

Regulatory Committee Agenda

27 January 2022 at 7pm

Council Chamber, Civic Centre, Chelmsford

Membership

Councillor L.A. Mascot (Chair)
Councillor D.G. Jones (Vice-Chair)

and Councillors

R.H. Ambor, L. Ashley, D.J.R. Clark, A.E. Davidson, J.A. Frascona,
P.V. Hughes, A.M. John, R.J. Lee, L.A. Millane, I.C. Roberts and
T.E. Roper

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 daniel.bird@chelmsford.gov.uk or telephone (01245) 606523

Regulatory Committee

27 January 2022

AGENDA

1. Apologies for Absence

2. Minutes

To consider the minutes of the meeting held on 18 November 2021

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 15 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. Licensing of Tables and Chairs on the Public Highway

6. Private Hire Vehicle Condition No. 3 – External Use of Wording – Taxi or Cab

Part II (Exempt Items)

To consider whether the public (including the press) should be excluded from the meeting during consideration of the following agenda items on the grounds that they involve the likely disclosure of exempt information specified in the appropriate paragraph or paragraphs of Part 1 of Schedule 12A of the Local Government Act 1972 indicated in the Agenda item

7. Review of a Hackney Carriage and Dual Drivers Licence

Category: Paragraph 1 of part 1 of Schedule 12A to the Local Government Act 1972

(Information relating to any individual)

Public interest statement: It is not in the public interest to disclose the content of this 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.

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 18 November 2021 at 7pm

Present:

Councillor L. Mascot (Chair)
Councillor D.G. Jones (Vice Chair)

Councillors R.H. Ambor, D.J.R. Clark, J.A. Frasca, P.V. Hughes, R.J. Lee, I.C. Roberts
and T.E. Roper

1. Apologies for Absence

Apologies for absence were received from Councillors Ashley and Davidson.

2. Minutes

The minutes of the two meetings held on 17 June 2021 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

Members of the taxi trade made statements and asked questions on Items 5,6,7 and 8. These had all been submitted in advance to the Committee members who had read and reflected upon them prior to the meeting. A summary of the topics raised by members of the public on each item is detailed below. [The submitted statements and questions in full can also be viewed online.](#) The Chair also referred to a submission from the GMB Union on Item 6, which had been sent directly to Members of the Committee and had also been taken into consideration by them.

Item 5 – Taxi Policy Amendments

- *Why is there a limit on the number of tests that can be taken?*
- *How will the Licensing Authority protect the loss of income for those failing the test and having to wait to reapply?*
- *The test should be available in a driver's first language rather than just English.*

Item 6 – Proposal to Private Hire Drivers Licence & Taxi Policy Amendment

- *The creation of a separate PH Licence should not be approved by the Committee.*
- *The proposal had already been rejected by the Committee twice in the last 15 years.*

- *The removal of the geographical route testing would lead to accidents, delays and higher journey prices.*
- *If drivers were reliant on Satellite Navigation systems then journeys would take longer if there were roadworks etc.*
- *The current high standards that have to be reached to hold a licence in Chelmsford would simply be diminished by introducing an easier to obtain PH licence.*
- *Customers would pay more for fares due to PH drivers not having the same detailed knowledge of Chelmsford.*
- *A single PH licence would devalue the work and effort put in by Hackney Drivers in the past.*
- *An easier to obtain PH licence would lead to an imbalance in the workforce and financial pressures for existing drivers.*
- *It is vital to have a strong geographical knoweldge, especially when helping vulnerable customers get home.*
- *Congestion and pollution will increase if it is easier to obtain a PH licence.*
- *Sat Nav systems often use the quickest rather than shortest route, therefore potentially leading to higher costs for customers.*
- *Private Hire vehicles from other areas are already operating in Chelmsford and will likely increase in the future anyway, therefore it doesn't need to be made more open already in Chelmsford.*

Item 7 – Proposed additional condition to a Hackney Carriage or Private Hire Vehicle Licence – Contactless Payments

