

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 7.30pm on 4
MARCH 2015**

Present: Councillor D Perry (Chairman)
Councillors H Asker, J Davey, J Loughlin, D Morson, V Ranger, J
Salmon and A Walters.

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

PUBLIC SPEAKING

ULODA submitted a statement which was read by Members at the beginning of
the meeting. A copy of the statement is appended to the minutes.

LIC67 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Freeman.

LIC68 **MINUTES OF PREVIOUS MEETINGS**

The Chairman signed the minutes of the meetings held on 21 January 2015 at
10am and 7.30pm as a correct record.

LIC69 **MATTERS ARISING**

**(i) Minute LIC56 – Application to vary a premises licence – The Plough,
High Street, Debden**

The Assistant Chief Executive – Legal said no appeal had been lodged against
the decision.

(ii) Minute LIC60 – Matters Arising

The Assistant Chief Executive – Legal informed Members the operator/driver
referred to in paragraph nine had now produced evidence the driver was
insured to drive the vehicle. In the circumstances the prosecutions had been
discontinued and the council was not opposing the appeals.

LIC70 **UPDATE ON DRAFT LEGISLATION**

Members received a report on the progress of the Deregulation Bill, local fee
settings and Government proposals regarding functions and responsibilities
within an executive structure.

The Assistant Chief Executive – Legal said the Deregulation Bill was now progressing through the parliamentary system. The Government had decided to add three amendments to the Bill. These would allow unlicensed drivers to drive licensed vehicles which were not being used by fare-paying passengers, cross-border hiring and driver licences to be issued for three years with operator licences issued for five years bar for exceptional circumstances.

Due to opposition to these amendments the proposal to allow unlicensed drivers to drive licensed vehicles had been dropped. The Bill deemed cross-border sub-contracting permissible as long as the sub-contract was made with an operator licensed by the district business was carried on and drivers licensed by the same authority were used to fulfil the contract.

The Assistant Chief Executive – Legal said the Bill was worded in such a way that a licence could be granted for less than three years for drivers, and five for operators when the Council thought it was appropriate.

The Assistant Chief Executive – Legal explained the requirement for renewal of personal licences was to be abolished. These licences were granted for ten years and were first issued in 2005. Due to secondary legislation, fees for renewal could no longer be charged, nor could DBS checks be carried out on renewal. Personal licences would be converted to perpetual licences once the Bill became law.

The Bill also made provision to allow the number of temporary event notices that could be served by a premises in a calendar year to increase from twelve to fifteen. This was effective from 1 January 2016. The Council would have the power to dis-apply the Licensing Act in respect of late night refreshment. It would no longer be a requirement to report lost or stolen licences to the Police.

The Assistant Chief Executive – Legal informed Members the Bill was due to have its third reading in the House of Lords on 4 March 2015. As Parliament was due to be dissolved on 27 March it was possible the Government would drop the parts of the Bill relating to hackney carriage and private hire vehicles in order to ensure the Bill became law before the General Election.

Initially under the Licensing Act, fees were set nationally, although the Act was then amended to allow the Secretary of State to lay down regulations which empower licensing authorities to locally set fees. On 13 February 2014 the Government consulted on its proposals for local fee setting for an eight week period. The Government's proposal stated that broadly each authority should set its own fees, set on a cost recovery basis, up to a capped level.

The Assistant Chief Executive – Legal said the Government had now published its response to the consultation. There had been 681 responses to the consultation and over two thirds were from fee payers. Most of the rest were from licensing authorities. Fee payers were largely opposed to locally set fees and as a result the Government had decided it would not be looking to introduce locally set fees in this parliament.

The Assistant Chief Executive – Legal informed Members the Home Office would now work with The Local Government Association to explore the costs of delivering licensing functions.

Elements of the trade had also requested that all annual fees should be paid on the same date. Both licensing authorities and fee payers were generally against the idea and therefore the Government had dropped this proposal. It was still likely though, that licence holders would be given the option to pick the date they paid the annual fee.

The Assistant Chief Executive – Legal said the Government had launched a consultation on draft regulations that dealt with councils operating executive arrangements. The draft regulations dealt with the issue of scrap metal dealer's licences..

