

MEETING: LICENSING AND REGULATORY COMMITTEE  
DATE: Monday 24th September, 2012  
TIME: 6.30 pm  
VENUE: Town Hall, Bootle

**Member**

Councillor  
Councillor Kerrigan (Chair)  
Councillor Robinson (Vice-Chair)  
Councillor Ball  
Councillor Blackburn  
Councillor Bradshaw  
Councillor Carr  
Councillor Dorgan  
Councillor Gustafson  
Councillor Keith  
Councillor Kermode  
Councillor Mahon  
Councillor Preece  
Councillor Rimmer  
Councillor Robertson  
Councillor Roche

COMMITTEE OFFICER: Ruth Appleby  
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E-mail: [ruth.appleby@sefton.gov.uk](mailto:ruth.appleby@sefton.gov.uk)

**If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.**

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# AGENDA

**1. Apologies for Absence**

**2. Declarations of Interest**

Members are requested to give notice of any disclosable pecuniary interest, which is not already included in their Register of Members' Interests and the nature of that interest, relating to any item on the agenda in accordance with the Members Code of Conduct, before leaving the meeting room during the discussion on that particular item.

**3. Minutes** (Pages 5 - 10)

Minutes of the meeting held on 30 July 2012

**4. Final Draft revised Statement of Gambling Licensing Policy - Gambling Act 2005** (Pages 11 - 40)

Report of the Director of Built Environment

**5. Provisions Contained within the Scrap Metal Dealers Bill 2012** (Pages 41 - 46)

Report of the Director of Built Environment

**6. Hackney Carriage Unmet Demand Survey** (Pages 47 - 52)

Report of the Director of Built Environment

**7. Licensing Motor Cycles as Private Hire Vehicles** (Pages 53 - 68)

Report of the Director of Built Environment

**8. Determinations made under the Licensing Act 2003 and the Gambling Act 2005, period covering 7 July 2012 to 24 August 2012** (Pages 69 - 76)

Report of the Director of Built Environment

**THIS SET OF MINUTES IS NOT SUBJECT TO "CALL-IN"**

## LICENSING AND REGULATORY COMMITTEE

**MEETING HELD AT THE TOWN HALL, SOUTHPORT  
ON 30 JULY 2012**

PRESENT: Councillor Kerrigan (in the Chair)

Councillors Robinson, Ball, Blackburn, Bradshaw,  
Carr, Dorgan, Keith, Kermode, Mahon, Rimmer,  
Robertson and Roche

### 11. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gustafson and Preece.

### 12. DECLARATIONS OF INTEREST

1. The following declaration of disclosable pecuniary interest was made and the Member concerned left the room during the consideration of the item:

| Member          | Minute No.  | Nature of Interest   |
|-----------------|---|--|
| Councillor Carr | 14 - Reforming the Law of Taxi and Private Hire Services – A consultation paper | He is employed as a taxi driver / owner in the Borough of Knowsley |

2. In accordance with Paragraph 7 of the Council's Code of Conduct, the following declarations of personal interest were made and the Members concerned remained in the room, but took no part in consideration of the item(s) and did not vote thereon:

| Member              | Minute No.  | Nature of Interest   |
|---------------------|---|--|
| Councillor Carr     | 15 – Changes to the Hackney Carriage and Private Hire and Omnibus Licensing Scheme Handbook | He is employed as a taxi driver / owner in the Borough of Knowsley |
| Councillor Robinson | 14 - Reforming the Law of Taxi and Private Hire Services – A consultation paper             | His son is employed as a taxi driver in Sefton                     |

# Agenda Item 3

LICENSING AND REGULATORY COMMITTEE- MONDAY 30TH JULY,  
2012

|                     |   |  |
|---------------------|---|--|
| Councillor Robinson | 15 – Changes to the Hackney Carriage and Private Hire and Omnibus Licensing Scheme Handbook | His son is employed as a taxi driver in Sefton |
|---------------------|---|--|

## 13. MINUTES

RESOLVED:

That the Minutes of the meeting held on 28 May 2012, be confirmed as a correct record.

## 14. REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES - A CONSULTATION PAPER

The Committee considered a petition submitted in accordance with Rule No. 26 of the Council Committee and Procedure Rules, presented by Mr R Jarman, on behalf of Hackney carriage drivers. The petition, which had been published as a supplementary agenda item, detailed objections to the Trading Standards and Licensing Manager's proposed response to the Law Commission consultation paper.

Mr Jarman's presentation focused on specific differences between the Hackney carriage and private hire trades (Proposals 19, 21, 23, 26, 38, 41, and 49) and concerns about enforcement (Proposals 64, 66, 67, 69 and 70-73). Following his presentation, Mr Jarman answered questions raised by Members.

In response to the comments and concerns raised by Mr Jarman, the Trading Standards and Licensing Manager explained that Sefton Council's draft response to the consultation (attached as Annex 1 to the report) had incorporated the opinions of a number of stakeholders, including licensing and trading standards officers, as well as members of the Hackney carriage and private hire trade via the Hackney Carriage and Private Hire Trade Working Group, which had considered the Law Commission report at its meeting held on 26 June 2012.

He indicated that although the views of the trades had been taken on board, they could not be incorporated with the degree of emphasis that individual drivers / sections of the trade might wish, because Sefton Council's response had to take a wider view.

He advised however, that the Law Commission actively welcomed and encouraged responses from individual representatives / drivers from both the Hackney carriage and private hire trades and that there was still plenty of time for individuals to respond to the consultation by the close date of 10 September 2012.

LICENSING AND REGULATORY COMMITTEE- MONDAY 30TH JULY,  
2012

Notwithstanding this, he acknowledged that a number of comments made in the petition were helpful and he suggested a further meeting with Mr Jarman, to discuss which of these concerns could be incorporated into the Sefton response.

The Committee then considered the report of the Director of Built Environment which advised of the Law Commission Consultation Paper No. 203 'Reforming the Law of Taxi and Private hire Services'.

The report indicated that the Law Commission Consultation Paper was a 232 page document that focused on the following key areas:

- a) The Licensing Framework
- b) Definitions and Scope
- c) Driver, Vehicle and Operator Licensing
- d) Enforcement
- e) Hearings and Appeals
- f) Regulation and the One or Two Tier Debate
- g) Problems with the Law and the Case For Reform
- h) Quantity Restrictions
- i) Cross Border Issues
- j) Equality and Taxis in the Community
- k) Technology
- l) Overview of Provisional Reform Proposals
- m) Reform of Definitions and Scope
- n) A Reformed Regulatory Framework
- o) Reform of Driver, Vehicle and Operator Licensing
- p) Reforming Quality Controls
- q) Taxi and Private Hire Reform and Equality
- r) Reforming Enforcement
- s) Reform of Hearings and Appeals

The final section of the consultation document was an appendix detailing 73 questions and proposals.

As indicated above, the report concluded that the Trading Standards and Licensing Manager had consulted with both the Hackney Carriage and Private Hire Trades at the Joint Trades Meeting on 26 June 2012 and had drafted a response to the consultation which was attached as Annex 1 to the Report.

RESOLVED: That

- (1) the petition submitted on behalf of hackney carriage drivers objecting to the Trading Standards and Licensing Manager's proposed response to the Law Commission consultation paper be noted;
- (2) Mr Jarman be thanked for submitting and presenting the petition;
- (3) the Report of the Director of Built Environment advising Members

# Agenda Item 3

LICENSING AND REGULATORY COMMITTEE- MONDAY 30TH JULY, 2012

of the Law Commission Consultation Paper No 203, "Reforming the Law of Taxi and Private Hire Services", be noted;

- (4) the Trading Standards and Licensing Manager's response to the consultation be endorsed, subject to his meeting separately with the petition representative, Mr Jarman, to consider the potential incorporation of issues raised in the petition; and
- (5) subject to (4) above, the Chair and Vice Chair, be authorised to endorse the Trading Standards and Licensing Manager's final response to the Law Commission Consultation paper, on behalf of the Committee.

## **15. CHANGES TO THE HACKNEY CARRIAGE, PRIVATE HIRE AND OMNIBUS LICENSING SCHEME HANDBOOK**

Further to Minute No. 26 of 27 October 2008, the Committee considered the report of the Director of Built Environment which advised of the proposed changes to the Hackney Carriage, Private Hire and Omnibus Licensing Scheme Handbook.

The report indicated that the Handbook had been adopted with effect from 1 December 2008, but that since then the following changes had been requested via the Hackney Carriage and Private Hire Joint Trades Working Group:

- Internal lights/plates for taxis (as detailed in paragraph 5.6 of the report);
- location of door signage for private hire vehicles (detailed in paragraph 4.2 of the report);
- length of knowledge test 'expiry' date (detailed in paragraph 3.3 of the report); and
- roof signs for non metropolitan type vehicles (detailed in paragraph 6.6 of the report).

The Trading Standards and Licensing Manager presented the report, indicating that a letter had been sent to all non metropolitan hackney type vehicle owners requesting feedback on the proposed roof sign changes by 12 July 2012 and that the feedback responses were attached as Annex 1 to the report.

He indicated that subject to Committee approval, it was proposed that the changes detailed in paragraphs 3.3, 4.2 and 5.6 of the report would be adopted immediately following the meeting; and the changes detailed in paragraph 6.6 relating to new roof signage, would also be adopted immediately following the meeting, except for vehicles with existing signage, which would be given until 1 April 2013, to enable gradual replacement.



LICENSING AND REGULATORY COMMITTEE- MONDAY 30TH JULY, 2012

Following his presentation, the Trading Standards and Licensing Manager responded to questions from Members.

The Trading Standards and Licensing Manager concluded by stating his intention to submit the revised handbook for consideration at the Licensing and Regulatory Committee Spokespersons with Representatives of the Hackney Carriage and Private Hire Trades Meeting on 22 January 2013; and finally, for consideration and adoption by the Licensing and Regulatory Committee on 11 March 2013.

RESOLVED: That

- (1) the report be noted;
- (2) the Trading Standards and Licensing Manager be thanked for his presentation;
- (3) the changes detailed in paragraphs 3.3, 4.2 and 5.6 of the report be approved for adoption immediately following the meeting;
- (4) the changes detailed in paragraph 6.6 relating to any new roof signage, be approved for adoption immediately following the meeting; otherwise, by 1 April 2013 for vehicles with existing signage, to allow the gradual replacement of existing signage;
- (5) the Director of Built Environment be requested to submit the revised Hackney Carriage, Private Hire and Omnibus Licensing Scheme Handbook to the Licensing and Regulatory Committee Spokespersons with Representatives of the Hackney Carriage and Private Hire Trades Meeting on 22 January 2013; and finally, for adoption by the Licensing and Regulatory Committee on 11 March 2013.

## **16. DETERMINATIONS MADE UNDER THE LICENSING ACT 2003 AND THE GAMBLING ACT 2005: PERIOD COVERING 5 MAY 2012 TO 6 JULY 2012**

The Committee considered the report of the Director of Built Environment updating on applications made under the Licensing Act, 2003 and the Gambling Act 2005, which had been determined by Licensing Officers.

The report indicated that Sefton Council's Statement of Licensing Policy (issued under the Licensing Act 2003) and the Statement of Gambling Policy (issued under the Gambling Act 2005), both followed the recommended delegation of functions contained within the Guidance issued under Section 182 of the Licensing Act 2003 and the Guidance issued under Section 25 of the Gambling Act 2005 and that where there were no relevant representations to applications, then these matters would be dealt with by Officers in order to speed matters through the system. The Guidance also recommended that where powers had been delegated,

# Agenda Item 3

LICENSING AND REGULATORY COMMITTEE- MONDAY 30TH JULY, 2012

the Committee would receive regular reports on decisions made by Officers in order to maintain an overview of the general licensing situation.

The report indicated that during the period 4 May 2012 to 6 July 2012, the Director of Built Environment had received and determined the following numbers of applications:

Under the Licensing Act 2003:

- Premises Licences 48
- Personal Licences 13
- Temporary Event Notices 89
- Notification of Late Temporary Event Notices 19

Under the Gambling Act 2005:

- Gambling Premises Licences 2
- Licensed Premises Automatic Gaming 2

Details of the determinations were indicated in Annexes 1 and 2 of the report.

