

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 7.30pm on 18
APRIL 2012**

Present: Councillor E Hicks – (Chairman).
Councillors H Asker, J Davey, J Freeman, J Loughlin, M Lemon,
D Morson, D Perry, V Ranger, J Salmon and A Walters.

Also present: Councillor R Chambers – Portfolio Holder for Finance
Mr B Drinkwater, Uttlesford Licensed Operators and Drivers
Association.

Officers in attendance:
M Chamberlain (Enforcement Officer), R Dobson (Democratic
Services Officer) and M Perry (Assistant Chief Executive-Legal).

LIC59

PUBLIC QUESTION AND ANSWER SESSION

Mr Drinkwater made a statement, a summary of which is set out below:

My statement this evening contains mixed messages. The good news is substantially as set out in my written statement circulated to Members, summarised as follows.

Regarding the licensing reserve and annual budget Members, officers and trade representatives work well together to review the year end surplus, and we look forward to receiving the results when they are available.

Regarding the Quality Taxi Partnership, the new CCTV scheme has continued to work well, and the first case involving the use of admissible recorded evidence was reported at the liaison meeting in March. There is a growing list of operators and owners wishing to have CCTV fitted in their vehicles, and dialogue between members and officers continues regarding securing matched funding for this purpose.

Regarding the annual review of the table of fares, the trade's working party has started this year's review. The consultation closes at the end of April, and we will present our findings at the first meeting of the Committee in the new financial year.

Finally, I would like to register my strong feelings of concern that increasingly the trade is not being listened to. This concern is based on the approach of the licensing liaison group to certain issues which I had raised on behalf of the trade, and which have not been reflected in the minutes of those meetings. The issues I raised and which were not recorded were the following:

- a request made at the liaison meeting in March that Uttlesford District Council's conditions of licence should go forward;

- a report from an operator regarding notice issued to him in respect of picking up at Stansted Airport, which he eventually succeeded in getting the Crown Prosecution Service to drop, which in the minutes was only briefly referred to as a 'discussion';
- the fact that I had said that the national association had a different interpretation of the law to the Assistant Chief Executive-Legal regarding driver ID.

I would therefore like to register my concern that these are just a number of examples of inaccuracy of reporting meetings of this group, which I consider could be a matter for the Scrutiny Committee.

Councillor Morson commented on the concerns raised by Mr Drinkwater. He said it was surely one of the functions of this Committee to consider issues that arose in trade meetings. It was necessary to establish a mechanism to address concerns from the trade.

The Committee noted that the meeting to which Mr Drinkwater had referred was not serviced by the Council's democratic services section, but by the licensing team. The Chairman said that issues regarding preparation of minutes in relation to those meetings could not be a matter for this Committee to determine, and it was for those attending the meetings to raise any concerns about accuracy of minute-taking.

Councillor Loughlin commented that this Committee had previously decided that Members should attend meetings between the trade representatives and officers from the enforcement team. In her view it was important that the minutes of the group meetings should be correct.

The Chairman replied Members could choose to go to such meetings, but were not appointed by the Council to do so.

Councillor Walters suggested that in order to ensure the minute-taker was fully aware of a speaker's wish to have a particular point be recorded that an explicit request should be expressed when that point was raised.

Councillor Morson reminded Members that at a recent meeting Councillor Perry had suggested Members should have some role in setting the agenda for the meetings, and that this could be a route by which issues of trade discontent could be dealt with.

The Chairman welcomed this approach. With proper notice, trade representatives could ask any member of this Committee to put forward items to be considered on the agenda. He said the Committee benefitted from the briefings given by the Chairman of ULODA and this was an opportunity for Members to address sources of discord.

Mr Drinkwater said he was happy with this approach.

Councillor Loughlin asked a question about the remit of the Committee in terms of policy setting, and questioned the difference between the Licensing and Planning Committees.

