

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at  
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 7.30pm on 24  
OCTOBER 2012**

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

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

**PUBLIC QUESTION AND ANSWER SESSION**

Mr B Drinkwater made a statement, a summary of which is appended to these  
Minutes.

**LIC12 WELCOME**

The Chairman referred to the presentation given by Trading Standards Officers  
before the meeting, which had been of great interest to Members and  
expressed gratitude to Sophia Harris and Sophie McKenna for attending.

The Chairman thanked Mr Drinkwater and welcomed all those present. He  
informed Members that he had received sad news in that one of the District's  
most respected private hire operators, Mr Dennis Causton of Elsenham Cabs,  
had suddenly died and invited Members to observe a minute's silence.

**LIC13 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Asker, Hicks and  
Loughlin.

**LIC14 MINUTES OF PREVIOUS MEETINGS**

The Minutes of the meeting held on 11 July 2012 and of the extraordinary  
meetings held on 14 August, 28 August and 11 October were received and  
signed as a correct record.

**LIC15 MATTERS ARISING - MINUTES OF 11 JULY 2012**

**(i) Minute LIC10 (iii) – responsibility for licensing of children in  
entertainment**

Councillor Ranger said the Licensing Officer had supplied the information he  
had requested.

**(ii) Minute LIC10 (i) – agenda item for members' suggestions**

The Chairman referred to the Committee's decision that the agenda should  
include items requested by Members. It was noted that future agenda for  
scheduled meetings would include a standing item to give effect to this  
provision.

The Chairman said that whilst the agenda tonight included licensing fees, he would like the Committee to consider at its next meeting as a separate item the licensing reserve. He invited Members to suggest items for the next agenda.

Councillor Lemon said he too wished the Committee to consider the licensing reserve, as this was an issue about which he had received many representations from taxi drivers and operators.

## **MINUTES OF 28 AUGUST 2012**

### **(i) Minute LIC8 – determination of a private hire driver’s licence**

The Assistant Chief Executive-Legal said no appeal had been lodged in this case, and that information had subsequently been received that the driver’s licence had also been revoked by the DVLA.

LIC16

## **LICENSING FEES**

Members considered a report on the current position regarding licensing fees. The Assistant Chief Executive-Legal reminded Members of how the surplus had arisen. Between 2006/7 and 2010 licensing fees charged had given rise to a surplus in income over expenditure for licensing in the sum of £138,000. The measure by which this Committee had previously agreed to reduce the surplus was primarily by means of a fee structure for licences for drivers, vehicles and operators which would have eradicated the surplus within three years.

The Assistant Chief Executive-Legal said calculations for eliminating the surplus had been based on an assumption that the number of licences issued would remain the same. In practice there had been an increase in the number of licenses. It should therefore be understood that the surplus was now a fresh surplus figure created by the large increase in the number of licences being issued. The surplus at the end of the financial year 2011/12 was £102,000.

The Assistant Chief Executive-Legal explained that the fee reduction agreed in September 2010 had had the effect of repaying members of the trade the amount of the surplus within the target of three years. He reiterated that the surplus as it stood now was due to the significant increase in the number of licences being issued.

The Assistant Chief Executive-Legal said projections indicated that if the current fee levels remained unchanged the surplus would be reduced to £8,000 by the end of 2013/14. Thereafter an increase in licensing fees would be needed to ensure the Council would progress on a “break even” basis. Therefore the report before the Committee tonight recommended there should be no change to the fee structure.

The Assistant Chief Executive-Legal said this proposal meant the target date for reducing the surplus to zero would be missed by six months. However, the proposal would avoid the situation whereby keeping to the target date would result in a reduction in fees followed by a significant increase in fees from October 2013 in order to ensure a break-even position moving forward.

ULODA had agreed that the interests of the trade would not be best served by having a reduction in fees at this stage followed by a substantial increase from October 2013, and that price stability for the foreseeable future was preferable. ULODA had therefore agreed with officers that in the circumstances the current level of fees should remain unchanged until 1 April 2014.

The Assistant Chief Executive-Legal referred to the change in the Council's governance from a committee system to Cabinet, which meant responsibility for setting the three types of licence fees was now split between the Licensing Committee and the Cabinet. He said that a report was to be submitted tomorrow to Cabinet making the same recommendation in relation to the licensing function of the executive.

Councillor Lemon said he had received many comments from taxi operators and drivers. It was clear that the trade had ongoing and significant concerns about the question of the surplus which needed to be aired more satisfactorily.

