



Uttlesford District Council

Chief Executive: John Mitchell

Licensing and Environmental Health

Date: Wednesday, 21 January 2015
Time: 19:30
Venue: Committee Room
Address: Council Offices, London Road, Saffron Walden, CB11 4ER

Members: Councillors H Asker, J Davey, J Freeman, E Hicks, J Loughlin, D Morson, D Perry (Chairman) V Ranger, J Salmon, A Walters, L Wells

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given two working days prior notice.

AGENDA PART 1

Open to Public and Press

- 1 Apologies for absence and declarations of interest.
- 2 Minutes of previous meetings
 - 2i Minutes of the meeting held on 24 September 2014 5 - 12
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6	Items for future agendas	
7	Any other items which the Chairman considers to be urgent	

MEETINGS AND THE PUBLIC

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The agenda is split into two parts. Most of the business is dealt with in Part 1 which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

Agenda and Minutes are available in alternative formats and/or languages. For more information please call 01799 510510.

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For information about this meeting

Democratic Services Officer – Rebecca Dobson
Telephone: 01799 510548 Email: Committee@uttlesford.gov.uk

General Enquiries

Council Offices, London Road, Saffron Walden, CB11 4ER
Telephone: 01799 510510
Fax: 01799 510550
Email: uconnect@uttlesford.gov.uk
Website: www.uttlesford.gov.uk

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at the TOWN HALL SAFFRON WALDEN at 2pm on 24
SEPTEMBER 2014**

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

Officers in attendance: M Chamberlain (Enforcement Officer), J Jones
(Licensing Officer), M Perry (Assistant Chief Executive – Legal)
and M Cox (Democratic Services Officer).

Also present: The applicants and supporters in relation to items 3 and 5.

LIC27 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC28 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 2 part 1 of Schedule 12A of the Act.

LIC29 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE (ITEM 2)

The matter had come before the Committee in accordance with section 61(1)(a)(ii) Local Government (Miscellaneous Provisions) Act 1976 under the heading any other reasonable cause because the driver had an impending prosecution.

DECISION

To defer the determination of the license until after the driver's case had been heard by St Albans Magistrates Court on 10 November 2014.

**LIC30 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE
DRIVER'S LICENCE (ITEM 3)**

The driver and his daughter attended the hearing. The driver confirmed that he had received copies of the report and background information.

The Enforcement Officer spoke to his report. He explained that the driver had first been granted the licence on 16 March 2012 and was employed carrying out school contract work.

On 29 August 2014, the Council received an email from the operator that the driver had been suspended pending a trial. He had been charged with four counts of indecency with children. On 1 September 2014 the Assistant Chief Executive – Legal had used his delegated powers to suspend the driver's licence until the date of its expiry. The suspension had immediate effect in the interests of public safety.

The Enforcement Officer had subsequently met with the driver who explained that the allegations for which he had been charged had come from his estranged step-daughter and were of a historic nature and spanned a period of four years. The driver said that his daughter had mental health issues and receives medication for the illness.

The driver had received the court summons in early July 2014 but claimed not to be aware of the condition to report this to the Council. The driver appeared at Chelmsford Magistrates Court on 20 August 2014 and pleaded not guilty to the charges. A date had been set for trial on 10 November 2014 at the Crown Court.

The driver did not meet the Council's licensing standards as he had a pending prosecution for a criminal matter, and appears before members for them to determine whether he remained a fit and proper person.

The driver asked the report to be amended to refer to his step daughter's heavy smoking rather than heavy drinking.

Councillor Perry asked for confirmation on whether the driver's contract with the operator had been terminated. The enforcement officer confirmed that the driver had been suspended from his current job pending outcome of the court case.

The driver then made a statement. He said he was devastated at the allegations, which dated back 40 years. These allegations were fictitious, they had never happened and he would state this when it came to court. His daughter-in-law had made the allegations and he explained her long history of mental illness and disruptive behaviour.

Councillor Walters asked if information would be forthcoming about the mental state of his daughter-in-law. The driver said there was no information available at the moment but he was meeting with his barrister shortly when he expected the information to be available.

The Assistant Chief Executive – Legal advised that as the driver had already been suspended, the committee did not need to take any action unless it was satisfied that the driver was now a fit and proper person. The onus was on the driver to show this. The committee could grant him delegated powers in consultation with the Chairman to re-instate the license depending on the outcome of the court case.

The Enforcement Officer and the applicant and his representative left the room at 2.20pm so the Committee could consider its decision. They returned at 2.40pm.

DECISION

Councillor Perry read the following statement 'You have been licenced by this council as a joint private hire/hackney carriage driver since March 2012. You are employed by 24/7 engaged in fulfilling schools contracts. On 29 August 2014 the council received information that you had been charged with a number of offences of indecency with a child including an allegation of child rape. On 1 September 2014 the Assistant Chief Executive – Legal exercised his delegated power to suspend your licence with immediate effect in the interests of public safety. The suspension is for the remaining term of the licence.

The function of the committee this afternoon is therefore to decide whether to allow the suspension to continue or whether the suspension should be lifted

Under the Local Government (Miscellaneous Provisions) Act 1976 councils have a duty only to grant licenses to persons who satisfy the council that they are fit and proper persons. You have been interviewed by a council enforcement officer and he has recorded your response to the allegations in paragraphs 5 and 6 of his report. It is unnecessary to repeat these. The committee note that you have pleaded not guilty to the charge and are standing trial on 10 November.

The committee feel it impossible to come to a conclusion that you are a fit and proper person while the charges are outstanding. The suspension imposed by the Assistant Chief Executive – Legal will therefore continue. However the committee gives the Assistant Chief Executive – Legal delegated authority in consultation with the Chairman to lift the suspension in the event that the charge is withdrawn or dismissed and they are satisfied that you are a fit and proper person

LIC31

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE (AGENDA ITEM 5)

The driver attended the meeting and confirmed that he had received copies of the report and background information.

The Licensing Officer presented her report. She explained that when the driver had applied for a joint private hire/hackney carriage driver's licence, the questions had revealed that he had a series of convictions for motoring convictions dating from when he was a teenager. He had spent 3 periods in prison for no longer than 6 months each time in the late 1960s and 1970s. An enhanced disclosure had been obtained that showed details of the convictions and whilst most were for motoring offences there was one conviction for theft for which a custodial sentence had been imposed.

The applicant did not meet the Council's licensing standards because although all of his convictions were spent point 5 of the Licensing Standards – Drivers stated that an applicant must have “no criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed”.

The driver had discussed his application with the Licensing Officer. He explained how as a juvenile he was passionate about cars and by 1976 had 8 convictions for various driving offences. He explained the circumstances of the theft, that it occurred at a low point in his life. He was living in a shared house in London with a low paid job and because he needed money for food he took his flatmate's watch to a pawn brokers and bought some food with the money. He had no convictions since 1978. He and his family had emigrated to Australia in 2004 returning to the UK in 2011. He had confirmed that if his application were successful Elsenham Taxis in Stansted would offer him employment.

The driver spoke to the committee. He explained that he had been a young stupid teenager, obsessed with driving. Since 1978 he had not been in any trouble. He was married with a family and owned his own house. He now just wanted to provide for his family.

Councillor Perry commented that even though the offences were a long time ago, the driver's record was poor. He was concerned that some of the matters related to dishonesty, like not having insurance or registration documents. The driver said he was now always up to date, and usually ahead with his paper work. He was now a law-abiding citizen.

The Assistant Chief Executive – Legal said that the Committee should judge whether the driver was a fit and proper person. The licensing standards provided that despite a previous custodial sentence relating to dishonesty, a license could be granted in appropriate cases.

The Licensing Officer and the applicant left the room at 2.45pm so the Committee could consider its decision. They returned at 2.50pm

DECISION

Councillor Perry said the Committee found the applicant to be a fit and proper person to hold a private hire/hackney carriage driver's licence

LIC32

DETERMINATION OF A PRIVATE HIRE OPERATOR'S LICENCE (AGENDA ITEM 4)

The Enforcement Officer reported that the driver had not attended the meeting because he was unwell. However as there had been no request for an adjournment the committee decided that the report should be considered in his absence.

The Enforcement Officer presented his report. The driver had held a joint private hire/hackney carriage licence since 1 September 2011 and was employed to carry out school contract work. The license had expired on 31 August 2014 and in accordance with the council's licensing policy an enhanced DBS check had been carried out. This had shown that he received a caution in March 2014 for possessing a knife blade/sharp pointed article in a public place. The driver had breached his conditions by failing to notify the Council in writing within seven days of it being issued.

The driver had also made a false statement to obtain a license by answering no to the question about whether he had been issued with a fixed penalty notice or had any prosecution against him. This was an offence under S.57(3) Local Government (Miscellaneous Provisions) Act 1976, however, the Assistant Chief Executive - Legal had not deemed it to be in the public interest to pursue a prosecution.

The council had also not yet received the medical from the driver that should be undertaken every three years.

The Enforcement Officer had interviewed the driver. In relation to the medical the driver explained that due to his age and previous medical history he had to apply to the DVLA to keep the licence, which entitled him to drive different classes of vehicles. He said he had undertaken and passed a stress tolerance test but this had not yet been passed to the council. The confirmation of a valid medical was still awaited.

