



### **Licensing Sub-Committee Tuesday, 1st June, 2010**

**Place:** Council Chamber, Civic Offices, High Street, Epping

**Time:** 10.30 am

**Democratic Services Officer** M Jenkins (Direct Line 01992 564607)  
Email: mjenkins@eppingforestdc.gov.uk

**Members:**

Four members from the Licensing Committee as appointed at the Annual Council meeting on 25 May 2010

**Members are requested to attend a formal briefing before the meeting at 10 a.m. in the Member's Room  
PLEASE NOTE THE START TIME OF THE MEETING**

**1. ELECTION OF CHAIRMAN**

To note the Chairman for this meeting.

**2. APOLOGIES FOR ABSENCE**

**3. DECLARATIONS OF INTEREST**

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

**4. PROCEDURE FOR THE CONDUCT OF BUSINESS (Pages 5 - 10)**

**5. EXCLUSION OF PUBLIC AND PRESS**

**Exclusion:** To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the following paragraph(s) of Part 1 of Schedule 12A of the Act (as amended) or are confidential under Section 100(A)(2):

<u>Agenda Item No</u>	<u>Subject</u>	<u>Exempt</u>	<u>Information</u>
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		Paragraph Number
6	Application for a Hackney Carriage Driver's Licence	1
7	Application for a Hackney Carriage Driver's Licence	1

The Local Government (Access to Information) (Variation) Order 2006, which came into effect on 1 March 2006, requires the Council to consider whether maintaining the exemption listed above outweighs the potential public interest in disclosing the information. Any member who considers that this test should be applied to any currently exempted matter on this agenda should contact the proper officer at least 24 hours prior to the meeting.

**Confidential Items Commencement:** Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

**Background Papers:** Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report and does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

**6. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENSE - MR RAJA (Pages 11 - 14)**

(Director of Corporate Support Services). To consider the attached application.

**7. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENSE - MR AKAR (Pages 15 - 18)**

(Director of Corporate Support Services). To consider the attached application.

**8. INCLUSION OF PUBLIC AND PRESS**

**9. BREACH OF TAXI INTERIM TESTS (Pages 19 - 22)**

To consider, under the Local Government (Miscellaneous Provisions) Act 1976 and the Town and Police Clauses Act 1847, breaches of the Taxi Interim Test by Mr Linnard.

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# Agenda Item 4

## PART 3(2) - RESPONSIBILITY FOR COUNCIL FUNCTIONS

### LICENSING COMMITTEE – TERMS OF REFERENCE

(1) The full Committee shall comprise 11 Councillors appointed by the Council at its annual meeting, including a Chairman and Vice-Chairman.

... (2) For the functions set out in Annex 1, and the legislation listed in Annex 2, a Sub-Committee consisting of no more than any three Councillors drawn, in alphabetical order, from the members of the full Committee shall be formed. Any such Sub-Committee shall elect a Chairman on an ad-hoc basis.

(3) For the transaction of business at full Committee meetings, the quorum shall be a minimum of five Committee members save that no business shall be transacted unless either the Chairman or Vice-Chairman of the Committee is present.

(4) The Committee and Sub-Committees shall have full authority to hear and determine licensing applications.

(5) The Committee and Sub-Committees shall be further empowered to determine appeals made against the decisions of the Head of Environmental Services taken under delegated authority on licensing applications.

... (6) The Committee shall at all times carry out its duties solely within the policy from time to time determined by the Council and shall conduct its proceedings in accordance with the requirements set out in Annex 3 (Conduct of Business by Licensing Committee and Sub-Committees).

(7) The Licensing Committee shall take no part in the production or revision of the statement of licensing policy made under Section 5 of the Licensing Act 2003, however, they may determine policy under the legislation listed in Annex 3.

**PART 3(2) – RESPONSIBILITY  
FOR FUNCTIONS  
LICENSING COMMITTEE**

**Licensing Act 2003 – LIST OF FUNCTIONS AND DELEGATED AUTHORITY**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
All policy matters except the formulation of the statement of licensing policy	All cases		

**PART 3(2) – RESPONSIBILITY  
FOR FUNCTIONS  
LICENSING COMMITTEE**

**LIST OF STATUTORY POWERS**

Those functions pertaining to licensing and registration and permits and consents contained in the following legislation and any regulations, orders, byelaws or other subsidiary legislation made under the above Acts:

Animal Boarding Establishments Act 1963  
Breeding & Sale of Dogs (Welfare) Act 1999  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1991  
Caravan Sites & Control of Development Act 1960  
Caravan Sites Act 1968  
Dangerous Wild Animals Act 1976  
Game Licences Act 1860  
Gaming Act 1968  
Guard Dogs Act 1975  
House to House Collections Act 1939  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Lotteries & Amusements Act 1976  
Pet Animals Acts 1951 & 1981  
Riding Establishments Acts 1964 & 1970  
Scrap Metal Dealers Act 1964  
The Game Act 1831  
Town Police Clauses Act 1847  
Town Police Clauses Act 1889  
Zoo Licensing Act 1981

