

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES SAFFRON WALDEN at 7.30pm on 05 MARCH
2014**

Present: Councillor D Perry (Chairman)
Councillors J Davey, M Lemon, J Salmon and A Walters

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

Also Present: Les Davidson (ULODA – Treasurer), Barry Drinkwater
(ULODA – Vice Chair), Richard Ellis (ULODA – Vice Chair), Andy
Mahoney (24x7 Ltd)

LIC62 **APOLOGIES FOR ABSENCE**

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

LIC63 **MINUTES OF THE PREVIOUS MEETINGS**

The Chairman signed the minutes of the meetings on 16 October, 19
November and 4 December 2013, 14 January and 5 February 2014 as a
correct record.

LIC64 **MATTERS ARISING**

**(i) Minute LIC30 (Meeting 16 October 2013) – Consultation on the
future of personal alcohol licenses**

The Assistant Chief Executive – Legal said that a response had been sent
off to the Government. No reply had been received.

**(ii) Minute LIC42 (Meeting 19 November 2013) – Determination of a
private hire/ hackney carriage driver's licence**

The Assistant Chief Executive – Legal said that no appeal was made.

**(iii) Minute LIC49 (Meeting 4 December 2013) – Application to vary
a premises licence – Saffron Walden Football Club**

The Assistant Chief Executive – Legal said that no appeal had been
made.

(iv) Minute LIC51 (Meeting 14 January 2014) – Budget 2014/15

Councillor Perry said that he wanted all future agendas to have an item
relating to the budget.

The Assistant Chief Executive – Legal said that the situation relating to the budget surplus had not changed.

(v) Minute LIC52 (Meeting 14 January 2014) – Determination of a private hire driver’s licence

The Assistant Chief Executive – Legal said that no appeal had been made.

(vi) Minute LIC54 (Meeting 5 February 2014) – Determination of a combined hackney carriage/ private hire driver’s licence

The Assistant Chief Executive – Legal said that no appeal had been made.

PUBLIC SPEAKING

Mr Drinkwater said that the recommendations in Item 6 were sensible. They would benefit all parties involved. The recommendations outlined in Item 7 would reduce the burden upon both Council Officers and members of his trade. The public’s safety would not be affected. ULODA looked forward to continuing dialogue with Officers in relation to Licence Fees. ULODA’s Chairman had contacted the Assistant Chief Executive – Legal about the high cost of enforcement. The Council had a duty to positively educate operators, proprietors and drivers about the relevant regulations. This would lower offence rates. Progress was being made on the grading of prestige vehicles. Market intelligence was being gathered about waiting charges for hackney carriage vehicles.

Mr Mahoney, in relation to Item 7, supported the proposal.

Mr Ellis said that ULODA were experiencing difficulty in developing the correct criteria for identifying prestige vehicles.

Councillor Perry thanked the speakers for their contributions. He also thanked Members who attended Extraordinary Licensing and Environmental Health Committee meetings. This committee was the hardest working at the Council.

LIC65

SKY LANTERNS

The Assistant Chief Executive – Legal said that the report was based on a letter from the Country Land Association (CLA). The CLA were concerned about lanterns causing hazards. The letter was factually incorrect with regard to the Vale of White Horse District Council. Conditions had not been imposed on all entertainment licenses. The Council had not received any reports of lanterns causing damage within the district. He had considered guidance issued by the Civil Aviation Authority which said that lanterns could travel to unpredictable heights and could create debris on an airport’s runways. Organisers of events using lanterns within ten miles

of an airport should be informed of the risks. Members could seek an amendment to the policy. This would require a consultation.

Councillor Perry asked whether lanterns could be considered a form of firework.

Councillor Davey said that there were a lot of thatched houses in the district. Could the lanterns become a fire hazard?

The Assistant Chief Executive – Legal said that they contained no explosives. Therefore, they were not considered fireworks. Lanterns fell from the sky when the fire within them died out.