The driver explained the circumstances surrounding the caution. He had left his bag containing his personal belongings in a store café. He later had a call from a PCSO because a lock knife had been found in his bag. He had shown this knife to a friend but had forgotten to remove it from the bag. He explained that he used to be a weapons master so knew the dangers of weapons and would not let them get into the wrong hands. The police had issued him with a caution but he was under the impression that it would not appear on a DBS check.

At the interview the driver said that he did not realise that he had to report a caution and could offer no explanation as to why he did not disclose the caution on the renewal form.

The Assistant Chief – Legal explained that the committee had to consider whether the driver was a fit and proper person to hold a license. He highlighted the following issues

- 1) The medical – the license could be granted subject to a satisfactory medical so this was not relevant to the fit and proper person test.
- 2) The caution – the offence was for the possession of a knife and there was no suggestion that the driver had intended to use it improperly.
- 3) Failure to notify a caution – this would normally be dealt with by a 5 day suspension.

- 4) False statement to obtain the license – answering the question incorrectly on the application form appeared to be a deliberate dishonest act.

The Committee considered the facts of the case and announced the following decision.

DECISION

The driver has been licensed by this council as a joint private hire/hackney carriage driver since September 2011. He has renewed his licence annually and submitted an application to renew his licence on 29 July this year. On the application form there is a question “Have you in the last year been convicted of or cautioned for any offence (including motoring offences), been issued with a fixed penalty notice or is there any prosecution pending against you” the driver answered that question “no”. After that the form states “If yes please give particulars, otherwise write none”. Alongside this the driver wrote “None”.

His driver’s licence was issued subject to a number of conditions. A copy of the conditions is issued to drivers annually with their licence. One of the conditions requires drivers to notify the Council in writing within 7 days of any cautions received.

This year being the third anniversary of the grant of his first licence the driver was required to undergo a DBS check. When this was received by the Council it revealed that on 12 March 2014 the driver received a police caution for an offence of being in possession of a knife in a public place. He did not inform the Council of this caution within 7 days as required by the conditions of the licence or indeed at all, the Council only becoming aware of the caution when the DBS check was received.

As a result of the caution the driver does not meet the Council’s licensing standards one of which is that a driver should not have received an official caution within the last 12 months.

The driver was interviewed by a council enforcement officer and explained the circumstances leading to his caution. These are recorded in paragraph 8 of the officers report and it is unnecessary to repeat them. He was asked why he did not report the caution as required by the conditions on the licence and he said that he was under the impression that it would not appear on a DBS check and that he thought it necessary to report convictions only not cautions. The driver offered no explanation as to why he answered the questions on the renewal form incorrectly.

Under the Local Government (Miscellaneous Provisions) Act 1976. Although the Assistant Chief Executive – Legal has determined that a prosecution is not necessary in the public interest nevertheless the committee must have regard to the fact that an offence has been committed.

When a driver does not meet licensing standards a licence would normally be refused. It is for the applicant to satisfy the committee that on the balance

of probabilities he is a fit and proper person to hold a licence even though the standards are not met.

But for his completion of the application form the committee would have found the driver to be a fit and proper person. It notes the circumstances of the offence and that as the offence was one of being in possession of a knife and not of an offensive weapon the police had no reason to believe that the knife would be used for an improper purpose. Breaching a condition of a licence would not usually be a reason to refuse to renew. Such a matter would usually be dealt with by a suspension for a period of 5 days. Under s.61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 a local authority may refuse to renew a driver's licence on the grounds that since the grant of the licence the driver has been convicted of an offence of dishonesty or an offence under the 1976 Act itself. Under s.61(1)(b) of the Act a licence may also be refused for any other reasonable cause.

The committee acknowledge the fact that there has been no conviction for any offence and therefore s.61(1)(a) does not apply. However it does take note of the fact that the driver did commit the offence of making a false statement to obtain a licence. The committee regard that offence as being an offence of dishonesty. Having considered his explanation the committee is of the view that he deliberately failed to disclose the caution on his application form because he did not think it would be revealed by the DBS check. However the conditions of his licence and the application form are clear that any caution has to be reported to the council, not just those which would be revealed by a DBS check.

It is essential that licensed drivers should be honest. By committing the offence of making a false statement to obtain a licence the committee is not satisfied that the driver has demonstrated that he is honest and for that reason the committee is not satisfied that he are a fit and proper person. s.51 of the 1976 Act provides that councils shall not grant a licence unless they are satisfied that the applicant is a fit and proper person. As the committee is not so satisfied in the driver's case his application for renewal is refused under s.61(1)(b) of the Act for any other reasonable cause.

The meeting ended at 3.10pm.

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES SAFFRON WALDEN at 7.30pm on 1 OCTOBER
2014**

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

Officers in attendance: M Perry (Assistant Chief Executive – Legal) and R
Dobson (Principal Democratic Services Officer).

Also present: Barry Drinkwater, Richard Ellis – ULODA; Andy Mahoney –
24x7 Ltd.

PUBLIC SPEAKING

Public statements were made by Barry Drinkwater on behalf of ULODA, and
Andy Mahoney of 24x7 Ltd. A summary of both statements is appended to
these minutes.

LIC33 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

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

LIC34 MINUTES OF PREVIOUS MEETINGS

The minutes of the meetings held on 2 July, 9 July and 30 July 2014 were
received and signed by the Chairman as a correct record.

LIC35 MATTERS ARISING

**(i) Meeting held on 2 July 2014 - Minute LIC12 – determination of a
private hire/hackney carriage drivers licence**

The Monitoring Officer said no appeal had been submitted.

**(ii) Minutes of the meeting held on 9 July 2014 – Minute LIC18 –
Deregulation Bill 2014**

The Monitoring Officer said the bill was now before the House of
Lords, and was likely to be dealt with during this Parliament.

**(iii) Minutes of the meeting held on 30 July 2014 – Minute LIC21 –
determination of a private hire/hackney carriage driver's licence**

The Monitoring Officer said the proceedings against Mr Aggarwal had
been started within the six month period for bringing action, but due to
lack of court time had not yet been heard.

(iv) Minutes of the meeting held on 30 July 2014 – Minute LIC24 – determination of a private hire/hackney carriage driver’s licence

The Monitoring Officer said no appeal had been submitted.

(v) Minutes of the meeting held on 30 July 2014 – Minute LIC25 – determination of a private hire/hackney carriage driver’s licence

The Monitoring Officer said no appeal had been submitted.

LIC36 TABLE OF FARES FOR HACKNEY CARRIAGES

The Committee considered a report informing members of a consultation undertaken with regard to hackney carriage fares and to seek members’ views as to whether a recommendation should be made to Cabinet for any amendments to be made to the current table.

The Monitoring Officer said it was disappointing that only two replies had been received to the consultation. Neither supported an increase in fares but one of which asked for a significant increase in waiting time charges. No other support for the request for an increase had been received and no evidence had been put forward regarding the potential benefits of any increase in waiting time charges. Therefore no change was recommended. It remained open to the trade to make representations at any time. This consultation seemed to indicate no appetite for any change to the table of fares, but if the trade wished to put together evidence in support of a change, then the Committee could consider the matter and make recommendations to Cabinet.

RESOLVED to make no recommendation at this time.

LIC37 LICENSING RESERVE

The Committee considered a report updating members with regard to the licensing reserve. The Monitoring Officer referred to the circumstances in 2010 in which a surplus of income over expenditure for licensing in the sum of £138,000 had arisen. A fee structure was agreed at that time with a view to eradicating the surplus within 3 years. The reserve had reduced consistently but the target had been missed. There had been efficiency savings at the Council as a whole, contributing to a higher balance on the reserve than had been anticipated. The trend was steadily downwards, as set out in the report.

The Monitoring Officer said although a meeting with the trade was yet to take place to discuss next year’s budget, he was of the opinion that no increase in licensing fees should be needed in the ensuing year, assuming the situation stayed unchanged. The timing of an increase would depend on when the Deregulation Bill came into effect, in that either next year or the year after that the licensing structure would move to three year licenses. To

ensure all drivers benefitted from the surplus, costs would be calculated across the three year period.

Regarding new licensing software, officers had carried out benchmarking to assess whether the cost of the software was justified. Whilst a cheaper system was available, caution was advisable, as there were some concerns about that provider's resilience. The Monitoring Officer said also that all local authorities visited as part of the comparative exercise had more staff but less work than this council. If we changed systems there would probably be a need to recruit more staff to the licensing section.

Councillor Perry said the council provided a top-rate service. He asked that the next agenda include an item on licensing software. He asked about the staffing structure in the licensing section, as he was keen to avoid any undue pressure on staff.

The Monitoring Officer said following the departure of a member of licensing staff, the division of work between the remaining team members was currently working well.

Mr Mahoney, commenting with the permission of the Chairman, said he had found there to be a lack of availability of staff during the busy period during the summer.

The Monitoring Officer said he was surprised to hear this comment, as it was rare for there to be no cover in the office.

