

Minutes of a meeting of the Licensing Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Wednesday, 9<sup>th</sup> March 2011 at 9.00am

**P R E S E N T**

Councillor Ron Bradney  
Councillor Allen Alderson  
Councillor Michael Allan  
Councillor Sue Austen  
Councillor Tony Cornell  
Councillor Lavinia Edwards  
Councillor Tony Goodge  
Councillor Tony Parramint  
Councillor Jackie Petts  
Councillor Robert Stevens  
Councillor Hazel Williams, MBE  
Councillor Andy Wright

**I N A T T E N D A N C E**

Lin Bagwell – Licensing Officer (Enforcement)  
Elizabeth Bailey – Principal Environmental Health Officer  
(Commercial)  
Liz Knox – Head of Environmental Services  
Janis Murfet – Democratic Services Officer  
Jeanette Thompson – Head of Legal &  
Democratic Services  
(1 member of the public)

**A P O L O G I E S**

Councillor Bill Hunt

52. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

53. **MINUTES**

Further to Minute No 49 (Amendment to Taxi and Private Hire Vehicle Conditions in Line With Those Resolutions Made by the Licensing Committee on 9<sup>th</sup> December 2009), page 7, second paragraph, Councillor Stevens asked for clarification of the term “day to day bookings”. The Licensing Officer explained that the exemption was given to people who fulfilled bookings as part of an overall

contract, not general hire or “ordinary” bookings. It had been part of the old “chauffeur contract” (now repealed).

Councillor Wright proposed and the Committee agreed that, in the interests of clarity, the sentence be amended to read “The Licensing Officer reminded Members that there were very strict conditions governing the use of exempt Private Hire Vehicles”. Whereupon,

It was resolved:

That subject to the agreed amendment, the minutes of the meeting held on 12<sup>th</sup> January 2011 be confirmed as a correct record and signed by the Chairman.

54. **CHAIRMAN’S ANNOUNCEMENTS**

The Chairman did not make any announcements.

55. **ADOPTION OF REVISED BYELAWS IN RESPECT OF ACUPUNCTURE, TATTOOING, SEMI PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS AND INCREASE OF FEES**

The Committee received a report which sought approval for the adoption of revised byelaws in respect of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis, and for an increase in the fees charged for registration of skin piercing within the District.

The Principal Environmental Health Officer introduced her report by advising Members that it would be for Full Council rather than the Licensing Committee to approve the adoption of the revised byelaws and proposed increase in registration fees.

It was noted that there had been many developments regarding skin piercing and semi permanent skin colouring since the initial controls were introduced by the 1982 Act, and the practices posed potential health risks for the transmission of blood borne diseases. In connection with this the Government introduced, through Section 120 and Schedule 6 of the Local Government Act 2003, powers to require the registration of businesses providing cosmetic piercing and skin colouring services. The Council duly adopted the model byelaws and introduced separate conditions for each practice.

The Principal Environmental Health Officer continued saying that the Department of Health had since revised the Model Conditions for skin piercing, consolidating into one set conditions to cover all the various types of skin piercing activities and updating specific provisions to reflect infection control advice and industry practice.

The Committee noted that once full Council had adopted the Byelaws, an advertisement would be published in a local newspaper giving notice that the Council intended to apply for confirmation to the Department of Health. A copy of the Byelaws would be held on deposit at the Council for inspection by the public for one month after the date of the newspaper publication. Any person would have the right to object to the Department of Health before the Byelaws were confirmed. The Byelaws would usually come into force one month after confirmation.

It was proposed that the current fee (£175.00) be increased in line with the Consumer Prices Index for January 2011, meaning the total cost per registration would rise to £182.00.

During the course of discussion, Members raised the following points:

- Councillor Cornell observed that paragraph 4.5 of the report mentioned “areas of the body other than just ears”, whereas 1.-(1) of the Byelaws made reference only to ears and noses. He suggested that perhaps additional wording was needed to account for other areas of the body that were not usually exposed to the public gaze.
- Councillor Alderson asked for clarification regarding who was exempt from the requirements of the Byelaws, and was informed that this referred to registered medical practitioners and dentists.
- Councillor Wright noted that the fee was a “one-off” for registration rather than a recurring charge. The Principal Environmental Health Officer agreed that a renewal fee would be simpler, but said that there was a danger of activities being pushed underground if fees were set too high.
- Councillor Stevens asked if it would be the practitioner rather than the Council that was liable in the event of a member of the public suffering an infection. The Principal Environmental Officer replied that it would be the practitioner; the Council would conduct an inspection before issuing a licence, and this would be followed by periodic inspections. Businesses were also subject to Health & Safety legislation, and there was good intelligence between the Health Protection Agency who kept the Council “in the loop” if blood-borne diseases were identified in the region that were linked to suspected skin piercing activities.