The Assistant Chief Executive-Legal said regarding the minutes of the liaison group, that minutes were not verbatim but were intended to be a summary of the discussion. ULODA were welcome to provide a minute-taker. He commented further that at the meeting in question various issues were aired, one of which was outside the control of the Council; and that the Members present at that meeting showed no appetite for changing the terms and conditions of the licence. However any such modification would need to be dealt with by Cabinet. Although policy was set by Cabinet, it would be sensible for the Portfolio Holder to consult the Committee.

Councillor Lemon said it was for the officer/trade liaison group to sort out its own minutes, and he suggested the discussion should move on.

The Chairman asked that if there were any items requiring discussion by the Committee that these should be put forward either to him or to another Committee Member as an agenda item for the next meeting.

LIC60 **DECLARATIONS OF INTEREST**

Councillor Chambers declared a personal interest as a Member of Essex County Council and Essex Fire Authority.

LIC61 **MINUTES OF MEETING HELD ON 18 JANUARY 2012**

The minutes of the meeting held on 18 January 2012 were signed as a correct record.

MATTERS ARISING

(i) Minute LIC46 – agenda items for the Committee

Councillor Perry reported on the outcome of a meeting which had taken place following a resolution by the Committee regarding setting its agenda. It was agreed that agenda items should be submitted to the Chairman and Democratic Services. There would also be the opportunity at the discretion of the Chairman to defer an issue so that a working group could consider it and revert to the meeting.

MINUTES OF MEETING HELD ON 27 JANUARY 2012

The minutes of the meeting held on 27 January 2012 were signed as a correct record.

MATTERS ARISING

The Assistant Chief Executive-Legal said no appeal had been submitted.

POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011

The Committee considered a report by the Assistant Chief Executive-Legal on amendments to the Licensing Act 2003 set out in the Police Reform and Social Responsibility Act 2011, and which were anticipated to be the subject of a statutory instrument giving effect to such amendments by 25 April 2012. The statutory instrument had not yet been laid.

The Assistant Chief Executive-Legal asked the Committee to consider two issues: the delegation of functions of the local authority as a responsible authority; and whether the Committee wished to carry out a review of the Council's Licensing Policy Statement. Regarding the latter, an explanatory note would be placed on the Council's website, but the Committee also had the option to establish a task group to review the licensing policy statement.

Councillor Loughlin asked about the implications for workload regarding the new requirements for notifying Environmental Health in terms of TENs. The Assistant Chief Executive-Legal explained that the onus was now on the police and Environmental Health to make objections based on the four licensing objectives. The number of such representations received each year was in the hundreds., If such an objection were received to a standard 10 a hearing would be required, If an objection were received to a late TEN no hearing would take place and the event could not go ahead.

Councillor Perry commented on the fact that many provisions of the Act did not come in until later in the year, including the late night levy which might have implications for public order. He was concerned that the provisions included reference to gambling, an area in which the Council's enforcement team did not have experience. The Assistant Chief Executive-Legal confirmed that the delegated authority he was suggesting related only to the Licensing Act 2003.

RESOLVED

- 1 to establish a Licensing Task Group, the terms of reference of which would be to advise the Licensing and Environmental Health Committee on a review of the Council's licensing policy statement and to submit a final report to the Committee meeting of 24 October and an interim report to the meeting of 11 July; and to appoint Councillors Lemon, Loughlin and Perry as members.
- 2 to delegate the functions of the licensing authority as a responsible authority to the team leader of the enforcement team.

EXERCISE OF DELEGATED POWERS

The Committee considered a report informing members of the exercise of powers delegated to the Assistant Chief Executive-Legal. The report gave a summary of eight matters about which interviews with drivers had taken place regarding potential breaches of conditions attached to their licences.

None of the drivers who had been suspended following such interviews had appealed.

The Assistant Chief Executive-Legal said he was concerned at the possibility that drivers and licensed operators were working together to avoid the effects of suspension by changing drivers' shifts. He said he had notified the trade of members' concern that two day suspensions were not proving to be a suitable deterrent and that three days would in the future be the starting point. He would deal with each case on its merits, but if a third breach of condition were to occur the matter would be referred to the Committee.

