



Uttlesford District Council

Chief Executive: John Mitchell

Licensing and Environmental Health

Date: Wednesday, 04 March 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 21 January 2015 at 10am 5 - 10
- 2ii Minutes of the meeting held on 21 January 2015 at 7.30pm 11 - 16
- 3 Matters arising.
- 4 Update on draft legislation 17 - 20
- 5 Enforcement 21 - 22
- 6 Items for future agendas

7 Any other items which the Chairman considers to be urgent

MEETINGS AND THE PUBLIC

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**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 21 JANUARY 2015**

Present: Councillor D Perry (Chairman)
Councillors D Morson, V Ranger and J Salmon.

Officers in attendance: J Jones (Licensing Officer), C Nicholson (Solicitor),
A Rees (Democratic and Electoral Services Officer) and A
Turner (Licensing Team Leader).

Others in attendance: Mr Tripp, Ms Edwards, Mr Sando and Mr Wilson in
relation to agenda item 2, the applicant, his wife and daughter in relation to
agenda item 3.

LIC53 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

The Committee agreed to move onto Item 3.

LIC54 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.

**LIC55 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE
DRIVER'S LICENCE**

Members considered a report regarding an application for a private
hire/hackney carriage driver's licence. The Licensing Officer said the driver
had applied for a licence on 18 November 2014. Applicants were asked to
list all convictions, both spent and unspent, including motoring convictions.
The driver disclosed three offences: theft from an employer in 2007, driving
with undue care and attention in 2007 and a section 4 public order offence.

The Licensing Officer said applicants were required to undergo an enhanced
DBS check as part of their application. The driver's DBS check showed two
convictions, one for theft in 2007 and one for one for using threatening,
abusive, insulting words or behaviour with intent to cause fear or provocation
of violence on 4 October 2009. He had also received a police caution for the
same offence on 4 October 2009 but that was in respect of another person.

The applicant did not currently meet the Council's Licensing Standards as
although all his convictions were spent in accordance with the Rehabilitation
of Offenders Act 1974, the Council's standards stated 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 Licensing Officer said the applicant had attended the Council Offices and explained the circumstances surrounding his convictions. At the meeting, the applicant said he had become involved in a drunken brawl. His younger cousin had been involved in a fight and so the applicant and his friend stepped in to help his cousin. The Licensing Officer then contacted the applicant again on 30 December 2014 via telephone to seek clarification about the caution which arose from the incident on 4 October 2009. The applicant said the caution was for the same incident, but it was another man who had pressed charges, as his jaw had been broken in the altercation. CCTV footage showed it was not the applicant who broke the man's jaw but he was still charged.

The Licensing Officer explained the applicant had received no convictions since 2010 and was now married and had a two year old daughter. He had been working for his current employer for five years but following some redundancies, his job was at risk unless he could obtain a licence to drive his employer's minibus.

Councillor Perry invited the applicant to speak about his application. The applicant said that he had reformed since the convictions and deeply regretted his actions. His employment now required him to use a minibus for which he required a private hire/hackney carriage driver's licence. Without the licence, it was possible he would be made redundant.

The Solicitor informed Members that the financial implications of a decision on the application could not be taken into account. Members could only decide whether he was a fit and proper person to hold a licence.

The Licensing Officer, Licensing Team Leader, applicant, his wife and his daughter left the room at 10.10am so the Committee could consider its decision. They returned at 10.15am

DECISION

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

RESOLVED that the public are no longer excluded from the meeting.

LIC56

APPLICATION TO VARY A PREMISES LICENCE – THE PLOUGH, HIGH STREET, DEBDEN

Members considered an application to vary a premises licences. The Licensing Team Leader said a premises licence was first issued to the

owners of The Plough following an application to convert the existing Justices Licence issued on 9 November 2005.