RESOLVED:

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

# Agenda Item 4

**Report to:** Licensing & Regulatory Committee Council **Date of Meeting:** 24<sup>th</sup> September 2012  
22<sup>nd</sup> November 2012

**Subject:** Final draft revised Statement of Gambling Licensing Policy – Gambling Act 2005

**Report of:** Director of Built Environment **Wards Affected:** All

**Is this a Key Decision?** No **Is it included in the Forward Plan?**  
No

**Exempt/Confidential** No

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## Purpose/Summary

To seek Council approval of the revised Statement of Gambling Licensing Policy.

## Recommendation(s)

That the Licensing and Regulatory Committee:

- i) Consider and agree the final draft of the revised Statement of Gambling Licensing Policy, attached at Annex 1; and,
- ii) Refer the agreed revised Statement of Gambling Licensing Policy to full Council for approval.

That full Council:

- i) Approve the revised Statement of Gambling Licensing Policy, attached at Annex 1.

## How does the decision contribute to the Council's Corporate Objectives?

|   | <u>Corporate Objective</u>  | <u>Positive Impact</u> | <u>Neutral Impact</u> | <u>Negative Impact</u> |
|---|---|------------------------|-----------------------|------------------------|
| 1 | Creating a Learning Community   |                        | √                     |                        |
| 2 | Jobs and Prosperity   |                        | √                     |                        |
| 3 | Environmental Sustainability  |                        | √                     |                        |
| 4 | Health and Well-Being   |                        | √                     |                        |
| 5 | Children and Young People   |                        | √                     |                        |
| 6 | Creating Safe Communities   | √                      |                       |                        |
| 7 | Creating Inclusive Communities  |                        | √                     |                        |
| 8 | Improving the Quality of Council Services and Strengthening Local Democracy | √                      |                       |                        |

# Agenda Item 4

## Reasons for the Recommendation:

To enable the timely revision of the Statement of Gambling Licensing Policy.

## What will it cost and how will it be financed?

(A) Revenue Costs N/A

(B) Capital Costs N/A

## Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

|   |  |
|---|--|
| <b>Legal</b>  | The Head of Corporate Legal Services ( <b>LD1079/12</b> ) has been consulted and has no comments to add.   |
| <b>Finance</b>                                      | The Head of Corporate Finance and ICT has no comments on this report because the contents of the report have no financial implications. <b>FD1716/12</b> |
| <b>Human Resources</b>                              | None.  |
| <b>Equality</b>                                     |  |
| 1. No Equality Implication                          | <input checked="" type="checkbox"/>  |
| 2. Equality Implications identified and mitigated   | <input type="checkbox"/>   |
| 3. Equality Implication identified and risk remains | <input type="checkbox"/>   |

## Impact on Service Delivery:

None.

## What consultations have taken place on the proposals and when?

The consultation was approved by the Sefton Public Engagement and Consultation Standards Panel on 18th November 2011 and took place between 1<sup>st</sup> May 2012 and 23<sup>rd</sup> July 2012.

## Are there any other options available for consideration?

Publication of the Statement is a legal obligation and therefore there are no alternative options.

## Implementation Date for the Decision

Immediately following the Committee Meeting.

**Contact Officer:** Kevin Coady  
**Tel:** 0151 934 2946  
**Email:** kevin.coady@sefton.gov.uk

## Background Papers:

- The Gambling Act 2005.
- Guidance issued under Section 25 of the Gambling Act 2005 by the Gambling Commission – May 2009.
- Existing Statement of Gambling Licensing Policy.
- Statutory Instrument 636 / 2006 - *The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006*.
- Statutory Instrument 637 / 2006 - *The Gambling Act 2005 (Licensing Authority Policy Statement) (First Appointment Day) Order 2006*.
- Project proposal to Sefton Public Engagement and Consultation Standards Panel, 18th November 2011 - *Revision of Statement of Gambling Licensing Policy*.
- Report to Licensing and Regulatory Committee, 21<sup>st</sup> November 2011 - *Gambling Act 2005 – proposed timetable for revision of Statement of Gambling Licensing Policy*.
- Report to Licensing and Regulatory Committee, 12<sup>th</sup> March 2012 - *Draft revised Statement of Gambling Licensing Policy – Gambling Act 2005*.

## 1. Background

- 1.1 Members will recall that Section 349 of the Gambling Act 2005 (“the GA05”) requires that all licensing authorities prepare and publish a statement of the principles that they propose to apply in exercising their functions under the GA05 during the three-year period to which the policy applies. A licensing policy statement will last for a maximum of three years, but can be reviewed and revised by an authority at any time.
- 1.2 The existing Policy has been kept under review since coming into force on 31st January 2010 and no revision has been deemed necessary to date. However, the Policy will require revising during 2012 in order for it to take effect from 31st January 2013 (when the new three year cycle will commence).
- 1.3 Section 349 (3) of the GA05 requires that the Licensing Authority consult the following on the Policy (or any subsequent revision):
  - The chief officer of police for the Authority's area;
  - One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and,
  - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.

# Agenda Item 4

- 1.4 The views of the above have to be given appropriate weight when the Policy is being determined.
- 1.5 In addition to the above, the Authority must also have regard to Guidance issued under Section 25 of the GA05 by the Gambling Commission.
- 1.6 Members will also recall that at their Meeting on 21<sup>st</sup> November 2011 they endorsed the timetable for the production of the revised Policy, the details of which can be summarised as follows:

## March 2012

- First draft presented to Members for comment.
- Agree revised draft for outside consultation.

## May/July 2012

- Outside consultations to take place.
- Revise Policy (as necessary) as a result of consultations.

## August/September 2012

- Present updated Policy to Licensing & Registration Committee for comments and any final amendments.
- Submit to full Council for agreement.

## October/November 2012

- Publish revised Policy (to come into effect from 31<sup>st</sup> January 2013 it has to be published no later than 31<sup>st</sup> December 2012).

## **2.0 The revised Statement of Gambling Licensing Policy**

- 2.1 The consultation took place between 1<sup>st</sup> May 2012 and 23<sup>rd</sup> July 2012. A full list of responses to the consultation exercise, together with the officer appraisal of those responses, is provided at Annex 2 to this report.
- 2.2 Further amendments have been made to the Policy, these being additional to those outlined within the Report to Members on 12<sup>th</sup> March 2012, and these are indicated below.
- 2.3 Paragraph 1.13 changed to reflect amended figures from the new 2011 Census, to now read:  
  
*Sefton has a resident population of 273,800 (2011 census) and has a high proportion of retired people, widowed people and long term unemployed when compared with the rest of England and Wales.*
- 2.4 As a result of alterations to the Gambling Commission Guidance, Paragraph 2.31 changed, to now read:

# Agenda Item 4

*The Act states that Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is restricted to bridge and whist. A members’ club must be permanent in nature, not be established to make commercial profit and be controlled by its members equally; there is no need for a club to have an alcohol licence. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.*

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**SEFTON METROPOLITAN BOROUGH COUNCIL**

**GAMBLING ACT 2005**

**STATEMENT OF GAMBLING LICENSING POLICY**

**Draft V.2**

# Agenda Item 4

|     | <b>CONTENTS</b>                         | <b>PAGE</b> |
|-----|---|-------------|
| 1.0 | General Statement                       |             |
| 2.0 | Scope                                   |             |
|     | • Premises Licence                      |             |
|     | • Permits                               |             |
|     | • Provisional Statements                |             |
|     | • Temporary Use Notices                 |             |
|     | • Occasional Use Notices                |             |
|     | • Small Lotteries                       |             |
| 3.0 | Gambling Licensing Objectives           |             |
| 4.0 | Casino Licences                         |             |
| 5.0 | The Licensing Process                   |             |
|     | • Interested Parties                    |             |
|     | • Responsible Authorities               |             |
|     | • Delegation of decisions and functions |             |
|     | • Hearings                              |             |
|     | • Review of licences                    |             |
| 6.0 | Licensing Conditions                    |             |
|     | • Mandatory conditions                  |             |
|     | • Default conditions                    |             |
|     | • Door Supervisors                      |             |
| 7.0 | Information Protocols                   |             |
| 8.0 | Enforcement Protocols                   |             |

## **ANNEXES**

The following annexes do not form part of the approved Statement of Gambling Licensing Policy but are included to assist applicants in meeting the requirements of the licensing process.

Annex 1 - Map of Sefton

Annex 2 - Responsible Authorities

Annex 3 - Gaming Machine Definition Tables

## 1.0 GENERAL STATEMENT

1.1 Sefton Metropolitan Borough Council (the Council) is the Licensing Authority (the Authority), under the Gambling Act 2005 (the Act), responsible for granting Premises Licences, issuing certain Permits and Provisional Statements, receiving and endorsing Temporary Use Notices, receiving Occasional Use Notices and registering Small Lotteries under the Act.

1.2 Section 349 of the Act requires that all Licensing Authorities prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the period to which the policy applies.

1.3 In carrying out its licensing functions the Authority will promote the Gambling Licensing Objectives which are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

See Section 3.0 for more information.

1.4 In drawing up this policy statement the Council has had regard to the nature of the Borough and the needs and wishes of the communities it serves and has consulted widely before finalising and publishing.

1.5 The Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act

1.6 The list of the persons consulted by this Authority is provided below.

***List of those consulted will go here.***

1.7 This policy statement sets out the general approach to the making of licensing decisions. It does not prevent any individual from making any application, under the terms of the Act, and having that application considered on its individual merits. Nor does it override the right of any person to make representations on an application nor to seek a review of a licence where the Act allows them to do so.

1.8 Unmet demand is not a criterion for a licensing authority in considering an application for a Premises Licence under the Act. As a result each application will be considered on its merits without regard to demand.

# Agenda Item 4

- 1.9 This policy statement will be subject to a periodic review every three years. Between those periodic reviews it may also be subject to ongoing reviews, particularly where feedback indicates that the Licensing Objectives are not being met.
- 1.10 In producing the policy statement, this Authority declares that it has had regard to the licensing objectives of the Act, the guidance issued by the Gambling Commission (the Commission), and any responses from those consulted on the policy statement.

## Sefton

- 1.11 Sefton is one of the five Metropolitan Boroughs that make up Merseyside. It is located north of Liverpool on the west coast of England and stretches 22 miles north from Bootle to Southport. The location of Sefton is shown by the map provided at Annex 1.
- 1.12 Sefton is an area of great contrasts with beautiful coastlines, rural landscapes and industrial/commercial areas; working docklands, commuter towns and a busy seaside resort; areas of great affluence but also some of the most deprived communities in England and Wales.
- 1.13 Sefton has a resident population of 273,800 (2011 census) and has a high proportion of retired people, widowed people and long term unemployed when compared with the rest of England and Wales.
- 1.14 The main centres of population are the urban and suburban areas of Bootle, Crosby, Maghull, Formby and Southport.
- Bootle is an area of mainly Victorian terraced properties, with busy working docklands and a mixture of retail and office developments at its centre.
  - Southport at the north of the Borough is a Victorian seaside/holiday resort which has a mix of residential and commercial premises at and near its centre, including private houses, apartments, hotels, retail outlets and licensed/entertainment premises.
  - Formby, Crosby and Maghull are largely residential with a smaller number of commercial premises.
- 1.15 The Unitary Development Plan for Sefton will allow development in town centre areas as long as it does not cause significant harm to amenity, would not result in grouping of similar uses which would harm the character of the area or harm residential amenity. Planners may use conditions to restrict opening hours.
- 1.16 The Sefton crime and disorder audit identified that whilst the rate of violent crime and youth disturbance is the lowest on Merseyside, youth disorder has generally risen and that the consumption of alcohol by young people and young people congregating do give cause for concern in some areas.

## **2.0 SCOPE**

- 2.1 Licensing authorities are required to undertake various regulatory functions in relation to a number of gambling activities. They are required to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs and miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits to Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see Section 7.0 regarding 'information protocols')
- Maintain registers of the permits and licences that are issued under these functions

2.2 It should be noted that local licensing authorities are not involved in licensing remote gambling at all. This falls to the Commission via Operating Licences.