The Scrap Metal Dealers Act 2014 did not mention where the responsibility lay so by default it was an executive function. The draft legislation would make it a local choice function. If the Council decided it should be a council function it was presumed it would be delegated to the Committee.

In response to Councillor Perry, the Assistant Chief Executive – Legal said the Government wanted drivers to be given licences for three years and five for operators, bar for exceptional circumstances. However, the wording suggested the period of the licence could be reduced if the Council thought it was appropriate in the circumstances. It was not necessary to have updates on the draft legislation as a standard item. It could be included on an ad-hoc basis whenever there was a change that needed to be reported to the Committee.

The report was noted.

LIC71

ENFORCEMENT

Members received a report on enforcement action taken since the last meeting of the Committee.

The Assistant Chief Executive – Legal said he had seen three drivers, all for failing to notify the Council of a fixed penalty notice. One was only suspended for two days as there were mitigating factors. The other two had no mitigating or aggravating factors and were suspended for five days.

No cautions had been administered since the last report. At the last meeting Members were informed that in most instances a prosecution would be sought, instead of a caution being issued, as cautions were not acting as a deterrent.

The Assistant Chief Executive – Legal said most cautions were for failing to wear a driver's badge. Most of these offences were reported by the County Council from their school contract inspectors. The County Council no longer used these inspectors so the number of reported offences was likely to diminish.

The Council had prosecuted one driver for making a false statement in order to obtain a licence. He was fined £110 plus a victim surcharge of £20 and ordered to pay costs of £414. This followed the Committee's refusal to grant the driver a licence. No appeal had been received.

The report was noted.

LIC72

ANY OTHER BUSINESS

Councillor Perry thanked Members, the Assistant Chief Executive – Legal, Licensing, Enforcement and Democratic Services for their attendance at the large number of Committee meetings had throughout the year.

The meeting ended at 8pm.

Public Statement

ULODA

Dear Chairman and Members

It is our pleasure as usual to let you have "a view from the trade" before your formal meeting this evening, which is understood to be your final scheduled ordinary meeting this Council year.

When you last met on 21 January, we said in our statement that we fully supported Michael Perry's recommendation that all licence fees should remain unchanged for 2015-2016. We were pleased that you resolved to approve his proposal, noting the ongoing contribution of the Licensing Reserve to offset costs as agreed in 2010. The Deregulation Bill - if it finds the statute book in its present form - will have the effect of introducing three and five year licences and we will all need to consider the burden on operators, proprietors and drivers, who of course currently pay for one year at a time. Any change in the frequency of licence payments will inevitably impact their budgets, as well as the Council's.

Michael will be updating his report on the Bill in the light of ongoing scheduled parliamentary debate.

The proposal to allow cross-border hiring is welcomed by the trade. If an operator chooses to sub-contract a booking for operational reasons, he will want to have assured the quality of service provided by the sub-contractor in the interests of the customer's satisfaction and his ongoing licensed business.

Whether the operator sub-contracts a booking within or outside the District makes no difference - it is best practice to ensure that the customer is delighted with the sub-contract arrangement, both before and after the booking is fulfilled. The operator is accountable for all his bookings to UDC.

Michael's report headed Enforcement follows your agreement to the change in approach allowed for in the Licensing Policy. We argued prior to its adoption - and again in our January statement - that offences such as drivers failing to wear their badges should be dealt with by means of a caution rather than a prosecution, and we were pleased to see in the Minutes that you were provided with further evidence from Michael's research to justify his proposed change. We note now with interest - but with no surprise - his expectation that the number of reported offences will "substantially diminish" as the majority of complaints were received from ECC school contract inspectors who are no longer in use. We have absolutely no wish to see any drivers prosecuted for minor offences - nor, we believe, will Magistrates wish to have their burden of such cases unnecessarily increased.

Going forward, we are happy with Michael's offer to engage with us on matters of mutual interest - such as to brief members of the trade on the Deregulation Bill if it is enacted - and we will continue to seek to establish a regular forum or surgery with Officers on important issues such as compliance.

Finally, may we thank you sincerely, Chairman and Members, for your care and attention this last year. We will look forward to engaging with the Committee which succeeds you in May, and to continuing the constructive dialogue we have established on all items on your and our agendas.