

**LICENSING TASK GROUP held at COUNCIL OFFICES LONDON ROAD  
SAFFRON WALDEN at 10.00AM on 3 DECEMBER 2012**

Present: Councillor D Perry– Chairman.  
Councillors J Davey, R Lemon and J Loughlin.

Officers in attendance: M Cox (Democratic Services Officer and M Perry  
(Assistant Chief Executive-Legal).

**LTG1 POLICY REVIEW**

At the meeting of the Licensing and Environmental Health Committee on 24 October 2012 Members resolved to appoint the Task Group for the purpose of examining policies and procedures in relation to hackney carriages, private hire drivers and operators. It was asked to review a number of areas including enforcement, conditions of licence, licensing standards and the protocol on suspension and revocation of a licence and advising on whether there should be a statement of licensing policy.

The Assistant Chief Executive – Legal had prepared a report asking members to consider the following matters

- Whether the licensing standards need review and if so what revisions were necessary
- Whether the conditions of licence need review and if so what revisions were necessary
- Whether the protocol for the suspension and revocation of licences needs review and if so what revisions were necessary
- What approach the council should adopt with regard to enforcement of the legislation
- What approach the council should adopt with regard to the enforcement of conditions
- Whether it was desirable for the council to have a formal licensing policy and if so what form that policy should take
- What involvement should representatives of the trade have in determining the policies and procedures of the council.

Before the start of the discussion a letter was read from Mr Barry Drinkwater (ULODA) in which he gave details of the number of members of the organisation.

The report asked a number of questions. The Task Group's answers are set out below, and these would inform any changes to the policies and standards.

### **Licensing Standards - Drivers**

#### **1) Should the Committee adopt an approach to cautions and if so should that be reflected in the Licensing Standards?**

The licensing standards should be amended to refer to formal cautions.

- Cautions should apply for 1 year.
- Conditional discharges should apply for 1 year or when spent whichever is the later.

#### **2) Should the Licensing Standards state what level of fitness is required by drivers?**

The Standards should state that drivers are expected to meet group 2 medical standards.

#### **3(a) Should the word "minor" be removed as being misleading?**

A 'minor' offence was currently defined where 5 points or less were endorsed on the licence. A serious offence was where 6 points or more were endorsed for a single offence. The word minor could be misleading as in the case of a speeding offence which could carry between 3 – 6 points. 5 points would indicate that the speed was considerably higher than the limit but would be outside the definition of a serious offence. The word 'minor' should therefore be removed.

#### **3(b) Should the policy as to who is a fit and proper person be based upon the number of convictions as at present or upon the number of points on the licence?**

Given the points made at 3(b) above, it would be more appropriate for the fit and proper test to be based upon the number of points on the licence

#### **3(c) If members favour moving from the number of convictions to the number of points what is the appropriate limit?**

The limit should be 9 points, or 6 points if a serious offence.

#### **3(d) Should the standards make exceptions for offences which do not relate to the driving ability of drivers (e.g. no insurance)?**

It was agreed that items of this nature should still be referred to the Licensing and Environmental Health committee.

#### **4) Should the Licensing Standards be amended to indicate that a driver who has accumulated 12 points in a 3 year period would not normally be considered to be a fit and proper person for 3 years 6**

**months after the date of the last conviction even if he is not disqualified for that offence?**

The licensing standards should make it clear that a driver who has accumulated 12 points in a 3 year period would be considered not to be a fit and proper person, even if not disqualified for the offence.

### **Licensing Standards – Operators/Proprietors**

**5(a) Do members agree with the approach to the driving record of operators/proprietors?**

It was noted that with the exception of the offence of no insurance the driving record of the operator was irrelevant as they did not need to drive licensed vehicles. To do so they would be required to hold a driver's licence and satisfy the licensing standards. There was no need for separate driving standards.

**5(b) Should the reference to conditional discharges be omitted from the standards**

For operators the Council was only entitled to request a basic CRB which would not reveal a conditional discharge. This reference should be omitted.

**5(c) Should the standards make reference to cautions?**

As cautions were deemed to be spent once administered they would not be revealed by a basic CRB. There was no need to refer to them in the standards

### **Drivers Conditions**

**6(a) Are there any matters which Members feel should be covered by conditions on the driver's licence which are currently not dealt with?**

It was agreed that all relevant matters were included.