- Councillor Goodge wished to know whether the Licensing Officers used a checklist when carrying out inspections, and whether they checked to ensure that licensees understood the regulations. It was noted that a file is set up for each premises, and an Officer within the Commercial Team would contact the applicant to carry out an inspection before they started operating. Inspection record forms were kept for each type of activity, and where necessary, an activity could be prohibited until compliance with byelaws had been achieved.
- Councillor Parramint asked if there would be a problem with introducing an annual fee. The Head of Environmental Services replied that there could be issues because the law required just a registration fee, however she would look into this matter.

The Head of Legal & Democratic Services asked whether Members wished officers to come back to Committee with clarification regarding Councillor Cornell's query about body piercing. Councillor Wright proposed and the Committee agreed that it would be sufficient for officers to report back to the Chairman or Vice-Chairman. Whereupon,

It was resolved:

That officers will report back to the Chairman or Vice-Chairman to provide clarification regarding issues raised in respect of body piercing, subject to that and necessary amendments to the Model Byelaw;

It was further resolved to recommend:

That Council adopt the revised Byelaws and the proposed increase in registration fees.

## 56. **REVIEW OF ANIMAL LICENSING FEES**

The Committee received a report from which Members were asked to consider proposed revised licence fees.

The Principal Environmental Health Officer summarised the main points of her report, reminding Members that Animal Licensing was a statutory function covered by a number of different statutes prescribing the licensing, administrative process and conditions to be attached to animal licences. There was a significant administration and inspection process, and therefore it would be important that the level of licence fee reflected the officer time and administration time spent in the renewal, application, issuing and in-year activity associated with a licence.

Appendix 1 to the report set out the numbers of licences issued by the Council by licence type, and Appendix 2 detailed the current and proposed animal licensing fees.

During the ensuing discussion Councillor Wright said he was not against the logic of the proposals, but he had some difficulty with some of the fee levels and bringing in the increases in one “lump”. He believed that they should be “staircased” over a number of years because they represented significant increases for what were often small businesses. He also made the point that the home boarding fees had only been introduced a couple of months ago. Councillor Williams concurred, adding that to suddenly increase fees might induce people not to register but still carry on with their business.

The Head of Legal and Democratic Services said that the fees were in accord with the time spent on inspections and administration. They were based on licensing activities rather than legal on-costs. Councillor Wright responded by saying that there seemed to be an obsession with recovering fees. He believed that the Council was losing sight of what it was about, namely service to the public. Councillor Parramint disagreed, reminding Members that it was a legal requirement to have these licenses. It was up to the Council to cover costs for the general public, and he used the analogy of someone still having to pay Road Fund Tax for a car that they did not use. He concluded by moving that the proposed fees and charges be approved.

Councillor Williams said that she wished to propose an amendment to the recommendation. She proposed, and Councillor Cornell seconded that the Home Boarding fee be set at £83, to bring it into line with the fee for Animal Boarding (dog or cat).

Councillor Wright, seconded by Councillor Williams, proposed that the fees should be revised and brought back to Committee to be “staircased” over three years, bearing in mind Members comments. When put to the vote, the motion was declared lost, there being 4 votes in favour and 7 votes against.

It was proposed by the Chairman and seconded by Councillor Parramint that the Animal Boarding Licence fee should be £130, with no reduction for single animals. When put to the vote there was an equality with 6 votes in favour and 6 votes against. The Chairman used his casting vote in favour of the motion, which was duly declared carried.

When put to the vote, the substantive motion was declared carried, there being 8 votes in favour, 3 against and 1 abstention. Whereupon,

It was resolved:

- (1) That in relation to the proposed renewal fees, the Animal Boarding Licence Fee should be £130, with no reduction for single animals.
- (2) That subject to the above amendment, the proposed fees and charges be approved.

57. **REVIEW OF FEES FOR LICENSED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER KNOWLEDGE TEST**

The Committee received a report from which Members were asked to review the current fee charged for the driver knowledge test for joint Private Hire and Hackney Carriage Driver applications.

The Principal Environmental Health Officer introduced her report by reminding Members of the background to the issue, and reiterating that the proposed fees would apply only to new applicants. Whilst there was no statutory duty to consult with regard to proposed charges and revisions in relation to driver related application fees, it was considered good practice to do so. It was therefore recommended that a form of consultation be made with relevant persons, by way of a letter to current licensed drivers outlining the proposals and inviting comment within a 28 day period. The proposals would also be published on the Council website, and displayed in the reception area at The Grange.

Councillor Austen suggested that as the proposal related to only new drivers, the letters should instead be sent to operators. Councillor Parramint proposed and the Committee agreed that the recommendation contained within the report be amended to reflect this.

It was resolved:

That the proposed revised fee level for consultation with those operators currently licensed by the Council, be approved.