- *Card payments lead to a 2.5% loss for the driver and it should be up to individual drivers/companies if they wish to take card payments.*
- *A self employed taxi driver should be allowed to receive payment in a form of their choice.*
- *Too many drivers have already been scammed by fraudulent card payments.*

Item 8 – Taxi Licensing – Proposed condition to require details of the driver to be displayed in the vehicle

- *Potential abuse if name provided in vehicle, number is enough information already.*
- *There is enough information inside and on the outside of a taxi to allow customers to identify their driver to the Council after a journey.*

5. Taxi Policy Amendments

The Committee considered a report which highlighted necessary changes to the Taxi Licensing Policy now that the taxi training requirements had taken effect. It was noted that since the new policy, two separate tests were required and therefore paragraph 2.8 of the policy needed to be updated accordingly.

In response to statements from the public and questions from the Committee, officers clarified that in the past there had been issues with drivers, constantly resitting the test, hence the requirement to wait until retaking had previously been introduced. It was also noted that this had been carried over from the existing policy.

RESOLVED that the amendments as proposed in paragraph 1.3 of the report be approved.

(7.40pm to 7.50pm)

6. Proposal to Private Hire Drivers Licence & Taxi Policy Amendment

The Committee considered a report which detailed a proposal to offer a Private Hire Drivers Licence, in addition to the Hackney Carriage and Private Hire dual drivers licence. It was noted that this had been consulted on before the new taxi policy was agreed in June 2021 and objections had been received. Therefore at the June meeting the Committee agreed to consider the issue separately at a future meeting.

The Committee heard that during the initial consultation a large number of licence holders commented against the proposal. It was noted that concerns had been raised in respect of safety, but no evidence had been provided. The Committee also heard that the proposed Private Hire Licence would not include a topographical test and that this would just be an additional requirement for Dual Driver Licence applicants. It was noted by the Committee, that officers felt this would lessen the effect of Private Hire drivers operating in Chelmsford on licences from elsewhere, it was felt that if they were instead licensed by Chelmsford then disciplinary matters would be easier to resolve.

Officers also informed the Committee that an error had been made when compiling the table in Paragraph 2.9 of the report and that it should have stated ' the exception of Basildon *and Tendring*.'

In response to the public statements made and questions from the Committee, officers noted that;

- The change would encourage a greater take up of Private Hire Licences.
- It is not necessary for Private Hire licence holders to undertake a topographical test due to the nature of the jobs they do in comparison to Hackney vehicles.
- Private Hire Licence holders from outside of Chelmsford, currently operate but the Licensing Authority are unable to deal with any disciplinary matters if needed.
- There is likely to be a greater need for Private Hire vehicles as the economy continues to recover from the pandemic.
- There is currently a national shortage of taxi drivers.
- The use of Satellite Navigation systems would not be a safety issue and it was also noted that their operation now forms part of the national driving test.

Three members of the Committee, requested a recorded vote on the item being considered. Members were asked, in turn, whether they wanted to approve the proposal and therefore offer a separate PHV drivers licence from 1st April 2022, without the need for a topographical test and to amend policy accordingly.

Cllr Ambor – **Against**
Cllr Clark – **Against**
Cllr Frasca – **Against**
Cllr Hughes – **Against**
Cllr Jones - **Against**
Cllr Lee – **Against**
Cllr Mascot - **Against**
Cllr Roberts – **Against**

Cllr Roper - Against

RESOLVED that the current approach not be amended and that only the Hackney Carriage and Private Hire Dual Drivers Licence should continue to be offered.

