

**LICENSING COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN on 8 SEPTEMBER 2010 at 6.30pm**

Present: Councillor E W Hicks – Chairman.
Members present for hearing at 6.30pm: Councillors E L Bellingham-Smith, R M Lemon and A D Walters; joined by the following Members from 7.30pm: J E Hudson, J I Loughlin, D J Morson and D G Perry.

Officers in attendance: Murray Hardy (Licensing Officer), Stephen Joyce (Assistant Chief Executive (Finance)), (Michael Perry (Assistant Chief Executive (Legal)) and Catharine Roberts (Democratic Services Officer).

LC25 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest in relation to this part of the meeting.

LC26 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that the press and public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information within the meaning of s.100 I and paragraph 1 of Schedule 12A Local Government Act 1972.

**LC27 DETERMINATION OF AN APPLICATION FOR A PRIVATE HIRE
DRIVER'S LICENCE**

The members of the Panel and officers introduced themselves to the applicant for a private hire driver's licence and his employer Salley Yates.

The committee considered the report presented by the Licensing Officer setting out the circumstances of the case including information about the effect of the council's licensing policy and the Rehabilitation of Offenders Act 1974.

The Licensing Officer advised on the effect of the disclosed caution in the case, and explained the procedure regarding cautions at a police station.

The applicant outlined his case explaining the circumstances of the caution which were that he had had no idea what donated goods were to be sold; that there had been seven people manning the Children in Need stall and that all had been requested to go to the police station and to sign documents for their release. No copy of the document had been supplied and the applicant had not realised that he had been cautioned (which he would have protested about at the time) until he obtained a CRB disclosure for work purposes years later. In the light of his solicitor's advice he was intending to

pursue this matter with the police. He had for the past two years driven disabled children with no complaints and was in fact requested as a driver by the parents of some children.

The applicant's employer confirmed this and added that the applicant was permitted to drive under a VOSA PSV licence temporarily but that the employer who had never had a problem with the applicant wished to employ him on a permanent basis, so preferred that he had a private hire driver's licence.

Members asked a number of detailed questions about what had occurred, and it was noted that the applicant had nothing to do with the provision of the merchandise, and that the police had given all the arrested charity workers a caution.

The Assistant Chief Executive (Legal) advised that under the Council's licensing policy it would not be usual to have regard to spent convictions and that the report had shown no reason which would exceptionally make it appropriate to take the spent conviction into consideration. He confirmed that as regards the caution within five years to which the council's policy required attention, the police action was consistent with their considering any offence to be technical rather than substantive.

The Chairman thanked the applicant and his employer, and asked them to withdraw with the Licensing Officer at 7.05 pm whilst the panel deliberated the matter in private.

They were recalled, at 7.10pm, to hear the decision of the panel.

The Chairman informed the applicant that the panel had decided that what the applicant did leading to the caution was merely a technical offence which had no bearing on whether he was a fit and proper person for the issue of a private hire driver's licence in Uttlesford. The licence would be issued. The Chairman thanked the applicant for his full explanation.

This part of the meeting ended at 7.12pm.

LC28

PUBLIC QUESTION AND ANSWER SESSION

The Chairman welcomed all present at 7.30pm 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 A Mahoney in the context of agenda item 7 regarding drivers' licence fees and use of surpluses. They commented favourably on the assistance given by the Assistant Chief Executive (Legal) towards obtaining transparent agreement between the taxi drivers and the council in this matter and expressed their support.

The Chairman thanked both speakers.

LC29 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors K R Artus, H J Asker and J A Redfern.

LC30 MINUTES

The minutes of the scheduled meeting of the committee held on 9 June 2010, and the extraordinary meetings of the committee held on 30 June 2010, 4 August 2010 and 26 August 2010 were received confirmed and signed by the Chairman as a correct record.

LC31 BUSINESS ARISING

The Assistant Chief Executive (Legal) informed the meeting that no representations had been received regarding the proposed change to the hackney carriage fares (minute LC4).

The council had accepted and adopted the committee's recommendation under minute LC6 regarding sex establishments.

The issue of licences containing mandatory conditions had been stopped in the light of the government's proposal to abolish such mandatory conditions.

The committee's comments on the consultation on proposed revisions to the Licensing Act 2003 had been sent to the appropriate government department within time.

LC32 2010/11 BUDGET MONITORING

The committee considered the report of the Assistant Chief Executive (Finance) setting out financial performance for the period April to July 2010 and providing a forecast outturn to the end of the financial year.

The committee's budgets were forecast to end the year with a net favourable variance of £32,000, owing to taxi licensing income being above the amount budgeted. However this projected surplus did not take into account the proposed reductions in fees to be considered later on the agenda.

Any surpluses arising would be earmarked and transferred to the licensing reserve. Taxi fees were under review and the impact of this review would be reflected in future monitoring reports. The licensing reserve would be used to offset budget deficits arising in future years.