### Premises Licence

2.3 A Premises Licence is required for any premises where it is intended to provide gambling facilities.

2.4 The types of Licence available are as follows:

- Casino Premises Licence
- Bingo Premises Licence
- Adult Gaming Centre Premises Licence (enabling the provision of category B3, B4, C and D machines)
- Family Entertainment Centre Premises Licence (enabling the provision of category C and D machines)
- Betting Premises Licence (enabling the provision of facilities for betting, by making or accepting bets or by acting as a betting intermediary)

2.5 An application for a Premises Licence may only be made by persons (which includes companies or partnerships):

- Who have the right to occupy the premises;
- Who have an Operating Licence which allows him/her to carry out the proposed activity, or have applied for an Operating Licence (except in the circumstances outlined in Paragraph 2.9, the Premises Licence may only be issued once the Operating Licence has been issued by the Commission); and

# Agenda Item 4

- 2.6 An applicant for a Premises Licence must be over the age of 18.
- 2.7 The Authority must aim to permit the use of premises for gambling in so far as it thinks that permission:
- i) Accords with relevant Commission Codes of Practice and Guidance (under Section 24 and Section 25);
  - ii) Is reasonably consistent with the Licensing Objectives; and,
  - iii) Is in accordance with the Authority's 3 year licensing policy (established under Section 349 of the Act)
- 2.8 The Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. However, the Authority will listen to, and consider carefully, any concerns about conditions that can not be met by Licence Holders due to planning restrictions, should such a situation arise.
- 2.9 Except in the case of Tracks (where the occupier may not be the person offering gambling), Premises Licences will only be issued to people with the relevant Operating Licences issued by the Commission.

## **Definition of “premises”**

- 2.10 Premises is defined in the Act as “any place”. Different Premises Licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one Premises Licence, provided they are for different parts of the building and the different parts can be reasonably regarded as being different premises. Whether different parts of a building can be properly regarded as being separate premises will always be a question of fact in the circumstances. However, the Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 2.11 The Authority takes particular note of the Gambling Commission’s Guidance with regard to applications for multiple licences for a building, or those for a specific part of the building to be licensed. The Guidance directs the Authority that premises should be configured so that children “are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating”; that “Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not ‘drift’ into a gambling area”; and that “Customers should be able to participate in the activity named on the premises licence”.
- 2.12 When considering applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed), the Authority will consider, as per the Guidance, whether taken as a whole, the co-location of the licensed premises with other facilities may have the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

## **Location**

- 2.13 Demand issues cannot be considered with regard to the location of premises but considerations in terms of the licensing objectives can (see Section 3.0). The Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. For example, the Authority would have regard to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families and children. If the Authority is mindful to make any specific decision that states any area(s) where gambling premises should not be located, this Statement will be updated. It should be noted that any such decision would not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how such concerns can be overcome.

## **Betting tracks**

- 2.14 Tracks are different from other premises in that they may be subject to one or more Premises Licences, provided that each Licence relates to a specified area of the track.
- 2.15 The Authority will have particular regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 2.16 The Authority would expect Premises Licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons will be permitted to enter track areas on days when dog-racing and/or horse racing takes place, including areas where facilities for betting are provided, however, they must be prevented from entering areas where gaming machines (other than category D machines – see Annex 3 for Gaming Machine definitions) are provided.
- 2.17 The Authority notes the Commission's comments that it "considers that it is disproportionate and unnecessary to insist that betting rules are displayed at each distinct betting location; rather, the rules should be made available at suitable central locations. The track premises licence holder should make the necessary arrangements to ensure that betting rules are accessible to all customers, regardless of which area of the track they are in" and that the requirement "could also be met by making a copy of the rules available in leaflet form from the main track office, and customers could be given a copy if they request one".
- 2.18 In respect of approved betting areas, the Authority notes the Commission's view that "the location of betting areas (other than those for gaming machines and bet receipt terminals) does not generally pose a threat to the licensing objectives and that no additional conditions should be imposed by licensing authorities".

## **Bingo premises**

- 2.19 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than category D machines. Where category C

machines, or above, are available in the premises to which children are admitted, applicants will ensure that:

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to this area where the machines are located;
- Access to the area where the machines are located is supervised;
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder, and
- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

- 2.20 Appropriate licence conditions, covering the above issues, may be imposed by the Authority.
- 2.21 In imposing any additional licence conditions the Authority will consider any Guidance issued by the Commission relating to the suitability and layout of bingo premises.
- 2.22 Further information on this type of Licence can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

## **Betting machines**

- 2.23 The Authority will, as per the Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## Permits

- 2.24 Permits are required when premises provide a gambling facility but either the stakes and/or prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.
- 2.25 The types of Permit available are as follows:
- Family Entertainment Centre Gaming Machine Permit
  - Club Gaming Permit
  - Club Machine Permit
  - Licensed Premises Gaming Machine Permit
  - Prize Gaming Permit

## **Family Entertainment Centre Gaming Machine Permit**

- 2.26 The Act states that a Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit, and/or considering applications, it need not (but may) have regard to the licensing



objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Commission's Guidance states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits.... licensing authorities will want to give weight to child protection issues."

- 2.27 The principles that this Authority intends to adopt will require the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 2.28 The efficiency of such policies and procedures will each be considered on their merits, however, they may include:
- CRB checks for staff
  - Appropriate measures / training for staff as regards suspected truant school children on the premises
  - Measures / training covering how staff would deal with unsupervised very young children being on the premises
  - Children causing perceived problems on / around the premises.
- 2.29 In addition to the above, the Authority will also expect, as per Commission Guidance, that:
- Applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - The applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - Staff are trained to have a full understanding of the maximum stakes and prizes.

### **Club Gaming and Club Machine Permits**

- 2.30 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 2.31 The Act states that Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is restricted to bridge and whist. A members' club must be permanent in nature, not be established to make commercial profit and be controlled by its members equally; there is no need for a club to have an alcohol licence. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.
- 2.32 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

# Agenda Item 4

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police".

2.33 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

2.34 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **Licensed Premises Gaming Machine Permit**

2.35 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the Authority.

2.36 The Authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of section 282 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises

2.37 Should a premises wish to have more than two machines, then it will need to apply for a Licensed Premises Gaming Machine Permit and the Authority will need to consider that application based upon the licensing objectives, any guidance issued by the Commission, and "any other matters that are considered relevant to the application". This Authority considers that "any other matters" will be decided upon on a case by

case basis but generally there will be regard to the need to protect children and vulnerable persons from harm and we will expect the applicant to satisfy that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority may include that the adult only gaming machines will be within site of the bar (or within the sight of staff who will monitor that the machines are not being used by those under 18). As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare or indeed training for staff under the GamCare Certification scheme (details available via [www.gamcare.org.uk/](http://www.gamcare.org.uk/)).

## **Prize Gaming Permit**

- 2.38 The Act states that a Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit.
- 2.39 This Authority has prepared a Statement of Principles, which is that the applicant should set out the types of gaming that s/he is intending to offer and that the applicant should be able to demonstrate:
- That they understand the limits to stakes and prizes that are set out in Regulations; and,
  - That the gaming offered is within the law.
- 2.40 In making its decision on an application for this Permit the Authority does not need to have regard to the licensing objectives but must have regard to any Commission Guidance.
- 2.41 It should be noted that there are conditions in the Act by which the Permit holder must comply, but that the Authority cannot attach conditions. The conditions in the Act are:
- The limits on participation fees, as set out in regulations, must be complied with;
  - All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
  - The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - Participation in the gaming must not entitle the player to take part in any other gambling

## **Travelling fairs**

- 2.42 Where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the Authority will need to determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 2.43 The Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

# Agenda Item 4

- 2.44 The 27-day statutory maximum for the land being used as a fair is per calendar year, and it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Authority will work with its neighbouring authorities to ensure that land that crosses our boundaries is monitored so that the statutory limits are not exceeded.
- 2.45 Further information on Permits can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

## Provisional Statements

- 2.46 Section 204 of the Act provides for a person to make an application to the Authority for a Provisional Statement in respect of premises that s/he:
- Expects to be constructed;
  - Expects to be altered; or
  - Expects to acquire a right to occupy.
- 2.47 Developers may wish to apply for Provisional Statements before they enter into a contract to buy or lease property or land to judge whether or not a development is worth taking forward in light of the need to obtain a Premises Licence. It is also possible for an application for a Provisional Statement to be made for premises that already have a Premises Licence (either for a different type of gambling or for the same type).
- 2.48 Applicants for Premises Licences must fulfill certain criteria (see Para 2.5). These restrictions do not apply in relation to an application for a Provisional Statement.
- 2.49 Further information on Provisional Statements can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

## Temporary Use Notices

- 2.50 These allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice (TUN) would include hotels, conference centres, and sporting venues. A TUN may only be granted to a person or company holding a relevant Operating Licence (for example, the holder of a Betting Operating Licence could apply to provide betting facilities at a snooker tournament).
- 2.51 Regulations state that the only activities permitted under a TUN are the provision of facilities for any form of equal chance gaming where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner (this does not include providing such facilities in circumstances where any person participating in the gaming does so by means of a gaming machine).
- 2.52 The same set of premises may not be the subject of a TUN for more than 21 days in any 12-month period, but may be the subject of several Notices provided that the total does not exceed 21 days.

2.53 Further information on TUNs can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

#### Occasional Use Notices

2.54 The Authority has very little discretion as regards these Notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. However, the Authority will need to consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the Notice. Provided that the Notice will not result in betting facilities being available for more than eight days in a calendar year, there is no provision for counter-notices or objections to be submitted.

2.55 Further information on Occasional Use Notices can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

#### Small Lotteries

2.56 These are lotteries operated by non-commercial societies, as defined in Section 19, which states that a society is non-commercial if it is established and conducted:

- For charitable purposes;
- For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
- For any other non-commercial purpose other than private gain.

2.57 It must not be possible for the purchaser of a ticket in a small society lottery to win by virtue of that ticket (whether in money, money’s worth, or partly the one and partly the other) more than £25,000.

2.58 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Authority believes that a society’s principal office is situated in another area, it will inform the society and the other relevant authority as soon as possible.

2.59 Further information on Small Lotteries can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

### **3.0 GAMBLING LICENSING OBJECTIVES**

3.1 In carrying out its licensing functions the Authority will promote the Gambling Licensing Objectives which are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

# Agenda Item 4

- 3.2 The Authority, in exercising its functions under the Act, shall also have regard to the Guidance issued by the Commission.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

- 3.3 The Authority is aware that the Commission will be taking a leading role in preventing gambling from being a source of crime and that it will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling. The Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Therefore, if an area has known high levels of organised crime then the Authority will consider whether or not gambling premises are suitable for that location and whether conditions may be suitable such as the provision of Door Supervisors.
- 3.4 Except in the circumstances outlined in Paragraph 2.9, anyone applying to the Authority for a Premises Licence will have to hold an Operating Licence from the Commission before a licence can be issued. Therefore, the Authority will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise the Authority will bring those concerns to the attention of the Commission.
- 3.5 Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance and it can be shown that gambling is the source of that disorder. This Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

Ensuring that gambling is conducted in a fair and open way

- 3.6 Generally, the Commission do not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence), both of these options falling under the purview of the Commission.
- 3.7 Where the Authority has concerns that gambling at any premises is not being conducted in a fair and open way those concerns will be brought to the attention of the Commission.

Protecting children and other vulnerable persons from being harmed or exploited by gambling

- 3.8 The Authority has noted the Commission Guidance which states that "the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective refers to protecting children from being 'harmed or exploited by gambling'. That means preventing them from taking part in

gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children, excepting Category D gaming machines”.

- 3.9 The Authority will also make itself aware of the Codes of Practice that the Commission issues as regards to this licensing objective, in relation to specific premises such as casinos.
- 3.10 There is no definition offered with regard to the term “vulnerable persons”, therefore the Authority will consider this objective on a case-by-case basis. In seeking to protect vulnerable persons the Authority will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 3.11 Applicants shall have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling, and there should be sufficient measures to ensure that under 18 year olds do not have access to adult only gaming machine areas.
- 3.12 Appropriate licence conditions may therefore be imposed by the Authority and they may cover issues such as:
- Proof of age schemes;
  - CCTV;
  - Door supervisors;
  - Supervision of entrances / machine areas;
  - Physical separation of areas;
  - Location of entry;
  - Notices / signage;
  - Specific opening hours;
  - Self barring schemes;
  - The provision of information leaflets / helpline numbers for organisations such as GamCare as well as training for staff under the GamCare Certification scheme; details available via [www.gamcare.org.uk/](http://www.gamcare.org.uk/).
- 3.13 This list is not mandatory, nor exhaustive; further details on Conditions can be found at Section 6.0.
- 3.14 The Authority will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable persons will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

## **4.0 CASINO LICENCES**

- 4.1 The Authority has not passed a ‘no casino’ resolution under Section 166 of the Act, but it is aware that it has the power to do so. Should the Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

## 5.0 THE LICENSING PROCESS

- 5.1 In determining a licence or permit application the overriding principle adopted by the Authority will be that each application will be determined on its merits.