58. **ZOO LICENSING ACT**

The Committee received a report from which Members were asked to recommend to full Council that the Licensing Committee's Terms of Reference, as contained within the Council's Constitution, be amended to include the delegation of the Zoo Licensing Act 1981 provisions to the Head of Environmental Services and relevant authorised officers.

Councillor Wright enquired whether it would be necessary to buy in expertise and was informed that there would be a heavy reliance on veterinary reports. The inspection regime was laid down in legislation.

It was noted that a draft Zoo Licensing Policy and proposed licence fees would be brought back to a future Licensing Committee.

It was resolved:

- (1) That it be recommended to Full Council that the Licensing Terms of Reference within the Council's Constitution be amended to include the Zoo Licensing Act 1981 provisions.
- (2) That a draft Zoo Licensing Policy and proposed licence fee be brought back to a future Licensing Committee.

59. **HEAD OF LEGAL & DEMOCRATIC SERVICE'S RESPONSE TO A MEMBER'S QUERY**

With the agreement of the Chairman, the Head of Legal & Democratic Services addressed the Committee in response to a query raised by Councillor Wright.

It was noted that Councillor Wright had asked for a definitive ruling from the Legal Section regarding what information, such as papers relating to a driver's/operator's previous hearings, should be included in a Sub-Committee agenda and also how much of that past history should be taken into account by Members when deliberating on their decision.

The Head of Legal & Democratic Services advised that past history *could* be taken into account. It was for the Licensing Officers to decide how the information was to be presented in the report, but it could be summarised and included in the main body of the report. The rehabilitation of offenders did not apply to taxi drivers but a driver could still be considered "fit and proper" despite having a previous history.

Councillor Wright interjected, saying that at a previous taxi hearing he had asked about previous history and had been advised by the Head of Legal that the case should be judged on its merits, nor by the history. He added that Councillors Bradney and Austen had also served on that panel. The Head of Legal & Democratic Services replied that she would not have said that; she had no recollection of this particular hearing and would have to look back through the minutes. Councillor Bradney said that he too definitely remembered being told to look at the specific offence and not past history.

Councillor Wright explained that at the last taxi hearing on which he served, the whole of the driver's history had been attached to the report. Members were advised that the Legal Section had not been consulted and the (Licensing) line manager had instructed officers to include everything. Councillor Wright continued, saying he was not bothered either way, but there needed to be consistency regarding what should or should not be taken into account.

The Head of Legal & Democratic Services said that some of the information Members considered was old and spent, but they might wish to consider past behaviour, such as breaches of conditions, as part of a pattern of behaviour. They should look at the specifics of the case, the details of which would become part of the record.

Councillor Williams said that she too had served on the last taxi hearing and had expressed her concern at that meeting that there was more information regarding the licence holder's previous case than the current one. She too had questioned the need to include absolutely everything in the papers.

The Head of Legal & Democratic Services reiterated her previous advice – previous history was relevant and could be considered.

(Councillors Austen and Williams left the meeting at 10.09am).

The Principal Environmental Health Officer asked Members to think about what degree of information should be included. She cautioned that if it was summarised too much and the members of the panel were not aware of past history, this could cause problems. The Licensing Officer agreed, reminding the Committee that there would be times when Members needed to know the full picture in order to be able to make an informed decision, such an instance being when the subject of a hearing was warned that any future transgressions would result in a further appearance before the Sub-Committee.

Councillor Wright concluded by saying he thought a summary would be sufficient and he asked that the Legal and Licensing Sections talk to each other in order to establish a consistent approach.

60. **FORWARD AGENDA PLAN**

The Committee reviewed the Licensing Committee forward agenda plan.

It was resolved:

That the Licensing Committee forward agenda plan be noted.

61. **TAXI LICENSING SUB-COMMITTEE MINUTES**

The Committee received the records of the meetings of the Taxi Licensing Sub-Committee held on 8<sup>th</sup> December 2010 and 12<sup>th</sup> January 2011.



62. **EXCLUSION OF THE PRESS AND PUBLIC**

It was resolved:

That the press and public be excluded during the consideration of the remaining Item No. 12 because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item there would be disclosure to them of exempt information of Categories 1 & 7 Part 1 Schedule 12A to the Local Government Act 1972 (as Amended).

63. **TAXI LICENSING SUB-COMMITTEE – EXEMPT MINUTES**

The Committee received the exempt records of the meetings of the Taxi Licensing Sub-Committee held on 8<sup>th</sup> December 2010 and 12<sup>th</sup> January 2011.

It was resolved:

That the exempt records of the meetings of the Taxi Licensing Sub-Committee held on 8<sup>th</sup> December 2010 and 12<sup>th</sup> January 2011 be received and noted.

The meeting closed at 10.15am.