

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 7.30pm on 11
JULY 2012**

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

Also present:

Mr B Drinkwater (Chairman ULODA); the Drivers in relation to both
items heard under Part Two.

Officers present: M Perry (Assistant Chief Executive-Legal), R Dobson
(Democratic Services Officer) and M Hardy (Licensing Officer).

PUBLIC QUESTION AND ANSWER SESSION

The Chairman said he wished to express appreciation for Councillor Hicks' chairmanship of the Committee. He said he would be a tough act to follow. He congratulated Councillor Walters on his new role as Executive Member with responsibility for Community Safety.

Mr Drinkwater then made a statement, a summary of which is appended to these minutes.

LIC5 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Asker and Morson.

LIC6 **MINUTES OF PREVIOUS MEETINGS**

The minutes of the meetings held on 18 April, 24 April, 14 May, 28 June and 3 July 2012 were signed as a correct record.

LIC7 **MATTERS ARISING**

(i) 24 April 2012 - Minute LIC69 – determination of an application for a premises licence

The Assistant Chief Executive-Legal said that the conditions which had been imposed on Zafferano's had not been to everyone's liking but there had been no appeal.

(ii) 14 May 2012 - Minute LIC71 – determination of a private hire operator's licence, private hire driver's licence and private hire vehicle licence

The Assistant Chief Executive-Legal said no appeal had been received in the appeal period.

(iii) 28 June 2012 – Minute LIC2 – determination of a private hire driver's licence

The Assistant Chief Executive-Legal said no appeal had been received in the appeal period.

(iii) Minute LIC3 – determination of a private hire driver’s licence

The Assistant Chief Executive-Legal said no appeal had been received in the appeal period.

(iv) 3 July 2012 - Minute LIC4 – determination of a private hire driver’s licence

The Assistant Chief Executive-Legal said no appeal had been received to date but that the time for appealing had not yet expired.

LIC8 REVISION OF THE STATEMENT OF LICENSING POLICY

The Committee considered a report setting out proposed revisions to the Council’s licensing policy, as recommended by the Licensing Task Group.

RESOLVED

- 1 to approve the revised Statement of Licensing Policy as a basis for consultation;
- 2 to approve an interim statement to be published on the Council’s website.

LIC9 EXERCISE OF DELEGATED POWERS

The Committee considered a report giving details of six matters relating to drivers which the Assistant Chief Executive-Legal had dealt with under delegated powers.

Councillor Ranger asked about the criteria for imposing the minimum suspension period for failure to notify the Council of a fixed penalty notice.

The Assistant Chief Executive-Legal said in cases where a driver indicated he had particularly high earnings, a suspension of one day was imposed, as if the driver earned a higher income, the proportion of lost earnings was significantly higher than would usually be the case. The standard suspension period was three days, which was increased or decreased as circumstances required. An increase would be implemented if three days did not act as a deterrent.

The Chairman reassured Members that this matter was one which he had thoroughly discussed with the Assistant Chief Executive-Legal.

The Licensing Officer said he had earlier attended a meeting of the Transport Forum which had noted that this district had the highest number of taxi drivers in the county. The Licensing Officer said greater numbers of notifications of non-compliance with conditions were now being received, but that only 2 per cent of Uttlesford’s drivers were non-compliant with their conditions.

The Committee noted the report.

LIC10

OTHER URGENT ITEMS

The Chairman said he wished to raise two urgent items of business.

(i) Agenda item for Members' Suggestions

On the grounds that it was necessary at this meeting to introduce an amendment which would affect subsequent agendas, the Chairman said it was his view that Members should have the opportunity to require items to be added to the Committee's agenda.

RESOLVED to include on the agenda in future an item for issues suggested by Members of the Committee to be considered.

(ii) Reserve Fund

In the interests of transparency, the Chairman suggested that the Committee should consider the licensing reserve as a standing item on future agendas.

RESOLVED to include on the agenda in future an item to consider the licensing reserve fund.

Councillor Loughlin expressed the hope that the Chairman of this Committee could attend meetings of the Cabinet. She considered the lack of official input to Cabinet from the Licensing Committee Chairman to be undemocratic.

The Assistant Chief Executive-Legal said that any Member could attend Cabinet and make representations. Councillor Perry would be acknowledged as Chairman of Licensing and Environmental Health Committee at Cabinet meetings.