**6(b) Are there any matters in the conditions which Members consider inappropriate?**

None

**6(c) In particular would Members be in favour of omitting conditions where the conditions replicate legislation (e.g. it is an offence not to wear a driver's badge or to fail to return a badge upon request if a licence is suspended or revoked)?**

There were areas of duplication that could be omitted. The better approach was not to repeat this in the conditions of licence but to spell out the Council's approach to breaches of the relevant items of legislation in the Licensing Policy.

## **Vehicle Licenses**

**7(a) Are there any matters which Members feel should be covered by conditions on the vehicle licences which are currently not dealt with?**

All matters were adequately covered. It was considered sensible to retain separate conditions for hackney carriages and private hire vehicles.

**7(b) Are there any matters in the conditions which Members consider inappropriate?**

None

**7(c) In particular would Members be in favour of omitting conditions where the conditions replicate legislation?**

Yes – as per 6(c).

**7(d) With regard to hackney carriages whether Members would be content for the requirement for meters to be checked by the Council to be replaced with a requirement for meters to be calibrated by an approved company?**

This was a sensible suggestion. Calibrating the meters should be the responsibility of the operator.

## **Operators Conditions**

**8(a) Are there any matters which Members feel should be covered by conditions on the operator's licence which are currently not dealt with?**

None

**8(b) Are there any matters in the conditions which Members consider inappropriate?**

None

**8(c) In particular would Members be in favour of omitting conditions where the conditions replicate legislation?**

There were a number of areas of duplication which should be removed.

## **Protocol for the suspension, revocation or non-renewal of driver's licenses**

**9(a) Are Members satisfied with the Protocol as drawn?**

The protocol was written in 2010 and covered decisions taken by the Licensing and Environmental Health Committee and those taken by Assistant Chief Executive- Legal under delegated powers. The

arrangements appeared to be working well. It was suggested that in future specific reference should be made to the protocol in reports to committee when considering revocation suspension or non-renewal of a licence.

**9(b) Do Members agree that the protocol should not be extended to cover operators/proprietors and vehicles?**

It was not considered necessary or desirable to extend the protocol to cover operators or vehicles. The Assistant Chief Executive – Legal did not have delegated authority to take any action in respect of these licenses, except where a vehicle was unfit. Any decisions regarding operators and vehicles would have to be taken by the Committee. Where there was an offence the only practical sanction would be a prosecution. This was a matter best dealt with as a matter of licensing policy rather than in a protocol.

**Approach to the enforcement of the legislation**

**10) Do Members agree that where a driver has committed an offence, subject to any policy adopted with regard to enforcement, a prosecution is to be preferred to a suspension?**

The Task Group agreed that the best way forward was to prosecute for offences rather than to suspend.

**Approach to the enforcement of conditions**

**11) What approach do Members consider should be taken in dealing with drivers who breach conditions attached to their licence?**

The number of drivers breaching conditions and not notifying the Council appeared to be increasing. The Task Group suggested increasing the starting point of suspensions to 5 days. A letter should be sent to every licence holder alerting them to the change and giving an amnesty to report any outstanding offences. Unless they failed to meet licensing standards by virtue of matters disclosed during the amnesty no action would be taken.

**Licensing Policy**

**12(a) Do Members consider it desirable for the Council to have a policy regarding licensing issues in relation to the hackney carriage/private hire trades?**

There was no legal or best practice requirement to have a licensing policy. However the Legislative and Regulatory Reform Act 2006 provided for authorities to have regard to the following principles - that regulatory activities should be carried out in a way which was transparent, accountable, proportionate and consistent and that they should be targeted only at cases in which action was needed. Although the Council could demonstrate compliance with these principles it was agreed that a documented policy would reinforce the Council's approach.

**12 (b) Which areas should such a policy cover?**

- a. Licensing standards
- b. Licensing conditions
- c. Enforcement (including sanctions)
- d. Protocol for suspension/revocation/non-renewal
- e. Accountability (include a paragraph to advise that all committee minutes and reports are in the public domain )

**Engagement with the trade**

**13(a) Who should be consulted with regard to any proposed changes to the documentation/proposed policy?**

These should be sent to all licence holders.

**13(b) How should consultation take place?**

The draft document should be placed on the website, advise all licence holders and ask for comments.

**13(c) At what stage should consultation take place?**

This should be carried out after the draft documents had been prepared.

It was AGREED that the Assistant Chief Executive –Legal would update the documents, taking accounts of the points made above, and bring the final draft back to the Task Group before submitting to the Licensing and Environmental Health Committee for approval.