

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 7.30pm on 9
SEPTEMBER 2015**

Present: Councillor R Chambers (Chairman)
Councillors G Barker, T Goddard, J Gordon, E Hicks, S Morris
and J Parry.

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

Others in attendance: L Davidson (ULODA) and A Mahoney (24x7 Ltd).

PUBLIC SPEAKING

Mr Davidson and Mr Mahoney both made statements to the Committee.
Summaries of their speeches are appended to the minutes.

LIC24 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

Apologies for absence were received from Councillors Anjum and Davey.

LIC25 **MINUTES OF PREVIOUS MEETINGS**

The minutes of the meetings held on 4 March at 6pm, 4 March at 7.30pm, 20
April at 10am, 20 April at 2pm, 22 April, 28 May, 18 June, 9 July, 11 August and
12 August 2015 were signed by the Chairman as a correct record.

LIC26 **REVIEW OF CCTV CODE OF PRACTICE AND POLICE PROTOCOL**

The Licensing Officer presented her report on a review of the CCTV Code of
Practice and Police Protocol. In 2011 the Council purchased 15 CCTV camera
systems through funds provided by the County Council. These were installed in
taxi and private hire vehicles whose proprietors had signed up to the Quality
Taxi Partnership (QTP).

The Police's Uttlesford Crime Reduction Advisor and Architectural Liaison
Officer drew up a protocol which governed the Police's use of data captured by
CCTV in licensed vehicles. This was agreed by the Council and the Police.

The Council also drew up a document which mirrored the protocol submitted by
the Police, which became the "Code of Practice for the Management of Camera
Systems in Hackney Carriage and Private Hire Vehicles licensed by Uttlesford
District Council". This set out how the scheme would run, as well as the
responsibilities of the Council, Police and private hire trade. The Code of
Practice was agreed by all the relevant parties.

The Licensing Officer said a review of the Code of Practice had been due and as a result, a consultation took place on 23 June 2015 to ensure the Code of Practice and the Police Protocol were up to date. The consultation included ULODA, proprietors who had installed CCTV equipment, the Council and the Police. At the consultation it was agreed the amendments should be as follows:

1. To the Code of Practice

- a. At point 3.1 - the word “audio-visual” should be included
- b. At point 3.9 - the notices displayed in the vehicle should also make it clear that the system installed was an audio and visual camera system).
- c. At point 3.13 - the reference to the one year guarantee had been deleted as it was no longer relevant.
- d. At point 4.8 the wording has been amended to add the word “authorised”.

2. To the Police Protocol

- a. All references to the QTP were removed
- b. Wording was added to make it clear that signage would be displayed to alert passengers to the fact that a CCTV system was in operation.
- c. On page 2 the wording of one of the Key Objectives was changed to “To assist the police and UDC in gathering the best evidence in investigating any crime.....”.
- d. On page 3 the job title Crime Reduction Tactical advisor has been changed to Crime Prevention Tactical Advisor and the reference to QTP has been replaced by Community Safety Partnership.
- e. On page 4 the paragraph about *The collection of Evidence – Requests by the Police* was amended to add a phrase explaining that images may be sought relating to “incidents near to or on the route of any driver where the Police Senior Investigation Officer suspects evidence could have been recorded within the vehicle and that evidence could aid an investigation.

In response to questions by Members, the Assistant Chief Executive – Legal said PCSOs were only entitled to request, and not demand, evidence produced from CCTV equipment. The Protocol was an agreement between the Council, Police and private hire trade so it did not need to include copyright restrictions with regard to public’s use of CCTV equipment installed in licensed vehicles.

RESOLVED that the amendments to the Code of Practice and Police Protocol, as highlighted in the appendices to the report, were agreed.

The Licensing Officer presented her report on the installation of CCTV in licensed vehicles. In 2011, 15 CCTV systems were installed into vehicles of proprietors who had signed up to the Quality Taxi Partnership. Funding was provided by the County Council. There was no further funding for additional systems, but a proprietor had asked whether they could install their own system.

Currently the Council did not have a policy or any conditions related to the installation of CCTV cameras by bodies other than the Council. It was therefore up to Members to consider whether or not to introduce any conditions to manage the installation of CCTV in licensed vehicles.

Members could choose to;

- a) Allow proprietors to purchase and install their own systems with no conditions attached.
- b) Allow proprietors to purchase and install their own systems with conditions attached.
- c) Ban the installation of CCTV in licensed vehicles unless they have been provided and installed by the Council.

The Licensing Officer said that if Members preferred options B or C, a consultation including the Police and the Trade would be required. The outcome of the consultation would be reported at the next ordinary meeting of the Committee on 20 January 2016. Option A reflected the current situation so a consultation would not be required if Members decided to pursue this option.