LIC38 **EXERCISE OF DELEGATED POWERS**

The Monitoring Officer presented a report detailed the exercise of delegated powers since the last meeting of the committee. He said that whilst Mr Drinkwater had commented that there was a low number of drivers failing to report offences, it seemed there a relatively high numbers of drivers who received fixed penalty notices or convictions did not report them. Of those who had received fixed penalty notices about 50% were not reporting this fact. However the Monitoring Officer was very encouraged that since the last meeting of the committee, he had dealt with only seven drivers with a view to exercising his delegated powers, as the months of July and August were the busiest in the year for renewal of licences. By comparison with previous reports, the number of instances where the Monitoring Officer had been required to exercise delegated powers was very low.

The Monitoring Officer drew to members' attention the prevalence of drivers not telling the authority about matters which would be disclosed in the DBS report. The Monitoring Officer was concerned that there were indications of deliberate dishonesty, so he now took the stance that he would prosecute a driver who made a false statement to obtain a licence. There had been such an instance today, and members would need to consider whether the driver was a fit and proper person to hold a licence.

The Monitoring Officer said he had sent a circular to operators to tell drivers that they had to tell the council about any cautions they received, and if they did not that they should expect to be dealt with quite harshly.

Councillor Perry agreed. He said he had raised this matter with contacts in the Police. The message was clear, and the trade should ensure the message was taken back, that if an attempt was made to mislead the authority the driver would be prosecuted.

Mr Mahoney said he agreed entirely with this approach, but that some of the wording on the application form was confusing, as it asked whether the applicant had any convictions. The column for entering details stated "penalty points", and he had been asked numerous times whether this referred to general convictions or just driving convictions. He asked that this should be clarified.

The Monitoring Officer said the form was clear, as it stated "including motoring convictions", and few of those who made a false statement had been confused on this point. However he would discuss with the licensing officer the way in which the form was worded, although he did not think it was unclear.

The Monitoring Officer said he had this week authorised the prosecution of a driver for failing to disclose a conviction for driving without insurance.

Councillor Perry thanked the Monitoring Officer for his clear report.

The meeting ended at 8.15pm.

SUMMARY OF PUBLIC STATEMENTS

Barry Drinkwater

Barry Drinkwater said that he and Richard Ellis were sharing the role of Vice Chairman at ULODA for the time being. The Executive Committee of ULODA had met recently to consider the agenda for tonight's meeting. The decision of the Committee to refuse a driver's licence on the grounds that he could not speak the Queen's English had been welcomed by ULODA, to ensure standards were maintained.

Councillor Perry said in relation to this comment that the applicant had been advised that he could submit another application for a licence if his English improved.

Mr Drinkwater said in relation to the review of the Table of Fares that whilst in previous years ULODA had consulted with hackney carriage proprietors and made recommendations, ULODA supported the change this year to direct consultation of the Council with the trade. He noted that the Council's consultation had elicited only two responses, the same number received last year when ULODA had carried out the consultation. It was clear that for a

second successive year that there was no appetite for an increase in metered fares.

Mr Drinkwater said he hoped the request by a respondent for an increase in waiting time would be viewed favourably.

Regarding the licensing reserve, last year the meeting between the trade and the Council had been attended by Mr Joyce. Following his departure Mr Drinkwater asked whether Mr Joyce's role would be taken by another officer. The Monitoring Officer said he would seek guidance from the finance section as to whether the role could be fulfilled by Sarah Chapman.

Mr Drinkwater said he had expressed concern on behalf of ULODA about the high cost of licensing software, and he noted officers were looking at the contract and would report to the Committee. This report was timely in view of the forthcoming budget setting period for 2015/16. He noted licence fees were not forecast to rise.

Regarding the exercise by the Monitoring Officer of his delegated powers, ULODA was pleased that there had been a decrease in the number of drivers who had required interview. Mr Drinkwater said credit for this decrease was due to the hard work of operators and proprietors to educate and support their drivers in the requirements of the new licensing policy. The overall number of allegedly non-compliant drivers was extremely low pro rata, and the trade was rightly proud of its service to customers.

Mr Drinkwater informed the Committee that ULODA would be electing a new Chair at its Annual General Meeting next month.

Andy Mahoney

Andy Mahoney gave an update on the impact on 24x7 Ltd of recent changes at Highways Passenger Transport regarding processing of bids submitted for school contract work. He said that the number of staff at Passenger Transport had been reduced, and that existing staff had undergone a major restructuring. This had occurred at the busiest time for the operator, as many school runs had been up for tendering at the same time.

Overall, 24 x 7 had had a very successful tendering year for school contracts. From having 196 spare staff on the books 10 days before the schools returned, once term started he had run out of staff. Intensive recruitment was now taking place. He therefore thanked licensing staff for the very good job they were doing in processing the large volume of licence applications.

Mr Mahoney said in the midst of the school contract work, 24 x 7 Ltd was bidding for the tender at Stansted Airport. The process had been demanding, in that a shorter notice period than expected was notified for submission of bids and additional information was requested. The outcome was awaited, although the new concession was due to start in November.

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE MEETING held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 2pm on 6 OCTOBER 2014**

Present: Councillor D Perry (Chairman)
Councillors M Lemon, J Loughlin and J Salmon.

Officers: A Lee-Moore (Principal Environmental Health Officer), M Perry (Assistant Chief Executive – Legal), A Rees (Democratic Services Support Officer) and S Williams (Enforcement Team Leader).

Also present: Mr Kienlen and Mr Stringer (Axe Pub Ltd), Mr Sparrow (Essex Police) and Mrs Newman.

LIC39 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC40 APPLICATION FOR REVIEW OF A PREMISES LICENCE

The Enforcement Team Leader said the original application for a licence was submitted on 23 August 2005. As representations were made, a hearing was held on 26 September 2005 where the licence was granted subject to conditions. The licence allowed for the following licensable activities:

- a) The sale by retail of alcohol for consumption on or off the premises – Monday to Wednesday from 10:00hrs to 12 midnight, Thursday 10:00hrs to 01:00hrs, Friday and Saturday 10:00hrs to 01:00 hrs, Sunday 10:00 hrs to 12 midnight.
- b) An indoor sporting event – 19:00hrs start for finals to 12 midnight finish.
- c) A performance of live music (indoors and outdoors) – Monday to Sunday 19.00hrs to 12 midnight. 12 noon start on all Bank Holidays and New Year's Eve to 12 midnight finish.
- d) Any playing of recorded music (indoors and outdoors) – Monday to Sunday 19:00 hrs to 12 Midnight. 12 noon start on all Bank Holidays and New Year's Eve to 12 midnight finish.

The licence also contained the following conditions:

- a) Strong management controls to be in place.
- b) Effective staff training to cover under-age drinking, anti-social behaviour, drunkenness on and off the premises, use of drugs and the protection of children from harm.
- c) Responsible management of the premises to be in place.
- d) Capacity limits to be identified and adhered to.
- e) Proof of identification scheme to be in place.
- f) Litter bins to be available outside the premises for use.
- g) Car park and entrances to be well lit.

- h) Staffing levels to be adequate for capacity and trade.
- i) Effective management checks on all internal and external trading areas in and outside of service times to take place.
- j) All services, appliances and equipment to be checked and certified.
- k) Training and supervision of staff to ensure strong visible management during all service times.
- l) Loitering on the premises to be actively discouraged.
- m) Management of staff and customers arriving and leaving the premises.
- n) Sufficient staff to secure the protection of children to be on duty.
- o) Children allowed only in the dining area until 10.00pm.
- p) Children must be accompanied by an adult.
- q) Table service to be provided in the dining area to ensure children do not need to leave the table.
- r) The performance of live music and the playing of recorded music outdoors to end at 23:00hrs.
- s) Prominent and clear notices to be displayed at all exits requesting customers to leave the premises and area quietly.
- t) A responsible member of staff shall assess regularly noise from the premises during amplified and live music events. Steps shall be taken to reduce the level of noise where it is likely to cause disturbance to local residents.
- u) Doors and windows to be kept closed except for access and egress when live or recorded music is being played or performed.
- v) Drinks shall not be consumed outside the premises except for in designated areas and in no event between the hours of 23:20hrs and 10:00hrs.

The Enforcement Team Leader said the licence was transferred from Greene King Ltd to Axe Pub Ltd on 20 March 2013. Mr Stringer was the Designated Premises Supervisor. Since Mr Stringer had taken over the premises, the Council had received a number of complaints by members of the public. Most of these related to excessive noise and anti-social behaviour. Following these complaints, the Council's Environmental Health Department set up noise monitoring equipment in a nearby house. This equipment had detected numerous incidents of excessive noise.

The Council and the Police made contact with the licence holder via writing and a number of meetings to discuss the issues surrounding the complaints. They also requested that the conditions of the licence were adhered to.

Mr Kienlen was appointed manager of the pub at the end of April 2014. Prior to working at the Axe, Mr Kienlen was the Designated Premises Supervisor at the White Horse, Newport, Essex. He held a personal alcohol licence, number 649, which was granted on 31 March 2010 for a period of 10 years.

The Enforcement Team Leader said representatives of the Council and the Police met with Mr Kienlen on 9 June 2014, where they discussed the installation of CCTV, closer supervision of patrons leaving the premises, the volume of noise and bass sensitivity, the number of planned events and noise from the garden area.