Councillor Lemon commented that as Leader of the Independent Group he attended Cabinet meetings and was able to make representations at those meetings.

(iii) Essex County Council – responsibility for licensing of children in entertainment

Councillor Ranger said it had been brought to his attention in the last few days that there could be devolution to district councils for licensing children in entertainment. He wished to establish whether this was the case, under urgent items as one of his ward constituents had experienced difficulty in obtaining a response from Essex County Council to an application for a licence.

It was agreed that the Licensing Officer would make enquiries, and that if this function was to be devolved, the matter should be included on the next agenda; otherwise, a response would be circulated to Members by email.

In response to a question from the Chairman, the Assistant Chief Executive-Legal advised that as implementation of the Council's policy on medical checks was a Cabinet function it could not be considered by this Committee.

LIC11 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 paragraphs 1 and 3 of part 1 of Schedule 12A of the Act.

LIC12 DETERMINATION OF A PRIVATE HIRE DRIVER'S LICENCE

The Chairman welcomed the first Applicant to the meeting and explained the fact that the Committee was now sitting as a panel of three Members (that is, the Chairman with Councillors Davey and Salmon).

The Licensing Officer took the Committee through a report regarding an application for a joint private hire/hackney carriage driver's licence. Whilst the applicant met the Council's licensing standards, in view of the number and nature of the previous convictions revealed by the CRB checks accompanying the application, officers had referred the matter to the Committee for decision rather than exercise delegated powers. The majority of offenses related to dishonesty, but the record also showed one offence of possession of an offensive weapon in a public place. The Applicant had since then been licensed as a driver by another licensing authority. He had been invited to attend an interview regarding his application but had not done so.

The Chairman invited the Applicant to comment on the report. The Applicant confirmed that the facts as stated so far were correct.

There were no questions from Members, and the Chairman invited the Applicant to address the Committee.

The Applicant said he was not aware of the procedure, but thought he was attending to be interviewed about his CRB check. He confirmed he had seen the report and record of convictions. At the request of the Chairman, the Applicant explained the circumstances of his conviction for possession of an offensive weapon. He described how he had at that time kept a snooker cue in the back of his vehicle which he said was for his own protection as he worked in Harlow, which was notorious as a dangerous place to work as a taxi driver. He said following this conviction that he had learned his lesson and had not carried an offensive weapon since then.

Members had no questions for the Applicant. The Assistant Chief Executive-Legal advised the Committee that the fact that the Applicant had been licensed elsewhere was irrelevant; that he met the Council's licensing standards, and therefore should be granted a licence unless Members felt there were reasons not to do so.

At 8.20pm the Committee withdrew to consider its decision, and returned at 8.25pm.

DECISION

The Chairman gave the Committee's decision as follows:

You have an abysmal record of previous convictions the majority relating to matters of dishonesty, but these are long spent. You have a clean driving record apart from the fact that you were convicted for taking a vehicle without the owner's consent, for which you received a sentence and had your driving licence endorsed. Again, this conviction is now spent.

What does concern this Committee is your conviction of possession of a weapon in a public place. Some time ago it was common practice for taxi drivers to carry weapons in their vehicles, a practice which this Committee always discouraged. However it is the unanimous decision of this Committee that you are given an opportunity to prove yourself and we therefore propose to give you that chance and deem that you are a fit and proper person to hold a joint Private Hire/Hackney Carriage Driver's Licence. However, as fair warning, the Committee regards your record of previous convictions as abysmal and if you abuse the trust we have placed in you, we will not be so lenient in the future.

I would strongly encourage you to acquaint yourself with the conditions of the licence issued by this Council.

LIC13

DETERMINATION OF A PRIVATE HIRE DRIVER'S LICENCE

The Chairman welcomed the second Applicant to the meeting.

The Committee considered a report relating to an application for the grant of a private hire driver's licence. The Applicant met the Council's licensing standards but in view of the number and nature of the convictions disclosed in the application form officers had referred the matter to be dealt with by the Committee rather than under delegated powers.

The Licensing Officer took Members through the report and explained that the Applicant had attended an interview during which he had explained the circumstances of his convictions. The Licensing Officer drew Members' attention to the conviction on 30 April 2002 for driving a motor vehicle with excess alcohol to which the Applicant had pleaded guilty. The Licensing Officer asked the Applicant if he could recall the level of alcohol which had been recorded in relation to that offence. The Applicant said he could not remember.

