

**LICENSING COMMITTEE held at COUNCIL OFFICES LONDON
ROAD SAFFRON WALDEN on 9 JUNE 2010**

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

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

LC1 PUBLIC QUESTION AND ANSWER SESSION

The Chairman welcomed all present and invited members of the public present to speak in accordance with their notice of intention to do so.

Statements were then made by Mr B Drinkwater and Mr S Alsford about agenda item 5 regarding (i) hackney carriage fare increases and (ii) the Council's policy on calibration of taxi meters which may currently show the Council's table of fares or, if lower, the fare which the driver will charge.

The Chairman thanked both speakers.

LC2 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

An apology for absence was received from Councillor K R Artus.

LC3 MINUTES AND MATTERS ARISING

The Minutes of the scheduled meeting of the Committee held on 10 March 2010 and the extraordinary meeting held on 19 April 2010 were received, confirmed and signed by the Chairman as a correct record.

(i) Minute LC73 – Perception of taxi touting

The Assistant Chief Executive informed the meeting that surveillance had been carried out and whilst hackney carriages were seen plying for hire otherwise than from the ranks this was legitimate and that there was no evidence of taxi touting.

(ii) Extraordinary meeting on 19 April 2010

The Assistant Chief Executive informed the meeting that information had come to light which showed that the Council's response to the

appeal would be very unlikely to succeed. The Council had therefore consented to the appeal being allowed paying the driver's costs in the sum of about £1100.

LC4

HACKNEY CARRIAGE FARES

Members considered the report of the Licensing Officer setting out proposals submitted by the Uttlesford Licensed Operators and Drivers Association (ULODA) for a change of 6% to the current table of fares for the hiring of Hackney Carriage Vehicles, following the agreed protocol for annual review of fares which had been agreed at a meeting between the Licensing Committee and members of the Trade Associations in 2004.

This subject had been considered at a previous meeting when a decision had been deferred pending receipt of information about fares at comparator councils. That information had been circulated to Members with one letter of objection from Robert Page, a taxi operator.

The Assistant Chief Executive referred to the request of ULODA for a condition that the meters display only the maximum permitted charge, and advised the Committee as to the current legal position which did not favour such a condition.

Members discussed the requests and noted that, in addition to the meter which should show the fare charged, there was an obligation to carry a list of maximum fares inside the cab for the reference of passengers.

They also noted, in connection with the proposed fares increase, that the price of fuel was now falling.

RESOLVED that the proposed new table of fares be adopted with effect from 12 July 2010 subject to no representations being received and the necessary advertisement be placed.

LC5

ISA REGISTRATION

The Committee received the report of the Licensing Officer on procedures to be used by taxi drivers when applying to be registered with the Independent Safeguarding Authority for the purposes of regulated activities eg providing transport for school children or vulnerable adults.

RESOLVED that the report be noted.

LC6

SEX ESTABLISHMENTS

The Committee received the report of the Assistant Chief Executive about a recent change in the law about sex establishments; the Assistant Chief Executive suggested that Members recommend that the Council adopt the new legislation because it would provide the Council with the opportunity of controlling lap dancing and strip tease clubs more effectively.

RECOMMENDED to the Council that schedule 3 Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 Policing and Crime Act 2009 is to apply to the District of Uttlesford.

LC7

MANDATORY CONDITIONS FOR A PREMISES LICENCE/CLUB PREMISES CERTIFICATE

The Committee considered the report of the Assistant Chief Executive informing them of new conditions designed to control irresponsible promotions of alcohol consumption, to prevent alcohol being dispensed directly into the mouth of another, to ensure a free supply of tap water, to require licensed premises to have age verification policies and to require alcoholic drinks to be supplied in small measures. These would be drawn to licence holders' attention and automatically included in all licences.

RESOLVED that the report be noted.

LC8

REVISION OF THE LICENSING ACT 2003 POLICY

Members considered the report of the Assistant Chief Executive on proposed amendments to the Council's Licensing Act 2003 policy. The policy has to be reviewed at 3 year intervals and a revised policy had to be in place by February 2011. The drafting of the revisions to the policy had been carried out in consultation with the Essex Licensing Officer's forum, taking into account the changes in legislation and the government's guidance.