### Interested Parties

- 5.2 Interested parties may make representations about Premises Licence applications, or apply for a review of an existing Licence.

- 5.3 These parties are defined within the Act as follows:

“a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

- 5.4 The Authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party or not.

- 5.5 The principles are that each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making. It will however consider the following as per the Commission’s Guidance:

- The size of the premises
- The nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- The circumstances of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults.
- The ‘catchment’ area of the premises (i.e. how far people travel to visit); and
- Whether the person making the representation has business interests in that catchment area that might be affected.

- 5.6 Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who



either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

### Responsible authorities

5.7 Section 157 of the Act details the necessary “responsible authorities”, which are:

- The Gambling Commission;
- The chief officer of police;
- The local fire authority;
- The local planning authority;
- An authority which has functions in relation to pollution to the environment or harm to human health;
- The body responsible for the protection of children from harm;
- Any other licensing authority in whose area part of the premises are situated; and,
- HM Revenue & Customs

5.8 In exercising the Authority’s powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Authority about the protection of children from harm, the following principles have been applied:

- The need for the body to be responsible for an area covering the whole of the licensing authority’s area; and,
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

5.9 Therefore, in accordance with the Commission’s Guidance, this Authority designates the Acting Child Protection Consultant for this purpose.

5.10 The appropriate points of contact for the abovementioned responsible authorities, i.e. the person to whom copies of applications should be sent, are listed within Annex 2.

### Delegation of decisions and functions

5.11 Licensing decisions and functions may be taken or carried out by the Licensing Committee, or delegated, where appropriate, to sub-committees or officers. The principal of delegation will be to ensure that decisions and functions, particularly non-contentious applications and purely administrative functions, are taken or carried out in a speedy, efficient and cost-effective way.

# Agenda Item 4

5.12 The delegation of decisions and functions will be as follows:

| Matter to be dealt with                                     | Full Council | Sub-committee of licensing committee  | Officers   |
|---|--------------|---|--|
| Three year licensing policy                                 | ✓            |   |  |
| Policy not to permit casinos                                | ✓            |   |  |
| Application for premises licences                           |              | Where representations have been received and not withdrawn                            | Where no representations received/<br>representations have been withdrawn      |
| Application for a variation to a licence                    |              | Where representations have been received and not withdrawn                            | Where no representations received/<br>representations have been withdrawn      |
| Application for a transfer of a licence                     |              | Where representations have been received from the Commission or responsible authority | Where no representations received from the Commission or responsible authority |
| Application for a provisional statement                     |              | Where representations have been received and not withdrawn                            | Where no representations received/<br>representations have been withdrawn      |
| Review of a premises licence                                |              | ✓   |  |
| Application for club gaming/<br>club machine permits        |              | Where objections have been made (and not withdrawn)                                   | Where no objections made/objections have been withdrawn                        |
| Cancellation of club gaming/<br>club machine permits        |              | ✓   |  |
| Applications for other permits                              |              |   | ✓  |
| Cancellation of licensed premises gaming machine permits    |              |   | ✓  |
| Consideration of temporary use notice                       |              |   | ✓  |
| Decision to give a counter notice to a temporary use notice |              | ✓   |  |

5.13 Where there is licensing authority discretion as to the level of fee that may be set, the level of fee will be decided by the Licensing and Regulatory Committee.

## Hearings

5.14 A hearing will be arranged to deal with any application that cannot be dealt with under delegated powers or resolved by agreement between applicants and 'interested

parties' and/or 'responsible authorities'. Hearings will be held at the earliest possible date having regard to the regulations published under the Act and the laws of natural justice. The Licensing Sub-Committee will conduct a quasi-judicial consideration of the application, objections and representations.

- 5.15 Conditions may be attached to Licences where relevant representations are received. Any condition attached to a Licence will be related to one or more of the Licensing Objectives, and conditions will not relate to matters that are the subject of other legislation.

#### Review of licences

- 5.16 Requests for a review of a Premises Licence can be made by interested parties or responsible authorities. However, it is for the Authority to decide whether or not the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below (as well as to consideration as to whether the request is considered to be frivolous or vexatious):

- i) It is in accordance with any relevant code of practice issued by the Commission;
- ii) It is in accordance with any relevant guidance issued by the Commission;
- iii) It is reasonably consistent with the licensing objectives; and,
- iv) It is in accordance with this policy statement

- 5.17 The Authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate.

## **6.0 LICENSING CONDITIONS**

#### Mandatory conditions

- 6.1 Mandatory conditions may be attached to Premises Licences by the Secretary of State under Section 167 of the Act. They can be attached generally to all Premises Licences, or may be attached to all Premises Licences of a particular type, or to a particular type of Premises Licences under certain specified circumstances.

- 6.2 The Secretary of State considers that mandatory conditions are most appropriate where there are basic minimum requirements to which all Premises Licence holders, or holders of a particular type of Licence, should adhere.

- 6.3 Once mandatory conditions are attached they can only be removed by further Secretary of State regulations. The Authority has no discretion to decide not to include them, or to modify them.

#### Default conditions

- 6.4 The Secretary of State considers the use of default conditions are most appropriate where a general industry or sector wide approach is desirable in order to assist national consistency, but where licensing authorities ought to be able to respond to local circumstances by altering those conditions if necessary.

- 6.5 Section 169 of the Act gives licensing authorities the ability to exclude from Premises

Licences any default conditions that have been imposed under section 168. However, as default conditions are considered to be the industry norm, and while licensing authorities are free to limit or remove them where appropriate, this Authority will only extend them with reference to the Commission Codes of Practice and Guidance, the Licensing Objectives and this Policy Statement.

6.6 There are conditions that the Authority cannot attach to Premises Licences, which are:

- Any condition on the Premises Licence which makes it impossible to comply with an Operating Licence condition;
- Conditions relating to gaming machine categories, numbers, or method of operation;
- Conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and,
- Conditions in relation to stakes, fees, winning or prizes

6.7 Any conditions attached to Premises Licences will be proportionate and will be:

- Relevant to the need to ensure that the premises are suitable to meet the licensing objectives and are suitable to provide facilities for gambling;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

6.8 Decisions upon individual conditions will be made on a case-by-case basis. The Authority will expect the applicant to offer his/her own suggestions as to the way in which the Gambling Licensing Objectives can be met effectively. The Authority may, however, exclude a condition and substitute it with one that is either more or less restrictive. In this instance the Authority will give clear and regulatory reasons for so doing.

6.9 The Authority will consider specific measures that may be required for buildings subject to multiple Premises Licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's Guidance.

6.10 The Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted that:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to the area where these machines are located;
- Access to the area where the machines are located is supervised;
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and

- At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

6.11 These considerations will apply to premises, including buildings, where multiple Premises Licences are applicable.

### Door Supervisors

6.12 The Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

6.13 The Gambling Act 2005 amended the Security Industry Act 2001 in so far as in-house door supervisors at casinos or bingo premises do not have to be licensed by the Security Industry Authority (SIA). However, the Authority strongly recommends that any door supervisors, or security staff, who are employed, should be licensed by the SIA.

## **7.0 INFORMATION PROTOCOLS**

7.1 Authorities are required to include in their Policy Statements the principles to be applied by them in exercising the functions under Sections 29 and 30 of the Act, with respect to the exchange of information between them and the Commission, and the functions under Section 350 of the Act with the respect to the exchange of information between them and the other persons listed in Schedule 6 to the Act.

7.2 The principle that this Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information, which includes the provision that the Data Protection Act 1998, will not be contravened. The Authority will also have regard to any Guidance issued by the Commission to local authorities on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

7.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **8.0 ENFORCEMENT PROTOCOLS**

8.1 Licensing Authorities are required by regulation under the Act to state the principles to be applied in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

8.2 This Authority's principles are that it will be guided by the Commission's Guidance and it will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed and costs identified and minimised;

# Agenda Item 4

- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects

- 8.3 As per the Commission's Guidance this Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 8.4 The Authority has, again as recommended by the Commission's Guidance, adopted a risk-based inspection programme.
- 8.5 The main enforcement and compliance role for this Authority in terms of the Act will be to ensure compliance with the Premises Licences and other permissions that it authorises. The Commission will be the enforcement body for the Operator and Personal Licences and it should also be noted that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Authority but will be notified to the Commission.
- 8.6 This Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.

| Reference  | Respondent  | Comments   | Appraisal  | Response   |
|------------|---|--|--|--|
| <b>001</b> | <b>Samantha Cushion,<br/>Merseyside Police<br/>Sefton Licensing<br/>Unit</b>                    | 1. No issues with revisions made   | 1. N/A   | <ul style="list-style-type: none"> <li>• Ack sent, no further action.</li> </ul> |
| <b>002</b> | <b>Holly Cook<br/>Racecourse Services<br/>Executive,<br/>Racecourse<br/>Association Limited</b> | <p>1. <b>Para 2.13</b> – Council is asked to consider that the location of racecourses will not have altered since its foundation, and cannot be transferred to another location.</p> <p>2. <b>Paras 3.3, 3.12 &amp; 6.12</b> – Council is asked to be aware that under LA03 and PSIA 2001 are already required to provide licensed door supervisors and that we should not duplicate other regulatory regimes.</p> <p>3. <b>Para 6.7</b> – Council is asked to ensure that any additional conditions imposed do not exceed conditions outlined in the Premise Licence Mandatory and Default Conditions.</p> | <p>1. Not thought necessary or appropriate to alter Policy.</p> <p>2. Aware of these matters, Policy clearly states at Para 8.3 that the Authority will seek to avoid duplication with other regulatory regimes where possible. No need to alter draft policy.</p> <p>3. Not appropriate to alter Policy as would fetter our discretion in future.</p> | <ul style="list-style-type: none"> <li>• Ack sent, no further action.</li> </ul> |
| <b>003</b> | <b>Carl Rainbird<br/>Merseyside Fire &amp;<br/>Rescue Service</b>                               | 1. No issues with revisions made   | 1. N/A   | <ul style="list-style-type: none"> <li>• Ack sent, no further action.</li> </ul> |
| <b>004</b> | <b>Mr Andy Squires<br/>Via email</b>  | 1. Wants us to restrict the number of Gaming Machines allowed within bookmakers or casinos.  | 1. Numbers and types of Machines available are set by Government, unable to alter Policy.  | <ul style="list-style-type: none"> <li>• Ack sent, no further action.</li> </ul> |

**Annex 2**

# Agenda Item 4

| Reference | Respondent | Comments   | Appraisal   | Response |
|-----------|------------|--|---|----------|
|           |            | <p>2. Wants us to restrict the number of gambling establishments within the Borough.</p> | <p>2. Cannot restrict numbers, Act states we have to "aim to permit the use of premises for gambling" subject to any relevant codes of practice, the Gambling Commission Guidance, the three licensing objectives and our Policy. Unable to alter Policy.</p> |          |



# Agenda Item 5

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**Report to:** Licensing & Regulatory Committee **Date of Meeting:** 24<sup>th</sup> September 2012

**Subject:** Provisions contained within the Scrap Metal Dealers Bill 2012.

**Report of:** Director of Built Environment

**Wards Affected:** All

**Is this a Key Decision?** No

**Is it included in the Forward Plan?**  
No

**Exempt/Confidential** No

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## Purpose/Summary

To inform Members regarding proposals contained within the Scrap Metal Dealers Bill 2012.

## Recommendation(s)

That Members:

- i) note this Report and its contents;
- ii) note that further Reports will be brought forward to up date Members on the progress of the Bill.