A notice of review was issued by the Council's Environmental Health Department on 19 August 2014, which was displayed outside the premises and on the Council's website. It requested representations to be made in writing between 19 August 2014 and 15 September 2014. Two representations were received by the Council. The Committee could make the following decisions for the review:

- Allow the licence to continue unmodified.
- Modify the conditions of the licence.
- Modify the conditions of the licence for a period not exceeding 3 months.
- Exclude a licensable activity from the scope of the licence.
- Exclude a licensable activity from the scope of the licence for a period not exceeding 3 months.
- Suspend a licence for a period not exceeding 3 months.
- Revoke a licence.
- Remove the Designated Premises Supervisor.

When reviewing a licence, due regard had to be given to the Council's Licensing Policy and the Secretary of State's Guidance issued under Section 182 Licensing Act 2003.

The Principal Environmental Health Officer said the application for a review of the premises licence was submitted due to failure to comply with licence conditions relating to the prevention of public nuisance. The Council had received complaints from ten separate households. Widespread disturbance had been reported by residents over the last 18 months, in part due to music not being adequately contained within the premises. Additionally, complaints had been made relating to anti-social behaviour from customers in the garden area and from those leaving the premises.

Annexes 2 and 3 of the premises licence, dated 6 November 2013, contained provisions for the prevention of public nuisance. These were carried over from the original licence which had been granted in 2005.

The Principal Environmental Health Officer outlined the 16 breaches of the licence relating to Annex 2. These related to excessive noise from customers as well as people outside the premises. There were also breaches under Annex 3 of the conditions. These included failure to display notices at all exits requesting customers left quietly, numerous incidents of excessive noise, failure to keep windows and doors closed when live music was being played and a fight in the pub's car park on New Year's Day 2014.

The Principal Environmental Health Officer suggested the conditions in Annex 3 should be removed and replaced with the following conditions:

- Opening hours 10:00 to 23.00hrs Monday to Sunday.
- No regulated entertainment shall take place outdoors.
- Music events to be limited to 6 in any 12 month period.
- The licensee or representative shall conduct assessments of the noise from the premises on every occasion the premises are used for regulated entertainment. The assessment shall be carried out not

less than once in every 60 minutes before 23.00 (and not less than once in every 30 minutes after 23.00 if closing time not reduced). The assessment shall include sound level measurements and written records of the levels, time and location shall be made in a logbook and made available to the Licensing Authority.

- Measures shall be taken to ensure the noise level from regulated entertainment does not cause an increase of more than 10dB in the LA90(5min) when compared with the existing equivalent LA90(5min) without the entertainment (A more stringent noise level would be needed after 23.00 if closing time is not reduced). The noise levels for the purpose of complying with this condition are to be taken at two points :
 1. At the boundary with 58 Ashdon Road adjacent to The Axe building
 2. On the pavement immediately opposite the Axe building
- All windows and external doors must be kept closed except for access and egress when regulated entertainment is taking place.
- Staff to be given adequate training and supervision on their responsibilities for preventing nuisance arising from the premises including garden area and car park.
- Staff are to be deployed at the external doors and car park to ensure customers leave the premises quickly and quietly.
- Designated taxi operators are to be nominated for the use of staff and customers. The company's number is to be displayed on the premises. The operators are to be required to arrive and depart as quietly as possible and not to use their audible warning instrument or leave their vehicle with the engine running whilst waiting.
- CCTV is to be installed, maintained and operated around the premises to assist in preventing rowdiness and antisocial behaviour by customers at or leaving the premises. The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 31 days.
- Prominent and clear signage shall be displayed close to exit doors and car park exit asking patrons to leave the premises and area quickly and quietly.
- The designated premises supervisor or his representative shall ensure that providers of music announce at least twice before the end of their act a request that patrons leave quickly and quietly.

The Principal Environmental Health Officer said that following these complaints, she liaised with the Council's Licensing Department and the Police to discuss the complaints with the licence holder. There was continued correspondence between herself and the licence holder from October 2013 to July 2014. The licence holder agreed to lower the volume of music after 11pm and stated he would install CCTV in the outside area.

Mr Kienlen was appointed manager of the Axe in April 2014. Subsequently, a meeting was held in June 2014 with him, the Principal Environmental Health Officer, Mr Sparrow and D Scales (UDC Enforcement Officer), where the following matters were discussed; CCTV installation, closer supervision

of patrons who were leaving, volume of music and bass sensitivity, number of events planned and noise from the garden area.

The Principal Environmental Health Officer said noise monitoring equipment had been installed in a nearby property to monitor levels of an event on 26 July 2014. The monitored recording levels of the music up to 11pm averaged 50 dB over five minute periods. The monitor also recorded the music itself, which featured a prominent bass line which could easily penetrate properties at a distance due to its low frequency. Noise from customers was also captured until 1.17am.

Residents had provided numerous written statements, which were attached to the report, detailing multiple incidents of excessive noise and anti-social behaviour. It was apparent the conditions of the licence were not being complied with. The conditions of the licence needed to be fully reviewed in order to reflect the Council's current Licensing Policy.

Mrs Newman said she did not find music being played to be a prevalent issue. She was more concerned with excessive noise caused by customers, both within and leaving the pub.

Mr Stringer said he had bought the pub when it was run down and wanted to turn the pub into a community asset. The complaints that had been made were largely nothing to do with the pub itself. Most of the noise was caused by people who were walking home from other pubs. He had been in contact with the Police and had acted accordingly to advice that had been received by turning music down.

Mr Kienlen said there had been no outdoor live music since last year. This had been done in order to appease neighbours, as it was particularly difficult to regulate noise levels for outdoors events. All staff were well trained and there had not been a single incident within the pub. Some of the complaints were spurious, for example, there had never been an incident of beer barrels being rolled down the street. At closing time, all staff escorted patrons out of the pub and reminded them to be quiet. Additionally, staff patrolled the garden area every ten minutes in order to keep noise levels down.

He had been taking regular noise level readings and had contacted the Principal Environmental Health Officer in order to find out the legal noise limit. He had been told to find out the ambient noise level reading and then to ensure noise levels did not exceed this level by 10dB. The average ambient reading was around 47dB and noise levels did not exceed 57dB.

In response to questions by members, Mr Kienlen said he had often been woken up by people walking past the pub after it had been closed for over an hour. The Police had only ever been called to the pub on one occasion, by Mr Kienlen, after a woman threw a metal pole through one of the pub's windows. She had subsequently been banned from all pubs within the town. The bouncy castle in the garden area was always deflated after 8pm, however, there had been one complaint about noise caused by the castle's fan.

Noise levels were monitored regularly and people were asked to move inside after 11.20pm. However, it was a requirement by law to provide an outside space for people to smoke. In these instances customers were asked to re-enter the pub once they had finished smoking. Broadly speaking, he did not agree with the Principal Environmental Health Officer's suggested conditions. Installing CCTV was unlikely to solve any problems as other measures were already in place. The suggested reduction in opening hours would cause the pub to close down.

Mr Kienlen said that when the pub was required to close its doors and windows, the pub used mist fans in order to keep the temperature down. The pub was not normally busy on weekdays and so only one member of staff was required. At weekends the pub tended to have three or four members of staff on duty.

The Principal Environmental Health Officer said the noise readings taken by the Environmental Health department differed from the readings taken by Mr Kienlen. They had found that ambient noise levels were around 38-40dB, which was consistent with other similar areas.

The Assistant Chief Executive – Legal advised the Committee there had been no breach of serving conditions. Furthermore, although the conditions imposed at the time of granting the licence were in line with guidance received at the time, it had now been accepted that much of the guidance was too vague to be enforceable. It was not clear, for example, how “strong management” could be reasonably defined.

Additionally, the conditions on live music were no longer relevant as it was no longer necessary to apply for an event licence provided any music ended before 11pm where there were fewer than 200 people attending. A noise level of 34dB was part of the Council's licensing policy due to the Noise Act 1998. If Mr Kienlen believed that the 34dB limit was inappropriate then it was up to him to demonstrate to the Council why this was the case.

The Committee left the room at 3.05pm so they could consider their decision. They returned at 4.30pm.

DECISION

Councillor Perry read the following statement. “The Axe public house in Ashdon Road Saffron Walden has been licensed for many years. It was licensed under the Licensing Act 1964. In 2005 it applied to this council for a licence under the Licensing Act 2003 during the transitional period. It included in its application a request for a variation of the conditions under its 1964 Act licence. Objections were received and following a hearing a licence was granted with conditions. The terms of the licence and condition are set out in the officer's report at paragraphs 3 – 4. As a result of the Live Music Act 2012 the conditions referred to at paragraphs 6.t) and 6.u) no longer apply between 8 am and 11 pm when live entertainment is being provided.

In March 2013 the ownership of the premises changed from Greene King Ltd to Axe Pub Ltd. Mr Stringer was appointed the designated premises supervisor. Since that time the Environmental Health Department has received a number of complaints concerning the premises. These are summarised in the officer's report at paragraph 6 and expanded upon in the supplemental statement of Mrs Lee-Moore. Some of these complaints may be contributed to breaches of conditions attached to the licence, for example failing to display signage, allowing windows and doors to be open when entertainment is provided and permitting drinking outside after 23.20. Other complaints arise from the management of the premises and the conduct of customers.