RECOMMENDED

1. That the draft revised Licensing Policy appearing in the Appendix to the report be approved as a basis for consultation.
- 2 That the Committee authorises officers to carry out a full consultation exercise with statutory consultees, the public, licensees in the District, recognised Trade bodies and Town and Parish Councils and to report back to the Committee on the outcome of such consultation.

LC9 **EXERCISE OF DELEGATED POWERS**

The Committee considered the report of the Assistant Chief Executive on the exercise of his delegated powers since the Committee's last meeting.

The Assistant Chief Executive had provided a written report on this occasion due to the unusually large number of instances when he had had to exercise those powers in connection with breaches of conditions on licenses.

He gave a detailed account of the circumstances prompting each exercise of delegated power, the reasons for each sanction imposed, and the procedures used to ensure fairness.

LC10 **LICENSING APPEALS**

The Assistant Chief Executive advised the Committee about the rejection (in the Council's favour) of an appeal from proceedings begun in 2006.

LC11 **MOTION REGARDING EXERCISE OF DELEGATED POWERS**

The Committee considered the following motion put forward by Councillor D Perry:-

 "It is proposed that the Licensing Committee request that Officers develop a Protocol/Policy regarding the exercise of delegated powers."

Observations made by Councillor Perry in support of the motion had been circulated with the agenda. He added that the purpose of the motion was to improve transparency.

The Assistant Chief Executive gave detailed answers to questions from Members about the rules he employed in exercising powers delegated to him by the Licensing Committee. His delegated power was limited to suspending a licence for not more than 14 days; any case which appeared to merit a greater sanction would be referred for hearing by the Committee. The usual penalty imposed was two day's suspension which was equivalent to loss of about £100 of income. A longer penalty was imposed if there were aggravating factors.

The Assistant Chief Executive referred to two issues identified by Councillor Perry in the circulated observations. He said that on a previous occasion when reporting on the exercise of delegated powers some Members had been uneasy about the use of powers in circumstances where there were disputes as to fact. The Assistant Chief Executive said that since that occasion there had not been any

cases where the facts were in dispute. However it was a matter for Members to decide whether they were happy for factual disputes to be determined within the use of delegated powers or whether such cases should be referred to Committee. The Assistant Chief Executive also said that if drivers were to have a right to request their cases to go to the Committee in real terms there would be no exercise of delegated powers as all drivers would take this option.

A Member was concerned that they should be informed of delegated action taken as soon as possible, so as to be able to answer the questions of any affected resident of their ward. The Assistant Chief Executive said he could advise Members by e mail at the same time as advising the driver.

Members referred to the recent delegated determination of the case of a driver who had requested a hearing before the Committee. In answer to questions the Assistant Chief Executive said that the driver had received a two day suspension. The driver had complained about the Assistant Chief Executive's decision to the Chief Executive. The complaint had not been upheld.

Some Members thought there should always be a choice of tribunal; others questioned the practicality of such an arrangement; it was noted that there had been eleven cases determined by delegated powers since the immediately previous scheduled meeting of the Committee.

Councillor Lemon felt that in cases delegated to the officer and leading to no more than fourteen days' suspension Members should leave the case to the officer and in particular should not discuss the case by e mail.

Councillor Redfern suggested that drivers should be able to request a Committee hearing only where there was a significant dispute as to the facts of the case.

RESOLVED

- 1 that the motion be accepted and
- 2 that the draft Protocol/Policy be prepared and submitted to the Committee at its next meeting.

LC12

Cllr Perry said that he thought that the issue of licence fees was to be on the agenda for this meeting. The Assistant Chief Executive explained that the year end figures had only just become available and he was awaiting the break down of licensing fees. Once this was to hand he would arrange to meet with representatives of the Trade with a view to a report being presented to the September meeting of the committee.

The meeting ended at 9.30pm