The Licensing Officer said the Applicant held a licence from another licensing authority which had first been granted in 2009 and which was due to expire in four days' time.

The Chairman invited the Applicant to comment. The Applicant said he had no questions at this stage and that the Licensing Officer had presented the facts correctly.

The Chairman noted there were two speeding offences, but that the Applicant met the Council's licensing standards in that he did not have more than three minor traffic offences.

The Applicant then addressed the Committee. He said he understood the reasons for the Committee's concern, and explained the circumstances of the offences for which he had received convictions. He said he had experienced a difficult period of his life between 14 February 1992 and 7 March 2002, which included getting divorced. Subsequently he had transformed the way he lived, following help from the police duty counsellor and an alcohol and drugs counselling group. He had regained control of his life, undergoing one year of counselling and giving up drinking alcohol. He had subsequently become a teaching assistant and in 2004 had remarried. He now had two children. He explained the circumstances of an incident at a family gathering in 2008 during which he said he had seen his wife assaulted, and for which he had received a caution for battery and assault. In 2009 he had been granted a private hire driver's licence by another authority, which had subsequently been renewed each year. In 2011 he had paid for and completed a City and Guilds Level 2 NVQ certificate in Road Passenger Vehicle Driving. He said he was determined to continue to provide a professional and safe service, and to earn a living and support his family. He had been offered work for an operator in this district, if he should be granted his licence.

Members asked questions regarding the Applicant's martial arts qualification and his dependence on his income as a driver. The Applicant said he had obtained a yellow belt grading, and that whilst it would be possible for him to earn a living in another trade, he would be distraught if he were not granted a licence as a driver.

The Assistant Chief Executive-Legal said the sentence for drink driving indicated the Applicant was probably at least two times over the legal limit. However, this conviction was now spent and should therefore not lead Members to refuse the licence. The fact that the Applicant was licensed by another authority was not relevant. However, the fact that he had had three years of his licence being renewed could be taken into account. The Applicant had accepted the caution; if he had not done so, then a conviction would have been imposed which would not have been spent and the Applicant would not in that case comply with this Council's licensing standards.

Members withdrew at 8.40pm to consider their decision, and returned at 8.45pm.

DECISION

The Chairman gave the Committee's decision as follows:

You have an abysmal record of previous convictions the majority of which relate to alcohol and violence. However these are long spent. The Committee has to take into consideration the fact that you have been licensed as a driver for three years, during which time you have been employed and have committed no misdemeanours. You have two speeding offences, so in terms of traffic offences you are on the edge. However, the Committee has decided to give you a chance and deems you a fit and proper person and grants your application for a licence. However you should be warned that if you return before the Committee we will not be so lenient. I strongly recommend you acquaint yourself with the conditions of your licence.

The meeting ended at 8.50pm.

Statement of Mr Drinkwater

Mr Drinkwater congratulated Councillor Perry on his appointment as Chairman of the Committee, and congratulated Councillor Walters on his new Cabinet role.

Regarding the annual budget, Mr Drinkwater referred to a review meeting to discuss the 2011/12 year end figures, particularly regarding the question of the surplus for the licensing reserve. From the reserve of £102,000, an amount of only £37,000 had been allocated to licensing. Mr Drinkwater said originally the idea was that the surplus would be eradicated by 2013. However, he was aware of comments of Mr Joyce, the Assistant Chief Executive-Finance indicating the situation would be likely to continue for some years. He therefore awaited the review with interest.

Regarding a taxi fares review, Mr Drinkwater reported on a consultation with taxi drivers and proprietors on whether this year there should be an increase in the tariff. The consensus was to seek an increase of 5% this year. ULODA's working party would report on the consultation for submission to Cabinet on 2 August.

Regarding Law Commission proposals to simplify the legal framework governing taxis and private hire vehicles, Mr Drinkwater said a consultation was proceeding. A draft bill was anticipated towards the end of 2013.

Finally, ULODA was seeking an urgent review of the Committee's decision in March 2010 to implement enhanced CRB and medical checks for drivers, the cost of which was of concern to operators. Mr Drinkwater asked the Committee to consider this item at a future meeting.