

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 7.30pm on 10
JULY 2013**

Present: Councillor D Perry - Chairman.
Councillors H Asker, J Davey, J Loughlin, V Ranger, J Salmon
and A Walters.

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

Also present: Mr B Drinkwater, (Uttlesford Licensed Operators and Drivers
Association) and Mr A Mahoney.

LIC5

PUBLIC SPEAKING

Mr Drinkwater and Mr Mahoney attended the committee and asked the
following questions.

Mr Mahoney questioned the operation of the new licencing policy in cases
where the complaint constituted an offence under the legislation. This now
provided that the offender should usually be the subject of a formal caution or
a prosecution. He said that when a caution was given for a minor offence, this
could lead to the driver not meeting the Licensing Standards, and the matter
being referred to the Committee. He asked for assurance that there would not
be an additional sanction imposed.

The Assistant Chief Executive – Legal explained that if after issuing a formal
caution, the driver did not meet the Licensing Standards, the Committee would
be limited to determining whether the driver was still a fit and proper person. If
not, the only option would be a revocation as it was not appropriate to impose
a further sanction when a caution had already been given under the criminal
justice system. The caution would remain on the Council's own records but
would not show up on a DSB check.

Mr Drinkwater referred to decisions made under delegated powers. The
starting point for a sanction for a breach of condition had increased from 3 to
5 days and he asked if there was a level that members were expecting to
impose. The Assistant Chief Executive – Legal explained that he reported
each case to members of the committee together with reasons for the
decision and an explanation of the mitigating factors if the sanction imposed
was outside the norm. He was held accountable by members for these
decisions. The summary report on the agenda was for the benefit of the
Trade.

Mr Mahoney spoke in relation to the Licensing reserve and asked whether
the usual meeting with the trade would be held in July/August this year. The
Assistant Chief Executive – Legal said that the accountants were currently

working on the actual figures and a meeting would be held with the trade to discuss these before the end of August. There would also need to be a meeting later in the year to discuss the 2014/15 budget going forward to consider the amount of surplus and the likely increase in fees.

Mr Mahoney reported a recent problem with an unlicensed taxi tout operating at the airport. He said that although the Airport officials and Police had been made aware of the situation they had not been able to act quickly enough to apprehend the culprits. The Assistant Chief Executive – Legal asked the Trade to forward all relevant details to the authority so that he could determine whether it was proportionate to undertake enforcement surveillance.

LIC6 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors E Hicks, M Lemon and D Morson.

LIC7 **MINUTES**

The minutes of the meeting held on 27 March 2013 and the extraordinary meetings held on 20 March, 17 April, 13 May, 4 June and 14 June 2013 were received and signed as a correct record:

LIC8 **MATTERS ARISING**

(i) **Minute LIC45 (meeting 20 March) – Determination of an operator's licence**

The Assistant Chief Executive-Legal said that Mr Cronshaw had not appealed the decision of the Committee.

(ii) **Minute LIC53 (meeting 28 March) – Gambling Policy**

The amended Gambling Policy had been subject to consultation with all statutory bodies and town and parish Councils. 2 responses had been received, neither of which raised any significant issues, it was therefore

RECOMMENDED that the amended Gambling Policy be forwarded to Full Council for approval.

LIC9 **LICENSED PREMISES UPDATE**

The Licensing Officer presented the figures on alcohol related crimes at licensed premises in the district. The overall figures were the lowest of all Essex Districts and reflected the strength of recent initiatives in the district

including Saffron Walden Pub Watch and Challenge 25. Councillor Perry asked for details of any serious cases to be included when the figures were next reported to the Committee.

LIC10 **FUTURE AGENDA ITEMS REQUESTED BY MEMBERS**

There were no requests received from members.

LIC11 **LICENSING RESERVE**

The Committee was updated on the position with the Licensing reserve following the release of the year-end draft accounts. The year-end balance of the reserve stood at £63,000, which was £6,000 more than forecast. There had been a slight reduction in the number of license applications but the number were expected to rise significantly because one operator was intending to license 100 drivers and vehicles in connection with a school contract. It had therefore been necessary to employ a temporary person during August/September to deal with this workload and it was likely that this extra post would be required on an annual basis.

