decision.

"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?"¹⁹

4.2.3.5 All committee reports are reviewed by the PHPS Manager and a representative of the Councils legal services to ensure compliance with this policy and ensure a consistent approach is being taken.

4.2.4 **Convictions during the period of a licence**

4.2.4.1 Where offences leading to conviction are committed by licensed Operators, it is important, in the interests of consistency and transparency that a procedure is in place to consider what effect this should have on their licence.

4.2.4.2 Accordingly, Operators who are convicted for any criminal offence during the period of their licence, must disclose the conviction as well as any penalty imposed, in writing to the Authority without delay, and in any event within 72hrs.

4.2.4.3 Where any Operator fails to notify the Authority of any convictions this may result in prosecution or referral to the Committee, or both.

¹⁹ Button on Taxis – Licensing law and Practice 4th Ed Bloomsbury Professional at para. 12.35

4.2.4.4 Where the Authority is made aware of any matter that would question an Operator's on-going status as a fit and proper person this may result in prosecution or referral to the Committee, or both. Furthermore, it is not the responsibility of the Committee to determine the innocence or guilt of an existing licensed Operator in relation to any offence and/or issue of concern, but instead on a balance of probabilities whether the existing licensed driver is still a 'fit and proper person' to be licensed as a Private Hire Driver and satisfy the Authority's duty in respect of public safety. When determining such matters, the Committee will use the following test as the basis for its decision:

"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?"²⁰

4.2.4.5 An Operator's licence is issued for up to 5 years, therefore, in order to avoid undue delay in applying this policy ('the DBS policy') to existing licence holders, it will be applied from the anniversary of the issue of the licence following adoption of this policy and annually thereafter. The DBS policy will apply to all new applicants following the formal adoption of the policy.

4.3. Management of a business operated by a licensed Private Hire Vehicle Operator

4.3.1 A licensed Operator must notify the Council in writing within 7 calendar days of any material change affecting the licence during its validity, including a change in financial circumstance which may impact on the future viability of the business.

4.3.2 The operator must not at any time operate more private hire vehicles than are specified on his/her licence without the prior consent of the council and by applying to increase the number of vehicles allowed to be operated on his/her licence. Each licensed vehicle must be formally attached to the PHO licence before it commences work for that business.

4.3.3 A licensed operator must inform the council in writing if they are going to be absent from the day to day running of the operator's business for a period of 1 month or more. In doing this, the operator must give the name of the person that will be responsible for the running of the business on their behalf. The individual named must have relevant experience and understanding of private hire law and the Council's private hire licensing policy to ensure effective running of the business.

4.4. Employees

4.4.1 Given the amount of sensitive information Operators hold about their customers it is appropriate that any person employed or otherwise used by the Operator (based within the UK) in the conduct of their business is also subject to scrutiny. To this end, all Operators shall maintain an up to date list of the names of persons where employed or otherwise under their direct control and used in connection with

²⁰ Button on Taxis – Licensing law and Practice 4th Ed Bloomsbury Professional at para. 12.35

bookings or vehicle deployment, and maintain that list for a minimum period of one year. This list must be accompanied by a signed declaration from the Operator that he/she is satisfied that they have taken the appropriate steps (carried out Basic DBS checks etc.) to ensure those persons employed are safe and suitable to undertake work for the Operator, taking account of the potential risks to the travelling public outlined above. That list must be made available to licensing officers upon reasonable request.

- 4.4.2 In providing this information, the Operator takes responsibility to ensure his/her employees are safe and suitable to undertake duties on behalf of the Operator in ensuring the safety of the travelling public. The Operator will remain ultimately accountable in this regard. It is not the responsibility of the Authority to undertake any checks and/or attest to the safety and suitability of any persons employed or otherwise used by an Operator.
- 4.4.3 The list must be constantly updated as any changes to personnel occur.
- 4.4.4 If any person named on the list is found not be safe or suitable to carry out the work of the Operator, the matter will be referred to the Committee for determination. The Operator will be held accountable and required to demonstrate that they undertook all reasonable steps to ensure the person was safe and suitable to carry out work on behalf of the Operator. Whether a person is deemed safe and/or suitable will be determined on its merits taking account of the principles contained in Paragraphs 4.2.3.1 to 4.2.3.3. In addition, the Authority considers appropriate training for such persons as an important factor in demonstrating their safety and suitability. Such training should include safeguarding issues and customer care.

4.5. **Recording of Bookings**

- 4.5.1 Being a licensed PHV Operator is a legal provision for the invitation or acceptance of bookings, provided by a driver, for hire or reward. The acceptance of bookings may be provided for through a variety of methods, such as, in person, by telephone, text, email, internet, smart phone app, in writing, or by any other communication means (it should be noted that 40% of bookings are currently made via an App).
- 4.5.2 As an operator a record will need to be maintained of all bookings that before the commencement of a journey must show, as a minimum:
 - 1. The time of the request and booking
 - 2. The name of the passenger
 - 3. The pickup point
 - 4. The destination
 - 5. Details of the driver (full name and driver licence number)

6. The vehicle registration number
 7. The method of booking and where so employed the name of any individual that responded to the booking request.
 8. The method of dispatch and where so employed The name of any individual that dispatched the vehicle.
- 4.5.3 All such records must be retained for a minimum of 6 months and made available to an authorised officer for inspection.
- 4.6. **Re-Licensing of an Operator's Licence (renewal)**
- 4.6.1 It is not the responsibility of the Licensing Authority to remind a licence holder when their licence is due to expire, however, Chelmsford City Council will endeavour to issue a 'reminder' to existing licence holders when a licence is due for renewal. However, in all cases, it is the licence holder's responsibility to ensure that licences are renewed prior to their expiry.
- 4.6.2 If a licence holder fails to reapply for the Operator's Licence on or before the respective expiry date, the licence will lapse and become invalid. Licence holders should note that if they allow their licence to expire, they will be required to make a new application in full. This will obviously incur a potentially significant time delay and therefore the cost implications of failing to renew a licence could be significant as the business would be unable to operate until the licence is granted. Licence holders are therefore strongly advised to ensure that they seek to relicense their operation prior to the expiry date. If the licence holder is aware of any reason that they may not be able to renew their licence before expiry, they must inform Licensing officers immediately.