## **Part 3(2) – Responsibility for Functions**

### **PART A – CONDUCT OF BUSINESS BY LICENSING COMMITTEE AND SUB-COMMITTEES**

**All references to committee in this annex shall be taken to infer a reference to the associated sub-committees.**

#### **1. General Conduct**

- 1.1 All hearings of the Licensing Committee under the Licensing Act 2003, are to be held in accordance with the Personal Licences, Hearings, Premises Licences and Club Premises Certificates, and Licensing Register Regulations, made under the Licensing Act 2003.
- 1.2 The Council's Constitution shall regulate the conduct of and debate at meetings.
- 1.3 In the case of hearings under the Licensing Act 2003, the Committee shall only consider those matters relevant to the licensing objectives as set out in the Licensing Act 2003 and the statement of licensing policy adopted by the Council.

#### **2. Declarations of Interest**

- 2.1 Members of the Committee are subject to the Council's Code of Conduct and to advice from the Standard Board for England, details of which will be provided to those members.

#### **3. Participation in the Hearing**

- 3.1 Debate shall be restricted to members of the Licensing Committee. Where a local ward member, not being a member of the Committee, wishes to participate in the hearing, they may do so only with the permission of the Chairman and their participation shall be subject to the same rules as are applied to any other witnesses to the application.
- 3.2 In hearings other than those under the Licensing Act 2003, where a ward member is a member of the Committee, and wishes to object to the application, the member shall give 14 days' notice of their intention, and shall play no part in the decision-making process of the Committee. In hearings under the Licensing Act 2003, those named as responsible authorities and interested parties in the Act may only make representations within the time limits set out in the relevant statutory provisions.
- 3.3 All persons participating in the hearing shall be made aware of the limitations or scope of statements that will be acceptable and, in particular, that statements should be factual or a fair statement on a matter of public interest.

#### **4. Attendance of the Public**

- 4.1 The Council's Constitution and relevant statutory provisions relating to the admission or exclusion of the public shall apply to all meetings of the Licensing Committee.



## **5. Natural Justice**

5.1 There are two elements to natural justice:

### **(a) Fairness**

- (i) All persons affected by the decision or in the case of matters associated with the Licensing Act 2003, those named as responsible authorities and interested parties in the Act, will be allowed a hearing before a decision is made.
- (ii) Only objectors who can show clearly that they are affected by a decision shall be afforded the right to be heard or, in the case of hearings under the Licensing Act 2003, only those named in the Act as responsible authorities or interested parties.
- (iii) All information shall be made available, where possible in advance, to the applicant and the Committee.
- (iv) All members of the Committee shall be present throughout the hearing of a particular application. Where a member arrives late or leaves during a hearing of a particular application, that member shall play no part in the decision-making process. Where an application is adjourned it shall be continued by the same members only, and no others.
- (v) The Committee shall have discretion in respect of 'late' objections. Such objections shall be clearly marked on the agenda as such and the Committee shall decide on their acceptability. The applicant shall be advised of any late objections. In the case of representations made in relation to the Licensing Act 2003 applications, these shall only be accepted in accordance with the relevant statutory provisions.

### **(b) Prevention of Bias**

- (i) The rules on the declarations of interest shall be firmly applied.
- (ii) If the Committee moves into private session to consider its decision, it shall be accompanied only by its advising officers, none of whom shall have taken a substantive part in the hearing, and shall play no substantive part in the decision-making process.

## **6. General Procedures for Hearings**

6.1 The following procedural requirements shall be followed at all times:

- (a) There shall be no recommendation from officers on the agenda;
- (b) The Committee shall be supplied with copies of all relevant documentation and the process and order of procedure shall be as follows:
  - (i) The Chairman will open the meeting and introduce persons as appropriate asking applicants and representatives to identify themselves.
  - (ii) The Chairman will outline the procedure to be followed.