The current premises licence permitted the following licensable activities

- (a) The sale of alcohol by retail for consumption on and off the premises
- | | |
|--------------------|--------------------|
| Monday to Saturday | 11.00am to 11.00pm |
| Sunday | Noon to 10.30pm |

Non Standard timings:

Christmas Day 12 noon to 3.00pm and 7.00pm to 10.30pm

Good Friday 12 noon to 10.30pm

New Year's Eve, except on a Sunday 11.00am to 11.00pm

New Year's Eve on a Sunday 12 noon to 10.30pm

New Year's Eve from the end of permitted hours on New Years' Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31 December)

- (b) The opening hours of the premises
- | | |
|--------------------|--------------------|
| Monday to Saturday | 11.00am to 11.20pm |
| Sunday | Noon to 10.50pm |

Non Standard timings:

Christmas Day 12 noon to 3.20pm and 7.00pm to 10.50pm

Good Friday 12 noon to 10.50pm

New Year's Eve, except on a Sunday 11.00am to 11.20pm

New Year's Eve on a Sunday 12 noon to 10.50pm

New Year's Eve from the end of permitted hours on New Years' Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31 December)

The holders of the licence were seeking a variation of the current licence, which would increase the licensable activities in respect of the sale of alcohol and playing recorded music.

To comply with the Licensing Act 2003, when an applicant applied for a variation of a premises licence they had to provide an operating schedule and demonstrate how the licensing objectives would be met.

The sought after licensable activities were as follows:

- | | | |
|-----|--|------------------|
| (a) | Recorded Music | (Indoors only) |
| | Sunday to Thursday | 11am to Midnight |
| | Friday & Saturday | 11am to 1am |
| | Non Standard Timings – New Year’s Eve 11.00am to 2am | |
| | | |
| (b) | The sale of alcohol by retail for consumption (both on and off the premises) | |
| | Sunday to Thursday | 11am to Midnight |
| | Friday & Saturday | 11am to 1am |
| | Non Standard Timings – New Year’s Eve 11.00am to 2am | |
| | | |
| (c) | The opening hours of the premises | |
| | Sunday to Thursday | 11am to 12.30am |
| | Friday & Saturday | 11am to 1.30am |
| | Non Standard Timings – New Year’s Eve 11.00am to 2.30am | |

The Licensing Team Leader said applicants were required to create an operating schedule outlining how the four licensing objectives would be met. To prevent crime and disorder staff would be trained to ask for photo ID if someone appeared to be under the age of 21. The pub would continue its membership in Pubwatch and the BOBB scheme.

To promote public safety staff would be trained to prevent sales of alcohol to people under 18 years old, as well as those who were already intoxicated. Glasses would be collected regularly. Staff would also undergo training to comply with Health and Safety.

Music volume would be regulated, especially after 11pm in order to prevent public nuisance. Signs would be displayed asking customers to exit the premises quietly.

In order to protect children from harm, staff would be trained to prevent sales of alcohol to under 18’s. Additionally, under 14’s would not be allowed by the bar area unless they were accompanied by an adult.

The Licensing Team Leader said copies of the application had been sent to every statutory body and had attracted no representations. Two representations from interested parties had been received who raised concerns that extended opening hours would prevent the licensing objective of preventing public nuisance from being met. A letter had also been received in support of the application.

The Licensing Team Leader informed members the Licensing Authority had to promote the licensing objectives as defined in the Licensing Act 2003. Members should also give due regard to the Council’s licensing policy, as well as the Secretary of State’s Guidance in accordance with the Act.

Members were advised they could grant the application, modify the application by inserting conditions, or reject the application either in its entirety or by part. If the Committee decided to impose further conditions

they would have to be proportionate. Furthermore, they could not duplicate the effects of existing legislation.

In response to a question by Councillor Perry, the Licensing Team Leader said no statutory authorities had made any representation. Councillor Perry then invited members of the public to speak.

Mr Sando spoke against the application. He wished the owners of the Plough every success, but felt that longer licensing hours would cause a nuisance. He suggested the licensing hours should be from 11am-11pm from Sunday-Thursday and from 11am-midnight on Friday and Saturday.

Mr Wilson was then invited to speak. He said the Plough had been, at one point, very close to closing down. If the landlords felt they needed to vary the licensing conditions then the application should be looked upon favourably.