Members considered the three options. It was noted that the Trade's favoured option was option B and Members agreed that this option would ensure the Council could ensure any CCTV equipment installed in licensed vehicles met certain standards. Although there was currently not a great deal of demand to install CCTV equipment in licensed vehicles, demand was likely to rise so it was prudent to establish the Council's policy now.

In response to questions by Members, the Assistant Chief Executive – Legal said any conditions would prevent operators or drivers from accessing the data.

RESOLVED that a consultation in respect of option B would take place. The outcome of the consultation would be reported to the next ordinary meeting of the Committee on 20 January 2016.

LIC28

AMEDNMENTS TO THE LICENSING POLICY

Members received a report from the Assistant Chief Executive – Legal which recommended that the Licensing Policy and its appendices were amended as shown in the appendix to the report.

On 12 August 2015, the Committee, in order to comply with the Deregulation Act 2015 resolved that drivers' licences would be granted for a period of three years with effect from 1 October 2015. If the Council's policy was left

unamended, medical and criminal record checks would only take place every nine years.

Government guidance, issued with reference to the Licensing Act 1976 prior to its amendment, stated that these checks should take place on each renewal. This guidance however, recommended three year licences for drivers which the Council and many other councils did not adopt. It followed that the Government thought carrying out medical and enhanced DBS checks every three years was best practice.

The Assistant Chief Executive – Legal said it was recommended that checks should be required at every three years rather than at every renewal. This was because drivers who renewed their licences in the period of 1 October 2015 to 30 September 2016 would have medical and enhanced DBS checks which were one or two years old. Drivers paid for these checks so it would be prejudicial to them to submit checks more frequently than every three years, and based on the Government's guidance, was unnecessary for them to do so.

RESOLVED that the Licensing Policy was amended as outlined in the appendix to the report.

LIC29

DELEGATED POWERS

The Assistant Chief Executive – Legal presented his report which sought to extend his delegated powers with regard to drivers who met class 2 medical standards, but whose certificates recommended they should be monitored more frequently than every three years. This would enable drivers who had medical conditions to take advantage of three year licences as having to renew a licence annually was more expensive under the Licensing Fees agreed at the extraordinary meeting of the Committee on 12 August 2015.

The Assistant Chief Executive – Legal recommended that his delegated powers were extended so that he could add conditions to the licence of such drivers which required them to produce medical certificates at specified intervals during the licence period. If the driver failed to produce a medical certificate in accordance with the conditions, the Assistant Chief Executive – Legal would have delegated powers to suspend the driver's licence, or suspend the licence with immediate effect in the interest of public interest if considered necessary. The period of suspension would be up to the Assistant Chief Executive – Legal's discretion provided the driver was brought before the Committee as soon as reasonably practicable.

If the driver produced a medical certificate stating they were fit to drive within class 2 medical standards before the case was considered by the Committee, the Assistant Chief Executive – Legal would have the power to lift the suspension, either immediately or at a specified date.

If a driver failed to produce a medical certificate or enhanced DBS check when due under the Council's policy, the Assistant Chief Executive – Legal would have delegated powers to suspend the driver's licence, or suspend the licence

with immediate effect in the interest of public interest if considered necessary. The period of suspension would be up to the Assistant Chief Executive– Legal 's discretion provided the driver was brought before the Committee as soon as reasonably practicable.

The Assistant Chief Executive – Legal said if a driver produced a medical certificate/enhanced DBS check showing the driver met the Council's licensing standards, the Assistant Chief Executive – Legal would have the power to lift the suspension immediately or at a specified date.

RESOLVED to extend the delegated powers of the Assistant Chief Executive – Legal as outlined in the recommendations of the report.

LIC30

ENFORCEMENT

The Assistant Chief Executive – Legal presented his report on enforcement action taken since the last ordinary meeting of the Committee. He had dealt with 27 drivers under delegated powers since 4 March 2015. The report was for the benefit of the Trade and the public, as members of the Committee were informed whenever the Assistant Chief Executive – Legal used his delegated powers. The report helped to highlight how aggravating/mitigating factors affected the length of suspensions given to drivers.

15 of the cases were because drivers failed to notify the Council of a fixed penalty notice within seven days. Two drivers were suspended for 14 days as the suspension would have no financial implications and would only cause an inconvenience, one driver was suspended for 10 days as he failed to notify the Council of two fixed penalty notices and nine drivers received five day suspensions. A five day suspension was the starting point under the Council's licensing policy. One driver was suspended for three days as he volunteered the information before his licence was due for renewal. Two drivers were suspended for two days. The first of these had taken a speed awareness course in lieu of paying the fixed penalty notice and did not realise the Council still had to be notified. The other volunteered the information quickly after the points were endorsed on their licence.

