

**LICENSING COMMITTEE held at 7.30 pm at COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN on 17 JUNE 2009**

Present:- Councillor E W Hicks – Chairman.
Councillors E Bellingham-Smith, J E Hudson, R M
Lemon, J I Loughlin, D G Perry and A D Walters.

Officers in attendance:- M Hardy (Licensing Officer), M Perry
(Assistant Chief Executive), and C Roberts
(Democratic Services Officer).

LC1 STATEMENT BY MEMBER OF THE PUBLIC

Prior to the meeting a statement was made by Barry Drinkwater the Chairman of the Uttlesford Licensed Operators and Drivers' Association who was present with his colleague Andy Mahoney.

He referred to correspondence and meetings the Council had with the Association upon the subject of taxi and driver licence fees and drew attention to his letter of 30 April with proposals for licence fees and allusion again to "compensation". He concluded by congratulating Councillors D Perry and A Walters on their new roles in the Council.

The Chairman of the Committee thanked him for his statement.

LC2 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors H J Mason, D J Morson and J A Redfern.

LC3 MINUTES

The Minutes of the meetings held on 10 March and 22 April 2009 were received and signed by the Chairman as correct records.

LC4 MATTERS ARISING

(i) Minute LC51 – Money claimed by taxi drivers

Councillor Loughlin said that the reference to "Done and dusted" was confusing in the light of the taxi drivers' claim for compensation on a sliding scale and she asked what was happening.

The Chairman explained that there had apparently been a meeting on 21 April at which proposals had presumably been discussed, but as yet the Chief Executive had not replied to the letter or discussed its content with him.

Councillor Loughlin then said she was concerned that there was no record of a meeting which took place on 16 January 2009. Councillor Perry endorsed her comments and at his request the Chairman amended "the three taxi drivers" in Minute LC51 to read "the three taxi companies".

The Assistant Chief Executive undertook to look into the matter of the 16 January minutes and come back to all concerned with an answer.

(It has been ascertained that the minutes of the meeting held on 16 January 2009 were available on the Council's web site.)

(ii) Minute LC55 – Fares Increase

The Assistant Chief Executive informed the meeting that the increase had taken effect. Arrangements were being made by Hackney Carriage proprietors to have their meters recalibrated.

LC5

VEHICLE TESTING

Members received the Licensing Officer's update report following the implementation of the Committee's decision to outsource vehicle testing. The system was in operation from 1 April and now covered a wide spread of locations throughout the District.

The Licensing Officer said that initially three premises had been appointed to carry out the Council's taxi vehicle testing, followed later by four more, three of which were approved once they had complied with requirements regarding equality and diversity in their treatment of members of the public. The Chairman asked whether more premises would be encouraged and the Licensing Officer said he saw no reason against this.

Councillor D Perry congratulated the Licensing Officer on his report and asked about costings at different garages.

RESOLVED that the report be noted.

LC6

STATISTICAL DATA – LICENSING ACT 2003

The Committee considered a report by the Licensing Officer in connection with the making of statutory returns on the operation of the Council's powers under the Licensing Act 2003.

The Licensing Officer explained that since the commencement of the Licensing Act 2003 the Department for Culture, Media and Sport had required, annually, data about licences issued and other relevant data. The Department was responsible for compiling a national statistics bulletin for alcohol, regulated entertainment and late night refreshment, in accordance with the 2003 Act and asked every Licensing Authority to provide data relevant to their district.

The Licensing Officer's report provided a breakdown of the data recently submitted to the Department and he answered Members' questions on it. He also paid tribute to Steve Sparrow and John Jackson, the Essex Police Licensing Officers, who had played an important part in the efforts to ensure a safe environment in connection with the changes introduced by the 2003 Act.

RESOLVED that the report be noted.

LC7

GOVERNMENT CONSULTATION ON PROPOSED AMENDMENTS TO ITS BEST PRACTICE GUIDANCE RELATING TO THE REGULATION OF TAXI AND PRIVATE HIRE VEHICLES

The Committee considered a report by the Assistant Chief Executive about further Government consultation following proposals to amend the Government's best practice guidance relating to the regulation of taxi and private hire vehicles.

The Assistant Chief Executive reminded Members that they had responded fully to the last consultation on this Government guidance and the Government was now proposing amendments to it on which it was seeking to consult. The Government proposed to make some changes in the guidance regarding accessibility and other matters. The purpose of the Assistant Chief Executive's report was therefore merely to draw Members' attention to the proposed amendments.

The Assistant Chief Executive gave reasons for the proposed responses to the questionnaire attached to the consultation, and he answered questions from Members.

RESOLVED that the report be accepted and the suggested responses be adopted for submission to the Government.

LC8 **EXERCISE OF DELEGATED POWERS**

The Assistant Chief Executive informed the meeting that there had been no exercise of delegated powers since the last meeting of the Committee.

LC9 **ENFORCEMENT**

Councillor D Perry asked that an item be placed on the next agenda about enforcement.

Councillor Hicks welcomed Councillor Perry to the Committee in his new capacity as Vice-Chairman of the Committee.

(The Members then selected from their number a Panel of three, Councillors Hicks, Loughlin and Perry, to consider the next item on the agenda).