The conditions attached to the licence reflected guidance available at the time it was granted. However since then there have been a number of cases and it is now established that to be enforceable by way of a prosecution condition must be clear and certain. Many of the conditions on the licence are uncertain, for example the first condition requiring "strong management" to be in place does not define what is meant by strong management. With regard to the noise condition this requires a subjective judgement of what is likely to cause a disturbance to residents. Given the wording of the conditions it is not possible to bring a prosecution for the offence of carrying on a licensable activity otherwise than in accordance with an authorisation. The Environmental Health Department as a responsible authority under the Licensing Act 2003 has therefore applied for a review of the premises licence. Since that application was made a Mr Steve Kienlen has been appointed designated premises supervisor. The officer's report states that Mr Kienlen was appointed as manager of the premises in April 2014 but he did not become designated premises supervisor until more recently. The committee notes that 9 of the 22 complaints of nuisance referred to in paragraph 6 of the officer's report occurred in the 4 month period between Mr Kienlen's appointment as manager and the application for the review.

The committee having considered all the evidence is satisfied that the premises do on occasions cause a public nuisance to local residents by virtue of excessive noise from entertainment events and rowdy behaviour by customers. The licence holder and designated premises supervisor both deny that the anti-social behaviour complained of comes from the premises. However whilst there may be an element of disruption from other sources the committee finds on the balance of probabilities that most of the anti-social behaviour complained of is caused by customers from the Axe. Within the documents supplied to the committee there are a number of incidents which residents are able to attribute directly to the pub and it can be no coincidence that the complaints only arose after the pub was acquired by its present owner. Mrs Lee-Moore and the police have tried to persuade the licence holder to take steps to control the nuisance but these efforts have proved unsuccessful.

In dealing with this review the committee is required to have regard to the application and any relevant representations and then to take such of the

steps referred to in s.52(4) Licensing Act 2003 as it considers appropriate for the promotion of the licensing objectives, the objective of the prevention of public nuisance being the critical objective here.

The steps which can be taken are to modify the conditions of the licence; to exclude a licensable activity from the scope of the licence; to remove the designated premises supervisor; to suspend the licence for a period not exceeding three months; to revoke the licence.

Revocation and the exclusion of a licensable activity from a licence are draconian steps and the committee would not usually consider taking such action on a first application for review. The removal of the designated premises supervisor would only be appropriate where that individual has demonstrated lack of management ability so that he or she is not fit to be the DPS. Whilst problems have continued to occur since Mr Kienlen was appointed manager the committee note from the officer's report that Mr Kienlen was previously DPS for other premises within the district and no issues appear to have arisen there. There is insufficient evidence for the committee to conclude that Mr Kienlen's position as DPS should not continue. Suspension is appropriate in 2 circumstances only. The first is where there are issues which could be resolved in a fairly short space of time, for example the installation of sound proofing or staff training. Here a suspension may be appropriate to enable the necessary steps to be taken. The other circumstance where a licence may be suspended is to act as a deterrent, for example in response to under age sales. Those considerations do not apply here.

The committee does however consider it appropriate to amend the conditions of the licence so as to promote the licensing objective of the prevention of public nuisance. In determining what conditions may be appropriate the committee is required to have regard to guidance issued by the secretary of state under s.182 Licensing Act 2003 and to its own licensing policy. The government guidance states that any conditions should be appropriate, proportionate and justifiable in meeting the licensing objectives. More specific sections of the government guidance are appended to the officer's report and the relevant sections of the council's policy appear in paragraph 14 of the report. The committee has had regard to all these matters.

Mrs Lee- Moore suggests a number of conditions on the licence be varied. Her proposals are that all of the conditions in Annexe 3 of the licence be deleted and replaced with the following:-

1. Opening hours 10:00 to 23.00hrs Monday to Sunday.
2. No regulated entertainment shall take place outdoors.
3. Music events to be limited to 6 in any 12 month period.
4. The licensee or representative shall conduct assessments of the noise from the premises on every occasion the premises are used for

regulated entertainment. The assessment shall be carried out not less than once in every 60 minutes before 23.00 (and not less than once in every 30 minutes after 23.00 if closing time not reduced). The assessment shall include sound level measurements and written records of the levels, time and location shall be made in a logbook and made available to the Licensing Authority.

5. Measures shall be taken to ensure the noise level from regulated entertainment does not cause an increase of more than 10dB in the LA90(5min) when compared with the existing equivalent LA90(5min) without the entertainment (A more stringent noise level would be needed after 23.00 if closing time is not reduced). The noise levels for the purpose of complying with this condition are to be taken at two points :
 1. At the boundary with 58 Ashdon Road adjacent to The Axe building
 2. On the pavement immediately opposite the Axe building
6. All windows and external doors must be kept closed except for access and egress when regulated entertainment is taking place.
7. Staff to be given adequate training and supervision on their responsibilities for preventing nuisance arising from the premises including garden area and car park.
8. Staff are to be deployed at the external doors and car park to ensure customers leave the premises quickly and quietly.
9. Designated taxi operators are to be nominated for the use of staff and customers. The company's number is to be displayed on the premises. The operators are to be required to arrive and depart as quietly as possible and not to use their audible warning instrument or leave their vehicle with the engine running whilst waiting.
10. CCTV is to be installed, maintained and operated around the premises to assist in preventing rowdiness and antisocial behaviour by customers at or leaving the premises. The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 31 days.
11. Prominent and clear signage shall be displayed close to exit doors and car park exit asking patrons to leave the premises and area quickly and quietly.
12. The designated premises supervisor or his representative shall ensure that providers of music announce at least twice before the end of their act a request that patrons leave quickly and quietly.

The licence holder was not prepared to agree to any of these.

The committee has considered these suggested conditions in turn.

1. Opening hours 10:00 to 23.00hrs Monday to Sunday. Mr Kienlen said that the reduction in hours proposed would cause the pub to close. That is a relevant consideration. However the residents also have a right to a peaceful existence. The committee will not reduce the hours for every night but does notice a significant number of complaints arising well after midnight and some beyond 1 am. To reduce the impact on residents the committee consider it appropriate to amend the licensing hours to 10 – midnight Monday to Sunday.
2. No regulated entertainment shall take place outdoors – as Mr Kienlen acknowledged it is not possible to contain noise with outdoor events. The committee consider that entertainment outdoors in a residential area is not appropriate. This condition cannot prevent such events occurring as the licence holder can serve temporary events notices but at least the condition will ensure that the number of such events is limited to the statutory maximum, currently 12 per annum but to be increased to 15 per annum in the near future.
3. Music events to be limited to 6 in any 12 month period. The committee considers this strikes a fair balance between the commercial interests of the licence holder and the rights of local residents. In setting this limit the committee acknowledges that this will permit a maximum of 18 events a year as the premises licence holder may serve up to 12 temporary events notices in addition to the 6 events permitted by the licence.
4. The licensee or representative shall conduct assessments of the noise from the premises on every occasion the premises are used for regulated entertainment. The assessment shall be carried out not less than once in every 60 minutes before 23.00 and not less than once in every 30 minutes after 23.00. The assessment shall include sound level measurements and written records of the levels, time and location shall be made in a logbook and made available to the Licensing Authority. The committee considers this to be proportionate to monitor noise to prevent a nuisance to neighbours.
5. Mrs Lee-Moore asked for a condition that measures shall be taken to ensure the noise level from regulated entertainment does not cause an increase of more than 10dB in the LA90(5min) when compared with the existing equivalent LA90(5min) without the entertainment She said that a more stringent noise level would be needed after 23.00 if closing time is not reduced. The committee do not agree. The council has adopted a licensing policy which sets the level of noise as a starting point at 34 decibels. The council is prepared to depart from that level in appropriate cases but the policy is quite clear that if an applicant or a licence holder

on review wish to contend for a higher level, then they should provide a noise survey to support that contention. No such survey has been supplied and there is therefore no evidence upon which the committee can base a departure from its policy. There will therefore be a condition that noise from regulated entertainment shall not exceed 34 decibels:

- a. At the boundary with 58 Ashdon Road adjacent to The Axe building
- b. On the pavement immediately opposite the Axe building

It is open to the licence holder to apply for a variation of this condition supported by a noise survey as required by the council's policy at any time in the future.

6. All windows and external doors must be kept closed except for access and egress when regulated entertainment is taking place is a standard condition and appears in the current conditions although the DPS acknowledges that it has been breached on at least one occasion.
7. The committee will also require as a condition that staff to be given training and supervision on their responsibilities for preventing nuisance arising from the premises including garden area and car park and that training records be produced to the council on request.
8. Staff are to be deployed at the external doors and car park to ensure customers leave the premises quickly and quietly is clearly an acceptable condition and as the committee was told that this is the practice at the premises in any event compliance should not cause any difficulty.
9. The committee will require that designated taxi operators are to be nominated for the use of staff and customers. The company's number is to be displayed on the premises. The operators are to require their drivers to arrive and depart as quietly as possible and not to use their audible warning instrument or leave their vehicle with the engine running whilst waiting.
10. The DPS asked what CCTV would prevent or solve. In the experience of the committee the very presence of CCTV acts as a deterrent. It will also enable the staff to better supervise the premises including the garden given the limited number of staff we were told are employed at the premises. Finally it will be of benefit to the licence holder if there are future allegations of anti-social behaviour in demonstrating that the premises were not the source of such conduct, if in fact that is the case. Therefore CCTV is to be installed, maintained and operated around the premises to assist in preventing rowdiness and antisocial behaviour by customers at or leaving the premises. The images

recorded by the CCTV system shall be retained in unedited form for a period of not less than 31 days

11. Prominent and clear signage shall be displayed close to exit doors and car park exit asking patrons to leave the premises and area quickly and quietly should have been provided but is absent from the premises. This condition is therefore carried forward.
12. Finally the suggestion that the designated premises supervisor or his representative shall ensure that providers of music announce at least twice before the end of their act a request that patrons leave quickly and quietly is entirely appropriate and will be added.