Ms Edwards, one of the applicants, said recorded music would only operate as background music. She had examined the number of cars over the past week and the most on any given day was seven and coincided with use of the restaurant. Signs would be placed near exits to remind patrons to leave quietly.

Ms Edwards then responded to questions from Members. She said food had only been served until 9pm since the pub had been re-opened. Although serving times could be changed, they had no intention of doing so. She was currently the only person who worked behind the bar. If extra staff were brought in, it was likely that they would only be used until 11pm. There was no intention of using the longer licensing hours every day. They would only be utilised when an event was taking place.

In response to a question by Councillor Perry, the Solicitor advised Members the opening hours of other nearby pubs were not relevant to the decision, as the circumstances surrounding each pub were different. Members had to consider whether the variation of the licence would allow the licensing objectives to be met.

The Committee left the room at 10.35am so they could consider their decision. They returned at 10.50am.

DECISION

Councillor Perry said the Committee had noted the concerns of residents, and also took account of the support for the premises by others within the village, and the expressed need to ensure the premises remained. The Committee also noted that interested parties could raise concerns about a premises licence in the future if issues were to arise. They had therefore decided to grant the variation in the licence as applied for, meaning the new times for licensable activities were:

- (a) Recorded Music (Indoors only)
Sunday to Thursday 11am to Midnight
Friday & Saturday 11am to 1am
Non Standard Timings – New Year’s Eve 11.00am to 2am
- (b) The sale of alcohol by retail for consumption (both on and off the premises)
Sunday to Thursday 11am to Midnight
Friday & Saturday 11am to 1am
Non Standard Timings – New Year’s Eve 11.00am to 2am
- (c) The opening hours of the premises
Sunday to Thursday 11am to 12.30am
Friday & Saturday 11am to 1.30am
Non Standard Timings – New Year’s Eve 11.00am to 2.30am

The meeting ended at 10.55am.

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.

Committee: LICENSING

Agenda Item

Date: 4 March 2015

4

Title: UPDATE ON DRAFT LEGISLATION

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

Item for information

Summary

1. This report is to inform members of the progress of the Deregulation Bill, local fee settings and also of government proposals with regard to functions and responsibilities within an executive structure.

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	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. Notwithstanding very detailed work carried out the Law Commission which resulted in the production of a draft bill to carry out wholesale reform of the law relating to hackney carriages and private hire vehicles, the government decided to include three amendments to the law in the Deregulation Bill which is currently progressing through the parliamentary system. These amendments were to allow unlicensed drivers to drive licensed vehicles when they were not being used, and were not immediately available, for the carriage of fare-paying passengers; to allow cross-border hiring and to require driver licences to be issued for three years and operator licences for five years save for in exceptional cases.
7. These proposed amendments have not found universal support and indeed there has been a great deal of opposition as the Bill has progressed. As a result of this opposition the proposal to allow unlicensed drivers to drive licensed vehicles has been dropped from the Bill. The other two provisions regarding cross-border sub-contracting and the length of licences remain however.
8. With regard to cross-border sub-contracting the Bill provides that this is permissible providing that the sub-contract is made with a private hire operator licensed by the district in which he carries on business and that vehicles and drivers licensed by the same authority are used to fulfil the contract. A suggested amendment to require the consent of the customer to the sub-contracting was defeated and the Bill specifically provides that the consent of the person who made the booking is irrelevant.
9. Although the government's stated intention was that licences should only be granted for less than three years for drivers or five years for operators in exceptional circumstances, the Bill is not worded in such a manner. Instead it provides that the licence will be for 3/5 years or for such lesser period as the district council thinks appropriate in the circumstances of the case. Consideration will need to be given as to what circumstances may justify a shorter licence (i.e. if the driver were to request a licence for a shorter period).
10. Apart from the provisions relating to taxis, of relevance to this committee are amendments to the Licensing Act 2003. The requirement for personal licences to be renewed will be abolished. Members will recall that personal licences were granted for 10 years. The Licensing Act 2003 first came into effect in 2005. It follows therefore that licences are now starting to expire. By virtue of secondary legislation passed by the government fees for renewals can no longer be charged nor can DBS checks be carried out on renewal. Licences will therefore be renewed for a further period of 10 years which will be converted to perpetual licences once the Deregulation Bill becomes law and is effective.
11. The Bill also makes provision for a new form of authorisation for community events and ancillary business sales. Members will recall being consulted with regard to the government's consultation response. The number of temporary event notices which may be served in respect of any premises will increase from 12 to 15 in a calendar year with effect from the 1 January 2016. Sale of liqueur chocolates to children will no longer be an offence. The council will have the ability to dis-apply the Licensing Act in respect of late night refreshment should it wish to do so. Finally it will no longer be a requirement to report lost or stolen licences to the police.