(7.51pm to 8.06pm)

7. **Proposed additional condition to a Hackney Carriage or Private Hire Vehicle Licence – Contactless Payments**

The Committee considered a report asking them to consider the inclusion of a condition requiring drivers of all licensed vehicles to accept contactless payments. Officers clarified that the report should have read 'card' rather than contactless payments, as it was intended that any type of card payment should be accepted. The Committee heard that Licensing Officers had dealt with an increasing number of complaints over the past year. These had included issues such as fares being refused and card payments being declined for various reasons, leading to safeguarding issues for vulnerable customers trying to get home. There had also been reports of journeys being accepted but then on arrival the driver taking the customer to an ATM and charging them for the additional aspect of the journey. The Committee heard that whilst this seemed to be widespread practice it did not reflect the majority of licence holders who already accepted card payments.

The Committee heard that the proposal was to replace condition 1.1 as cheque payments were now very rare and to replace it with the following condition instead.

'Hackney Carriages, Private Hire vehicles and drivers licensed by Chelmsford City Council shall ensure that where fares are collected at the conclusion of a journey payment by credit, debit and pre-payment card will be accepted. Each vehicle is required to clearly display on the nearside of the vehicle that the driver has the ability to accept card payments.'

Members of the Committee agreed there were safeguarding issues regarding card payments not being accepted and that the proposal would reduce this risk. Members of the Committee did also however express some concern about the lack of phone signal in certain areas which may make processing some card payments difficult.

RESOLVED that the proposal to remove the condition at paragraph 1.1 and to replace it with the suggested condition at paragraph 2.2 be agreed.

(8.06pm to 8.21pm)

8. **Taxi Licensing – Proposed condition to require details of the driver to be displayed in the vehicle**

The Committee were asked to consider an amendment to the Council's Taxi Licensing Policy, detailed at paragraph 2.1 of the report which would require licensed vehicles to provide further information about the driver inside of the vehicle via a headrest sign. It was noted by officers that the proposal would support the objective as recommended by the DFT Statutory Standards.

In response to the statements made by members of the public, officers noted that they would be happy to amend the proposal so the driver's name was not included as detailed in the report. It was noted that the other information such as the licence number would be enough for customers to identify the driver after contacting the Council. Members of the Committee also stated that a phone number for the Council should also be included rather than just online contact methods. It was noted that this would enable those without smartphones to still utilise the information.

RESOLVED that the proposal be accepted, with the amendments detailed below.

- *The removal of the driver's name from the notice.*
- *The inclusion of a phone number for the Council on the notice.*

(8.21pm to 8.43pm)

The Chair adjourned the meeting for a short period at this point to allow members of the public to leave ahead of the confidential business that was due to be considered.

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 9 & 10 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.

9. Review of a Hackney Carriage and Dual Drivers 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 a review of a dual hackney carriage/ private hire drivers licence held by Driver X to determine whether or not they were a fit and proper person to continue to hold the licence.

Members were advised that the following options were available to them;

- a) To advise no further action be taken other than the report remains on his record
- b) To issue a formal written warning
- c) To suspend the licence for a period to be determined
- d) To suspend the licence until compliance with any other requirement as required by the committee (e.g. undergo the formal training)

e) To revoke the licence

Officers introduced the matter to the Committee, it was noted that a complaint had been received by a taxi operator which resulted in an investigation by officers. The confidential report before the Committee, took them through the full details of the complaint and dashcam footage of the incident was also viewed. In summary, a vulnerable customer was made to feel uncomfortable by Driver X's conduct during a journey. Upon further investigation, the dashcam footage also revealed that Driver X had been driving whilst using his mobile phone, therefore leading to a safety issue as well as the initial safeguarding concern. It was noted by the Committee, that no previous complaints were on Driver X's record.

Driver X attended the meeting to answer any questions from the Committee. They stated their version of events which were different to that of the complainant, but due to the dashcam footage not including audio, it was not possible to clearly identify what conversation had taken place between themselves and the passenger. It was also noted by the Committee, that Driver X's version of events, which included them passing their phone to the passenger, did not correspond with the dashcam footage watched twice by the Committee. Driver X apologised to the Committee for the use of their mobile phone whilst driving and stated that they would not use their phone behind the wheel again.

The Committee gave careful consideration to all of the evidence and the representation made by Driver X.

