

LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE MEETING held at COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN on 21 JANUARY 2015 at 7.30pm

Present: Councillor D Perry – Chairman.
Councillors H Asker, J Davey, D Morson, V Ranger, J Salmon and L Wells.

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

LIC57 PUBLIC SPEAKING AND CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed Councillor Wells to her first meeting of the committee.

He reminded members that Councillor Walters was today due to undergo an operation. Members wished him well.

A statement submitted by Mr Drinkwater on behalf of the Uttlesford Licensed Operators and Drivers Association (ULODA) was circulated and read by members. A summary of the statement is attached as an appendix to these minutes.

In relation to the public statement, the Assistant Chief Executive – Legal referred to the comment that ULODA wished to establish a regular forum to work with officers. He said he had attended two trade extraordinary general meetings and was happy to accept an invitation to attend at any time. However, he was not in favour of having regular meetings between officers and the Trade as in the past such meetings had not been well attended, nor had representatives of Trade attended when they had been invited to the Task Group meeting at which amendments to the Council's licensing policy had been considered following the Rehabilitation of Offenders Act.

The Assistant Chief Executive – Legal said he had assured Mr Drinkwater that he would give the Trade a briefing on the Deregulation Bill when it became law, but had explained to him that he did not favour setting up regular meetings.

At the request of Councillor Perry, the Assistant Chief Executive – Legal summarised the progress of the Deregulation Bill, which was currently before the House of Lords.

Regarding a reference by ULODA to the 2015-16 budget the Assistant Chief Executive – Legal said he had discussed the budget with ULODA representatives, who had expressed concern regarding cash flow.

Councillor Perry asked how the Disclosure Barring Service would work in conjunction with the proposed three year licence. The Assistant Chief Executive – Legal said DBS checks will continue at 3 year intervals. The Council would also continue to check licences annually, and he would require that as a

condition of licence. For photo licences, the counterpart paper element of the licence is being phased out. A contract had been entered into with an agency to carry out checks but the Council would move to direct checks with the DVLA as soon as possible. This would necessitate an upfront cost which would be recovered through the licence fees but would be ultimately cheaper for drivers.

Councillor Wells asked for a more detailed explanation of the matters being considered, as she was a new member to the committee. The Assistant Chief Executive – Legal said he would be happy to provide her with the necessary information and training.

Councillor Perry thanked all members who had contributed their time to attend the numerous extraordinary meetings which had recently been required.

LIC58 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Freeman, Loughlin and Walters.

LIC59 MINUTES

The minutes of the meetings held on 24 September, 1 October, 6 October, 13 November and 17 December 2014 were received and signed by the Chairman as a correct record.

LIC60 MATTERS ARISING

(i) Minute LIC29 – Determination of a private hire/hackney carriage licence

The Assistant Chief Executive – Legal said the prosecution of this matter had been re-scheduled to take place on 3 February 2015.

(ii) Minute LIC30 – Determination of a private hire/hackney carriage licence

The trial had been set for 23 March 2015, and the Assistant Chief Executive-Legal would then update the Committee. As the trial would now take place after the licence expired, the driver would need to apply for a new licence.

(iii) Minute LIC32 – Determination of a private hire/hackney carriage licence

There would be no appeal as the period for appeal had now elapsed.

(iv) Minute LIC40 – Application for a premises licence

Members were informed there would be no appeal as the period for appeal had now elapsed. The Assistant Chief Executive – Legal said there had been difficulties arising from the conditions being breached, so further review was possible. The outcome might be to remove regulated activity from the premises, which would be a retrograde step, in that licensable activities would continue to take place until 11pm. Therefore he was considering the possibility of prosecution.

(v) Minute LIC43 – Determination of a private hire/hackney carriage driver’s licence

Members were informed no appeal had been lodged and the period for appeals had now lapsed.

(vi) Minute LIC46 – Determination of a private hire/hackney carriage driver’s licence

Members were informed a prosecution had taken place, and that the driver had been convicted and fined £200 with £300 costs.

(vii) Minute LIC47 – Determination of a private hire operator’s licence

Members were informed no appeal had been lodged and the period for appeals had now lapsed.

(viii) Minute LIC51 – Determination of a private hire/hackney carriage drivers licence

The Assistant Chief Executive – Legal asked Members for their views on whether to prosecute the driver for making a false statement so as to obtain a licence. He said that at the extraordinary committee meeting the driver had been extremely stressed and that subsequently information had been received that he had tried to commit suicide. His licence had been returned to the Council and the time for appeal had lapsed. A prosecution could be brought if members considered that to do so was in the public interest.

Members agreed that no prosecution should be brought.

(ix) Minute LIC52 – Determination of a private hire/hackney carriage drivers licence and of a private hire operator’s licence

Members were informed appeals had been lodged. Whilst the driver had pleaded guilty he would be putting forward special reasons as to why he should not be prosecuted. The operator/driver had pleaded not guilty. A court hearing date of 16 February 2015 had been set.