Conditions 2 – 6 and 12 above are imposed by virtue of s.177A(4) Licensing Act 2003 and therefore section 177A(1) no longer applies to the licence. These conditions will replace the current conditions in Annexe 3 of the licence apart from condition 6 which shall be retained.”

The Assistant Chief Executive – Legal said the decision would be placed on the Council’s website. He would write to Mr Stringer and Mr Kienlen explaining their right to appeal the decision made by the Committee. A copy of the decision would be provided with this correspondence.

The meeting ended 4.45pm.

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 2pm on 13 NOVEMBER 2014**

Present: Councillor D Perry (Chairman)
Councillors J Davey, J Loughlin and J Salmon.

Officers in attendance: M Chamberlain (Enforcement Officer), J Jones (Licensing Officer), M Perry (Assistant Chief Executive – Legal) and A Rees (Democratic and Electoral Services Officer).

Others in attendance: the applicants and supporters in relation to items 4, 5 and 6.

LIC41 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC42 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 2 part 1 of Schedule 12A of the Act.

LIC43 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE (ITEM 4)

The Enforcement Officer said the applicant had applied for a private hire/hackney carriage driver's licence on 1 September. On the application form the applicant was asked to list any convictions, both spent and unspent. The applicant disclosed a conviction for one offence. He was disqualified from driving for 12 months in 1979 after he was convicted of drink driving.

As part of the application process the Council requested an enhanced DBS check. This showed a conviction on 21 September 1989 for possessing a controlled drug and handling stolen goods, as well as a further conviction for five further offences on 8 April 1992. Four of these were for possession of a controlled drug and the other for obtaining property by deception.

The Enforcement Officer said making a false statement was an offence under Section 57(3) Local Government (Miscellaneous Provisions) Act 1976 and carried a fine of up to £1000. The applicant should have been aware that the DBS check would highlight the spent convictions. The Assistant Chief Executive – Legal believed it was in the public interest for the Council to pursue a prosecution for the offence of making a false statement to obtain

a licence. The applicant did not meet the Council's licensing standards as he had a pending prosecution.

The applicant attended an interview under caution at the Council Offices on 21 October. He explained the two convictions in 1989 were for possession of cannabis and for handling stolen goods. One of the offences relating to the conviction in 1992 was for possession of cannabis and cocaine, but he had said he did not know what the other four drug related offences related to. The applicant said the offence for obtaining property by deception was probably related to benefit fraud when he claimed he was unemployed even though he was working. He had not disclosed these convictions on the application because he did not realise they had to be listed and did not want to jeopardise his job offer. On applications for other jobs, failure to disclose these convictions had not proven to be an issue. The convictions had come at a low point in his life, but he now had a stable lifestyle, as well as a clean driving licence.

In response to questions by members, the applicant said he was not aware of the significance of revealing all his previous convictions on the application form. He said he did not feel that the convictions which were not disclosed demonstrated that he would pose a threat to the public.

The Assistant Chief Executive – Legal said that a local authority conviction relating to housing benefit fraud would not have appeared on an enhanced DBS check. Therefore the conviction for obtaining property by deception was for a separate offence which the applicant had not disclosed.

The Assistant Chief Executive-Legal said the applicant's previous convictions were not a reason for refusal and if all of his convictions had been disclosed, the licence would have been granted under delegated powers. The application had been brought before the Committee because the applicant had a pending prosecution for dishonesty due to his failure to disclose all of his previous convictions on his application form.

The applicant, the Enforcement Officer and the Licensing Officer left the room at 2.25pm so the Committee could consider its decision. They returned at 2.35pm.

DECISION

The applicant has applied to the council for the grant of a joint private hire/hackney carriage licence. On the application form for such a licence there is a question which requests applicants to list all convictions (including motoring convictions) both spent and unspent and any police cautions. The applicant answered this question by declaring that in or about 1979 he had received a one year ban for a drink-driving offence. No other offences were disclosed.

As part of the licensing process the council obtained an enhanced DBS check. This showed a conviction in 1989 for offences of possession of a controlled drug and handling stolen goods. The applicant was fined a total

of £150 and ordered to pay £35 costs. There were further five offences in April 1992. Four of these offences were for possession of a controlled drug, the other was for obtaining property by deception. He was ordered to a total of 120 hours community service, to pay costs of £25 and there was and order the drugs be confiscated. These convictions were all spent but s.7(3) Rehabilitation of Offenders Act 1974 permits the convictions to be considered by the council in considering an application for a licence.

Making a false statement to obtain a licence is an offence under s.57(3) Local Government (Miscellaneous Provisions) Act 1976. The Assistant Chief Executive – Legal has determined that it is in the public interest to prosecute for this offence. Whilst the convictions themselves would not prevent the licence being granted to the applicant he does not meet the council's licensing standards because he is facing a prosecution for the offence under s.57(3) of the 1976 Act.

When interviewed under caution at the council offices the applicant explained that the drug offences were in relation to drugs for personal use. He was unclear about the offence of obtaining property by deception but felt it may have been connected with a benefit fraud as he was working and claiming to be unemployed. He stated that he did not disclose these convictions as he did not realise it had to be listed and he did not want to jeopardise his job offer having left his previous employment. He said he had not disclosed the convictions on other application forms in the past and that this had not caused any problems. The applicant said that he had not disclosed these offences although he thought they might show on his DBS check.

Had the applicant disclosed the convictions on his application form a licence would have been granted. However, making a false statement to obtain a licence is an offence of dishonesty. It is a fundamental principle that drivers of hackney carriages and private hire vehicles should be honest. Drivers are in a position where they can obtain sensitive information about customers' whereabouts and also where they are able to take financial advantage of their customers.

The council may only grant a driver's licence when it is satisfied that the applicant is a fit and proper person to hold such a licence. Because of the applicants' dishonesty in completing the application form the committee is not so satisfied in the applicants' case and the licence will therefore be refused.

LIC44

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE (ITEM 5)

The Licensing Officer said the applicant had applied for a private hire/hackney carriage driver's licence on 22 September. On the application form the applicant was asked to list any convictions, both spent and unspent. The applicant had disclosed two motoring offences in 2013, for which he was endorsed with three points on his licence for each offence. He

had also disclosed four convictions, but could not recall the offence for handling stolen goods in 1981. The applicant stated he would make enquiries about the offence to the DBS.

As part of the application process the Council requested an enhanced DBS check for each applicant. The DBS certificate showed the four following offences: making off without paying on 7 December 1979, handling stolen goods on 22 December 1981, burglary and theft (non-dwelling) on 17 December 1991 and obstructing the police on 9 January 1992. The applicant was sentenced to imprisonment for three months wholly suspended for two years for the offence in 1981.

The Licensing Officer said that although all the offences were spent under the Rehabilitation of Offenders Act 1974, the Council's Licensing Standards stated that an applicant must have no convictions for offences of dishonesty, indecency or violence for which a custodial sentence, including a suspended sentence, was imposed.

The applicant had attended the Council Offices on 16 October to discuss his application. He had stated that he did not recall the conviction for handling stolen goods and was disputing the information on the DBS certificate. He had produced a letter from the DBS which stated they were aware of the dispute and had contacted the Police, who they would await instructions from before contacting the applicant again. The Licensing Officer said that given the length of time that had elapsed since the offence, it had been deemed appropriate to refer the case to the Committee.

In response to questions by members the applicant said he felt he should be granted a licence as he had received no convictions since 1992 and the sentence he received was suspended wholly for two years. His wife was currently working two jobs and he wanted to work as a private hire driver in order to reduce the burden on her.

The Assistant Chief Executive – Legal said that although the Council's policy stated that applicants should not be granted licences if they had convictions relating to dishonesty, given the time that had passed since the applicant's last conviction, members may consider it appropriate to depart from policy.

The applicant, the Enforcement Officer and the Licensing Officer left the room at 2.50pm so the Committee could consider its decision. They returned at 2.55pm.

DECISION

Councillor Perry said the Committee found the applicant to be a fit and proper person to hold a private hire/hackney carriage driver's licence.

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE (ITEM 6)

The Licensing Officer said the applicant had applied for a private hire/hackney carriage driver's licence on 8 October. On the application form applicants were asked to list any convictions, both spent and unspent. The applicant had disclosed three offences of assault which had occurred in 1980's and 1990's but had not given precise dates.

The Licensing Officer said the Council was required to obtain an enhanced DBS certificate for each applicant. The applicant's certificate showed the following four convictions: wounding on 22 December 1980, assault occasioning actual bodily harm on 4 March 1983, assault occasioning actual bodily harm on 8 March 1989 and intent to do grievous bodily harm on 20 January 1995. For the second offence he had received a sentence of three months imprisonment, wholly suspended for two years. For the fourth offence he received a sentence of 21 months imprisonment.