## How does the decision contribute to the Council's Corporate Objectives?

|   | <u>Corporate Objective</u>  | <u>Positive Impact</u> | <u>Neutral Impact</u> | <u>Negative Impact</u> |
|---|---|------------------------|-----------------------|------------------------|
| 1 | Creating a Learning Community   |                        | √                     |                        |
| 2 | Jobs and Prosperity   |                        | √                     |                        |
| 3 | Environmental Sustainability  |                        | √                     |                        |
| 4 | Health and Well-Being   |                        | √                     |                        |
| 5 | Children and Young People   |                        | √                     |                        |
| 6 | Creating Safe Communities   | √                      |                       |                        |
| 7 | Creating Inclusive Communities  |                        | √                     |                        |
| 8 | Improving the Quality of Council Services and Strengthening Local Democracy |                        | √                     |                        |

# Agenda Item 5

## Reasons for the Recommendation:

To give Members an overview of the provisions contained within the Scrap Metal Dealers Bill 2012.

## What will it cost and how will it be financed?

### (A) Revenue Costs

Costs would be met from within the proposed regime's licensing fees.

### (B) Capital Costs

None.

## Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

|   |   |
|---|---|
| <b>Legal</b>  | The Head of Corporate Legal Services (LD1033/11) has been consulted and has no comments to add.   |
| <b>Finance</b>                                      | The Head of Finance and ICT (FD1703) has been consulted and notes costs would be met from within the proposed regime's licensing fees. The Bill will provide that an application for a licence must be accompanied by a fee, with a power for the Secretary of State to set out or to determine the applicable fee in Regulations. The Secretary of State may determine a maximum fee whilst providing local authorities with some discretion as to the level of fee set. |
| <b>Human Resources</b>                              | None  |
| <b>Equality</b>                                     |   |
| 1. No Equality Implication                          | <input checked="" type="checkbox"/>   |
| 2. Equality Implications identified and mitigated   | <input type="checkbox"/>  |
| 3. Equality Implication identified and risk remains | <input type="checkbox"/>  |

## Impact on Service Delivery:

It is currently not known how the provisions will impact on the other work of the Unit if enacted.

## What consultations have taken place on the proposals and when?

None.

## Are there any other options available for consideration?

N/A

## Implementation Date for the Decision

N/A

**Contact Officer:** Kevin Coady  
**Tel:** 0151 934 2946  
**Email:** kevin.coady@sefton.gov.uk

## Background Papers:

- The Scrap Metal Dealers Bill 2012.
- The Scrap Metal Dealers Act 1964.
- The Environmental Protection Act 1990.
- The Vehicle (Crime) Act 2001.
- The Legal Aid, Sentencing and Punishment of Offenders Act 2012.

### 1. Background

- 1.1 Incidences of metal theft are thought to have grown in recent years with rising global metal prices. Metal theft is estimated to cost the UK economy some £220-260 million per year (although some estimates state that the total costs could be up to £800 million).
- 1.2 The Government believes that additional regulatory controls on scrap metal dealers are required to reduce the opportunities for metal thieves to sell stolen material.
- 1.3 The Government produced a “hand-out Bill” setting out proposals for a new licensing regime for scrap metal dealers. This was taken up by Richard Ottaway MP, who will take it through the House of Commons as the Scrap Metal Dealers Bill 2012. The Bill has Government support. It extends to England and Wales. It had its First Reading on 20<sup>th</sup> June 2012 and the Second Reading was on 13<sup>th</sup> July 2012.
- 1.4 A “hand-out Bill” is where the Government offers a Bill to a backbench MP to take forward as a Private Members' Bill. These are usually Bills for which the Government has not been able to find time for in its programme or, for some other reason, it does not want to present itself. Since such Bills come with government support, they stand a good chance of becoming law and are often taken up.

### 2. Current situation

- 2.1 Scrap metal dealers are covered by a range of legislation including the Scrap Metal Dealers Act 1964 (“the 1964 Act”), the Environmental Protection Act 1990 (“the 1990 Act”) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the 2012 Act”). The regulatory regimes overlap considerably.

# Agenda Item 5

- 2.2 The Council currently implements the legislation contained within the 1964 Act. This Act was introduced to place controls on scrap metal dealers to discourage the trade in stolen metal. These controls include:
- That dealers have to register with the local authority;
  - That local authorities have to maintain a list of dealers; and,
  - That dealers are required to keep a variety of records including details of types of metal received, details of the processing of that metal and the names of those disposing of metal at their site.
- 2.3 Under the 1990 Act scrap metal dealers are required to have planning permission to operate a site and are required to have permits or exemptions issued under it from the Environment Agency to operate a scrap metal site.
- 2.4 The 1990 Act requires that those transporting metal to a scrap metal site for profit be registered as a 'waste carrier'. Waste carriers must comply with the waste Duty of Care. Breach of the Duty of Care is a criminal offence that can lead to large fines under the Act. Specific requirements of the Duty of Care include that waste carriers must:
- Ensure the waste goes to a properly licensed or exempt waste site; and,
  - Complete a Waste Transfer Note (WTN) - this must include a description of the waste and be signed by the carrier and the person that they give/sell the waste to. The WTN must be kept for a minimum of two years.
- 2.5 The 2012 Act (the provisions of which are expected to come into place in Autumn 2012) will introduce the following changes to the regulation of scrap metal dealers:
- Maximum fines for offences under the 1964 Act currently set at level 1 on the standard scale (£200) will be increased to level 3 (£1,000), and those currently set at level 3 will be increased to level 5 (£5,000);
  - Create a new offence of buying scrap metal for cash (the "cashless offence"), so that a "scrap metal dealer must not pay for scrap metal except... by a cheque... or... by an electronic transfer of funds"; and,
  - Introduce new powers for the police (on production of a warrant issued by a justice of the peace) to enter regulated scrap yards where there were reasonable grounds for believing that scrap metal paid for in cash was being (or had been) received or kept there.

### **3. Summary of the Bill**

- 3.1 The Bill has 20 clauses and 2 schedules and will revise the definition of 'scrap metal dealer' and 'scrap metal' to ensure that they better reflect the 21<sup>st</sup> Century scrap metal industry.
- 3.2 It will repeal the 1964 Act and Part 1 of Vehicles (Crime) Act 2001 and will maintain local authorities as the principal regulator of these industries. The Bill will give local authorities the power to refuse to grant a licence and the power to revoke licences if the dealer is considered 'unsuitable'. Unsuitability will be based on a number of factors including any relevant criminal convictions. The Bill will also provide local authorities and police officers with suitable powers of entry and

# Agenda Item 5

inspection. Any licence issued will be for a period of three years from the date of issue.

- 3.3 A register of licences issued under the Bill will be held by the Environment Agency. Local authorities will provide the Environment Agency with information of all licences issued in order that this register can be updated regularly. The register will be made openly accessible to the public and will include: the name of the authority which issued the licence; the name of the licensee; the business name; the type of licence; the site(s) covered by the licence and the expiry date of the licence.
- 3.4 The Bill will provide that an application for a licence must be accompanied by a fee, with a power for the Secretary of State to set out or to determine the applicable fee in Regulations. This will allow the Secretary of State to set a maximum fee whilst providing local authorities with some discretion as to the level of fee set. This fee will be an essential component of the new regime as it will provide local authorities with the funding they need to administer the regime and ensure compliance with it.
- 3.5 The Bill will require that more detailed and accurate records of transactions are kept. Scrap metal dealers will also be required to check the identity of those selling metal to them.
- 3.6 This verification would be done by reference to documents, data or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Authority, a bank or utility company etc. Therefore the scrap metal dealer would have some discretion as to which documentation can be used for this purpose. There is also a power for the Secretary of State to prescribe in regulations the data or documents which are sufficient, or not sufficient as the case may be, for verifying identity.
- 3.7 Clause 12 of the Bill deals with “Records of dealings” and applies if a scrap metal dealer receives any scrap metal in the course of their business. The dealer will be required to record the following information:
  - (a) The description of the metal (including its type and weight);
  - (b) The date and time of its receipt;
  - (c) If the metal is delivered in or on a vehicle, the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) of the vehicle,
  - (d) If the metal is received from a person, the full name and address of that person;
  - (e) If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.
- 3.8 If the dealer receives the metal from a person, the dealer must keep a copy of any document which the dealer uses to verify the name or address of that person.
- 3.9 If the dealer pays for the metal, then the dealer will be required to keep -
  - (a) If the payment was by cheque, a copy of the cheque, or
  - (b) If the payment was by electronic transfer, the receipt (if any) identifying the transfer

# Agenda Item 5

If the dealer pays for the metal and –

- (a) The payment was by electronic transfer, and
- (b) No receipt identifying the transfer was obtained, then the dealer must record particulars identifying the transfer.

- 3.10 Clause 11 of the Bill will re-enact, with modifications, the prospective amendments made by section 146 of the 2012 Act, which inserted section 3A into the 1964 Act, creating the offence of purchasing scrap metal for cash (as indicated within Paragraph 2.5 above). This offence would apply to all scrap metal dealers.
- 3.11 This offence prohibits scrap metal dealers from paying for scrap metal other than by cheque or by electronic transfer – the Secretary of State will be able to make an order to permit other methods of payment, if considered appropriate, under subsection (2) of the Bill.
- 3.12 Finally the Bill will incorporate the separate registration scheme for motor salvage operators under the Vehicle (Crime) Act 2001 into this new regime. This being to replace the current overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory regime. The provisions of the 1990 Act will remain in force.

# Agenda Item 6

**Report to:** Licensing & Regulatory Committee **Date of Meeting:** 24<sup>th</sup> September 2012

**Subject:** Hackney Carriage Unmet Demand Survey 2013

**Report of:** Director of Built Environment

**Wards Affected:** All

**Is this a Key Decision?** No

**Is it included in the Forward Plan?**  
No

**Exempt/Confidential** No

## Purpose/Summary

To advise Members of the requirement to review the policy on the numerical restriction of Hackney Carriage Vehicle Licences

## Recommendation(s)

That Members:

- i) Note the content of this Report;
- ii) Instruct the Trading Standards & Licensing Manager to contact recognised independent consultants in this field and request a quotation for undertaking the Hackney Carriage Demand Survey in 2013; and
- iii) Instruct the Trading Standards & Licensing Manager to carry out a best value assessment of the resulting quotations.

## How does the decision contribute to the Council's Corporate Objectives?

|   | <u>Corporate Objective</u>  | <u>Positive Impact</u> | <u>Neutral Impact</u> | <u>Negative Impact</u> |
|---|---|------------------------|-----------------------|------------------------|
| 1 | Creating a Learning Community   |                        | √                     |                        |
| 2 | Jobs and Prosperity   | √                      |                       |                        |
| 3 | Environmental Sustainability  |                        | √                     |                        |
| 4 | Health and Well-Being   |                        | √                     |                        |
| 5 | Children and Young People   |                        | √                     |                        |
| 6 | Creating Safe Communities   | √                      |                       |                        |
| 7 | Creating Inclusive Communities  | √                      |                       |                        |
| 8 | Improving the Quality of Council Services and Strengthening Local Democracy |                        | √                     |                        |

# Agenda Item 6

## Reasons for the Recommendation:

To allow Members to determine Council policy

## What will it cost and how will it be financed?

### (A) Revenue Costs

The cost of the survey is covered by ring fenced reserves solely for the administration of the taxi licences.

### (B) Capital Costs

None.

## Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

|   |   |
|---|---|
| <b>Legal</b>  | The Head of Corporate Legal Services (LD1089/12) has been consulted and has no comments to add.   |
| <b>Finance</b>                                      | The Head of Finance and ICT (FD1765/12) has been consulted and has no comments to add as all associated costs of the survey can be met from earmarked reserves kept for this purpose. |
| <b>Human Resources</b>                              | None  |
| <b>Equality</b>                                     |   |
| 1. No Equality Implication                          | <input checked="" type="checkbox"/>   |
| 2. Equality Implications identified and mitigated   | <input type="checkbox"/>  |
| 3. Equality Implication identified and risk remains | <input type="checkbox"/>  |

## Impact on Service Delivery:

None

## What consultations have taken place on the proposals and when?

- Circulation to Hackney Carriage & Private Hire Trade Representatives.

## Are there any other options available for consideration?

- a) To adopt a policy of numerical de-restriction and therefore dispense with the need for an Hackney Carriage Unmet Demand Survey.