LIC64 **OTHER BUSINESS**

Councillor Chambers said this was his last meeting as Cabinet member for licensing, as responsibility for licensing would move from the Portfolio for Finance to the new Portfolio for Highways, Councillor Walters.

Councillor Morson offered congratulations on behalf of the Committee to Councillor Hicks on his forthcoming election to Vice Chairman of the Council.

Members who were not staying at the meeting to hear the determination of two drivers' licences under urgent items then left. Councillors Hicks, Lemon and Ranger remained to form the panel for this business.

LIC65 **EXCLUSION OF THE PUBLIC**

RESOLVED that, under section 100I of the Local Government Act 1972, the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of part 1 of Schedule 12A of the Act.

LIC66 **MINUTES OF THE MEETING HELD ON 12 MARCH 2012**

The minutes of the meeting held on 12 March 2012 were considered and signed as a correct record.

LIC67 **URGENT BUSINESS - DETERMINATION OF PRIVATE HIRE VEHICLE DRIVER'S LICENCE**

The Committee received two reports under urgent items for the reason that this meeting was the earliest opportunity at which these applications could be dealt with, and it was not appropriate to delay them further.

The Chairman welcomed the first applicant, introduced Committee Members and explained the composition of the Committee.

The Committee considered the report of the Licensing Officer, which was presented in Mr Hardy's absence by the Enforcement Officer.

The report related to an application for the grant of a private hire driver's licence. Whilst the application form did not disclose any criminal convictions, an enhanced criminal records bureau disclosure indicated previous criminal

convictions. The report set out the details of these convictions, and of the explanation offered by the driver during an interview with the Licensing Officer.

Following the presentation of the report, the Chairman invited the applicant to comment.

The applicant said he had not read the application form at the time he had signed it and that the taxi hire operator's staff had completed the form on his behalf. Whilst he did not normally sign forms without reading them first, he had done so because it had been given to him by the operations manager, who had not asked him to check that the details were correct. He had not referred to his previous convictions because he was unaware of the question on the form. In reply to a question from the Chairman, he confirmed he had had no intention to deceive anyone by omitting reference to the previous convictions, and that he knew that a criminal records bureau check would be made.

In reply to a question, the applicant said the operator had not asked him about having his own CRB check.

The Committee withdrew at 8.30pm and at 8.35pm returned to give its decision.

Decision

The Chairman said that the Committee had decided that the applicant was a fit and proper person to hold a driver's licence and that the application would be approved and the licence granted.

LIC68

URGENT BUSINESS – DETERMINATION OF PRIVATE HIRE DRIVER'S LICENCE

The Chairman welcomed the second applicant and introduced Members of the Committee.

The Committee considered the report of the Licensing Officer, which was presented by the Enforcement Officer in Mr Hardy's absence. The report set out details of an application for the grant of a joint hackney carriage/private hire driver's licence. The applicant had indicated on her application form that she had not been convicted of any offences, which included spent and unspent convictions. However, the enhanced criminal records bureau check had disclosed previous criminal convictions.

The Enforcement Officer said that a further letter dated 16 April 2012 had that morning been received from the applicant, which she wished to submit as further representations. The Committee agreed to this request.

Following presentation of the report and further representations, there were no questions from Members. The Chairman invited the applicant to explain to the Committee the reason for making a misstatement on her application form.

The applicant said she had filled in the form as she did based on advice she had received from the police and NACRO, a charity for the reduction of crime

and resettlement of offenders, both of which had advised her she could answer 'no' to the question on the form regarding whether she had previous convictions. She said that the employee of the taxi hire operator had filled in the form based on a clear CRB check, but that when the further check was carried out the previous convictions had been disclosed. If the applicant had thought these spend convictions needed to be mentioned on the form, she would have filled it in differently. She said this part of her life was one which she regretted and ad put behind her.

The Committee withdrew at 8.45pm and returned at 8.50pm to give its decision.

Decision

The Chairman said that the Committee were of the opinion that the applicant was a fit and proper person and that the application was approved and the licence would be granted.

The meeting ended at 8.55pm.