Councillor Lemon raised four areas on which he had received representations from members of the taxi trade:

- concern that the surplus would never reduce due to the increase in the number of drivers obtaining licences in this area, since Uttlesford was perceived to be a comparatively cheap place to apply for a licence
- concern that new or recent applicants for driver's licences were benefitting at the expense of those drivers who had been licensed at the time the original surplus had occurred
- whether the surplus money was earning interest, and if so whether that income from interest was being added to what was in effect the drivers' money
- whether the surplus could be used to defray some of the costs of CRB checks which it appeared were to take place at a reduced interval contrary to government guidelines

Councillor Lemon said the taxi trade was an important part of the community and their concerns needed to be acknowledged and fully addressed.

The Chairman endorsed these remarks.

The Assistant Chief Executive-Legal responded to the above questions and concerns.

First, regarding concerns about increased numbers of driver licences, he said with no increase in license fees, the original surplus would have been eliminated; the increase in licences was to be welcomed, because increased business for the trade was also good for the Council. Despite the surplus arising from this increased level of issuing licences, it would be necessary in 2014/15 to increase licence fees therefore the surplus would be applied to keep this increase lower than it would otherwise be. In order for there to be no increase in fees in 2014/15 the number of licenses issued by the council would need to increase by 50%. There was no historical precedent to suggest that this could happen.

Regarding the attraction of taxi trade to this area because it was cheaper to obtain a licence in Uttlesford than in some areas, the Assistant Chief Executive-Legal said the case of *Berwick v Newcastle-upon-Tyne* was relevant as the Council had adopted a policy of granting licences only to vehicles predominantly used within the area of the licensing authority.

Regarding concerns about new drivers benefitting it was not the case that established drivers were being penalised, because the surplus now derived from the influx of new drivers and not from the original surplus. The increase in the number of licenses being issued was in fact to the benefit of those licensed when the surplus was first identified as not only have they had the benefit of the surplus being effectively repaid by the reduction in fees but they would continue to benefit as the new surplus would result in the inevitable increase in fees being pushed back further.

Regarding the timing of CRB checks, the Assistant Chief Executive-Legal said it was not clear to him why this should be a source of concern. He explained that the Council had for administrative reasons changed the timing of both medical and CRB checks for all drivers. In 2010 the Council had brought in a policy that checks would be required on application and thereafter three yearly. A small number of drivers were out of kilter with that timetable and it had been suggested that some drivers' checks should be done slightly earlier, to streamline the process. It was one of the delegated powers of the Assistant Chief Executive-Legal to be able to suspend a driver with immediate effect on medical grounds, therefore medical issues were administratively simple to address. However, the CRB checks were of more significance in terms of public safety as determining issues arising from those checks took far longer.

In response to a member question, the Assistant Chief Executive-Legal said this matter had been raised at a trade liaison meeting. He explained that the DfT best practice guidance was unclear. DfT guidance was that a CRB check and medical should be required on each renewal of the licence. However the guidance also recommended that licenses should be issued for 3 years, a recommendation not accepted by the Committee for sound reasons. This Committee had taken the view that three yearly rather than annual CRB checks were sufficient.

Councillor Lemon said he continued to have concerns about those drivers who had built up the subsidy which he felt benefitted new drivers.

The Assistant Chief Executive-Legal explained it was not possible to have a two-tier licence fee and neither was it possible to resolve the issue of drivers who had retired since the original surplus was created. In any case, the original drivers had benefitted up to 2013/14 due to the surplus now created by the influx of additional licensed drivers and after 2013/14 any surplus would be offset.

Regarding the question of interest, he said he did not have that information but was aware that interest rates earned by the Council were 0.25%, which would mean a payment of approximately 25p per driver.

Councillor Lemon said taxi drivers in Uttlesford were feeling disgruntled and he felt the issue of the surplus needed to be re-opened.

The Chairman said he understood the trade's concerns and this was why he wanted this item separately on the agenda.

The Assistant Chief Executive-Legal said liaison meetings took place with the trade at which these issues could have been raised, and that a meeting with Mr Drinkwater and with the Council's finance officers had taken place.

Councillor Walters said the Committee had considered the surplus issue for five years. The Committee had invited the Assistant Chief Executive-Finance, Mr Joyce, to be involved. Mr Joyce was a finance expert and was known to be very fair. The solution proposed was, in Councillor Walter's view, the best formula to achieve a resolution, and he could not think of any more satisfactory measure.

The Chairman said this matter needed to move forward.

Councillor Walters moved the recommendation which was seconded by Councillor Morson.

RESOLVED to note the report and approve no change to the existing fee structure.