Councillor Perry said that the Council’s Licensing Department was made aware of the situation. He proposed that the situation continue to be monitored.

RESOLVED that the situation surrounding sky lanterns continue to be monitored.

LIC66

AMENDMENTS TO THE REHABILITATION OF OFFENDERS ACT 1974 (“THE ACT”)

The Assistant Chief Executive – Legal said that under the Act certain convictions were seen as spent after a certain period of time had elapsed. However in the case of fitness to hold a licence Members were entitled to have regard to spent convictions. The new rehabilitation periods were significantly different to the previous ones. They were as follows.

Sentence	Old Rehabilitation Period	New Rehabilitation Period
Custodial sentence for more than 30 months but not more than 48 months	N/A	7 years
More than 6 months but not more than 30 months	10 years	48 months
6 months or less	7 years	24 months
A fine	5 years	12 months from date of conviction
A compensation order	N/A	The date upon which payment is made in full
A community order	5 years	12 months from the last date on which the order was to have an effect
Conditional discharge	1 year, or the end of the period of discharge or bind over, whichever is	12 months

	the earlier	
Conditional Caution	N/A	3 months, or sooner if the caution ceases to have an effect
Absolute discharge or caution	6 months	The date of the discharge or caution

Members should consider whether they would as a matter of course wish to take into account certain spent convictions. Members could propose an amendment to Council policy, or set up a task group to report back.

Councillor Perry said that shortening rehabilitation periods could mean that the Council would fail in its duty to protect the public. A task group should be set up.

Councillor Lemon said the shortening of rehabilitation periods was too drastic.

Councillor Walters asked what powers the Council had to deal with cases where spent convictions were involved.

The Assistant Chief Executive – Legal said that the Council had always had the power to look at spent convictions on a case by case basis. The policy was not currently in accordance with Government legislation.

Councillor Salmon asked which of the Committee members should form the task group.

The Assistant Chief Executive – Legal said that members not on the task group would still be able to attend its meetings. Task group recommendations would be discussed at the Committee's meetings.

Councillor Perry proposed that a task group be set up comprising of the members present at the meeting.

RESOLVED to set up a task group in relation to the amendment to the Rehabilitation of Offenders Acts, comprising of the following members: Councillors Davey, Lemon, Perry, Salmon, Walters. The terms of reference of the task group are to advise the Committee as to what length of time should elapse after a conviction or expiration of sentence before the Council would be prepared to disregard it in determining whether an applicant or driver is a fit and proper person and whether different criteria should be applied in respect of different types of offences. The task group is to report back to the next meeting of the Committee.

CARRIAGE AND PRIVATE HIRE TRADES

The Assistant Chief Executive – Legal said under the Council’s policy drivers who committed minor offences (such as failing to wear their badge) were usually given a formal caution for that offence. Accepting a caution meant that the driver no longer met the Council’s licensing standards and the driver therefore had to appear before the Committee to satisfy it that he remained a fit and proper person. A number of drivers had appeared before the Committee for that purpose but no licenses had been revoked. The volume of work this generated was demonstrated by the fact that eight drivers had been referred to the Committee since the last full meeting. The proposal meant that such cases would no longer be put before this Committee although the Assistant Chief Executive – Legal had power to refer cases to Committee if he considered it appropriate to do so.

Councillor Perry proposed the recommendations outlined in paragraph two of the report.

RESOLVED to:

- (i) In the policy document amend clause 2 by inserting a new clause 2.8 (the remaining paragraphs to be renumbered) as follows. “The Assistant Chief Executive – Legal may refer a driver or operator to the committee at any time for the committee to consider the revocation of a licence where in the opinion of the Assistant Chief Executive – Legal there are grounds to consider that the driver may not be a fit and proper person. The Assistant Chief Executive – Legal may take such action notwithstanding the fact that the driver meets the licensing standards set out in appendix A to this policy.
- (ii) Paragraph 7 of appendix A be amended to read “No official cautions (save for cautions administered by Uttlesford District Council) for any offences within the last 12 months”.