Appendix A

Glossary

Applicant	Person or business who has submitted an application for either a grant or renewal of a licence
Assistance Dog	A dog which is trained to assist people with disabilities to help them with their day to day life
Authorised Officer	A council officer who is authorised by the Council to exercise powers and duties conferred by legislation on their behalf

Badge	Issued to all licensed drivers and must be worn when working as a licensed driver
Byelaws drivers	Locally adopted 'conditions' applicable to Hackney Carriage
Conditions	Mean the conditions of licence applied by the council to a driver's licence, an Operator's licence or a vehicle licence.
Controlled District	Boundary area of a local authority which has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847
Date of First Registration	Date shown as the date of first registration on the vehicles V5 registration document issued by DVLA
DBS & eDBS Service	Disclosure & Barring Service & Electronic Disclosure Barring
DfT	Department for Transport
Driving licence	Full GB driving licence issued by DVLA or, EEA driving licence or, acceptable equivalent as defined by DVLA or appointed agency
DVLA	Driver and Vehicle Licensing Agency
DVSA	Driver and Vehicle Standards Agency (which replaced VOSA in 2014)
Ex-parte	Without one party being present
Tariff Card	A card that must be displayed in vehicles that are fitted with a taximeter that indicates the maximum authorised fare to be charged for distance travelled, waiting time and soiling charge and the licence plate number
Hackney Carriage Vehicle	A vehicle licensed under the 1847 Act commonly referred to as a taxi
ICO	Information Commissioners Office
IOL	Institute of Licensing
Issues log	A log to record matters arising that highlight need for policy or that seek clarification
LGA	Local Government Association
Licensing Authority Licensing	Means the licensing function within Chelmsford City Council

Regulatory Committee	The committee which determine licensing matters as set out in the council's constitution
Licensed Driver	A driver licensed by the Council under the 1847 Act to drive a Hackney Carriage vehicle or under the 1976 Act to drive a Private Hire vehicle
Licence Plate	The plate a licensed vehicle must display which shows the licence number, the maximum number of persons permitted to be carried, expiry date, vehicle registration number, and make and colour of vehicle
Licensed Vehicle	A vehicle which is licensed by the council under 1847 Act as a Hackney Carriage or licensed under the 1976 Act as a private hire vehicle
Operator	The business, which invites and accepts bookings for private hire work
PHPS	Public Health & Protection Services
PIDA	Public Interest Disclosure Act 1998 (whistleblowing)
Private Hire Door Stickers	Door stickers that must be affixed to the rear doors of private hire vehicles that displays 'Private Hire vehicle – Must be pre-booked'
Private Hire Vehicle	A vehicle licensed under the 1976 Act
Proprietor	Registered owner or part owner of a vehicle
PSV	Public Service Vehicle
Quasi-Judicial	A non-judicial body which can interpret law e.g. the Regulatory Committee
Road Traffic Acts	Including all associated legislation
Taxi	Usually refers to Hackney Carriage but can be generic term to include Private Hire vehicles
Taximeter	Device used for calculating the fare to be charged for the journey, by measuring distance travelled plus any time waiting. Fitted in all hackney carriage vehicles and some private hire vehicles
The 1847 Act	The Town and Police Clauses Act 1847 and the provisions within
The 1976 Act	The Local Government (Miscellaneous Provisions) Act 1976 and the provisions within
The Council	Chelmsford City Council

The Equality Act	Equality Act 2010 in it reference to disabled persons
Unitary Authority	A self-governing local authority that is not a part of the County Council
Update Service	A service a licence holder signs up to giving authorisation for multiple checks to the licensing Authority an paying an annual fee.
WAV	Wheelchair Accessible Vehicle

APPENDIX B

The following documents support this policy and may be amended from time to time with or without reference to the Regulatory Committee. These documents are hyperlinked throughout the policy where read as an electronic version or can be found on the Council website.

Legislation & Guidance

- [Chelmsford City By-laws](#)
- [Miscellaneous provisions](#)
- [Deregulation Act](#)
- [DfT Guidance July 2020](#)
- [Summary of Common offences](#)

Licence conditions

- [Operator's Licence](#)
- [Hackney carriage vehicles](#)
- [Private Hire Vehicles](#)
- [Dual Driver Licence](#)
- [Vehicles – pre-licence criteria](#)
- [Limousine and speciality vehicles Conditions](#)
- [Private Hire plate exempt conditions](#)
- [Dual licence pre-licence criteria](#)
- Convictions policy

Vehicles

- [Mechanical Inspection Standards](#)
- [Mechanical Inspection process chart](#)

Drivers

- [Dress code](#)
- [Code of conduct](#)

General Information

- [Taxi rank locations](#)
- Contact information
- [Current table of fares \(Tariff\)](#)