The projected cost of the service for the current year was £156,286, with a projected income of £117,280, which left a deficit of around £39,000. The figures took into account the expected additional income from the issue of licenses and the cost of the temporary position.

The forecast was for a surplus of approximately £24,000 at the end of the financial year 2013/14. However this sum would not cover the difference between income and costs going forward, so there was expected to be an increase in fees for the financial year 2014/15. Officer would engage with the trade during the budget process and determine the level of fees for 2014/15. It was noted that no change in fees was currently required.

Councillor Loughlin asked for details of the cost of the additional temporary post.

The report was noted and it was agreed that this matter should remain as an agenda item.

LIC12 **EXERCISE OF DELEGATED POWERS**

The Committee considered the report of the Assistant Chief Executive-Legal on the exercise of his delegated powers since the last meeting of the Committee.

Members were reminded of the amnesty that had been put in place when the starting point for a suspension for a first case of breach of condition had been increased from 3 to 5 days. This allowed drivers to inform the Council of matters that should have been notified as required by the condition of the

license, without any action being taken, providing they still met the council's licensing standards. At the end of the amnesty period 65 matters had been reported. Since then two drivers had been interviewed who had failed to declare fixed penalty notices. There were no mitigating circumstances and the drivers had been suspended for 5 days.

The Assistant Chief Executive-Legal was hopeful that following the recent publicity regarding the new policy, drivers might be more likely to observe the conditions in the future.

The report was noted.

LIC13 **URGENT ITEM**

The Chairman mentioned that at a recent meeting of the Planning Committee there had been a request from a member of the public to film the committee proceedings. He felt the Licensing Committee as another regulatory committee should be included in the Council's policy on this issue.

The following license applications were considered by a Panel of 4 members comprising Councillors Perry, Salmon, Loughlin and Walters.

LIC14 **DETERMINATION OF AN OPERATORS LICENCE**

The Chairman welcomed the operator, Mr Cronshaw, and his representative, Mr Drinkwater.

The Licensing Officer presented his report. He explained that Mr Cronshaw's operator license had been revoked at the committee meeting on 20 March. The circumstances were that when Mr Cronshaw lost his school contracts he had entered into an arrangement with Ardent Parking, with a view to operating private hire vehicles on behalf of that firm. However the operation of the vehicles was delegated to Ardent Parking and Mr Cronshaw did not have any real degree of control and as a result records of hirings were not kept in accordance with the conditions attached to the licence. Ardent Parking had since changed hands and no longer used the services of Mr Cronshaw.

Mr Cronshaw now wished to apply for an operators license to enable him to bid for school contracts. However he did not meet the Council's licensing standards insofar as he had a Private Hire Operator's licence revoked within the previous 3 years. Mr Cronshaw offered to have a condition attached to the licence that it would be used solely in connection with school contracts. Mr Cronshaw also held a current Private Hire Driver's Licence which would expire on 30th September 2013.

There were no questions for the Licensing Officer.

Mr Drinkwater explained that Mr Cronshaw's reputation had been tarnished by his business arrangements. He hoped that the conditions on the license would enable this exception to policy.

Mr Cronshaw then addressed the Committee. He said he had gained his last operators license in 2004, and had operated for 9 years with no issues. The problems had occurred during the 12 month period when the school contracts had come to an end and he had entered into business with Argent Parking. He now had no further responsibility in relation to Argent Parking and wished to draw a line under this episode. He was aware that he did not now meet the licensing standards but hoped he might be granted the restricted license as requested.

Councillor Loughlin said that the main problem had had been in relation to the record keeping and asked Mr Cronshaw if he could guarantee that this situation would not occur in the future. Mr Cronshaw said that this was unlikely to arise in respect of a school contract.