RESOLVED that; there was reasonable cause (pursuant to section 61(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976) to suspend Driver X's dual driver's licence for a period of 1 month, and also to require them to complete the Green Penny training course within 3 months.

Reasons for Decision

- 1) It is in the interests of the public that you take corrective measures to address your conduct whilst driving and your safeguarding awareness of vulnerable people. The passenger found your conduct and conversation to be inappropriate and frightening, which led them to question their safety. This is unacceptable.
- (2) The completion of the Green Penny course will help to satisfy the Licensing Authority that you continue to be a fit and proper person to hold a dual driver's licence.
- (3) Suspension is also intended to be a deterrent against further misconduct, which in this case was the use of a mobile phone whilst driving, which is a criminal offence and is unacceptable for a licensed taxi driver.

10. [Review of a Hackney Carriage and Dual Drivers Licence](#)

This item was adjourned until the next meeting of the Committee on 27th January 2022.

11. [Urgent Business](#)

There were no matters of urgent business.

The meeting closed at 9.53pm

Chair



Chelmsford City Council Regulatory Committee

27th January 2022

Licensing of Tables and Chairs on the Public Highway

Report by:
Director of Public Places

Officer Contact:

Paul Brookes, Public Health & Protection Services Manager,
paul.brookes@chelmsford.gov.uk, 01245 606436

Purpose

To seek approval for a revised Pavement Licence Policy ahead of the redevelopment of Tindal Square.

Options

1. The revised Pavement Licence Policy be approved for public consultation.
 2. An amended revised Pavement Licence Policy be approved for public consultation.
 3. Not approve a revised Pavement Licence Policy for public consultation.
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1. Introduction

- 1.1 Anyone who would like to place tables and chairs on the public highway requires a licence issued under the Business and Planning Act 2020.
- 1.2 Chelmsford City Council supports the principle of outdoor tables and chairs as they can help maximise the use of public spaces, aid the local economy and add to the facilities on offer, however, It is important that they are properly managed to ensure they make a positive contribution to their environment and

be in keeping with their surroundings, particularly within the setting of listed buildings and conservation areas.

- 1.3 The development of Tindal Square which will result in the pedestrianisation of Tindal Square has been designed to accommodate an unobstructed walking route alongside building facades with a minimum width of 3 metres. This requires a revision of the existing Pavement Licence Policy.
- 1.4 To assist food and drink businesses operate during the covid pandemic Government allowed a relaxation of tables and chairs licensing and introduced a light touch approach under the Business and Planning Act 2020. These licences, known as Pavement Licences, were initially in place until 30th September 2021 but due to the ongoing pandemic were extended to 30th September 2022. Prior to this licensing of tables and chairs was carried out under the Highways Act 1980.
- 1.5 It is believed that the Business and Planning Act will permanently replace the Highways Act as the means of licensing tables and chairs and this is reflected in the presentation of this report. Any decision made by the Regulatory Committee as a result of this report will be valid for either the Business and Planning Act or the Highways Act, whichever is in force after 30th September 2022.
- 1.6 The legislation allows revocation of the licence if the highway to which the licence relates has become unsuitable for any purpose in relation to which the licence has been granted. The redevelopment of Tindal Square as described in paragraph 1.3 above will result in the High Street, from number 8 up to Shire Hall, being unsuitable for the Pavement Licences currently issued under the Business and Planning Act 2020 and they will be revoked upon the implementation of the new Pavement Licence and Chairs Policy.

2. Existing Policy

- 2.1 The existing policy presumes that a licence will be issued unless a valid objection is received, generally, the only valid objections relate to public safety.
- 2.2 With the exception of public safety concerns, there is no specific guidance in respect of the type of furniture, or where tables and chairs can be placed with each case being determined by officers on a case-by-case basis. Although there are standard conditions attached to every licence this can lead to a perceived unfairness by licence holders and other businesses.