The Licensing Officer said that although all the offences were spent under the Rehabilitation of Offenders Act 1974, the Council's Licensing Standards stated that an applicant must have no convictions for offences of dishonesty, indecency or violence for which a custodial sentence, including a suspended sentence, was imposed.

The applicant had attended a meeting at the Council Offices on 17 October to discuss his application, as well as his convictions. The applicant had explained the circumstances surrounding his convictions and said he regretted what he had done. Since 1995 the applicant had received no convictions.

In response to questions by members the applicant said the offences occurred when he was younger. He had a well-paid job and spent a lot of his money on alcohol. Two weeks prior to the offence in 1995 for Wounding with Intent to do Grievous Bodily Harm, he had found out his father had cancer, was in the process of splitting up with his then partner and was on medication for depression.

The applicant said the anger management courses he had undertaken whilst in prison had worked and there had not been any need for him to continue taking the courses after his release from prison.

The applicant, the Enforcement Officer and the Licensing Officer left the room at 3.15pm so the Committee could consider its decision. They returned at 3.20pm.

DECISION

Councillor Perry said the Committee found the applicant to be a fit and proper person to hold a private hire/hackney carriage driver's licence.

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE (ITEM 3)

The Enforcement Officer said the applicant had e-mailed to say he would not be attending the meeting and had requested that the matter was dealt with in his absence.

The Enforcement Officer said the applicant had applied for a private hire/hackney carriage driver's licence on 19 May. On the application form the applicant had been asked to list all convictions, both spent and unspent. The applicant had disclosed one offence, a DR10 (driving or attempting to drive with an alcohol level above the legal limit), for which he had received a £75 fine.

As part of the application process, the Council requested that an enhanced Disclosure and Barring Service (DBS) check should be obtained for each applicant. The applicant's DBS check showed a conviction on 26 May for drink driving, for which he was fined £75, ordered to pay of £43 and disqualified from driving for 12 months. The DBS check also showed convictions for two separate offences of driving with no insurance and driving whilst disqualified. He had been ordered to do a community order of 150 hours unpaid work and pay costs of £138.

The Enforcement Officer said making a false statement was an offence under Section 57(3) Local Government (Miscellaneous Provisions) Act 1976 and carried a fine of up to £1000. The applicant should have been aware that the DBS check would highlight the spent convictions. The Assistant Chief Executive – Legal believed it was in the public interest for the Council to pursue a prosecution for the offence of making a false statement to obtain a licence. The applicant did not meet the Council's licensing standards as he had a pending prosecution.

On 26 September, the applicant attended an Interview Under Caution at the Council Offices. The applicant had confirmed that he had completed the application form without any help. He did not know why he did not disclose all his convictions but said he had understood the question on the application form. He only disclosed the one conviction as it was the only conviction on his DVLA counterpart licence.

DECISION

The Chairman read out the decision of the committee as follows:

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence. For reasons which I will turn to later the applicant does not meet the council's licensing standards and the matter has therefore been referred to the committee for determination. The applicant has been notified of the time and date of the committee meeting. He has emailed the council stating that he cannot attend and requested that the matter be dealt with in his absence. The committee has decided to proceed accordingly.

When applying for his licence, the applicant completed the standard application form which asks applicants to list all convictions (including any motoring offences) both spent and unspent and any police cautions. The applicant replied declaring a drink-drive offence in 2005 for which he received a £75 fine and was disqualified for 12 months. The applicant did not disclose any other offences.

As part of the licensing process the council requested an enhanced DBS check for the applicant. This revealed the conviction disclosed by the applicant in his application form. However, the form also showed two further convictions in July 2005 for two offences of having no insurance and driving whilst disqualified. The applicants' licence was endorsed and he was ordered to do a community service order of 150 hours unpaid work and ordered to pay £138 costs. These convictions are now spent but s.7(3) Rehabilitation of Offenders Act 1974 permits spent convictions to be admitted when the council is considering applications for drivers' licences.

It appears therefore that the applicant has made a false statement to obtain a licence which is an offence under s.57(3) Local Government (Miscellaneous Provisions) Act 1976. The applicant was interviewed at the council offices with regard to this offence. In the interview, the applicant acknowledged that he was aware of the conviction. He said that he did not disclose the conviction on the application for the licence because he considers it unimportant because it was a long time ago. He said that he only disclosed the convictions which were revealed by his counterpart licence. The Assistant Chief Executive – Legal has decided it is in the public interest to prosecute for the offence of making a false statement to obtain a licence. Proceedings have now been issued and the case has been listed for hearing. Because of the pending prosecution the applicant does not meet the council's licensing standards.

The committee take a view that the applicant took a conscious decision not to disclose the conviction for driving whilst disqualified and driving without insurance because it was not on his counterpart licence and he did not think the council would find out about them. Whilst the convictions themselves would not have prevented the applicant being granted a licence, the committee regard a failure to answer the questions on the application form honestly as being dishonest. It is a fundamental principle that drivers of hackney carriages and private hire vehicles should be honest. Drivers are in a position where they can obtain sensitive information about customers' whereabouts and also where they are able to take financial advantage of their customers.

The council may only grant a driver's licence when it is satisfied that the applicant is a fit and proper person to hold such a licence. Because of the applicants' dishonesty in completing the application form the committee is not so satisfied in the applicants' case and the licence will therefore be refused.

RESOLVED that the public would no longer be excluded from the meeting under section 100I of the Local Government Act 1972.

DETERMINATION OF A PRIVATE HIRE OPERATORS LICENCE – SHFT LTD

The Enforcement Officer said SHFT was a licensed private hire company, first granted a private hire operator's licence on 16 June 2014. The company had registered with Companies House and had become active on 4 June 2014. Jodie Hamby was listed as the sole director of the company. SHFT had no licensed vehicles and four licensed drivers, Miss Hamby and three others.

During July 2014, the Council had attempted to contact Mrs Hamby as it had not received all the required documentation or fee, to register a silver Ford Transit as well as a white Vauxhall Astra. These documents and fees had still not been received by the Council.

The Enforcement Officer said that two Enforcement Officers visited the operator's address on 30 June 2014, which was a mechanics garage. The garage's manager had said Miss Hamby she was not there. There were no licensed vehicles so it did not appear that the operator was based there.

On 6 August, two Enforcement Officers visited the operating address of SHFT Ltd to inspect the record of private hire bookings. Following a conversation with a lady who worked in the office who said that Miss Hamby had left for the day, the lady took the officer's contact details to forward to Miss Hamby. However, no communication was ever received from Miss Hamby.

On 26 September, the Enforcement Officer had written to Miss Hamby to request that she provided all records of private hire bookings for SHFT Ltd, since 16 June 2014, within seven days. No response had been received. As the company had failed to provide any documents when requested to do so by an authorised officer, it did not appear that the company was trading, or had any intention of trading.

DECISION

SHFT Ltd was licensed by the council as a private operator on the 16 June 2014. The company is registered at Companies House with a sole director. Although it has been licensed for over 5 months there are no vehicles licensed by the operator. Applications have been received for two vehicles and vehicle test sheets supplied but the necessary documentation and the fees have not been provided. The Licensing Team have made numerous efforts to contact the operator but without success. On two occasions enforcement officers have visited the operating address given by the company. On both occasions there was no sign of any physical presence by the company at the premises.

On the 26 September 2014 an enforcement officer wrote to the company at the operating address requesting production of records relating to bookings

from the grant of the licence. No reply has been received. The enforcement officer prepared a report for consideration by the committee this afternoon. The company was sent a copy of the report and invited to attend the committee meeting to satisfy members that it remained a fit and proper person to hold an operator's licence. No response was received and the company failed to send a representative this afternoon.

It is essential that operators co-operate closely with the council. Because of the lack of co-operation by SHFT Ltd members are not satisfied that company remains a fit and proper person to hold an operator's licence and the licence is therefore revoked under s.62(2)(d) of the Local Government (Miscellaneous Provisions) Act 1976 for any other reasonable cause.

The meeting ended at 4.15pm.

Committee: LICENSING & ENVIRONMENTAL HEALTH

Agenda Item

Date: 21 January 2015

4

Title: BUDGET 2015-16

**Author: Michael Perry, Assistant Chief Executive
Legal, 01799 510416**

Item for decision

Summary

1. This report is to seek members' views on the level of fees to be charged to drivers, operators and vehicle licences issued by the council under the Local Government (Miscellaneous Provisions) Act 1976.

Recommendations

2. That members agree that the fees for drivers' licences remain unchanged.
3. That members recommend to the cabinet that the fees for operators and vehicle licences should also remain unchanged.

Financial Implications

4. As set out in the body of this report.

Background Papers

5. The following papers were referred to by the author in the preparation of this report and are appended to this report.
 - Licence forecast summary
 - Taxi forecast budget

Impact

- 6.

