



Please ask for Charlotte Kearsey
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The Chair and Members of Appeals
and Regulatory Committee

19 April 2022

Dear Councillor,

Please attend a meeting of the APPEALS AND REGULATORY COMMITTEE to be held on WEDNESDAY, 27 APRIL 2022 at 10.00 am in Committee Room 1, Town Hall, Chesterfield, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

1. Declarations of Members' and Officers' Interests relating to items on the agenda
2. Apologies for Absence
3. Minutes (Pages 3 - 4)
4. Hackney Carriage and Private Hire Licensing Policy - Policy Amendment CCTV (Pages 5 - 18)
5. Hackney Carriage and Private Hire Licensing Policy - Policy Amendment Exemption From Signage Regulations (Pages 19 - 24)
6. Introduction of a Fee for Transfer of a Sex Shop Licence (Pages 25 - 26)

Yours sincerely,

Chesterfield Borough Council, Town Hall, Rose Hill, Chesterfield S40 1LP

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A handwritten signature in black ink, appearing to be 'Randy', written in a cursive style.

Head of Regulatory Law and Monitoring Officer

APPEALS AND REGULATORY COMMITTEE

Wednesday, 9th March, 2022

Present:-

Councillor A Murphy (Chair)

Councillors	Perkins	Councillors	Marriott
	Bellamy		Miles
	Bingham		Perry
	G Falconer		Redihough
	Flood		Rogers
	P Innes		

*Matters dealt with under the Delegation Scheme

92 **DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS RELATING TO ITEMS ON THE AGENDA**

No declarations of interest were received.

93 **APOLOGIES FOR ABSENCE**

Apologies for absence was received from Councillor Niblock.

94 **MINUTES**

RESOLVED

That the minutes of the meeting of the Appeals and Regulatory Committee held on 15 December, 2021 be approved as a correct record and signed by the Chair.

95 **REVIEW OF LICENCE AND REGISTRATION FEES 2022/23 (A000)**

The Licensing Manager presented a report on representations made during the consultation on a proposal to increase taxi fees and charges for 2022/23.

The committee had considered a report on increased fees and charges on 3 November 2021 and approved a 5% increase from 1 April 2022. A copy of this report was attached as Appendix 1 of the officer's report.

The representations were included in full at Appendix 2 of the officer's report.

*** RESOLVED –**

That the proposed 5% increase in fees and charges in respect of private hire and hackney carriage licensing and scrap metal collectors and sites licensing for 2022/23 as detailed in the report be approved with effect from 1 April, 2021.

96 INCREASE IN HACKNEY METER TARIFFS (A410)

The Licensing Manager submitted a report for Members to consider a proposed increase in the tariff charged by the Chesterfield Borough Council Hackney Carriage Table of Fares, as requested by representatives of the hackney carriage trade.

The requested increase would be around 10% or 2% per year, as the hackney fares had last been increased in April 2012. The proposed increase sought to balance the licensed hackney carriage owners and drivers need to maintain acceptable living standards and affordability for members of the public.

Hackney Carriage Representatives had been invited to the meeting and Paul Gregory attended.

***RESOLVED –**

That the proposed increase in the tariff charged by the Hackney Carriage Table of Fares be approved, subject to the required consultation period of 14 days.

For publication

Hackney Carriage and Private Hire Licensing Policy - Policy Amendment

Meeting: Appeals and Regulatory Committee

Date: 27 April 2022

Cabinet portfolio: Health and Wellbeing

Report by: Licensing Manager

For publication

1 PURPOSE OF REPORT

- 1.1 To approve the design of the consultation to the taxi trade and other consultees on whether there should be CCTV in taxis and private hire vehicles

2.0 RECOMMENDATIONS

- 2.1 Members approve a consultation process.

3.0 REASON FOR RECOMMENDATION

- 3.1 There is no compelling reason to not consult on this matter.

4.0 BACKGROUND

- 4.1 On 15 December 2021 members considered this issue and authorised a consultation to ascertain the views of the trade and other consultees on whether there should be implementation of CCTV in taxis and private hire vehicles.