- (iii) The Lead Officer will outline the matter in hand.
- (iv) The applicant or representative will present his/her case, with or without witnesses, and be questioned by members or any objectors/persons making representations present.
- (v) Any objectors/persons making representations may then present their objections/representation, with or without witnesses, and be questioned by members or the applicant/s or their representative.
- (vi) The objectors/persons making representations may make a final statement (without introducing new issues).
- (vii) Finally, the applicant has the right to make a final statement (without introducing new issues).
- (viii) All evidence/disclosures are to be made in the presence of all persons, unless someone voluntarily excuses themselves from the proceedings.
- (ix) Committee members shall restrict themselves to questions and not discussion or comment.
- (x) The applicant, objectors/persons making representations shall be allowed to ask officers questions of a technical/factual nature at any time during the proceedings.
- (xi) An adjournment should be granted where to do otherwise would deny a fair hearing.
- (xii) The Committee may resolve to decide upon the application in private session, however, if it becomes necessary to recall anyone for additional information, everyone shall be invited to return to the Hearing.
- (xiii) The decision shall be given in the presence of all parties that wish to be present and confirmed in writing as soon as possible thereafter. If legal advice is given to members this advice will be repeated in summary form.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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**Report to Licensing Sub-Committee**  
**Date of meeting: 1<sup>st</sup> June 2010**

**Subject: Local Government (Miscellaneous Provision) Act 1976 & Town & Police Clauses Act 1847 – Breach of Taxi Interim Test- Mr D Linnard**

**Officer contact for further information: K Tuckey, Senior Licensing Officer (01992 56 4034)**

**Committee Secretary: M Jenkins (01992 56 4607)**



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**Decision Required:**

To consider Breaches in the authority's Licensing conditions.

**Report:**

The above-mentioned licenced Driver has failed to arrange to have carried out an interim test on their vehicle in breach of licence conditions, therefore officers felt it necessary for this driver to be referred to Licensing sub-committee for consideration. Reminder letters were sent to the driver.

**Background Papers:**

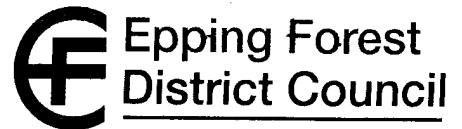
List of papers attached:

Copy of letters sent to applicant

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Date: 18th May 2010

Our ref: Panel Meeting



**Corporate Support Services**

Civic Offices High Street  
Epping Essex CM16 4BZ

Telephone: 01992 564000  
Facsimile: 01992 578018  
DX: 40409 Epping

Director of Corporate Support  
Services Colleen O'Boyle  
Solicitor to the Council

Enquiries to:  
Key (01992) 564270  
epingforestdc.gov.uk

**Re: Hackney vehicle licence**

Further to my previous two letters requesting that you attend Langston Road to have your interim tests.

I can now advise you that a meeting to determine your licence will be held on 1<sup>st</sup> June 2010 in the Council Chamber, Civic Offices, High Street, Epping, Essex, CM16 4BZ at 10 a.m. **Please note that there is not set time for hearings and therefore we cannot guarantee the time at which you will be required.**

As an applicant you are entitled to attend the meeting and make comment. You may be represented either legally or otherwise.

On arrival please go to the 1<sup>st</sup> floor and wait in the seated area until you are called for.

**If you have already booked your vehicle in Langston Road for your interim test or if you have had the test done, please can you provide this office with the interim test asap. If you have not had the test done you are required to bring your plate with you on the day of the meeting, where you will be given the opportunity to explain why you are in breach of the councils licence conditions.**

Please contact me on 01992 564034 if you are unable to attend the meeting or if you wish to discuss this item further.

Yours sincerely

K Tuckey  
Senior Licensing Officer



Date: 01 May 2010

Our ref: H951

Your ref:



**Corporate Support Services**

Civic Offices High Street  
Epping Essex CM16 4BZ

Telephone: 01992 564000  
Facsimile: 01992 578018  
DX: 40409 Epping

Director of Corporate Support  
Services Colleen O'Boyle  
Solicitor to the Council

Enquiries to:  
Licensing Unit (01992) 564 340  
[licensing@eppingforestdc.gov.uk](mailto:licensing@eppingforestdc.gov.uk)

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The conditions of the licence for the above vehicle require that interim tests be carried out on the vehicle at the time intervals mentioned in the licence. These tests must take place at the Langston Road Depot, Langston Road, Loughton. When the licence was issued you were provided with details of the dates when the inspections should take place. An interim test on your vehicle is now overdue.

This is a breach in this Vehicle Licence conditions. The Council may suspend or revoke, or refuse to renew the licence if you are in breach of the conditions

I am referring this breach of condition to the Licensing Sub-committee which will take place on Tuesday 1<sup>st</sup> June 2010 ( 10 o'clock, Civic Offices, High Street, Epping) so that it can decide what action the Council will take in this matter.

If you have had the test carried out in the past seven days, please disregard this letter.

In order to avoid the necessity of a hearing before the Licensing Sub-committee please contact Langston Road Depot on 020 8532 0357 to arrange for an appointment for the interim check to be carried out. If you have not had your vehicle interim done by the date of issue of the agenda for the meeting we will not have the opportunity to withdraw your item. You are reminded that you must attend the meeting.

Yours sincerely

Licensing Unit



INVESTOR IN PEOPLE