Two drivers failed to notify the Council of convictions. The first was suspended for five days as there were no aggravating or mitigating factors. The other was suspended was 10 days as there were two prosecutions were three offences and the Council was not notified about any of the convictions. In both cases, the drivers still met the Council's licensing standards.

The Assistant Chief Executive – Legal said one driver had been suspended for 10 days as they had failed to notify the Council of an accident. The driver had been suspended previously for a breach of conditions. He was given a warning that a further breach would likely result in an appearance before the Committee. Currently the Council's policy stated that drivers who committed three offences or breach of conditions within a three year period should appear before the Committee to determine whether the driver remained a fit and proper person.

One driver had been suspended for five days for failing to display the vehicle's licence plate. Another driver was suspended for two days for failing to notify the Council of a change in address. The suspension was lower in this instance as they had notified the Council of a previous change of address and had been under a lot of stress due to the medical condition of a close relative.

One driver had been suspended for three days for poor driving as they had been witnessed driving at excess speed and failing to stop at a red traffic light. If the Police had detected the crime, a longer suspension in light of the subsequent fixed penalty notice would have been disproportionate.

The Assistant Chief Executive – Legal said he had suspended two drivers with immediate effect in the interest of public safety. One had been arrested for an offence of drink driving. They were subsequently convicted and disqualified from driving. The other driver was arrested on suspicion of an offence of indecency. This driver had now surrendered their licence so further action was not necessary.

The Assistant Chief Executive – Legal explained the Council had policy of accepting DBS checks on applications provided they are not more than 18 months old and the driver makes a statutory declaration that a future check carried out by the Council would not reveal any further convictions. The Council discovered that a driver who had applied under this policy had been cautioned for a public order offence within the previous 12 months. As a result the driver did not meet the Council's licensing standards. The Assistant Chief Executive – Legal revoked the driver's licence under delegated powers and prosecuted the driver for making a false statement to obtain a licence.

There had been three new applicants who did not meet the Council's standards. Two had received six points or more for a single motoring offence and the other had received a custodial sentence for offence of dishonesty which had not been spent under the Rehabilitation of Offenders Act 1974. There were no extenuating circumstances in these three cases so they were all refused under delegated powers.

The Enforcement Team had cautioned three drivers for minor offences and a further two had been prosecuted. One was for making a false statement and one for failing to notify the Council of a vehicle's involvement in an accident within 72 hours. Both parties were unemployed at the time of the convictions and as a result received relatively small fines.

There were currently six pending prosecutions; two for failing to display No Smoking stickers, two for making false statements in order to obtain a licence, one for failing to notify the Council of an accident within 72 hours and one for parking on a taxi rank.

The Assistant Chief Executive – Legal said the Enforcement Team had also taken part in joint operations with the Police to check licensed vehicles. A total of 38 fixed penalty notices had been issued for environmental offences, which

totalled £4,590. Most of the penalty notices had now been paid. These penalties had been ring-fenced for the purposes of the enforcement service.

The report was noted.

The meeting ended at 8.20pm.

Summary of Public Statements

Les Davidson – ULODA

ULODA noted there were two reports before the Committee which dealt with CCTV in licensed vehicles. ULODA had played a key role in the formulation of both the Code of Practice and the Police Protocol since the initial working group was set up in 2011 and was involved in the consultation which had taken place on 23 June 2015.

ULODA had considered the three options outlined in the report for Item 5 of the agenda and recommended that the Committee pursued option B. ULODA also considered it prudent that preferred providers were chosen to ensure the quality of any equipment which was installed.

The recommended changes to the Assistant Chief Executive – Legal's delegated powers were welcome. ULODA had considered the Enforcement report and wanted operators to take a proactive role in preventing drivers from being suspended for infringements of the licensing conditions.

Andy Mahoney – 24x7 Ltd

One of 24x7's vehicles had been reported as it had been displaying an incorrect vehicle plate. The plate belonged to another vehicle owned by 24x7. Both vehicles were the same make, model and colour and also had similar number plates. This had resulted in vehicle plates being placed in the wrong vehicles. He had now received letter stating 24x7 was going to be prosecuted for the offence of displaying an incorrect vehicle plate, which he felt was disproportionate and not in the public interest.

It was now estimated that Uber had around 93,000 drivers signed up throughout the country. Many of these had been operating at Stansted Airport so he had begun investigating the way in which Uber operated. It appeared that Uber was in breach of various different Stansted Airport by-laws, including those relating to the booking of fares. It was important that the Council and the Trade worked together to ensure the Airport's bylaws were adhered to.