#### LIC17 **REVISION OF THE STATEMENT OF LICENSING POLICY**

The Committee considered a report on the response to the consultation on the proposed revisions to the Council's Statement of Licensing Policy.

RESOLVED to approve the revised Statement of Licensing Policy amended as suggested in the report and recommend the same to Full Council for adoption.

#### LIC18 **EXERCISE OF DELEGATED POWERS**

The Committee considered a report on the exercise of delegated powers since the last meeting. Members noted that since that occasion the Assistant Chief Executive-Legal had dealt with 15 drivers for various matters under delegated powers.

The Assistant Chief Executive-Legal referred to an appeal to the Magistrates' Court of one of the Committee's decisions, which Mr Drinkwater had mentioned in his statement prior to the meeting. The appeal had been successful and costs awarded to the driver. The Assistant Chief Executive-Legal said in his opinion the decision had been proportionate, but he would take a view on whether to appeal the decision.

Referring to the number of cases now being dealt with under delegated powers, the Assistant Chief Executive-Legal said it was disappointing that the number of drivers in breach of their licence conditions had increased. He compared figures for the same time a year ago indicating 5 cases of exercise of delegated

powers were reported to that meeting, compared with the 15 now reported to Members tonight. The implication therefore was that sanctions being applied were not acting as a deterrent. The Assistant Chief Executive-Legal said he agreed with the view expressed on behalf of the trade by Mr Drinkwater, that the Council should have a licensing policy. He suggested that a task group be set up to consider such a policy.

Members endorsed this action. Councillor Lemon asked that the trade be involved in discussions and proposed that a task group be set up. The motion was seconded by Councillor Davey.

**RESOLVED** to set up a Licensing Task Group

- 1 the task group to comprise four members, Councillors Perry, Lemon, Davey and Loughlin subject to the consent of Cllr Loughlin to act in that capacity;
- 2 the terms of reference to be to examine policies and procedures in relation to hackney carriages, private hire drivers and operators on enforcement, conditions of licence, licensing standards, protocol on suspension and revocation of licence and on whether there should be a statement of licensing policy;
- 3 the task group to be time limited to the March meeting of the Committee but to report to an extraordinary meeting of this Committee sooner if able to do so..

LIC19

## **OTHER URGENT BUSINESS**

The Licensing Officer said Trading Standards had requested that an article on "Buy With Confidence" should appear in *Uttlesford Life* and *Taxi Chat*. Mr Drinkwater would consult on whether for a cost of £150 ULODA would join the scheme, which was in effect a 'bolt-on' to the Quality Taxi Partnership scheme. There would be no administrative costs to this authority other than to support Trading Standards.

The meeting ended at 8.30pm.

## **STATEMENT OF MR DRINKWATER**

Mr Drinkwater spoke about the licensing reserve surplus, which had been the subject of a meeting with the Council's finance officers. He noted the progressive reduction in the surplus which would be eliminated later than originally planned due to an increase in revenue generated in part by the addition of over 25% more drivers over the last two years. He referred to the possibility that discounted licence fees would continue beyond 2014 unless other options to compensate for original overpayments were identified.

Mr Drinkwater said Uttlesford's licensing policy in its current form was confined to matters which were outside the licensed taxi trade. He referred to existing information the Council published on its website for the benefit of the travelling

public, members of the taxi trade and prospective applicants for licenses. He referred also to new legislation and said that an overarching Statement of Licensing Policy would be beneficial and welcomed by the trade.

Mr Drinkwater referred to a decision today by the Magistrates' Court to overturn a suspension of a driver by the Assistant Chief Executive-Legal where costs had been awarded in favour of the driver. He suggested that all parties work in partnership to develop a protocol on sanctions.

Mr Drinkwater said there had been a meeting between ULODA, Council officers, Members and Trading Standards at which an initiative was announced to develop best practice in trading standards for the taxi trade. The initiative had come forward as a result of BAA complaints regarding unauthorised use of its logo on operators' websites. Councillor Salmon had also met with ULODA and Trading Standards to discuss benefits and costs of the "Buy With Confidence" scheme, and John Hull had been invited to speak to members at ULODA's AGM on 1 November.

Mr Drinkwater asked that Members work with ULODA to address the acceleration of enhanced CRB checks for drivers.

Finally Mr Drinkwater drew to Members' attention the commendation at the Green Fleet Awards of 24x7 Stansted which had been shortlisted in the top five UK private hire taxi companies. 24x7 had also had the highest carbon reduction, as it had reduced carbon emissions by 50% since the previous year.