- b) To delay the demand survey until the publication of the Law Commission report on the review of Taxi and Private Hire Services

## Implementation Date for the Decision

Immediately following the meeting.

**Contact Officer:** Andrew Naisbitt  
**Tel:** 0151 934 4014  
**Email:** mark.toohey@sefton.gov.uk

## Background Papers:

- Town Police Clauses Act 1847
- Transport Act 1985
- Department for Transport – *“Taxi & Private Hire Vehicle Licensing Best Practice Guidance 2006”*

## 1. Background

1.1 The existing numerical restriction applied to hackney carriage vehicle licences has stood since 1986 when the limit was set at 271. Vehicle licences are issued under the Town Police Clauses Act 1847 as amended by the Transport Act 1985.

1.2 The Council has discretion whether to have a policy of numerical restriction or a policy of numerical de-restriction. As with any discretion it must be exercised lawfully and should include a process for proper consultation with interested parties. The Department for Transport have stated in its Best Practice Guidance that it considers that it is “best practice” not to impose numerical restrictions. However, the guidance also explains:

- (i) The guidance is not prescriptive;
- (ii) It is for individual licensing authorities to reach their own decisions; and
- (iii) It is right that local circumstances and local requirements are taken into account.

1.3 Current legislation states the only reason on which an application for a hackney carriage licence can be refused is that the Council is satisfied that there is no significant demand for hackney carriage services, which is not being met. This means that the Council is satisfied there are enough licensed hackney carriages to serve the public without issuing any more. Therefore the Council must keep any policy of numerical restriction under review.

1.4 Any decision the Council takes will need to be rational, reasoned and supported by evidence and a proper process.

## 2. Determination of Unmet Demand

# Agenda Item 6

- 2.1 The DfT Best Practice Guidance, states that it will be necessary for the Local Licensing Authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of the Court. In order to satisfy any such challenge a survey must be impartial and objective.
- 2.2 In 2009, the Council took legal advice regarding carrying out demand surveys. Counsel advised that a full and detailed survey should be commissioned. Any discretion to restrict or de-restrict must be exercised lawfully and rationally and made in accordance with the usual administrative law principles. It should be made after proper consultation with interested parties and involves:
- (i) An obligation to ensure that the Council has the information necessary to enable an informed decision to be taken; and
  - (ii) A consultation process that must be conducted properly and fairly.
- 2.3 Whether or not there exists significant unmet demand is a question of judgement for the Council, based on the evidence available and guidance from case law. A Council can not be faulted for having based its decision on the conclusions of an independent firm of reputable consultants and for having accepted that evidence in their report, (*R {on the application of Maud} v Castlepoint Borough Council*).
- 2.4 Counsel advised that in changing any policy of restriction the issues of demand, local circumstances and local requirements have to be properly addressed. This can only be done by reference to a demand survey (with a remit to address such issues) or at least probative evidence akin to such a survey.
- 2.5 Consideration has been given to whether such a survey could be carried out internally but the Council lacks the specific expertise and any report would be open to questions of impartiality.
- 2.6 The local trade also have a legitimate expectation that a proper survey will be commissioned before any decision is taken. This coupled with the fact the Council has to assess the local circumstances and requirements so as to be in a position to properly appreciate the effects and implications of its decision on the locality. Evidence in respect of such issues will thus be required and this is best achieved by the instruction of an independent expert consultant.

## **3.0 Engaging a Consultant**

- 3.1 The survey in 2010 was carried out by Halcrow Ltd at a cost of £20,376. It is expected that allowing for inflation (at 5% per annum that the cost of the 2013 survey will be in the range £23,500 to £27,000 depending upon the consultant appointed.
- 3.2 The current protocol for selecting a consultant to supply services from £10,001 to £30,000 (as per the Constitution – Part 4 “quotations”) is:

*“Officers are required to obtain 3 written quotes and submissions are required to be evaluated by at least 2 officers in order to demonstrate independence in the choosing of contractors and evidence retained of the process in order to demonstrate best value has been achieved”.*

3.3 The Trading Standards & Licensing Manager proposes to request a quotation from the five recognized market leaders namely:

- a) Halcrow Ltd (Provider 2010 survey);
- b) Jacobs Consultancy Ltd
- c) Mouchel Ltd;
- d) TPI Ltd; and
- e) Transport Research Institute.

3.4 In order to maintain continuity with the 2010 Demand Survey report, the companies will be asked to provide a quotation for a survey that includes the following:

- Inception Meeting;
- A statistically significant Public Attitude Survey (Face to Face);
- Rank / On Street Hails (Overt & Covert Observations);
- Queue simulation;
- Comparison with other Local Authorities;
- Consultation with interested parties;
- Study fares / effect on demand;
- Latent demand for Horse Omnibuses;
- Study the effect Public Service Vehicles (PSV) / Private Hire Vehicles (PHV) on demand;
- Comparison of hackney carriage fares with PSV / PHV fares;
- Consultation with all hackney carriage and private hire drivers (Postal Survey);
- Consultation with all hackney carriage and private hire operators, and Trade Representatives;
- Consultation with Sefton Council's Access Officer and Disability Group Representatives;
- Consultation with Police;
- Consultation with Local Chamber of Commerce, Clubs, Tourist Board, Students etc;
- Data Analysis;
- A statistically significant rank usage / viability survey at key ranks in 'town centre areas';
- Multiple Copies of the final report and presentation to Elected Members; and
- Monthly Progress Reports.

#### **4.0 The Law Commission & the Numerical Restriction of Hackney Carriages**

4.1 Members will recall the report entitled "*Reforming the Law of Taxi and Private Hire Services – A Consultation Paper*" presented on 30<sup>th</sup> July 2012. The report

# Agenda Item 6

provided a summary of the Law Commission's provisional proposals which included a proposal to take away a local authorities power to restrict taxi numbers (Provisional Proposal 54).

4.2 The Council has responded to the consultation disagreeing with this proposal.

4.3 It is understood that the Law Commission will publish its final report in late 2013.

## **5.0 Issues for consideration**

5.1 The Council may commission an unmet demand survey to be carried out in 2013 only for new legislation (expected 2014) to abolish quantity restrictions.

5.2 On the other hand the Council could postpone the unmet demand survey until publication of the Law Commission's recommendations however by utilizing this strategy the Council could face a legal challenge to its current policy of numerical restriction as the 2010/11 demand survey data loses its relevance.

# Agenda Item 7

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**Report to:** Licensing & Regulatory Committee **Date of Meeting:** 24<sup>th</sup> September 2012

**Subject:** Licensing Motorcycles as Private Hire Vehicles

**Report of:** Director of Built Environment

**Wards Affected:** All

**Is this a Key Decision?** No

**Is it included in the Forward Plan?**  
No

**Exempt/Confidential** No

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## Purpose

To advise Members of the proposed changes to the Hackney Carriage, Private Hire and Omnibus Licensing Scheme in relation to Motorcycles

## Recommendation(s)

That Members:

- i) Note the content of this Report; and
- ii) Approve the changes detailed in paragraphs 3.2, 3.3, 3.4, 3.5 and 3.6 to Sefton Council's licensing scheme.

## How does the decision contribute to the Council's Corporate Objectives?

|   | <u>Corporate Objective</u>  | <u>Positive Impact</u> | <u>Neutral Impact</u> | <u>Negative Impact</u> |
|---|---|------------------------|-----------------------|------------------------|
| 1 | Creating a Learning Community   |                        | √                     |                        |
| 2 | Jobs and Prosperity   | √                      |                       |                        |
| 3 | Environmental Sustainability  |                        | √                     |                        |
| 4 | Health and Well-Being   |                        | √                     |                        |
| 5 | Children and Young People   |                        | √                     |                        |
| 6 | Creating Safe Communities   | √                      |                       |                        |
| 7 | Creating Inclusive Communities  | √                      |                       |                        |
| 8 | Improving the Quality of Council Services and Strengthening Local Democracy |                        | √                     |                        |

# Agenda Item 7

## Reasons for the Recommendation:

To allow Members to determine Council policy

## What will it cost and how will it be financed?

### (A) Revenue Costs

None.

### (B) Capital Costs

None.

## Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

|   |  |
|---|--|
| <b>Legal</b>  | The Head of Corporate Legal Services (LD1080/12) has been consulted and has no comments to add.  |
| <b>Finance</b>                                      | The Head of Finance and ICT (FD1758/12) has been consulted and has no comments to add as there are no financial consequences as a direct result of this report |
| <b>Human Resources</b>                              | None   |
| <b>Equality</b>                                     |  |
| 1. No Equality Implication                          | <input checked="" type="checkbox"/>  |
| 2. Equality Implications identified and mitigated   | <input type="checkbox"/>   |
| 3. Equality Implication identified and risk remains | <input type="checkbox"/>   |

## Impact on Service Delivery:

None

## What consultations have taken place on the proposals and when?

- Hackney Carriage & Private Hire Joint Trades Working Group

## Are there any other options available for consideration?

Not to adopt the proposed changes

## Implementation Date for the Decision

Immediately following the meeting.

**Contact Officer:** Mark Toohey  
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**Email:** mark.toohey@sefton.gov.uk

## **Background Papers:**

- Local Government (Miscellaneous Provisions) Act 1976
- Hackney Carriage, Private Hire and Omnibus Licensing Scheme Handbook (Version 1.1)
- Department for Transport – “*Licensing Motorcycles as Private Hire Vehicles*” – A guidance note from the Department for Transport July 2012

## **1. Background**

1.1 The Local Government (Miscellaneous Provisions) Act 1976 (The Act), allows a council to grant a private hire vehicle licence if it is satisfied that the vehicle is:

- Suitable in type, size and design for use as a private hire vehicle;
- Not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
- In a suitable mechanical condition;
- Safe;
- Comfortable; and
- That there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of the Road Traffic Acts.

1.2 In addition, The Act only permits a Council to grant a hackney carriage or private hire drivers licence if the applicant is considered as fit and proper and providing a full DVLA or EEC driving licence has been held for a minimum period of one year.

1.3 The Council’s Licensing pre-requisites and conditions are published in the *Sefton Metropolitan Borough Council Hackney Carriage, Private Hire and Omnibus Licensing Scheme Handbook Version 1.1 as amended*, (The Handbook).

1.4 The current licensing policy does permit the issue of licences to motorcycles subject to one pre-requisite, that “Any motor vehicle / cycle with a maximum seating capacity of 1 passenger plus driver must have sufficient hand grips to secure the passenger safely at all times”.

1.5 Since 2008, Sefton Council has received only one licence application with respect to a motorcycle. That licence was issued on 23<sup>rd</sup> June 2009 to a Harley Davidson “Fatboy” 1584cc motorcycle. The licence was not renewed on expiry and no further applications have been received.

**2. “*Licensing Motorcycles as Private Hire Vehicles*” – A guidance note from the Department for Transport July 2012**

# Agenda Item 7

- 2.1 The Department For Transport (DfT) has published guidance to assist licensing authorities who are considering the issue of how to licence motorcycles as private hire vehicles.
- 2.2 In drawing up the guidance the DfT considered that there is a balance to be struck between the flexibility provided by motorcycle private hire vehicles and the safety risks associated with such vehicles. The DfT was also mindful of the important judgement in the case of Leeds City Council v Chauffeur Bikes Ltd, where the High Court held that a motorcycle could be in a safe condition for a motorcycle but it could still, for safety reasons, be judged to be unsuitable in type, size or design for use as a private hire vehicle. On that basis, the Court decided that the motorcycle in question could rightly be held to be unsuitable and unsafe for private hire use.
- 2.3 The DfT forms the opinion that this case does not automatically rule out the licensing of motorcycles as private hire vehicles because it is the nature of this sort of niche market that passengers will weigh up the risks involved and act accordingly. Many people would never choose to use motorcycle private hire vehicles because of the risks they perceive whereas others regard riding pillion as a convenient and practical form of transport.
- 2.4 The DfT's key point is that the risks associated with riding as a pillion passenger on a motorcycle are not sufficiently high as to provide guidance which rules them out of the licensing system altogether.
- 2.5 A copy of the DfT guidance is attached as Annex 1 to this report.