In answer to a question from Councillor Salmon, Mr Cronshaw said that although there was no guarantee that he would win a contract, obtaining this license would give him the opportunity to bid. He said he had learnt not to get involved with people or businesses that he did not fully understand. Mr Mahoney said that he was willing to help Mr Cronshaw set up a future monitoring system.

The Assistant Chief Executive – Legal gave the following legal advice. There were no complaints about Mr Cronshaw as a driver and this process would not affect his license for that purpose. He could continue to act as a driver for another operator, Section 55(3) of the Act gave the Authority the power to put conditions on a license, so it was acceptable to include a condition restricting the license to school contracts only. The panel having heard the evidence were to decide whether Mr Cronshaw was a fit and proper person in respect of the operator's license.

At 8.35pm Mr Cronshaw, Mr Drinkwater, and the other public and officers present left the meeting while the panel considered its decision. They returned at 8.50pm when the following decision was announced.

Decision

Mr Cronshaw was first licensed as a private hire operator by this council in 2004. Until July 2012 he ran a business as a school contracts operator. Unfortunately he lost his contracts in a tender process at that time. About then Mr Cronshaw became involved with a firm called Ardent Parking. That firm had had an application for an operator's licence refused as the Committee were not satisfied that the proprietor was a fit and proper person. The firm approached Mr Cronshaw for assistance in running their park and ride business.

This led to a most unsuitable state of affairs. The situation came to the Council's attention when an unlicensed driver was stopped driving a vehicle licensed to Mr Cronshaw. An investigation of Mr Cronshaw's records showed a complete disregard for the provisions of the legislation and the conditions of his licence. Full details are set out in a report to the Committee for its meeting on 20 March 2013, the minutes of that meeting and the full reasons for the Committee's decision attached. As a result of those matters Mr Cronshaw's licence was revoked as the Committee no longer considered him to be a fit and proper person to hold an operator's licence.

Mr Cronshaw appealed against that decision but subsequently, and in the view of the Committee wisely, he withdrew that appeal. He now applies for the grant of a new licence. By virtue of the revocation of his licence Mr Cronshaw does not meet the Council's standards and he therefore needs to satisfy the Committee that he is a fit and proper person to hold a licence notwithstanding that fact.

Had the application been unqualified the Committee would have had no hesitation in rejecting it. The Committee heard nothing at its meeting in March this year to suggest that Mr Cronshaw would keep to the terms of the legislation and conditions of his licence and no evidence or submissions have been put forward this evening to suggest that he would do so if carrying the public. However Mr Cronshaw in his application offers to accept a condition on his licence which would limit him to school contract work. The Committee take note of the fact that in 8 years of being engaged in that business there were no complaints about Mr Cronshaw's conduct as an operator. The Committee believes that Mr Cronshaw has no school contracts at present but without an operator's licence he is unable to tender for such contracts in the future.

The Committee are satisfied that Mr Cronshaw is a fit and proper person to operate for school contracts even though it is not satisfied that he is a fit and proper person to provide services as an operator to the public for the reasons given on the revocation of his former licence. The Committee therefore grants Mr Cronshaw an operator's licence subject to the Council's standard conditions with a further condition that "This licence shall authorise the licence holder to operate private hire vehicles for school contract work only and does not extend to providing services as an operator in any other circumstances directly or indirectly to members of the public".

LIC15

EXCLUSION OF THE PUBLIC

RESOLVED that, under section 100I of the Local Government Act 1972, the public be excluded from the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 of part 1 of Schedule 12A of the Act.

DETERMINATION OF A PRIVATE HIRE HACKNEY CARRIAGE DRIVERS LICENSE

The Chairman welcomed the Driver to the meeting.

The Licensing officer presented his report. He reported that during a routine stop check by ECC, the driver had been found not to be wearing the badge or to have it in the vehicle. At a subsequent interview she explained that she had been required to change her vehicle and had left her badge in the car. She had contacted the operator but had not been able to find the badge for 3 or 4 weeks and had driven vehicles during that time. As such an offence had been committed under the legislation governing private hire work and she had accepted a caution in accordance with the council's new licensing policy and now fell below the Licensing standards.