- 4.2 The committee decided that the design of the consultation be brought back to a future meeting for approval.
- 4.3 A copy of the original report is attached at Appendix 1.
- 4.4 Assistance has been provided by staff from the corporate directorate, particularly Alison Potter, who have prepared the consultation documents at Appendix 2.
- 4.5 All licence holders, that includes drivers, operators and proprietors, will be written to or emailed and given the opportunity to contribute and the consultation is proposed to last for one month.
- 4.6 Key stakeholders will also be consulted, such as the police and neighbouring authorities.
- 4.7 To reach as many participants as possible the survey will take place both online (via the link or QR code) and by paper.
- 4.8 The survey results will be collated by the council's policy team shortly after it ends and they will present a report.

5.0 EQUALITIES IMPACT ASSESSMENT (EIA)

- 5.1 A full equalities impact assessment has not been completed at this stage, but if CCTV is mandated the council would have to conduct a full EIA.

6.0 RISK MANAGEMENT

- 6.1 A full risk management assessment has not been completed at this stage, but the issues of risk and proportionality are outlined in the body of the report.

7.0 RECOMMENDATIONS

- 7.1 Members authorise the design of the consultation.

For publication

**Hackney Carriage and Private Hire Licensing Policy -
Policy Amendment**

Meeting: Appeals and Regulatory Committee

Date: 8 December 2021

Cabinet portfolio: Health and Wellbeing

Report by: Licensing Manager

For publication

1 PURPOSE OF REPORT

1.1 To consider a consultation process on the mandating of CCTV in taxis and private hire vehicles licensed by the council.

2.0 RECOMMENDATIONS

2.1 Members approve a consultation process.

3.0 REASON FOR RECOMMENDATION

3.1 There is no compelling reason to not consult on this matter.

4.0 BACKGROUND

4.1 In July 2020 the government published its document Statutory Taxi and Private Hire Vehicle Standards, available to view in full via [this link](#). Pages 38 - 39 cover Guidance on the implementation of CCTV in taxis and private hire vehicles and is attached to this report as Appendix A.

- 4.2 The document was issued by virtue of the Policing and Crime Act 2017 and requires that licensing authorities 'have regard to' the document when exercising their licensing functions.
- 4.3 Because of the standards document, the committee considered several policy amendments on 25 November 2020, including a later consultation on CCTV and these were formalised after a period of consultation on 24 February 2021.
- 4.4 The standards document does not require licensing authorities to support installation of CCTV, instead, it expects them to consider the matter and consult. We can choose not to consult but must identify a compelling reason not to.
- 4.5 Current council policy permits CCTV in licensed vehicles in line with legislative requirements, but it does not mandate it.
- 4.6 Current crime data shows a low level of risk regarding passengers and drivers. We have recently signed up to the DBS multiple check facility whereby DBS certificates are checked on a weekly basis with discrepancies leading to further investigation and ultimately, suspension or revocation.
- 4.7 A licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. That would have resource implications for the council while the purchase of CCTV systems will have cost implications for vehicle proprietors.
- 4.8 Consequences to the council will include the following, although the additional costs could be recovered from licence holders:
- Purchase & maintenance of equipment allowing the council to access footage.
 - Training of vehicle inspectors to verify CCTV installation plus additional time to test vehicles.
 - Additional officer time incurred in obtaining and viewing footage for investigation purposes.

- Training of proprietors/drivers in their data protection obligations (as part of our responsibility as Data Controller for the CCTV footage).
- Additional officer time incurred in obtaining and viewing footage from vehicles where requested under data protection laws by anyone who is subject to recording (for any purpose whatsoever).

4.9 A current estimate for the installation of a CCTV system meeting the required standards is in the region of £500 - £800. This cost would be borne by the licence holder.

4.10 The Information Commissioners (ICO) view is that in most instances continuously recording CCTV in a taxi or private hire is unlawful. Capturing people on video is considered extremely intrusive and is subject to strict data protection laws (GDPR). Cameras should only, therefore, be turned on when on a job.

