

LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held in the COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on WEDNESDAY, 24 JANUARY 2018 at 7.30 pm

Present: Councillor R Chambers (Chairman)
Councillors A Anjum, G Barker, J Davey, A Gerard, J Gordon,
E Hicks and S Morris

Officers in attendance: T Cobden (Environmental Health Officer - Commercial),
B Ferguson (Democratic Services Officer), J Jones (Licensing Officer), B Stuart (Accountant), A Turner (Licensing Team Leader) and M Watts (Environmental Health Officer - Protection)

Also Present: B Drinkwater (representing ULODA) and A Mahoney (representing 24x7)

LIC41 PUBLIC SPEAKING

Public statements were made to the meeting as follows:

1. Barry Drinkwater representing ULODA
2. Andrew Mahoney representing 24x7

A summary of the statements are appended to these minutes.

The Chairman thanked both speakers for their statements and addressed their concerns regarding a rise in licence fees and charges. He said local taxi companies would be consulted on this proposed rise and the decision put before Members tonight was only to put the policy out for consultation for a 28 day period.

With reference to the matter of licensing Uber drivers, the Chairman said a decision would have to be made in future but currently the position was under review.

LIC42 MINUTES OF THE PREVIOUS MEETINGS

The minutes of the extraordinary meetings held on the 25 September, 31 October, 20 November, 6 December and 18 December 2017 were received and approved as correct records.

In response to a member question on premises licences, officers said an update would be provided in the minutes regarding appeals in relation to decisions made at Committee, and where an appeal was lodged, the outcome.

FEEES FOR DRIVERS, HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES AND PRIVATE HIRE OPERATORS

Members considered the report reviewing the Council's licence fees and charges in respect of Hackney Carriage, Private Hire and Operator Licences which would take effect from 3 April 2018.

The Licensing Team Leader said that the income received by Licensing over the following three years would be reduced due to a change in legislation which allowed licences to be issued on a three or five year basis, whereas previously they had been issued annually. This left the Council open to financial risk, as the cost of issuing and administrating the licences would not be covered by the current rate of fees and charges.

In response to a question relating to the increase in time it took to process a licence, the Environmental Health Manager (Protection) said this was due to a change in working practices and personnel at the Council. Previously, the Head of Legal Services had delegated powers and had taken on many cases himself. Now it was a cooperative exercise and the relationship between Enforcement and Legal was alike to a client-business relationship.

Members asked whether the time stated to process a licence was realistic.

The Environmental Health Manager (Commercial) said the time analysis study had been carried out by experienced staff and it would take longer if a new member of the licensing team was asked to process a licence.

The Chairman said that even with the increase in charges as proposed by the report, Uttlesford would still remain an inexpensive licensing authority in comparison to other local authorities.

The Environmental Health Manager (Commercial) said the licensing system in place was very efficient but reminded Members that public safety was the priority for the licensing team, not the speed at which licence applications were processed.

RESOLVED to:

- 1) Approve the fee structure proposed in Appendix B to come into effect on 3 April 2018.
- 2) That the fees in respect of Hackney Carriage and Private Hire Vehicle Licences and Private Hire Operators Licences be advertised for a period of 28 days in at least one local newspaper circulating in the district.
- 3) If any objections are received then Members will need to meet to consider the same and must then set a further date (not being later than two months after the first) on which the variation to fees will come into force with or without modification. They will be reported back to this Committee for consideration.

LIC44 **EVALUATION AND IMPLEMENTATION OF SECTIONS 165 AND 167 OF THE EQUALITY ACT 2010**

The Licensing Officer presented her report informing Members that the Government had enacted Sections 165 and 167 of the Equality Act 2010. This provided protection for wheelchair users who wished to travel by a hackney carriage/private hire vehicles.

The Licensing Officer said Section 165 placed a duty on drivers whose vehicles were listed by the local authority as wheelchair accessible, to provide assistance to wheelchair users when entering and alighting the vehicle.

Section 167 gave local authorities a power to maintain a list of hackney carriages/private hire vehicles that were designated as wheelchair accessible vehicles.