The panel members and the driver had no questions of the Licensing Officer.

The Driver then made her statement. She explained that she always picked up the same children and all her paperwork including photo ID were in the cab. She believed that the operator was partly to blame for taking so long to retrieve the badge.

The Chairman asked the driver if she was aware that she should wear her badge. She replied that she always normally wore the badge whilst working. In answer to a question she confirmed that the badge was eventually found in the centre console of the car. Councillor Loughlin asked if there was any evidence from the operator to support her story. The Panel was informed that the operator had not been contacted but the driver's word had been accepted with regard to the circumstances of the case

In answer to a question from Councillor Salmon, the Driver confirmed that she knowingly continued to drive without the badge but did not contact the Council because she was expecting the operator to return the badge at any time.

The Assistant Chief Executive advised the Panel that as a caution had already been accepted a further sanction would not be applicable. The Panel was to consider solely whether she was a fit and proper person to hold a license.

At 8.55pm the Driver and the Enforcement Officer left the meeting whilst the panel considered its decision. They returned at 9.05pm when the following decision was announced.

Decision

The Chairman said that under section 54(2) of the Local Government (Miscellaneous Provisions) Act 1976 it was an offence not to wear a private hire drivers badge when driving a private hire vehicle. The onus to do this was on the driver and failure to do so could be subject to a £1000 fine. However the Committee had to be proportionate and as a formal caution had already

been issued no further action would be taken on this occasion. This was however a final warning and any further incidents would be prosecuted.

LIC17

DETERMINATION OF A PRIVATE HIRE HACKNEY CARRIAGE DRIVERS LICENSE

The Chairman welcomed the Driver and his representative, Mr Drinkwater to the meeting.

The Enforcement Officer presented his report. He explained that the private hire vehicle had been spotted at the Council Offices not displaying a rear license plate. At an interview under caution the driver said that he had called at the offices prior to picking up a passenger in the evening. This passenger was not from one of the exempt companies when the driver was allowed to remove the license plate from the vehicle. The driver had accepted a caution for an offence under the legislation in accordance with the new licensing policy and had come to the committee as he now fell below the licensing standards.

Mr Drinkwater asked the enforcement officer whether the driver had told him that he had taken the plate off when the car had been valeted before going to the council offices. The Enforcement Officer said he was not aware of this information.

Mr Drinkwater said he was attending as a friend of the driver. ULODA did not condone non-compliance with the law. He said that under the new policy the driver had already received formal caution and it would be disproportionate to impose anything further. Credit should be given for immediately admitting the offence. Also the Driver was now solely driving a hackney carriage vehicle so the situation with the license plate was unlikely to arise again.

The driver made his statement. He said he had been stupid and naïve not to replace the plates on the car. In mitigation the car had been valeted before he visited the Council Offices and had insufficient time to replace the plates. He had accepted the offence and the caution and said that it would not happen again. He explained that due to lack of business he had surrendered the license of the two executive saloons used as private hire vehicles. In future he and his son would be operating 16 and 8 seater vehicles. These would tend to be used together and as they had future bookings any further action would have financial implications for the business.

The Assistant Chief Executive – Legal advised the Panel that the impact on the business was irrelevant in this case. As a formal caution had already been imposed under the criminal justice system it was not appropriate to impose further sanctions. The role of the Panel was to look only at whether the driver was a 'fit and proper person.' to hold a driver's license

At 9.20pm the Driver, his representative and the Enforcement Officer left the meeting whilst the panel considered its decision. They returned at 9.25 when the following decision was announced.

Decision

The Driver had accepted a caution for an offence of failing to display a private hire vehicle plate under section 48(6) of the Local Government (Miscellaneous provisions) Act. The Panel considered that the driver met the 'fit and proper person test' and therefore no further action would be taken on this occasion.

The meeting ended at 9.30 pm.