12. The Bill is scheduled to have its third reading in the House of Lords on 4 March 2015. This is the last opportunity for amendments to be made to the Bill. The Bill then goes back to the Commons for consideration of the Lords amendments. If the amendments of the House of Lords are accepted the Bill will receive Royal Assent. If not the matter will go backwards and forwards between the two houses until such time as agreement is reached. There is of course little time for this process. Parliament is due to be dissolved on the 27 March. At a recent seminar James Button suggested that if there remains opposition to the provisions regarding hackney carriages and private hire vehicles in the Commons the government may be prepared to forsake that part of the draft legislation in order to ensure that the remainder of the Bill is passed into law before the general election.
13. When the Licensing Act was first passed, licence fees were set nationally by the government. The Act was amended to enable the Secretary of State to lay regulations which would empower licensing authorities to set their own licensing fees. On the 13 February 2014 the government consulted on its proposals for local fee setting. The consultation lasted for 8 weeks until 10 April 2014. According to the government's website, the government is still analysing the feedback from the consultation. It is highly unlikely that any secondary legislation dealing with the local setting of fees will be laid before parliament prior to the general election.
14. The government has also recently launched a consultation on draft regulations dealing with functions and responsibilities of councils operating executive arrangements. These draft regulations deal with the issue of scrap metal dealer's licences. Virtually all licences which are issued by councils are the responsibility of the council and are delegated to the licensing committee or officers. When the Scrap Metal Dealers Act 2014 was passed no mention was made as to where responsibility for the functions under the Act lay. By default therefore, the functions became a responsibility of the executive. The draft regulations propose making licensing functions under that Act a local choice function. That is to say that it is for the council to determine whether the function should be a council or executive function. In the event that the council decide it should be a council function then the presumption is that it will be delegated to this committee.

Risk Analysis

15. There are no risks associated with this report.

Committee: LICENSING & ENVIRONMENTAL

Agenda Item

Date: 4 March 2015

5

Title: ENFORCEMENT

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

Item for information

Summary

1. This report is to inform members of enforcement action taken since the last report to 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	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. Since my last report to this committee I have seen 3 drivers with a view to exercising my delegated powers to suspend their licences. All 3 drivers had breached a condition on their licence of failing to notify the council of fixed penalty notices within 7 days of receipt.
7. In the case of one driver, he volunteered the information to the council promptly upon return of his driver's licence with points endorsed. This is good mitigation and for that reason I suspended his licence for 2 days only. With the other 2 drivers the council only became aware of the endorsements upon the application to renew their licences. There were no mitigating or aggravating factors and in both cases a 5 day suspension was imposed.
8. No cautions had been administered since the last report. Cautions had been issued for offences prior to the last meeting but it was apparent that these were not acting as a deterrent. I therefore informed members at the last meeting that in future prosecution would be the first option and a caution would only be administered if the circumstances of the case warranted it.
9. Most of the cautions were for the offence of failing to wear the driver's badge. The majority of complaints were received from Essex County Council whose school contract inspectors routinely reported the offences. Essex County Council no longer uses school contract inspectors and it is probable therefore that the number of reports will substantially diminish.
10. The council did prosecute one driver for making a false statement in order to obtain a licence. He was fined £110 plus £20 victim surcharge and ordered to pay the council's costs of £414 in full. Prior to the prosecution taking place his application for a licence was refused by the committee. That decision was not subject of an appeal.

Risk Analysis

11. There are no risks associated with this report.