

LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE TASK GROUP held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 5pm on 3 APRIL 2014

Present: Councillor D Perry (Chairman)
Councillors M Lemon and A Walters

Officers Present: M Perry (Assistant Chief Executive – Legal) and A Rees (Democratic Services Support Officer)

LTG1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J Davey and J Salmon.

LTG2 AMENDMENTS TO THE REHABILITATION OF OFFENDERS ACT 1974

The Assistant Chief Executive – Legal said the Council's Licensing Policy provided that persons who had unspent convictions would not normally be granted drivers licences. Amendments to the Rehabilitation of Offenders Act 1974 significantly reduced the periods for rehabilitation. The Licensing and Environmental Health Committee had appointed the Task Group to examine the implications and report back. The first question for members was therefore whether they were satisfied that the amended Act afforded sufficient protection to the public. Members were unanimously agreed that the Act did not.

The Assistant Chief Executive – Legal then suggested that if members were of the view that spent convictions should be considered routinely then it would be sensible to consider revising the Council's policy to indicate what convictions would be taken into consideration. The existence of a policy would be helpful to potential applicants and would make it easier to defend appeals as if an appeal is made the magistrates must apply the Council's policy and can only depart from it if there are good reasons for doing so. He asked whether members considered whether the type of sentence should be taken into consideration (i.e. custodial/non-custodial) rather than the length of sentence as under the old legislation.

Members agreed that a custodial sentence was more serious than a non-custodial sentence. They noted that under the Local Government (Miscellaneous Provisions) Act 1976 a driver's licence could be revoked if after the grant of the licence a driver was convicted of an offence of dishonesty, indecency or violence. For drivers therefore these offences were clearly serious ones. Members considered that where an applicant had been convicted of such an offence and had received a custodial sentence (including a suspended sentence) he or she should not meet licensing standards as a matter of policy. Where a

driver had been convicted of such an offence and had received a non-custodial sentence then he or she should not meet licensing standards for five years after the date of conviction. Members considered that the existing provisions relating to discharges and cautions should be carried forward.

The Assistant Chief Executive – Legal explained that for operators the position was different. Operators did not deal with the public face to face as frequently as drivers and therefore posed less of a risk. The only offence the LG(MP)A listed as a ground for revocation of the licence was an offence under the Act. Under the new regime such convictions would always be deemed spent after 12 months as they could only be dealt with by way of a fine. However offences under the Act were serious being operating without a licence, using an unlicensed driver or using an unlicensed vehicle. Members considered that to disregard such convictions after only 12 months did not give the public sufficient protection and that where an applicant for an operator's licence had been convicted of such an offence he should not meet licensing standards for five years after the date of conviction.

The Assistant Chief Executive – Legal asked whether members considered that offences of dishonesty should be taken into consideration for operators given that they had access to information as to when homes are likely to be empty which could be valuable to the criminal fraternity. Members felt that an operator with convictions for dishonesty did pose a particular risk to the public and felt that an applicant who had received a custodial sentence for such an offence should not meet licensing standards and an applicant who had received a non-custodial sentence for an offence of dishonesty should not meet licensing standards for five years from the date of conviction.

In all other cases convictions would only be taken into consideration as a matter of course if they were deemed not spent under the Rehabilitation of Offenders Act as amended.

The Assistant Chief Executive – Legal pointed out that the fact that an applicant did not meet licensing standards did not mean that they could not be given a licence. It created a presumption that the applicant was not a fit and proper person. If an applicant could satisfy the Committee that notwithstanding the fact they did not meet licensing standards they were a fit and proper person to hold a licence then a licence should be issued. He suggested that it may be helpful for the policy to indicate what factors would be taken into consideration in reaching that decision. Members considered that the nature of the offence, the seriousness of it, the nature and length of the sentence imposed and the passage of time since the date of conviction were all relevant factors which should be referred to in the policy.

The Assistant Chief Executive – Legal said the trade should be consulted with regard to proposed amendments to the policy. The policy should not be applied retrospectively so that if a driver held a licence at present he or she should not be deemed to not be a fit and proper person under the new policy. For that reason it was not necessary to consult with drivers, as the changes in policy would not affect them. Only ULODA and other operators needed to be consulted. Operators were affected because it may impact upon the drivers they could employ. The Assistant Chief Executive – Legal said that a meeting of the Task Group had been arranged for members to consider the responses to the consultation for 23 June 2014. Members agreed that the trade would be invited to that meeting.

AGREED that

1. The Assistant Chief Executive – Legal draft revisions to the Council’s Licensing Policy to provide that:-
 - a. Drivers with convictions for offences of dishonesty, indecency or violence for which a custodial sentence (including a suspended sentence) had been imposed would never meet licensing standards.
 - b. Drivers with convictions for such offences for which a non-custodial sentence had been imposed would not meet licensing standards for 5 years from the date of conviction.
 - c. Operators with convictions for offences of dishonesty for which a custodial sentence (including a suspended sentence) had been imposed would never meet licensing standards.
 - d. Operators with convictions for offences of dishonesty for which a non-custodial sentence had been imposed would not meet licensing standards for 5 years from the date of conviction.
 - e. Operators with convictions for offences under the Local Government (Miscellaneous Provisions) Act 1976 would not meet licensing standards for 5 years from the date of conviction.

2. The Assistant Chief Executive – Legal shall consult with ULODA and licensed operators with regard to the proposed amendments and report back to the meeting of the Licensing Task Group to be held on 23 June 2014 and that representatives of the trade be invited to attend that meeting to give their views.

The meeting ended at 5.20pm.