

LICENSING AND REGULATORY COMMITTEE

**MEETING HELD AT THE TOWN HALL, SOUTHPORT
ON 18 JANUARY 2010**

PRESENT: Councillor Bigley (in the Chair)

Councillors Blackburn, Bradshaw, Dodd, Fenton,
Friel, Gustafson, Hands, Kerrigan, Mahon,
D Rimmer and Sir Ron Watson

63. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Papworth, Pearson and B Rimmer.

64 DECLARATIONS OF INTEREST

No declarations of interest were received.

65. MINUTES

RESOLVED:

That the minutes of the meeting held on 23 November 2009 be confirmed as a correct record.

**66. DETERMINATIONS MADE UNDER THE LICENSING ACT 2003:
PERIOD COVERING 7 NOVEMBER 2009 TO 1 JANUARY 2010**

The Committee considered the report of the Environmental Protection Director updating on the applications made under the Licensing Act, 2003 which he had determined.

The report indicated that Sefton's Statement of Licensing Policy followed the recommended delegation of functions contained within the "Guidance issued under Section 182 of the Licensing Act 2003"; that in effect, this meant that where there were no relevant representations on an application for the grant of a premises licence or club premises certificate, or Police objections to an application for a personal licence, then these matters would be dealt with by Officers in order to speed matters through the system; and that the Guidance also recommended that, where powers had been delegated, the Committee would receive regular reports on decisions made so that they maintained an overview of the general licensing situation.

For the period 7 November 2009 to 1 January 2010 the Environmental Protection Director had received and determined: 70 applications for Premise Licences; 32 applications for Personal Licences; 1 application for

a Club Premise Certificate and 56 notifications of Temporary Event Notices.

RESOLVED:

That the report and the fact that further update reports would be submitted, as necessary, be noted.

**67. DETERMINATIONS MADE UNDER THE GAMBLING ACT 2005:
PERIOD COVERING 7 NOVEMBER 2009 TO 1 JANUARY 2010**

The Committee considered the report of the Environmental Protection Director, updating on the applications, made under the Gambling Act 2005, which he had determined.

The report indicated that Sefton's Statement of Licensing Policy followed the recommended delegation of functions contained within the "Guidance issued under Section 25 of the Gambling Act 2005"; that in effect, this meant that where there were no relevant representations on an application for the grant of a premises licence or a permit then these matters would be dealt with by Officers in order to speed matters through the system; and that the Guidance also recommended that, where powers had been delegated, the Committee would receive regular reports on decisions made so that they maintained an overview of the general gambling situation.

For the period 7 November 2009 to 1 January 2010 the Environmental Protection Director had received and determined 2 applications for Licensed Premises Gaming Permits and 12 notifications for Licensed Premises Automatic Gaming.

RESOLVED:

That the report and the fact that further update reports would be submitted, as necessary, be noted.

**68. LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY
2011**

The Committee considered the report of the Environmental Protection Director on the requirement under Section 5 of the Licensing Act 2003 ("the Act") to revise the current Statement of Licensing Policy if appropriate, in light of feedback following a consultation with relevant officers, organisations, partners and stakeholders and indicating a decision on the matter was required in order to approve the proposed timetable for the consultation. The consultation would be undertaken in line with the corporate consultation procedures.

RESOLVED: That

- (1) the proposed timetable outlined in Paragraph 5 of the report be noted and endorsed;
- (2) a terms of reference for the consultation be submitted to the next appropriate meeting of the Committee as per the agreed timetable set out in the report; and
- (3) the fact that further progress reports would be submitted, as necessary, be noted.

69. THE REGULATORY POSITION IN RELATION TO ULTRA VIOLET TANNING EQUIPMENT

Further to Minute No. 57(2) of the meeting held on 23 November 2009, the Committee considered the report of the Environmental Protection Director on the current regulatory regime in relation to ultra violet tanning equipment; and indicating that a decision on this matter was required to obtain approval to include sunbed salons in the Health and Safety work programme for 2010/11.

The report indicated that the harmful effects of ultraviolet radiation had been known for many years; that whilst natural sunshine remained the biggest source, the use of ultraviolet devices such as sunlamps, sunbeds and tanning booths could significantly increase exposure; and that the injuries caused by ultraviolet radiation could be both short term, e.g. sunburnt skin or conjunctivitis, and long term, e.g. premature skin ageing, cataracts and skin cancer.

The report also detailed the current regulatory position and that the Government had indicated its desire to strengthen legislation in this area as England was lagging behind the rest of the UK as devolved administrations had recently taken action; and that the HSE had recently reviewed its guidance and produced "Reducing Health Risks From the Use of Ultraviolet (UV) Tanning Equipment". This guidance summarised the current legal position and provided details of accepted good practice when operating a sunbed business. The guidance was attached as an appendix to the report.

The report concluded that the situation in Sefton was no different to other areas of England in that generic legislation existed. However, because of the growing public concern on this issue, the Health and Safety Team within the Environmental Protection Department had included a project on sunbed safety in its work programme for 2010/11. The project was designed to visit all establishments to ensure compliance with the current legislation and promote good practice amongst the trade.