It was noted that local authorities were not obliged to produce a list of designated vehicles although, if a list was not maintained, the provisions giving protection to wheelchair users under S165 could not come into effect.

The Licensing Officer said that there were 260 wheelchair accessible private hire vehicles in the district, although all of these vehicles were licensed by operators who used them solely for contracted work. She had contacted six school contract operators to ask whether their wheelchair accessible vehicles could be made available for general private hire; only one said they would be happy to help on the proviso that the vehicle was not being used for a contracted journey. In practical terms, this meant that if such vehicles were included on 'designated list' they would not actually be available for use by the general public, providing no benefit for individuals who required a wheelchair accessible vehicle. Furthermore, the administrative burden of maintaining such a list would be high due to the significant number of vehicles that the authority licences in the district.

Officers had concluded that a voluntary list of vehicle proprietors that operate wheelchair accessible vehicles would be produced, which would provide the disabled community with a list of vehicles that were genuinely available to the public. Whilst drivers who refused to comply with S165 of the Equality Act could not be prosecuted, conditions could be applied to licences which enabled the authority to investigate discrimination and take appropriate action, such as reviewing whether the driver remained a fit and proper person to hold a hackney carriage/private hire vehicle licence.

LIC45 **ENFORCEMENT ACTIVITY SINCE APRIL 2017**

The Environmental Health Manager (Protection) presented his report which updated the committee on Enforcement activity since April 2017.

The Environmental Health Manager (Protection) said fourteen suspensions had been issued by the Enforcement Team under delegated powers for minor offences that did not necessitate prosecution or a committee hearing. A

consistent approach had been applied and the fact that no cases had gone to appeal validated current practice.

Members were informed of five licensed vehicles that had been suspended by officers under delegated powers due to damaged vehicles, or for proprietors who had failed to have their vehicles tested; one licence was surrendered and four vehicles had the suspension lifted following hearings with the Licensing Committee. Powers were available to officers to intervene without delay in cases where the seriousness of the offence suggested that inaction would lead to an endangerment of public safety.

Enforcement work had been carried out in partnership with Transport for London (TFL) and intelligence was shared between Essex Police force and the TFL. Recently, compliance checks had been performed on licenced vehicles at Stansted Airport by Enforcement Officers in tandem with the police. The Environmental Health Manager (Protection) said he would bring a report to the next meeting of the committee to summarise the outcomes of such checks.

LIC46 **ANY OTHER BUSINESS**

In response to a request from the Chairman, the Environmental Health Manager (Protection) said he would produce a report for the next meeting, updating Members on the status of Environmental Health work.

The Chairman said he would ensure that at the next meeting a legal officer was present to provide guidance to Members if required.

The meeting ended at 8.45pm.

PUBLIC STATEMENTS

Barry Drinkwater – Chairman, ULODA

First apologies from Doug Perry, ULODA's Hon President, currently recovering from what he describes as a minor medical procedure yesterday. Also from Murray Hardy, Andy's Head of Human Resources - who is also with his approval a member of ULODA's executive committee.

If Doug was here to speak to you I know he would want to say how pleased he has been to continue to be an influence in all trade matters with the council. As you know from previous meetings, he and I have made regular public statements to this committee as well to Cabinet and Scrutiny about Enforcement and the Licensing Policy review. We'd hoped that Tony Cobden would have tonight presented the results of the peer review which Oliver Rawlings has fronted so very ably as far as the trade is concerned, but sadly this is not to be and we look forward to hearing about it at your April meeting. We understand that a presentation was made to officers last week and we would love to have been a fly on the wall. It's good to see that Marcus Watts has reported to you on Enforcement and this will enable us to update ULODA's historical analysis of

trends at a time when we have already seen and sensed a lighter hand on officers' part, with advice and education the key elements going forward.

Turning to your meaty agenda this evening! Let me concentrate on Amanda's report on Licence Fees. First, it's not unexpected! The Licensing Reserve was due to be exhausted and this in itself means no further funds to discount operator, driver and vehicle fees. One question you may like to ask officers on our behalf please: Amanda says in para 7 of her report that the final £17,000 in the reserve has been used to fund the licensing operational deficit in 2016/17. I'm not an accountant but I can't see how it has been applied or where it appears in Appendix A?? Yes, it appears like an orphan in the box at the foot of the page, but where is it in the Licensing Accounts?