BUDGET 2015-16

The committee considered a report on the budget for 2015-16 on the level of fees to be charged for licences for drivers, operators and vehicles.

The report recommended that the fees for drivers' licences remain unchanged and that members recommend to Cabinet that the fees for operators and vehicle licences should also remain unchanged.

The Assistant Chief Executive – Legal reminded members of the licensing surplus generated prior to 2010. Once that surplus had been identified there had been an immediate reduction in fees to drivers' licences, operators' licenses and vehicle licences. This measure had worked as intended to allow the gradual reduction of the surplus. The levels at which the fees had then been set meant that the expenditure in running the Licensing Department had exceeded income, with the deficit being drawn from the licensing reserve. The reserve was therefore reducing very slowly, and at the end of the financial year 2014/15 the surplus had decreased to £25,796.

If the fees were unchanged for the next financial year, assuming an increase of 8% for licensing income arising from an increase in the number of licences issued, there would still be a balance on the reserve of £2,256. In the event that an increase of 8% in income was not achieved, then either the balance would be smaller or the account would fall into deficit.

There was a further factor to take into account, in that the date when the De-regulation bill would come into effect was not yet known and whilst the bill had government support, there was no guarantee that it would be implemented. The introduction of three year licences might not be at the start of a financial year. Therefore once the commencement date for the legislation was known, a budget would be need to be re-drawn with a view to cost recovery over a three-year rather than a one-year period. It was intended that any surplus remaining on the licensing reserve at the commencement date should be wholly offset against those costs thereby reducing the burden upon drivers and operators over the period of the licence.

RESOLVED

- 1 the fees for drivers' licences remain unchanged;
- 2 to recommend to Cabinet that the fees for operators and vehicle licences remain unchanged.

EXERCISE OF DELEGATED POWERS

Members considered the report of the Assistant Chief Executive – Legal on the exercise of delegated powers since the last meeting of the committee.

The Assistant Chief Executive – Legal said the general trend was encouraging as the number of cases requiring exercise of delegated powers was reducing.

However, of concern was the number of drivers caught not wearing their badges. 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 had decided that under its adopted policy it would prefer to deal with criminal matters through the criminal legal system, hence offences under the Local Government (Miscellaneous Provisions) Act 1976 would be dealt with by way of formal caution or prosecution.

The Assistant Chief Executive – Legal said he had checked the records for the year 2012/13, which was the last year prior to the change in the Council's licensing policy. In the whole of that year there had been four cases of drivers found not to be wearing their badges. It was apparent that the number of offences had escalated significantly since that time. Members' views therefore were sought on whether a caution was not generally appropriate, and that a prosecution should be brought even for a first offence.

Councillor Perry said he would like to retain flexibility not to prosecute every time.

The Assistant Chief Executive – Legal said the policy was drafted to enable either a caution or a prosecution, and it was a matter for him to exercise his discretion which of these penalties to impose. Unless there were strong mitigating circumstances, he suggested that there be a change of approach, so that prosecution rather than a caution should be pursued.

The Assistant Chief Executive – Legal said he would write to the operators regarding the change of approach, and request that they pass on the message to their drivers.

Members agreed to this change of approach.

LIC62

ITEMS FOR FUTURE AGENDA

Councillor Perry asked that there be an update on the De-regulation Bill.

The meeting ended at 7.55pm.

Summary of public statement by Uttlesford Licensed Operators and Drivers Association

Regarding the Budget for 2015-16, the Deregulation Bill - if it finds the statute book in its present form - will have the effect of introducing three year licences and there will be a need to consider the burden on operators, proprietors and drivers. We fully support the recommendation of Michael Perry to the committee that all licence fees should remain unchanged for the next financial year.

We note the report about Mr Perry's exercise of delegated powers and the concern he expresses for the apparently significant escalation in the incidence of offences of drivers failing to wear a badge or display a plate since the adoption of the Licensing Policy.

Members may recall that we argued at the time for such offences to be dealt with by means of a caution rather than a prosecution and we continue to believe this to be a proportionate way of treating offenders - along with appropriate education in which we all have a stake. We ask you earnestly to consider the number of cases involved before coming to a view about the way forward.

ULODA will be seeking to establish a regular forum to work with Officers on matters of mutual interest, including informal guidance on compliance issues. We hope that Members will actively support this initiative which we expect to reduce the need for expensive and intensive enforcement action.

Finally Members will recall that ULODA was instrumental in persuading BAA to include licensed hackney carriages and private hire vehicles in its discount scheme at Stansted Airport, with a 75% reduction in the published parking rate. MAG has given notice to those affected that it intends to introduce a new discount scheme on 1 June 2015 for residents ONLY living within a 10 mile radius - it will exclude all UDC and EHDC licensed HCVs and PHVs. The new arrangements have apparently been agreed by the Stansted Airport Consultative Committee, but we have not been party to any such consultation.