4.7 The Surveillance Camera Code of Practice, issued by the Home Office, advises the government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

4.8 There is understandable concern among both professionals and members of the public regarding safety in licensed vehicles, particularly when considering situations such as that in Rotherham in recent years, but the system of taxi regulation in Chesterfield has been sufficiently robust to deal efficiently with any concerns or breaches over the years.

- 4.9 Recent crime data obtained from the police shows a low level of risk when travelling in a Chesterfield taxi or private hire vehicle. Information from the police shows that of 20 crimes recorded since 1 July 2021 where the word 'taxi' was mentioned, 8 were for non-payment of the fare, 6 had the driver as the victim of damage or similar, 4 occurred in a queue or booking office and 2 identified the driver as a suspect. Of those 2 crimes, one involved an allegation of inappropriate language to a passenger with learning difficulties and the other alleged the driver pushed a person away from the vehicle.
- 4.10 If CCTV is mandated the council would also, under section 33(5) of the Protection of Freedoms Act 2012, assume the role and responsibility of 'System Operator'.
- 4.11 This role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service.
- 4.12 It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out.
- 4.13 All recordings made must be secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device.
- 4.14 All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be

used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves.

- 4.15 Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 A full equalities impact assessment has not been completed at this stage, but if CCTV is mandated the council would have to conduct a full Data Protection Impact Assessment.

6 RISK MANAGEMENT

- 6.1 A full risk management assessment has not been completed at this stage, but the issues of risk and proportionality are outlined in the body of the report.

7.0 RECOMMENDATIONS

- 7.1 Members determine the scope of any consultation on CCTV in taxis and private hire vehicles.

More information about this report is available from Trevor Durham - Licensing Manager on 01246 345203 or trevor.durham@chesterfield.gov.uk

Appendix A

CCTV Guidance – Statutory Taxi & Private Hire vehicle standards

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set of in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right

to be informed, of access and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc. It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

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licensing@chesterfield.gov.uk

Licensing Section,
Customer Service Centre,
85 New Square, Chesterfield
S40 1AH

March 2022

Dear Stakeholder,

CCTV IN TAXIS AND PRIVATE HIRE VEHICLES

The government document 'Statutory Taxi and Private Hire Vehicle Standards' details a recommendation that there should be a consultation by local authorities regarding the potential installation of closed circuit television (CCTV) in all the taxis and private hire vehicles it licences.

Members of Chesterfield Borough Council's Appeals & Regulatory Committee met on 15th December 2021 and agreed to the consultation taking place. If you would like to see a copy of the report they considered, containing details of the legal framework and obligations involved and/or a copy of the Standards document please contact the licensing team on 01246 345230 or by emailing licensing@chesterfield.gov.uk.

Information received from the police indicates that the risk of being a victim of crime in a Chesterfield taxi or private hire vehicle is low, but we are aware that other factors may impact on the fear of crime and reassurance.

Installing a CCTV system will mean increased costs for licence holders, together with additional costs incurred due to the council being the data controller. All additional costs may have to be passed onto licence holders as the council is not able to access the various government grants that are available to some other authorities.

We would like to hear your views on the matter. If you would like to take part in the consultation, please complete the attached survey and return it in the pre-paid envelope provided by **"date"**. If you would prefer to complete the survey online, please scan the QR code below:



Yours sincerely

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Trevor Durham

Licensing Manager

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CCTV in Taxis and Private Hire Vehicles

The Department for Transport have produced a guidance document; 'Statutory Taxi and Private Hire Vehicle Standards' which recommends that there is a consultation regarding the installation of closed circuit television (CCTV) in all the taxis and private hire vehicles that local authorities issues licences to.

Members of the council's Appeals & Regulatory Committee met recently and agreed to the consultation. If you would like to see a copy of the report they considered, containing details of the legal framework and obligations involved and/or a copy of the guidance document please contact the licensing team on 01246 345230.

We would be very grateful if you could spare a few moments to provide your views on this matter by completing this survey.