Members raised a number of concerns and questions regarding the requirement for further legislation to help local authorities to enforce further measures which would protect public health.

RESOLVED: That

- (1) the report be noted and the proposed project to inspect sunbed outlets in the Sefton area as part of the Health and Safety Team Work Programme 2010/11 be approved; and
- (2) the Legal Director be requested to write to:
 - (a) the Local Government Association (LGA) to request that they lobby on behalf of all local authorities to ensure further legislation is brought forward to help enforce further measures to protect public health in relation to Ultra Violet Tanning Equipment; and
 - (b) the Health Secretary to enquire as to what measures they propose to ensure that further legislation is brought forward to help enforce further measures to protect public health in relation to Ultra Violet Tanning Equipment.

70. GENERAL LICENSING - FEES AND CHARGES 2010/2011

Further to Minute No 48 of the meeting of 26 November 2007, the Committee considered the report of the Environmental Protection Director on General Licensing – Fees and Charges for 2010/11, seeking approval for proposed changes to fees and charges for general licensing services in 2010/11 and indicating that a decision on the matter was required in order to approve cost recovery for the general licensing services provided by the Council. The Senior Licensing Officer indicated that it should be noted that the fees relating to the change of address for the licence holders referred to under the section entitled Family Entertainment Premises Licence in the annex attached to the report, should be £25 and not £10.50 as stated in the report.

The report indicated that the majority of fees applicable to local licensing matters were set by Central Government but any proposed increases should be in line with inflation. Details of the proposed fee changes were attached as an annex to the report.

The report also indicated that, in relation to the Gambling Act 2005 and applicable fees thereof, given that the regime had not yet been ‘fully embedded’, it was proposed not to change these fees until all premises had been inspected and risk rated by Officers.

Members raised concerns regarding the potential lack of resources could have and impact on the department’s ability to meet its targets. Therefore Members would welcome further information that may help to justify any proposed increases in gambling licence fees in order to assist the Environmental Protection Department to invest additional resources in order to achieve targets and help with the overall goal of licensing.

RESOLVED: That

- (1) the proposed fees and charges for 2010/11 as detailed in the Annex to the report be deferred until the next appropriate meeting of the Committee; and
- (2) a report outlining the expected income from Gambling Act fees for 2010/2011 and the anticipated costs arising from the Licensing Authority's costs for carrying out its functions under the Gambling Act be brought to the next appropriate meeting of the Licensing and Regulatory Committee.

**71. HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE
COMPLIANCE TESTING - APPOINTMENT OF ADDITIONAL
FACILITY**

The Committee considered the report of the Environmental Protection Director on the Hackney Carriage and Private Hire Vehicle Compliance Testing and the proposed appointment of an additional facility seeking approval following a request from the licensed trades for the appointment of an additional testing facility.

The report indicated that the Council had been authorised by the Department for Transport (DfT) Vehicle Inspectorate Agency to test vehicles under a Compliance Testing Scheme in accordance with the Motor Vehicles (Test) Regulations 1981 (as amended) since July 1998; that the authorisation required the Council to only appoint testing facilities which were Vehicle and Operator Services Agency (VOSA) approved "MOT" facilities; that the Local Government (Misc. Provisions) Act 1976 required the Council to only appoint facilities that were based within the political boundary as the Council could only require vehicles to be tested at facilities which were within the area of the Council; that the use of this compliance scheme meant that, in addition to the standard "MOT" test, the Council could specify additional items which it considered necessary to safeguard the best interests of the travelling public of Sefton.

The report also indicated that in 1998 the Council licensed a total of 1673 hackney carriages and private hire vehicles and that there were three testing facilities, Virginia Street, Southport, Hilderley's, Bootle and Beach Garage, Seaforth; that a fourth station had been added at Pine Grove in Bootle in 2002, but since the facility had moved to Hawthorne Road in 2006, the "MOT" authorisation had lapsed resulting in the three original facilities sharing the burden of dealing with all of Sefton Council's motor vehicle compliance tests since that time; and that since 1998 there had been a 74% increase in licensed vehicles to 2910 which had resulted in reports from the trade of delays up to four days when booking vehicles in for testing.

The report concluded that at the Trade Stakeholder Meeting, on 8 December 2009, a Mr Johnson, the owner of Tyre Express Garages Services Ltd, 22 Berry Street, Bootle L20 8AT expressed a wish to submit

an application to test vehicles prior to licensing as he owned an authorised "MOT" testing facility and that both officers and trade representatives would support such an application without condition because of the immediate need for more testing capacity.

A copy of the application by Mr Johnson of Tyre Express Garages Services to act as a Council testing facility was attached as an annex to the report.

RESOLVED: That

- (1) the request from the Joint Trades Consultation Group for the appointment of an additional Hackney Carriage and Private Hire Compliance Testing Facility, be approved; and
- (2) the Environmental Protection Director be requested, following a review the Council's testing scheme and facilities to be carried out during 2010/11, to submit a further report regarding the matter.