3. New Policy

- 3.1 The revised policy, attached at Appendix 1, is more prescriptive than the current policy but it accommodates the design principles of the Tindal Square

development, and removes some of the officer discretion in approving applications thereby reducing the perceived unfairness of the current policy.

3.2 The key points of the revised policy are:

- Tables and chairs can only be placed in front of the façade the licence holder is responsible for.
- From 8 High Street up to the top of the High Street towards Shire Hall 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. Attached at Appendix 2 is a schematic diagram showing the proposed layout, the red hatched areas are where tables and chairs will be permitted.
- To the south of 8 High Street and the other pedestrianised areas of the city centre tables and chairs to be placed abutting the façade. The maximum depth of the area licensed for tables and chairs to be 2.5 metres. The maximum depth will not apply to Exchange Square or Backnang Square which successfully accommodate a wider area of tables and chairs.

3.3 The use of the area in front of Shire Hall is key to the Tindal Square development. Licensing of tables and chairs within this area is not included in the policy and any application will be considered separately by the Regulatory Committee. This will allow the application to be determined taking into account the proposed use of Shire Hall (when known) and how the space is being used after the development has been completed.

3.4. It is anticipated that the new policy will be in force from 1st April 2022.

4. Consultation

- 4.1 The revised policy will undergo a 28 day public consultation which will include writing to the BID and all businesses that currently have a tables and chairs licence or pavement licence.
- 4.2 After the consultation is completed the draft policy and any comments received during the consultation will be considered by the Regulatory Committee at their meeting on 17th March 2022.

5. Conclusion

- 5.1 The development of Tindal Square, which will result in the pedestrianisation of the area, requires a refresh of the Pavement Licence Policy.

- 5.2 The majority of businesses currently licensed will be unaffected by the new policy.
- 5.3 The revised Pavement Licence Policy will undergo public consultation after which the draft policy and any comments received during the consultation period will be considered by the Regulatory Committee on 17th March 2022.

List of appendices:

Appendix 1 – Draft Pavement Licence Policy January 2022

Appendix 2 – Proposed layout of tables and chairs (Tindal Square /north end of High Street)

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: N/A

(For new or revised policies or procedures has an equalities impact assessment been carried out? If not, explain why)

Health and Safety: None

Digital: None

Other: None

Consultees: Access Officer
Economic Development and Implementation Service
Legal Services

Relevant Policies and Strategies: None

Pavement Licensing Policy

1. Introduction

The Business and Planning Act 2020 (The Act) (as amended) was introduced as temporary legislation effective until 30th September 2022 to assist businesses and remove existing bureaucracy around what were known as Tables and Chairs Licences under the Highways Act. It is anticipated that Business and Planning Act 2020 will remain as the overarching licensing regime, moving beyond September 2022.

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 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).

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 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.

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.

It 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 Council would expect the type of furniture to be 'in keeping' with the local area.

Picnic benches and domestic white plastic tables and chairs are not permitted.

Any form of gazebo or enclosed shelter is not permitted.

6. Barriers

When tables and chairs are in place a standard barrier 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, or deemed to be 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 7 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
- 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 an annual renewal fee. 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 £5,000,000 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 yearly.



NOTES

1. To be read in conjunction with all other design drawings and specification documents.

LEGEND

Paving

Note: Paving surface materials/supplier details below are provided to show the product standard, visual quality and finish required. An acceptable equivalent may be considered.

Paving Features

[DS01] **Demarcation Studs**

25mm diameter, flat-top stainless steel studs to demarcate the entrance into the Cathedral grounds, and to define the licensable areas for external tables and chairs. Studs to be stem anchored into the granite surface and shall sit flush with finished floor level. Tops of studs to be textured to provide grip.