If you would prefer to complete the survey online please scan the QR code:



1. Please indicate in what capacity you are answering these questions:

- | | |
|---|---|
| <input type="checkbox"/> Member of the public | <input type="checkbox"/> Local Authority |
| <input type="checkbox"/> Stakeholder | <input type="checkbox"/> Other interested party |
| <input type="checkbox"/> Licence holder | |

If other, please provide more details here:

2. What do you think are the potential positives for installing CCTV in taxis and private hire vehicles?

3. Are there any potential barriers or issues you have identified?

4. Do you have any other comments to make?

Thank you for taking the time to complete this survey. Please return in the envelope provided by xxxxxxx.

All information provided will be treated in accordance with the Data Protection Act 2018 and UK General Data Protection Regulation (GDPR), and will remain confidential. For contact details of our data protection officer, further information about how we use your data, or information about your data protection rights, please see www.chesterfield.gov.uk/privacy

For publication

Hackney Carriage and Private Hire Licensing Policy – Policy Amendment Exemption From Signage Regulations

Meeting: Appeals and Regulatory Committee

Date: 27 April 2022

Cabinet portfolio: Health and Wellbeing

Report by: Licensing Officer

For publication

1 Purpose of Report

1.1 To propose amendments to the Hackney Carriage and Private Hire Licensing Policy.

2.0 Recommendations

2.1 The amendment to signage is approved for a limited period of one month before and three months after the Queen’s Jubilee.

3.0 Reason for Recommendations

3.1 The amendment will not harm public safety.

4 Background

4.1 The council has been approached by one of our licensed taxi drivers to request authority to display the signs outlined at

Appendix A in support of the Queens diamond Jubilee on 2 June 2022.

- 4.2 We anticipate similar requests from other drivers and operators so a general exemption is requested for signs of a similar nature to those outlined at Appendix A.
- 4.3 All signs must be authorised by a licensing officer before they can be used. The current policy guidance on commercial advertising will assist in this decision-making process.
- 4.4 The council's taxi and private hire licensing policy limits the signage allowed on licensed vehicles, but the committee may authorise the display of signs in support of specific good causes in a manner and duration specified by them.
- 4.2 It is suggested that the exemption is in place from 2nd May to 2nd September 2022.

5 Equalities Impact Assessment

- 5.1 A full equalities impact assessment has not been completed but the amendments will not have a negative impact on equalities.

6 Risk Management

- 6.1 A full risk management assessment has not been completed but these measures will not adversely affect public safety.

7.0 Recommendations

- 7.1 The request for an exemption is approved for the period
-

More information about this report is available from Trevor Durham - Licensing
Manager on 01246 345203 or trevor.durham@chesterfield.gov.uk

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For Publication

Introduction of a Fee for Transfer of a Sex Shop Licence

MEETING:	Appeals & Regulatory Committee
DATE:	27 April 2022
REPORT BY:	Licensing Officer
WARDS:	All

1.0 **Purpose of Report**

1.1 To seek approval for the introduction of a fee for the transfer of a Sex Establishment Licence (sex shop).

2.0 **Background**

2.1 Sexual establishments are regulated by the Local Government (Miscellaneous Provisions) Act 1982.

2.2 We currently have one establishment, on Sheffield Road, and although the fee for the grant and renewal is well established it transpires the transfer of the licence was not considered when these provisions were reviewed back in 2009.

2.3 We have received a request to transfer the Sheffield Road licence so need to determine a fee for that process.

2.4 The current fee for the grant and annual renewal is £1,703. The amounts are identical as the processes were seen as taking the same amount of work.

2.5 When researching the approach of neighbouring and similar councils who have a fee for the transfer of a sexual establishment licence, the common approach is to charge at least 50% of the figure for the grant. This, broadly, is the recommendation for Chesterfield.

3.0 Recommendation

3.1 The fee for the transfer of a sexual establishment licence is set at £850.

For further information on this report contact Steve Ashby, Licensing Officer at steve.ashby@chesterfield.gov.uk