Members expressed their appreciation of the work done.

RESOLVED that the report be approved.

LC33

LICENSING FEES

The committee considered the report of the Assistant Chief Executive (Legal) regarding licensing fees. He explained that after lengthy negotiations between members of the trade and officers a method of calculating licensing costs had been agreed as a basis for setting fees and that the accumulated surplus had been identified.

He recommended that members approve a phased reduction of the surplus over a 3 year period and the proposed licensing fees set out below from 1 October 2010 (14 October 2010 in the case of the vehicle and operators' fees):-

Licences for drivers of hackney carriages, private hire vehicles and joint licences	£40.00
Licences for private hire vehicle operators	£60.00
Licences for hackney carriages and private hire vehicles	£70.00

The Assistant Chief Executive (Legal) also undertook that the fees would be reviewed annually to ensure that the aim of eliminating the surplus over 3 years was achieved. Councillor Perry welcomed the report and added that he would like to see more training in the enforcement section provided using the surpluses from taxi fees.

The Assistant Chief Executive (Legal) assured him that training would be provided but that there was scope for funding to be vired from elsewhere and he would like the freedom to do this if necessary.

RESOLVED that the phased reduction and the proposed licensing fees be approved.

LC34

PROTOCOL ON THE SUSPENSION, REVOCATION OR REFUSAL TO RENEW A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE

At a previous meeting the committee had asked officers to develop a protocol/policy regarding the exercise of delegated powers, the reason being to improve transparency in dealings with members of the hackney carriage/private hire trade. Although the motion was specifically aimed at

delegated powers, there would be occasions when a decision to refuse to renew, suspend or revoke would be taken by the committee. The Assistant Chief Executive (Legal) had therefore expanded the draft protocol to cover all cases of disciplinary action against drivers.

Councillor Perry thanked the Assistant Chief Executive (Legal) for all his work to provide the excellent protocol.

He stressed that the practice adopted by the Assistant Chief Executive (Legal) of e mailing all delegated decisions promptly to the committee members was enormously helpful to members when dealing with questions from the trade between meetings. He said it was important that this practice was continued and he requested that the protocol should include reference to this. The Assistant Chief Executive (Legal) suggested that paragraph 5 on page 5 of the protocol be amended to read "As soon as is reasonably practicable after the meeting the Assistant Chief Executive "(Legal)" will notify members of the licensing committee of the suspension by e-mail and write to the driver ..."

RESOLVED that the protocol amended as suggested by the Assistant Chief Executive (Legal) be approved.

LC35 **PRIVATE HIRE LICENSING – SMART CARS**

The Committee received an updating report from the Licensing Officer on the extension of private hire licensing to Smart cars.

RESOLVED that a further report be brought to the meeting of the committee in March 2011.

LC36 **REVISION OF THE LICENSING ACT 2003 POLICY**

Following the committee's approval of a draft revised licensing policy statement as a basis for consultation, members considered a report informing them of the outcome of the consultation process and seeking a recommendation to full council.

Only two responses had been received. One was from English Heritage which indicated it had no comments to make upon the draft revised policy. The other was from the licensee in the area who was clearly concerned that licensing was now the responsibility of local authorities rather than the magistrates. However, his comments were not relevant to the licensing policy.

RECOMMENDED that full council adopts the draft revised licensing policy attached to the committee report of the 9 June 2010 as its licensing policy under the Licensing Act 2003 for the 3 year period commencing 1 February 2011.

LC37 EXERCISE OF DELEGATED POWERS

The Committee received the report of the Assistant Chief Executive (Legal) to inform members of the exercise of his delegated powers since the last meeting of the committee.

Since the last meeting of the committee he had interviewed 10 drivers for breaches of conditions attached to their licence. In each case the breach complained of was that they had failed to notify the council in writing of penalty points on their licence within 7 days.

In two cases there were strong mitigating circumstances which led him to take no action. In every other case he suspended the driver for a period of 2 days.

No notice of any appeals had been received.

LC38 URGENT BUSINESS-EXTENSION OF DELEGATED POWERS

The Assistant Chief Executive (Legal), anticipating an influx of applicants from neighbouring authorities once the new licence fees were in place, sought extension of his delegated powers to include refusal to issue a hackney carriage licence, refusal to renew a hackney carriage licence and to revoke such licences where it was apparent that the vehicle was not being used or to be used predominantly within the district of Uttlesford, an issue considered by the high court in the case of R. (on the application of Newcastle-upon - Tyne City Council) –v- Berwick Council previously reported to members.

He informed members that he also wished to require all applicants for hackney carriage licences to sign a declaration that the vehicle would be primarily used within the district of Uttlesford.

RESOLVED that the proposed action of the Assistant Chief Executive (Legal) be approved and that the delegated powers be extended as requested.

The meeting ended at 8.30pm.