Rev.	Date	Description of revision	Drawn	Checked	Reviewed	Approved
0	13/22	ISSUED FOR INFORMATION	AC	HA	HA	TS
2	08/21	Revision cloud and associated text box added (ATG bollards at New Street / Waterloo Lane junction)	HA	HA	EH	TS
1	07/21	Scale bar updated to show correct scale	HA	HA	EH	TS

DRAWING STATUS

FOR INFORMATION



Essex Highways, Seax House, Victoria Road South, Chelmsford, CM1 1QH.
Tel: 0345 6037631

© Essex County Council

SCHEME TITLE

TINDAL SQUARE

DRAWING TITLE

Licensable Areas

DESIGNED	DRAWN	CHECKED	REVIEWED	APPROVED
AC	AC	HA	HA	TS
DATE	DATE	DATE	DATE	DATE
Jan 22	Jan 22	Jan 22	Jan 22	Jan 22
DRAWING UNITS U.N.O.			SCALE AT A1 (841X594mm)	
DIMENSIONS IN MILLIMETRES			1:250	
DIMENSIONS IN METRES				
DRAWING No.				REV.
B355344A-35-118				0



Chelmsford City Council Regulatory Committee

27th January 2022

Private Hire Vehicle Condition No. 3 – External Use of Wording ‘Taxi’ or ‘Cab’

Report by:

Lead Licensing Officer - Nigel Dermott

Officer Contact:

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Purpose

This report asks Members to consider the wording of the said condition and consider whether it remains necessary and proportionate to retain.

Recommendations

Members are asked to consider the information contained in this report and decide whether any action is required in respect of this matter and provide direction to officers who are charged with dealing with complaints and enforcement.

1. Background and Information

- 1.1 This matter is brought before Members following a complaint from a Hackney Carriage proprietor that was made in respect of a specific vehicle. The licence holder is correct in bringing the matter to the attention of officers, but enquiries

revealed that the issue is wider than only one vehicle. Licensing officers have never received a complaint from a member of the public that a private hire vehicle was presented as being available for immediate hire.

- 1.2 Private Hire vehicle licences are issued with a number of conditions that a licence holder must comply with. In particular, condition 3 states:

No private hire vehicle shall have roof signs or display the words "Taxi" or "Cab"

- 1.3 Under section 64 of the Transport Act 1980 it is an offence in respect of vehicles other than Hackney Carriages to display on or above the roof of a vehicle any sign which consists of the word "taxi" or "cab" (whether in the singular or plural), or "hire", or any word of similar meaning or appearance. Section 64 also prohibits on or above the roof of the vehicle "any sign, illumination, or other feature which may suggest that the vehicle is a taxi". This agenda item does not refer to roof signs but to wording elsewhere in the vehicle using the word 'Taxi' or 'Cab' as might also infer the availability for immediate hire.
- 1.4 It should be noted that the main difference between condition 3 and section 64 is as follows. Condition 3 contains an absolute prohibition on roof signs; it also prohibits the display of the words "Taxi" or "Cab" *anywhere* on the vehicle e.g. the side doors. Section 64, however, is regulates the roof area of the vehicles only; it does not apply to other areas of the vehicle.
- 1.5 Members should also note that section 64, being a legislative provision, is applicable irrespective of whether a licensing authority has attached a condition to a private hire vehicle licence which prohibits or otherwise regulates signage. In other words, whilst it is open to a licensing authority to attach a licence condition which is more extensive in terms of prohibiting signage etc, such condition cannot override or "cancel out" the restrictions set out in section 64.
- 1.6 Not all licensing authorities have such a condition. The DfT taxi standards recommends collaboration at a local level with neighbouring authorities (para. 3.13) and in the spirit of that recommendation Appendix A sets out the position of neighbouring licensing authorities. From the 12 licensing authorities taken into consideration there appears to be no consistent condition in relation to this matter.
- 1.7 The word 'cab' is derived from the word 'minicab'. This is a phrase reserved for Private Hire vehicles (PHV), but when on a roof sign it might infer availability for immediate hire. It is the potential perception of availability for immediate hire that members are asked to consider – that is to say, the possibility that signage of this kind might lead the public to think that a PHV can be hailed in the street or approached at the roadside. Some of the vehicles bearing these words are actually Hackney carriages working for Private Hire Operators.
- 1.8 Condition 3 has been in place a number of years without any apparent enforcement. This has led to Operators such as Fareway Taxi's, Fast Taxis,

Chelmsford City Cabs and Happi[cabs] using on a considerable number of vehicles words or words that are formed partly of the word 'Taxi' or 'Cab' e.g., Happi[cabs].