LC10 **SUSPENSION OR REVOCATION OF A PRIVATE HIRE DRIVER'S LICENCE**

The Committee invited the Licensing Officer to present his report.

The Licensing Officer first asked Mr G Ellis, the respondent, to confirm that he had received copies of the papers in the case and Mr Ellis confirmed that he had.

The Licensing Officer then set out the circumstances which had caused him to invite the Committee to consider the possibility of suspension or revocation of Mr Ellis's driver's licence, as follows:-

“On 21 June 2006 Glyn Ellis of 20 Hedgerows, Bishop's Stortford, Hertfordshire was granted a Private Hire Driver's Licence to drive on behalf of Central Cars based at Stansted Airport.

The expiry date for that licence was 31 March 2007. Since that date he has renewed his licence, albeit he did notify this authority on 24 March 2008 that he had changed operators and now works for Crocus Cars who are based in Saffron Walden.

Upon every application being received for a new licence and at three year intervals thereafter it is incumbent on an individual to have been vetted by the Criminal Records Bureau to the

enhanced level and successfully pass a medical to Group 2 standards.

Due to our computerised licensing system the date for renewal of the licence, Criminal Records Bureau check and medical do not correspond all at the same time.

On 1 April 2009 Mr Ellis renewed his private hire driver's licence for a further 12 months but indicated that he was not actively using his licence at present, but might do in the future hence his renewal.

On 9 April 2009 Mr Ellis was sent a letter reminding him that his three yearly medical was due no later than 4 May 2009. Enquiries to date reveal that this is still outstanding.

On 14 May 2009 a further letter was sent to Mr Ellis reminding him that his three yearly Criminal Records Bureau Check was due no later than 19 June 2009. No appointment has been made to undertake this process.

Attempts to contact Mr Ellis have failed however following chase up correspondence to him a letter was received at these offices on 2 June 2009 indicating that he is unwilling to spend any further monies in respect of the Criminal Records Bureau check and the Group 2 medical." (Mr Ellis's letters to the Council were circulated at the meeting).

The Licensing Officer's report also commented on risk created by the circumstances of the case to the following effect:- whilst there was no evidence to suggest that Mr Ellis had been convicted of an offence or was suffering from any medical condition which might affect his ability to drive, if he no longer met the "fit and proper test" significant harm could be caused to a member of the public if he were to resume driving as a private hire driver. To mitigate this risk steps should be taken to prevent Mr Ellis from driving as a private hire vehicle driver until he had undergone a medical examination to confirm that he still met the Council's standards and until an up to date CRB check had been supplied.

In answer to a question from Councillor Loughlin the Licensing Officer said that he did not know how long Mr Ellis had been out of the country.

Mr Ellis commented that the Licensing Officer's summary was a fair one, and said that his plans had been fluid since he had been doing different things out of the country, was unaware of the CRB/Medical deadlines and would not have renewed his driver's licence if he had realised how soon the deadlines were, since he did not want that expense. He asked whether the licence fee could be refunded and the licence withdrawn, since he was not now coming back to drive in the current year.

The Licensing Officer pointed out that the licence fee was payment for the work which had already been carried out in the renewal process, so a refund could not be given.

In answer to questions he said that he had been out of the country for three to four weeks in April/May and had had no phone messages. He had been aware that a CRB and medical clearance would be needed but not aware when they would be required. He had written to the Council about ten days after returning home.

LC11 **EXCLUSION OF THE PUBLIC**

RESOLVED that the press and public be excluded from the meeting whilst the Committee considered its decision on the grounds that the consideration involved exempt information within the meaning of s.100 I and paragraph 6 of Schedule 12A Local Government Act 1972 and that it was in the public's interest so to do to permit a free and frank exchange of views between Members.

The Panel retired to consider their decision at 8.57 pm.

LC12 **SUSPENSION OR REVOCATION OF A PRIVATE HIRE DRIVER'S LICENCE**

Members returned to announce their decision at 9.28 pm.

The Chairman made the following statement:-

"In March 2009 Mr Ellis applied to renew his private hire vehicle driver's licence with the Council although he did not intend to use the licence at that time.

In April 2009 he was sent a letter reminding him that he was due to undergo a medical examination in accordance with Council policy which requires a medical every three years.

In May 2009 he was sent a similar letter regarding his CRB check which was also due. At that stage he complained that he was not aware that these checks would be required and said had he known that he would not have renewed his licence. He asked for a refund.

Without the appropriate checks the Committee cannot be satisfied that Mr Ellis is a fit and proper person. Had he been using the licence the Committee have no doubt that he would

have submitted to the medical and CRB check. If he is unable to drive until those checks have been carried out he is in the position he wanted to be in when he renewed his licence – namely he holds a licence but is not driving.

The decision of the Committee is that Mr Ellis's licence shall be suspended until it expires or until he provides a satisfactory medical report and CRB check whichever shall be the sooner.

As far as the fee is concerned this is a fee for renewing the licence. The work has been done and regrettably no refund is possible.”

The Assistant Chief Executive informed Mr Ellis of his right to appeal within 21 days to the Magistrates Court at Chelmsford.

The meeting ended at 9.30 pm.