We are delighted to see the continuing emphasis on keeping costs to an absolute minimum (mentioned in Amanda's Risk Analysis). We do acknowledge the need to increase for example staffing costs, presumably (and hopefully) to reflect an increase in Amanda's Licensing Team to cope with Right to Work checks and the rest!

It's true to say all of us in the trade want to see service levels optimised. Andy will speak to this and I know Murray would have done at the sharp end for 24x7!!

The one item in Licensing costs which continues to grate with your trade leaders is the inclusion of Enforcement (in Appendix A). We have long argued that the legislation entitles the council to recover the costs of licensing administration - but not, we are reliably informed by the NPHTA, the costs of Enforcement. Yet here they are again, along with some new projected cost items in Appendix C - cautions and prosecution work?? How are these justified, we ask, and invite you to ask too.

We very much hope your preparations for this evening's meeting include several such questions for officers. We also hope you will NOT approve the proposed increases until both you - and importantly we too - are satisfied that they are fair, reasonable and justified. When given the chance to have our say in our annual review meetings with officers since 2010, we have always reviewed the accounts and the budget for Licensing through forensic eyes, and always with an eye to agreeing to them.

Thank you, Chairman and members. We will enjoy listening to your discussions this evening as usual! Over to you, Andy.

Barry Drinkwater
Chairman, ULODA
Uttlesford Licensed Operators & Drivers Association

24 January, 2018

Andy Mahoney – Managing Director, 24x7 Ltd

My comments on tonight's main agenda items:

3. Fees

Robert Sinnott, Barry and I led the trade in discussions with the council in 2008/09 when MP proposed an increase of 29%.

We all agreed the discussions then under cllr Doug Perry's chairmanship of the licensing task group were excellent.

It was proved beyond doubt that operators, proprietors and drivers had been overcharged in their licence fees....

The outcome was that it was agreed (a) they should be repaid by discounting licence fees through the licensing reserve and (b) the trade delegation would help make sure such overcharging never ever happened again.

From 2010 we had regular annual convivial discussions with officers - including the accountant - to check that items in the licensing budget were (a) correctly apportioned to the trade and (b) fair and reasonable. These meetings continued for 5 years until 2016 when mp retired. Every year he and we (including Richard) signed off the budget and accounts. We understood the costs and agreed they were correct, fair and reasonable. MP recommended the annual reviews should continue but sadly they have fallen away, though not for want of trying on our part at the highest levels in the council.

With the licensing reserve now exhausted, we do accept there needs to be an increase in licence fees. We have only seen amanda's proposals since tonight's agenda was published. May we please ask for a meeting with officers in the next week to go through the numbers with a view to approving them, **not** objecting. For example, one item is about right to work checks properly carried out by members of the licensing team. We are suffering long delays in arranging these. This is having a considerable impact on our schools business at 24x7. We assume that the projected increase in staffing costs shown in appendix a "hides" an increase in staff in the licensing team - we hope so in the interests of ongoing business success. Another point I must make about appendix b: the proposed 73.9% increase in the vehicle licence transfer fee requires very careful consideration.....

Finally, there are some new cost items such as cautions and prosecution work, which we need to get our heads around. If as we believe we are moving into an era of informal enforcement with advice and education as the key elements, why is this work being allowed to be itemised?

4. The equality act - sections 165 and 167

We support Jo's recommendation that there should be a voluntary published list of operators and proprietors happy to have their wavs included. I am very happy for 24x7 to set the example by making vehicles available for public hire. I have drivers trained to work with the disabled. I'm also happy to rent out my vehicles to other operators for such work.

AOB. Uber. Steve Garlick of the GMBU trade union is suggesting he and i approach the council with a view to having uber's UDC operator's licence challenged. It was originally granted correctly by the council in mp's time. Uloda have suggested to officers more than once that uber's operating base in Uttlesford should be paid an uninvited visit by enforcement.

Andy Mahoney
Managing Director
24x7 Group
Stansted Airport