## **3. Changes to Sefton Council's Hackney Carriage, Private Hire & Omnibus Licensing Scheme**

- 3.1 In order to follow the guidance set out by the DfT it is necessary for the Council to amend its licensing pre-requisites and conditions.
- 3.2 Pre-requisites for the issue of a motorcycle private hire vehicle licence:
  - a) Motorcycles must be approved for road use and comply with the current provisions of the Road Vehicles (Construction and Use) Regulations as amended and the Vehicle Lighting Regulations as amended;
  - b) The motorcycle must have a minimum engine size of 750cc;
  - c) Passengers must not hold any luggage and therefore a minimum of two panniers must be securely fitted and any such fitments must not exceed any manufacturer's loading instructions;
  - d) Standard footplates must be fitted for use by pillion passengers;
  - e) The vehicle must have hire and reward insurance and additional fittings or vehicle modifications must be declared and comply with motorcycle and components' manufacturers recommendations for such additional equipment; and
  - f) Anti-lock brakes (ABS) must be fitted.



## 3.3 Pre-requisites for the issue of a motorcycle private hire rider's licence:

- a) All motorcycle private hire drivers (riders) must obtain, as a minimum, the Institute of Advanced Motorist or The Royal Society for the Prevention of Accidents (RoSPA) advanced rider schemes or another course which is demonstrably equivalent or superior before being licensed;
- b) All riders must hold a current valid full motorcycle driving licence issued by the DVLA for the type of vehicle being used and have a minimum of 5 years experience of riding motorcycles, after the issue of a full licence.
- c) All riders must be able to communicate with passengers in English. This is particularly important with respect to the communication of safety instructions.

## 3.4 Licensing Conditions attached to motorcycle private hire vehicle licence:

- a) The vehicle must be operated in accordance with the manufacturer's specifications in all respects;
- b) Motorcycles will only be granted a maximum 6 months licence subject to a satisfactory compliance test;
- c) The display of the disc and any permitted signage must not interfere with the safety or operation of the vehicle;
- d) The vehicle should not be loaded beyond the manufacturer's recommendations;
- e) Luggage must be made secure so as not to affect the stability of the vehicle or the visibility of the driver;
- f) Luggage must not be carried by passengers; and
- g) The vehicle should be able to accelerate and maintain a road speed appropriate to the traffic conditions in which it operates.

## 3.5 Licensing Conditions attached to motorcycle private hire driver licences:

- a) The driver and the passenger must comply with the requirement to wear a safety helmet, the helmet(s) must satisfy the safety requirements in force at the time and properly fit the individual user and be securely fastened;
- b) The driver should wear protective clothing to guard in the event of an accident;
- c) The driver should also offer a passenger protective clothing, the minimum being gloves, a jacket and trousers. All should be CE marked.

# Agenda Item 7

- d) The driver and passenger should be linked through the helmets via a driver / pillion intercom system. The driver should instruct the passenger on how to use the system.
- e) The driver should, at the point of pick-up determine whether a passenger is experienced on a motorcycle. The driver should remind pillion passengers that they have chosen to accept some risk and their co-operation is essential to the safety of both. The driver should refuse to carry a passenger who can not be carried safely;
- f) If the pillion passenger cannot reach the footrests, travel should not be allowed to occur; and
- g) The driver should ride safely at all times giving due regard to the safety of his / her passenger, environmental factors, traffic conditions and other road users.

## 3.6 Licensing Conditions attached to motorcycle private hire operator licences:

- a) The operator's website (if any) should display an image of the private hire operator's licence, and the operator's should provide a copy of the licence to passengers on request;
- b) Operator's must indicate how they propose to meet the requirement for drivers on their circuit to ensure that passengers have properly fitting and secured helmets and adequate protective clothing, including gloves, jacket and trousers;
- c) Operators must advise passengers, at the time of booking, that they should wear sturdy boots which cover their ankles and they should alert the hirer to maximum luggage dimensions and weights;
- d) Operators must provide a written statement to the Council setting out how they intend to assess any riders who want to join their operation;
- e) If helmets are to be shared between drivers and passengers, operators must indicate how they will ensure adequate hygiene and fitment between users;
- f) Operators must implement and ensure compliance with a health and safety policy;
- g) Operators should ensure that suitable maintenance plans are in place for motorcycles on their circuits and they should hold service records for those vehicles in accordance with manufacturers recommended service plans;
- h) If the pillion passenger cannot reach the footrests, travel should not be allowed to occur; and
- i) Operators should not accept bookings which involve carrying a passenger who is under 16 years of age.

## **4. Handbook Consolidation**

- 4.1 It is intended to present the revised handbook for consideration at the Licensing and Regulatory Committee Spokespersons with Representatives of the Hackney Carriage and Private Hire Trades Meeting on 22<sup>nd</sup> January 2013.
- 4.2 The revised handbook will be presented for adoption by the Licensing & Regulatory Committee on 11<sup>th</sup> March 2013.

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*Department for*  
**Transport**

**Licensing Motorcycles as  
Private Hire Vehicles**

**A guidance note from the  
Department for Transport**

**July 2012**

# Agenda Item 7

## Licensing Motorcycles as Private Hire Vehicles

### A guidance note from the Department for Transport

1. The Department for Transport recognises that questions about whether and how to license motorcycles as private hire vehicles (PHVs) have implications nationally. We are therefore publishing guidance to assist licensing authorities who are considering this issue.
2. In drawing up the guidance, we recognise that there is a balance to be struck between the flexibility provided by motorcycle PHVs and the safety risks associated with these vehicles.
3. The Department is also mindful of the important judgment in the case of Leeds City Council v Chauffeur Bikes Ltd – mentioned below.
4. Leaving aside the Leeds judgment for the moment, the Department's starting point is to take account of the main thrust of the taxi/PHV Best Practice Guidance which urges licensing authorities to accept for licensing as wide a range of vehicles as possible and to ensure that any constraints or restrictions are in place for a very good reason.
5. The Department would want to be convinced that there was strong evidence and compelling reasons if we were to provide guidance which advised licensing authorities not to accept motorcycles as PHVs. After all, such guidance, if accepted by licensing authorities, would mean putting a number of established operators out of business.
6. We do not consider that there is a compelling case for ruling out motorcycles as PHVs on safety grounds.
7. It is in the nature of this sort of niche market that passengers will weigh up the risks involved and act accordingly. Many people would never choose to use motorcycle PHVs because of the risks they perceive whereas others regard riding pillion as a convenient and practical form of transport.
8. The Department's key point is that the risks associated with riding as a pillion passenger on a motorcycle are not sufficiently high as to provide guidance which rules them out of the licensing system altogether.
9. However, there is an important High Court judgment on this issue – Leeds City Council v Chauffeur Bikes Ltd<sup>1</sup> – which we must mention in this regard and which local licensing authorities should consider before determining a local policy on whether or not to license motorcycles as PHVs.
10. The High Court held that a motorcycle could be in a safe condition for a motorcycle but it could still, for safety reasons, be judged to be unsuitable in

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<sup>1</sup> Chauffeur Bikes Ltd v Leeds City Council [2006] R.T.R. 7

type, size or design for use as a private hire vehicle. On that basis, the Court decided that the motorcycle in question could rightly be held to be unsuitable and unsafe for private hire use.

11. The Department forms the opinion that this case does not automatically rule out the licensing of motorcycles as PHVs. Whilst licensing authorities clearly must follow the principles established by the High Court in this judgment, we would urge them to consider applications in the light of their available powers to ensure adequate standards are met and the sorts of risks identified by the Court are mitigated.

12. The following sections outline the standards and conditions which the Department considers to represent Best Practice when licensing motorcycles as PHVs.

## **Applications – pre-requisites before granting a licence**

### **A1 - Vehicles**

(i) When assessing applications for a vehicle licence in respect of a motorcycle, licensing authorities should bear in mind that motorcycles must be approved for road use and comply with the Road Vehicles (Construction and Use) Regulations 1986 S.I. 1986 No 1078, as amended, and the Road Vehicles Lighting Regulations 1989 S.I. 1989 No 1796 as amended.

(ii) Licensing authorities should ensure that the vehicle is suitable for the role of carrying passengers. As with conventional cars presented for PHV licensing, the Department envisages that a range of motorcycles would be suitable for licensing. Larger more powerful motor-vehicles (e.g. over 750cc or equivalent) are more stable which is particularly useful when carrying pillion passengers. However, there may be occasions when the licensing authority judges that a lighter vehicle is appropriate. Licensing authorities should satisfy themselves that any vehicle presented to them would be capable of carrying a pillion passenger in reasonable safety and comfort.

(iii) Handrails and a seat back are features which might contribute to a more comfortable riding experience, but the Department recommends that these elements are best left to the discretion of vehicle owners who will want to decide on a commercial basis whether to incorporate them.

(iv) It is likely that passengers using motorcycle PHVs will have some luggage with them and the vehicle must be capable of storing this luggage. The passenger should never be expected to hold any luggage whilst riding pillion. Generally, motorcycles will have guidelines from the manufacturer about the amount of luggage which can be stored on the vehicle and licensing authorities will want to ensure that this is sufficiently reasonable for the likely demand.

# Agenda Item 7

(v) The motorcycle should have footrests suitable for pillion passengers. Standard footrests are likely to be suitable for the majority of passengers.

(vi) The vehicle must have hire and reward insurance. Additional fittings or modifications to the vehicle for its use as a PHV such as backrests, luggage racks, containers or driver information systems must be declared and must comply with motorcycle and components' manufacturers' recommendations for such additional equipment. The owner must declare that any modifications comply with the Construction and Use Regulations referred to in A1(i) above.

(vii) Anti-lock brakes (ABS) can reduce the stopping distance and improve stability during braking in wet weather. The Department recommends that ABS should be fitted to any motorcycles which are licensed as PHVs.

## A2 - Riders

(i) When assessing applications for a driver licence from an individual who declares an intention to ride motorcycle PHVs, a licensing authority must, of course, ensure that they comply with the requirements in section 51 of the Local Government (Miscellaneous Provisions) Act 1976 or section 13 of the Private Hire Vehicles (London) Act 1998.

(ii) And, in order to be granted a licence, the applicant must hold a current valid full motorcycle driving licence issued by the DVLA, for the type of vehicle being used.

(iii) Motorcycle accident rates decrease steeply as riders become more experienced so, in addition to these requirements, it is crucial that a licensing authority satisfies itself that the applicant is suitably competent at, and experienced in, riding a motorcycle to an appropriate standard, including taking passengers and carrying luggage.

(iv) As regards competence, the Department recommends that applicants for a motorcycle PHV driver's licence should, as a minimum, have successfully completed the Institute of Advanced Motorist or The Royal Society for the Prevention of Accidents (RoSPA) advanced rider schemes or another course which is demonstrably equivalent or superior. Successful completion of one of these courses is a good indicator of an individual's ability to ride safely and competently in terms of awareness, anticipation, vehicle handling and general roadcraft.

(v) The question of experience is a more subjective one and a licensing authority will want to enquire about an applicant's practical experience of riding motorcycles and taking pillion passengers. The Department recommends that applicants should have at least five years' experience of riding motorcycles. In addition to any self-declaration, the Department recommends that any operator considering taking a motorcycle rider onto his or her circuit should undertake their own practical assessment of the rider, including taking pillion passengers. Of course, there may well be occasions



when the owner/rider is also the operator. The Department does not want to discourage this practice, but it is crucial that the licensing authority can satisfy itself as comprehensively as possible about the applicant's actual riding experience, particularly as regards taking pillion passengers.

(vi) The Department does not consider that an age limit should be imposed for riders, but it is likely that experience requirements combined with potential insurance limitations would effectively rule out young riders.

(vii) The Department's Best Practice Guidance in respect of wider taxi and PHV licensing suggests that licensing authorities should satisfy themselves about an applicant's ability to communicate with passengers in English. This requirement is all the more important with motorcycle PHV riders where a rider might have to communicate safety instructions to passengers.

## **C1 - Vehicle licences**

(i) The vehicle should be operated in accordance with the manufacturer's specifications in all respects.

(ii) The Department recommends that licensing authorities should test motorcycle PHVs twice per year, as permitted in the legislation.

(iii) The display of the disc, and any permitted signage, must not interfere with the safety or operation of the vehicle.

(iv) The vehicle should not be loaded beyond the manufacturer's recommendations.