LIC68

LIMITED DRIVERS LICENSES FOR DRIVERS WHO ARE VEHICLE TESTERS

The Assistant Chief Executive – Legal said that currently a full licence was required to operate a private hire vehicle regardless of the purpose for doing so. A similar restriction applied to hackney carriages although there was an exception for hackney carriages which permitted them to be driven by a mechanic for the purpose of road testing. However there was no provision which allowed mechanics to drive licensed vehicles for the purpose of collecting them for and returning them after repair or servicing. The recommendation was that limited license should be granted for the purposes of vehicle testing and collecting and returning vehicles for the purpose of repair, servicing or testing. Limited licenses would not permit passengers to be carried.

Councillor Davey said that the proposal was sensible. Qualified engineers would have a better understanding of how the vehicle should operate.

Councillor Perry proposed the recommendations outlined in the report.

RESOLVED that:

- (i) That members agree to vary paragraph 2.5 of the council's Licensing Policy relating to the hackney carriage and private hire trades by adding the following at the commencement of that paragraph "Save for drivers who are prepared to accept conditions on their licence that (1) they may not carry passengers and (2) that they will drive hackney carriage/private hire vehicles only for the purposes of road testing or for the purpose of collecting the same from and returning it to an operator or proprietor before and after the vehicle has been submitted for the purposes of repair, servicing or testing ("a limited licence") ...".
- (ii) That appendix A be amended by inserting after paragraph 4 "and (save for limited licences as referred to in paragraph 2.5 of the policy)"

LIC69

CONSULTATION ON FEES UNDER THE LICENSING ACT 2003

The Assistant Chief Executive – Legal said that under current legislation, licensing fees were determined nationally. The Police Reform and Social Responsibility Act 2011 enabled the Home Secretary to give power to individual licensing authorities to set fees locally. Fees must be set on the basis of cost recovery. The Home Secretary was likely to impose cost caps. Fees were currently paid on the anniversary of the licence. The Government was considering having a single date nationally on which annual fees were paid. The appendix to the report starting on page 71 provided a list of 29 consultation questions and the suggested responses. It was up to members how they wished to respond to the consultation.

Councillor Perry thanked the Assistant Chief Executive – Legal for the questions and suggested responses provided. He proposed that the suggested responses are used to answer the questions asked by the Government.

RESOLVED that the suggested responses outlined in the appendix of the report are used in response to the questions asked by the Government.

LIC70

EXERCISE OF DELEGATED POWERS

The Assistant Chief Executive – Legal said that since the last meeting he had dealt with 18 drivers under delegated powers. He had concerns about

the number of cases that he had dealt with. The case in paragraph 11 was of particular concern because it involved perjury.

Councillor Perry said he shared the concerns of the Assistant Chief Executive – Legal. The Council had done all it could with regard to providing information to drivers. Further education was needed to help with the future enforcement of policy.

Councillor Davey said that he believed it was beneficial for the trade to co-operate with the Council.

The Committee noted the report.

LIC71 **ITEMS FOR FUTURE AGENDAS**

Councillor Perry requested that updates on the Licensing Budget be included on future agendas. He also wanted an item related to the education of the trade to be on the agenda for the next meeting. He said that he would welcome the input of the trade for this purpose and asked ULODA representatives to submit any views they had on the issue to the Assistant Chief Executive – Legal at least 10 days before the next meeting so that he could refer to these in his report.

LIC72 **ANY OTHER URGENT BUSINESS**

Councillor Perry said that the Government had begun consultation about changes to the legislation surrounding small lotteries.

The Assistant Chief Executive – Legal said the consultation was looking at ways that made operating small lotteries easier. Members should consider whether they wished to respond to the consultation and if so whether it wished an extra-ordinary meeting of the Committee or to appoint a sub-committee for that purpose.

Councillor Perry said that this was not an issue of importance. He proposed that no further action should be taken.

RESOLVED to take no further action.

The meeting ended at 8.20pm.