72. PROPOSALS FOR TRIAL LEAFLETING SCHEME UNDER THE LICENSING ACT 2003

Further to Minute No 56 of the meeting held on 23 November 2009 the Committee considered the report of the Environmental Protection Director on the proposals for trial leafletting scheme under the Licensing Act 2003 and seeking approval of the proposals to be put in place for the 12 month trial period to leaflet residents and businesses with regard to certain applications made under the Licensing Act 2003.

The report indicated that those occupiers and owners of properties with curtilages abutting those premises applying for a Premises Licence, Club Premises Certificate, the Variation of a Premises Licence or Club Premises Certificate or any Premises subject to a review, would be notified of any such application; that any such Borough-Wide notification procedure would be adopted for a 12 month period with the results of the pilot being the subject of a further report to the Licensing and Regulatory Committee which would consider whether the scheme of notification be continued/enhanced/withdrawn, as appropriate prior to the full review of Sefton's Statement of Licensing Policy for 2011; and that the report in relation to the outcomes of the Borough-Wide pilot on notification would be submitted to the Overview and Scrutiny Committee (Regeneration and Environmental Services) for information.

The report also indicated that the Leafletting Scheme would run from 1 April 2010 and until 31 March 2011 and be Borough wide; that the timeframe covered the full licensing inspection year for 2010 / 2011 and would enable comparisons to be drawn directly with regard to any impact the Scheme may have on:

- (a) the inspection regimes (for both Licensing Act 2003 and Gambling Act 2005 premises);

- (b) the answering of and dealing with service requests; and,
- (c) the other statutory licensing work of the Section.

A copy of the proposed leaflets to be used in respect of Grant / Variation applications and Reviews were attached as Annex 1 and Annex 2 to the report.

RESOLVED: That

- (1) the proposals and the proposed commencement date of 1 April 2010 for the scheme be endorsed; and
- (2) the fact that a further report would be brought to the Committee at the end of the 12 month trial period be noted;]
- (3) the letter be amended to include locally charged numbers as well as the 0845 number for Sefton Plus Contact Centre, i.e. 0151 922 4040 and 01704533133.

73. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That, under Section 100(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, in relation to item no 12 paragraph 5 and in relation to item no 13 paragraph 1 and 5. The Public Interest Test had been applied and favoured exclusion of the information from public and press.

74. REVIEW OF THE EVIDENCE BASE FOR MAINTAINING OR CHANGING THE COUNCIL'S CURRENT HACKNEY CARRIAGE NUMERICAL RESTRICTION POLICY AND REVOCATION OF THE POLICY RELATING TO THE ISSUE OF HACKNEY CARRIAGE VEHICLE LICENCES OVER AND ABOVE THE PRESENT RESTRICTION

Further to Minute no 62 of the meeting held on 23 November 2009, the Committee considered the report of the Environmental Protection Director on the review of the evidence base for maintaining or changing the Council's current Hackney Carriage numerical restriction policy and revocation of the policy relating to the issue of hackney carriage vehicle licences over and above the present restriction; and indicating that a decision on the matter was required in order to approve the commissioning of a full unmet demand survey to assist the Council in reviewing or reaffirming its current Hackney Carriage licence restriction policy and advise the Committee of Counsel's advice on the current policy applicable

to the issue of licences over and above the present restriction of 271 licences. It was intended to commission the survey and an associated public opinion survey in January 2010 with a view to the results being available by June or July 2010.

RESOLVED: That

- (1) ***the report and the commissioning of a full Hackney Carriage unmet demand survey be noted;***
- (2) the preconditions / conditions of Licence applicable to the issue of licences over and above the present restriction be revoked;
- (3) the Environmental Protection Director be requested to develop a new policy for the issue of restricted hackney carriage vehicle licences in consultation with the Trade;
- (4) a report outlining the Terms of Reference for a public survey to be undertaken in relation to hackney carriage vehicles be submitted to the next appropriate meeting of the Committee for approval; and
- (5) a report outlining the successful tenderer, proceeding the evaluation process, be submitted to an appropriate future meeting of the Committee.

75. INVESTIGATION INTO THE POLICIES, PROCEDURES AND PRACTICES RELATING TO THE ISSUE OF HACKNEY CARRIAGE VEHICLE LICENSES

The Committee considered the report of the Environmental Protection Director on the outcome of an investigation into the policies, procedures and practices relating to the issue of Hackney Carriage Vehicle Licences, particularly the circumstances surrounding applications to renew "lapsed" Hackney Carriage Licences.

RESOLVED: That

- (1) the contents of the report be noted;
- (2) the proposed basis for determining any lapsed licences from within the existing restricted 271 hackney carriage vehicle licences that Sefton currently issues be referred to the Committee for approval; and
- (3) the development and implementation of improved processes and procedures following consultation through the Joint Hackney Carriage/Private Hire Trade Working Group be endorsed.