- 1.9 To enforce this condition with immediate effect would have a significant financial impact on Private Hire Operators and might even cause a change of business name (although this issue affects only vehicles and not business names or advertising). It is for this reason members are asked to consider a solution.
- 1.10 There are no complaints from the public or information to suggest that having this wording has in fact misled anybody. Merely a complaint that a licence condition is being breached.

2. Recommendation

- 2.1 Given that licensing officers deal with complaints on a regular basis made by both licence holders and the public it is felt appropriate that a recommendation is proposed to Members.

Members are asked to consider the removal of the current condition 3 as being shown from experience as irrelevant given the legislation under s.64 Transport Act 1980 and a condition requiring the permission of the authority before the display of signage or logos etc on any vehicle, not just advertising.

Should Members decided to retain the condition they are asked for guidance in respect of its enforcement. There has been no enforcement in respect of this condition to date due to no complaint received from a member of the public and no apparent abuse by a licence holder. If it is decided that the condition should remain, the following options are available:

- a) To implement the condition as required forthwith
- b) To implement the requirement within a timescale agreed by members.
- c) To implement the requirement at the next replacement or re-licensing of the existing licensed vehicle.

List of Appendices:

Appendix A – Shows conditions on a PHV licence as required by neighbouring licensing authorities

Background reading:

Taxi Licensing Policy and supporting document – Private Hire Vehicle conditions

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: None

Health and Safety: None

Digital: None

Other: None

Authority	Condition	Comment
Southend	Roof signs, illuminated or otherwise, are not permitted.	Transport Act Offence only
Castlepoint		No such condition
Rochford	Where an inscription, which identifies the proprietor of the vehicle, is to be displayed, it shall not imply that the vehicle is a hackney carriage by using the words taxi or cab, the content and layout of the inscription shall be approved by the Council.	Inscription identifying proprietor. Authority of council
Basildon	The display of roof signs of any description or the display of the word "TAXI" or "CAB" whether in the singular or plural and whether alone or as part of another word or group of words, or the words "FOR HIRE" or any form of wording which in any way suggests that the vehicle on which it is displayed is presently available to take up any passengers wishing to hire it, or would be so available if not already hired, is prohibited.	Transport Act offence and wording elsewhere. Absolute prohibition.
Thurrock		No such condition
Maldon	The words 'TAXI', 'CAB' or 'FOR HIRE' shall not be displayed on or in the vehicle or in any advertisement for the service.	Absolute prohibition
Braintree	Unknown	
Uttlesford		No such condition
Colchester	Vehicles, when working, must display on the front doors of the vehicle a sign stating the trade name, address and telephone number of the Private Hire Operator. This sign must contain the words 'pre-booked only' and 'private hire'. It must not contain the words 'taxi' or ['cab'] or any word of a similar meaning or appearance which may be taken to indicate that the vehicle is a hackney carriage which is licensed to ply for hire.	Allows 'minicab'
Tendring		No such condition
Harlow	Private Hire Vehicles shall not display signs using the words TAXI, CAB, or 'FOR HIRE' or any form of wording which may indicate that the vehicle is presently available for hire.	absolute prohibition
Epping		No such condition
Brentwood	The display of roof signs of any description or the display of the word "TAXI" or "CAB" whether in singular or plural and whether alone or as part of another word or the words "FOR HIRE" or any form of wording which may in any way suggests that the vehicle on which it is displayed is presently available to take up any passengers wishing to hire it or would be so available if not already hired is not permitted.	No roof signs at all.