Communication/Consultation	The trade has been consulted and is in agreement with the recommendations contained in this report.
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	The council is entitled to recover the cost of running the licensing service but ought not to make a profit. It is therefore necessary to ensure the cost and income balance out

	over a period of time.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

7. Members will be aware of the licensing surplus generated prior to 2010. Once that surplus was identified there was an immediate reduction in fees to drivers' licences £40 per annum, operators' licences £60 per annum and vehicle licences £70 per annum. Those fees meant that the expenditure in running the Licensing Department exceeded the income with the deficit being made up by drawing on the licensing reserve.
8. The fees set in 2010 have not changed since. At the end of the financial year 2014/15 the surplus had decreased to £25,796.
9. If fees remain unchanged for the next financial year, assuming an increase in licence income of 8% per annum at the end of the financial year there would still be a balance on the reserve of £2,256. An increase in income could only arise from an increase in the number of licences issued. Historically licences have increased in number year on year but there is no guarantee that this increase will continue. In the event that an increase of 8% in income is not achieved then either the balance will be smaller or the account may actually fall into deficit.
10. The issue is clouded going forward by virtue of the De-regulation Bill currently before Parliament. One of the provisions of that bill is that drivers' licences must be issued for a three year period unless there are circumstances relating to a particular driver which would justify the issue of a licence for a shorter period of time. Although the bill has government support, there is no guarantee that it will find the statute books. If it does, the commencement date will be determined by statutory instrument to be laid by the Secretary of State. Whilst it is considered unlikely that the government would introduce three year licences as a mandatory requirement, other than at the start of a financial year (for budgeting reasons) it is always possible that the government may choose another date. Once the commencement date for the legislation is known then a budget will need to be redrawn with a view to cost recovery over a three year rather than one year period. It is intended that any surplus remaining on the licensing reserve as at the commencement date should be wholly off-set against those costs thereby reducing the burden upon drivers and operators over the period of the licence.

Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
Fees are set too high.	1, although not a basis for fee setting, research shows that the current licensing fees are the lowest in Essex by a significant margin. There is no evidence to suggest that the current fee level is not sustainable.	3, there could be insufficient hackney carriages and private hire vehicles to meet demand within the district.	Known required.
Fee levels are set too low.	2, although a modest surplus is forecasted for the end of the year, this is dependent upon an 8% increase in licensing fees.	2, although initially a deficit would need to be made good from the general fund, there are ample reserves to cover this and the deficit could be recouped in future years from increased fees.	Historically, the biggest increase in new licence applications is in August of each year. The number of licences issued should be monitored at the end of that month and if a deficit is then forecast for the end of the year, fee levels should be reviewed at that stage.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Licensing - Forecast Summary

Excl CRB checks

Updated Income Forecast - Oct 2014

	£
1257 Drivers @ £40	50,280
92 Operators @ £60	5,520
1098 Vehicles @ £70	76,860
	<u>132,660</u>

	Actual 2010/11 £	Actual 2011/12 £	Actual 2012/13 £	Actual 2013/14 £	Forecast Budget 2014/15 £	Forecast Budget 2015/16
(a) Expenditure	142,118	145,470	149,993	148,774	163,150	166,820
(b) Income	-142,769	-108,203	-110,709	-132,401	-132,660	-143,280
Income Assume 8% increase					-10,620	
Net Expenditure	-651	37,267	39,284	16,373	19,870	23,540
Reserve	-137,939	-138,590	-101,323	-62,039	-45,666	-25,796
Bal on Reserve	-138,590	-101,323	-62,039	-45,666	-25,796	-2,256

Notes

- (a) 2014/15 Budget and onwards based on a 65% allocation of shared licensing costs
Assumes 2.5% inflation for supplies and services (non contractual), inflationary increase for NI contributions, contractual salary increments and 2.2% increase from Jan 2015 for payaward
- (b) Assumes 8% increase in licence income

Licence Numbers

	Sept 2010	Jun 2011	Oct 2011	Jul 2012	Aug-13	Oct-13	Apr-14	Oct-14
Drivers £40	813	882	966	1045	1049	1125	1182	1257
Operators £60	88	82	85	93	90	93	97	92
Vehicles £70	649	715	773	831	875	986	977	1098
	<u>1550</u>	<u>1679</u>	<u>1824</u>	<u>1969</u>	<u>2014</u>	<u>2204</u>	<u>2256</u>	<u>2447</u>
	£83,230	£90,250	£97,850	£105,550	£108,610	£119,600	£121,490	£132,660
			100 additional drivers		£4,000			
			100 additional vehicles		£7,000			
					£119,610			

Licensing - Taxi Forecast Budget (excl CRB)	2011/12 Actuals	2012/13 Actuals	2013/14 Actuals	2014/15 Budget (Forecast)	2015/16 Budget (Forecast)	
	Total £	Total £	Total £	Total £	Total £	
<u>Shared Costs</u>						
Staffing costs	93,199	95,383	99,247	94,130	97,820	Reflects restructure
GLE0014021 Publications	35	30	0	140	140	
GLE0014022 Training	0	0	729	2,500	2,500	
GLE0014101 Clothing	41	0	0	60	60	
GLE0014211 CP Supplies	259	518	1,066	300	300	
GLE0014413 Mobile Phone	150	83	63	20	0	
GLE0014421 Software	13,937	13,993	13,993	18,840	14,560	Includes additional one off costs in 2014/15
GLE0014613 Professional Subscription	111	167	167	170	170	
GLE0017011 Management	17,672	15,311	15,728	16,040	16,050	
GLE0017101 Accountancy	4,490	3,060	3,142	3,200	2,860	
GLE0017111 Legal Services	14,910	11,756	7,118	11,260	8,090	2014/15 base on average past 3 years
GLE0017121 Internal Audit	2,103	2,228	961	980	1,010	
GLE0017171 Personnel Services	4,080	3,303	4,225	4,310	3,920	
GLE0017201 Printing	381	192	0	0	0	
GLE0017211 Mailroom	1,780	2,857	3,838	3,910	3,900	
GLE0017231 CSC Service	12,128	10,966	11,779	12,010	11,080	
GLE0017251 IT Services	3,420	2,544	2,333	2,380	3,940	
GLE0017301 Accommodation	2,682	5,511	9,953	10,150	9,780	
	171,378	167,900	174,341	180,400	176,180	
62% Share, 65% share from 2014/15	106,255	104,098	108,092	117,260	114,520	
<u>Other Costs</u>						
Staffing			2,760	2,100	2,790	
GLE0014023 Materials - Plates	4,685	5,983	5,669	6,000	6,000	
GLE0014431 CP Adverts - Taxi	816	1,668	0	1,720	1,760	
GLE0017711 Legal - Taxi	4,784	10,988	5,206	6,990	7,610	2014/15 base on average past 3 years
GLE0014022 Seminars, Meetings etc	1,009	210	216	0	0	
GLE0017201 Printing	921	1,694	3,997	4,080	4,250	
GLE0017131 Enforcement	27,001	25,352	22,834	25,000	29,890	
Total Expenditure	145,470	149,993	148,774	163,150	166,820	
GLE001X131 Taxi	-108,203	-110,709	-132,401	-132,660	-143,280	
				-10,620		
Income	-108,203	-110,709	-132,401	-143,280	-143,280	
Total	37,267	39,284	16,373	19,870	23,540	

Committee: LICENSING & ENVIRONMENTAL HEALTH

Agenda Item

Date: 21 January 2015

5

Title: EXERCISE OF DELEGATED POWERS

**Author: Michael Perry, Assistant Chief Executive
Legal, 01799 510416**

Item for decision

Summary

1. This report is to inform members of the exercise of my delegated powers since the last meeting of this committee.

Recommendations

2. That members note the contents of this report.

Financial Implications

3. None.

Background Papers

4. None.

Impact

- 5.

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	Drivers who have had their licences suspended have a right of appeal to the Magistrates' Court. In the event that an appeal is lodged they may continue to drive until such time as the appeal is abandoned or determined unless the suspension has been imposed with immediate effect in the interest of public safety.
Sustainability	None.
Ward-specific impacts	None.

Workforce/Workplace	None.
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Situation

6. Since the last meeting of this committee I have dealt with 4 drivers with a view to exercising my delegated powers. Each of the drivers dealt with had failed to notify the council of a fixed penalty notice within 7 days. In none of the cases were there any mitigating or aggravating factors. All drivers were therefore suspended for 5 days.
7. In addition to suspensions, 15 drivers and 4 operators received cautions for offences under the Local Government (Miscellaneous Provisions) Act 1976. Ten drivers were cautioned for the offence of failing to wear their driver's badge (one of these was in addition cautioned for an offence of driving a private hire vehicle without a licence). Four drivers were cautioned for failing to display the vehicle plate and one for making a false statement to obtain a licence in circumstances where a prosecution would not have been in the public interest. Two operators were cautioned for failing to notify the council of an accident within 72 hours. One was cautioned for permitting a vehicle to be used without displaying a plate and a further operator was cautioned for failing to keep records of bookings in accordance with the conditions of his licence.
8. Prior to the adoption of the Licensing Policy the offences of failing to wear a badge or display a plate would normally have been dealt with by way of a short suspension. The committee decided that under its adopted policy it would prefer to deal with criminal matters to through the criminal legal system and hence offences under the 1976 Act would be dealt with by way of a formal caution or prosecution. The number of offences does appear to have escalated significantly since that time and members may consider that in the circumstances, a caution is not generally appropriate and a prosecution should be brought even for a first offence. Members views are sought on this issue.

Risk Analysis

9. There are no risks associated with this report.