(v) If luggage is carried, it must be made secure so as not to affect the stability of the vehicle or the visibility of the driver. Purpose-built containers (panniers) are likely to be the most suitable means of carrying luggage.

(vi) Luggage must not be carried by a passenger (passengers need their hands free to secure themselves to the motorcycle).

(vii) The vehicle should be able to accelerate and maintain a road speed appropriate to the traffic conditions in which it operates.

## **C2 - Driver licences**

(i) The driver and the passenger must comply with the requirement to wear a safety helmet. The helmet must properly fit the individual user and be securely fastened, or it will be less effective and possibly dangerous. Operators should have a selection of helmets and determine at the time of booking which size helmet the rider should bring with them.

# Agenda Item 7

(ii) Whilst there is no legislation on protective clothing, it is strongly recommended that appropriate protective clothing is worn. The driver should wear protective clothing to guard them in the event of an accident. They should also offer protective clothing to passengers. The Department recommends that riders should, as a minimum, offer passengers gloves, a jacket and trousers. The clothing offered to passengers should ideally be CE marked to indicate compliance with recognised safety standards. Guidance about protective clothing can be found at <http://think.direct.gov.uk/motorcycles.html>

(iii) Communication between the rider and the passenger is an essential component of a safe journey. Accordingly, the Department recommends that the driver and passenger should be linked through the safety helmets via a driver/pillion intercom system. The rider should instruct the passenger on how to use the system.

(iv) It should be borne in mind that some passengers might never have ridden on a motorcycle. The driver should, at the point of pick-up, determine whether a passenger is experienced on a motorcycle. If not, the driver should deliver a short and basic briefing to passengers before commencing a journey, instructing them how to react to driving conditions such as cornering etc, and reminding them that they are choosing to accept that there are some risks involved in travelling by motorcycle that do not arise when travelling in cars. The driver should also remind passengers that they need to co-operate with the driver to assist in keeping the vehicle stable, for example, on corners.

(v) The driver should refuse to carry any passenger who cannot be carried safely e.g. because they cannot be properly equipped with appropriate helmet and safety clothing, appear to be under the influence of alcohol or drugs, cannot reach the foot pegs or are not able to understand the safety instructions.

(vi) The driver should ride safely at all times giving due regard to the safety of his/her passenger environmental factors, traffic conditions and other road users.

## **C3 - Operator licences**

(i) The operator's website (if any) should display an image of the PHV operator licence, and operators should provide a copy of the licence to passengers on request.

(ii) Operators should indicate how they propose to meet the requirement for drivers on their circuit to ensure that passengers have properly fitting and secured helmets and adequate protective clothing, including gloves, jackets and trousers.

(iii) Operators should advise passengers, at the time of booking, that they should wear sturdy boots which cover their ankles and they should alert the

# Agenda Item 7

hirer to maximum luggage dimensions and weights.

(iv) Operators should provide a written statement to the licensing authority setting out how they intend to assess any riders who want to join their operation.

(v) If helmets are to be shared between drivers or passengers, operators should indicate how they will ensure adequate hygiene and fitment between users. The Department recommends that operators should offer disposable helmet inserts/balaclavas for passengers to wear.

(vi) Operators must implement and ensure compliance with a health and safety policy.

(vii) Operators should ensure that suitable maintenance plans are in place for the motorcycles on their circuits and they should hold the service records for these vehicles.

(viii) If the pillion passenger cannot reach the footrests, travel should not be allowed to occur.

(ix) The Department considers that, due to the risks involved, and the fact that the rider is dependent on the passenger being sufficiently cooperative, operators should not accept bookings which involve carrying a passenger who is under 16 years of age.

Department for Transport  
July 2012

# Agenda Item 7

# Agenda Item 8

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**Report to:** Licensing & Regulatory Committee **Date of Meeting:** 24<sup>th</sup> September 2012

**Subject:** Determinations made under the Licensing Act 2003 and the Gambling Act 2005: period covering 7<sup>th</sup> July 2012 to 24<sup>th</sup> August 2012

**Report of:** Director of Built Environment **Wards Affected:** All

**Is this a Key Decision?** No **Is it included in the Forward Plan?**  
No

**Exempt/Confidential** No

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## Purpose/Summary

To update Members regarding those applications, made under the Licensing Act 2003 and the Gambling Act 2005, that have been determined by Officers.

## Recommendation(s)

That Members:

- i) Note this Report and its contents; and,
- ii) Note that further Reports will be brought forward to up date Members as and when necessary.

## How does the decision contribute to the Council's Corporate Objectives?

|   | <u>Corporate Objective</u>  | <u>Positive Impact</u> | <u>Neutral Impact</u> | <u>Negative Impact</u> |
|---|---|------------------------|-----------------------|------------------------|
| 1 | Creating a Learning Community   |                        | √                     |                        |
| 2 | Jobs and Prosperity   |                        | √                     |                        |
| 3 | Environmental Sustainability  |                        | √                     |                        |
| 4 | Health and Well-Being   |                        | √                     |                        |
| 5 | Children and Young People   |                        | √                     |                        |
| 6 | Creating Safe Communities   | √                      |                       |                        |
| 7 | Creating Inclusive Communities  |                        | √                     |                        |
| 8 | Improving the Quality of Council Services and Strengthening Local Democracy | √                      |                       |                        |

# Agenda Item 8

## Reasons for the Recommendation:

It is considered best practice that, where powers have been delegated to Officers, Licensing Committees should receive regular reports on decisions made by Officers in order that they may maintain an overview of the general licensing situation.

## What will it cost and how will it be financed?

### (A) Revenue Costs

There are no financial costs associated with the proposals in this report

### (B) Capital Costs

There are no financial costs associated with the proposals in this report

## Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

|   |   |
|---|---|
| <b>Legal</b>  | The Head of Corporate Legal Services (LD1078/2012) has been consulted and has no comments to add.   |
| <b>Finance</b>                                      | The Head of Corporate Finance and ICT (FD1757/12) has no comments on this report because the contents of the report have no financial implications. |
| <b>Human Resources</b>                              | None.   |
| <b>Equality</b>                                     |   |
| 1. No Equality Implication                          | <input checked="" type="checkbox"/>   |
| 2. Equality Implications identified and mitigated   | <input type="checkbox"/>  |
| 3. Equality Implication identified and risk remains | <input type="checkbox"/>  |

## Impact on Service Delivery:

None.

## What consultations have taken place on the proposals and when?

None.

## Are there any other options available for consideration?

N/A

## Implementation Date for the Decision

N/A

**Contact Officer:** Kevin Coady  
**Tel:** 0151 934 2946  
**Email:** kevin.coady@sefton.gov.uk

## Background Papers:

- Licensing Act 2003.
- Guidance issued under Section 182 of the Licensing Act 2003.
- Gambling Act 2005.
- Guidance issued under Section 25 of the Gambling Act 2005.

## 1. Background

- 1.1 Members will recall that the Statement of Licensing Policy (issued under the Licensing Act 2003) and the Statement of Gambling Licensing Policy (issued under the Gambling Act 2005) both follow the recommended delegation of functions contained within the Guidance issued under Section 182 of the Licensing Act 2003 and the Guidance issued under Section 25 of the Gambling Act 2005.
- 1.2 In effect this means that where there are no relevant representations to applications then these matters are dealt with by Officers. This ensures that decisions and functions, particularly for non-contentious applications and purely administrative functions, are taken or carried out in a speedy, efficient and cost-effective way.
- 1.3 It is considered best practice that, where powers have been delegated as above, Licensing Committees should receive regular reports on decisions made by Officers in order that they may maintain an overview of the general licensing situation.

## 2. Numbers determined – Licensing Act 2003

2.1 During the period 7<sup>th</sup> July 2012 to 24<sup>th</sup> August 2012 the following number of applications have been determined under this Act:

- |  |           |
|--|-----------|
| • Applications made under Premise Licences     | <b>37</b> |
| • Applications made under Personal Licences    | <b>27</b> |
| • Notification of Temporary Event Notices      | <b>54</b> |
| • Notification of Late Temporary Event Notices | <b>10</b> |

2.2. Details of determinations made under Premise Licences are attached within Annex 1 to this Report.

# Agenda Item 8

## **3. Numbers determined – Gambling Act 2005**

3.1 During the period 7<sup>th</sup> July 2012 to 24<sup>th</sup> August 2012 the following number of applications have been determined under this Act:

- Applications made under Gambling Premise Licences **2**
- Notifications given for Licensed Premises Automatic Gaming **5**

3.2. Details of the above determinations are attached within Annex 2 to this Report.



| type            | name                          | address2                               | address3      | action                        | date       |
|-----------------|-------------------------------|--|---------------|-------------------------------|------------|
| Premise Licence | Salisbury Public House        | 129 Marsh Lane                         | Bootle        | Variation                     | 09/07/2012 |
| Premise Licence | Tide's Bar                    | 16 Liverpool Road                      | Crosby        | Minor Variation               | 09/07/2012 |
| Premise Licence | Formby Sports & Social Club   | 40B Whitehouse Lane                    | Formby        | Change of Name and/or Address | 10/07/2012 |
| Premise Licence | Mustard Coffee House          | King Street                            | Southport     | Grant                         | 10/07/2012 |
| Premise Licence | Hare & Hounds                 | 53 Liverpool Road North                | Maghull       | Variation of DPS              | 11/07/2012 |
| Premise Licence | Cinnamon Bar and Lounge       | 13-17 Scarisbrick Avenue               | Southport     | Grant                         | 13/07/2012 |
| Premise Licence | Greek Taverna                 | 45 South Road                          | Waterloo      | Transfer                      | 19/07/2012 |
| Premise Licence | Marks & Spencer Plc           | 34-38 Chapel Street                    | Southport     | Variation of DPS              | 19/07/2012 |
| Premise Licence | Tesco Express                 | 4 Preston New Road                     | Southport     | Variation of DPS              | 19/07/2012 |
| Premise Licence | Waddington Conservative Club  | 27 Windsor Road                        | Southport     | Variation of DPS              | 19/07/2012 |
| Premise Licence | Black Orchid Gentlemen's Club | 8 Coronation Walk                      | Southport     | Variation of DPS              | 20/07/2012 |
| Premise Licence | Churchtown Deli               | 82 Botanic Road                        | Southport     | Grant                         | 20/07/2012 |
| Premise Licence | Discount Booze                | 193 Linacre Road                       | Litherland    | Variation of DPS              | 20/07/2012 |
| Premise Licence | Harvester                     | Unit 10 Aintree Racecourse Retail Park | Ormskirk Road | Variation of DPS              | 20/07/2012 |
| Premise Licence | La Parrilla                   | 36-38 South Road                       | Waterloo      | Transfer                      | 20/07/2012 |
| Premise Licence | Asda Store                    | 81 Strand Road                         | Bootle        | Variation of DPS              | 23/07/2012 |
| Premise Licence | Millington Dance Academy      | 18 Merton Road                         | Bootle        | Variation                     | 23/07/2012 |
| Premise Licence | Portland Hotel                | 27 Bedford Road                        | Birkdale      | Variation of DPS              | 23/07/2012 |
| Premise Licence | B & M Bargains                | 55-58 New Strand Medway                | Bootle        | Change of Name and/or Address | 25/07/2012 |
| Premise Licence | Goddard Hall                  | 297 Knowsley Road                      | Bootle        | Variation of DPS              | 25/07/2012 |
| Premise Licence | Red House                     | 31 Foxhouse Lane                       | Maghull       | Variation of DPS              | 25/07/2012 |
| Premise Licence | Harvester                     | Unit 10 Aintree Racecourse Retail Park | Ormskirk Road | Minor Variation               | 27/07/2012 |
| Premise Licence | Home Bargains                 | Unit 2c Meols Cop Retail Park          | Foul Lane     | Variation of DPS              | 31/07/2012 |
| Premise Licence | Village Inn                   | 70 Haileybury Avenue                   | Aintree       | Variation of DPS              | 31/07/2012 |
| Premise Licence | Weld Blundell Arms            | Scaffold Lane                          | Ince Blundell | Variation of DPS              | 31/07/2012 |
| Premise Licence | Black Orchid Gentlemen's Club | 8 Coronation Walk                      | Southport     | Minor Variation               | 01/08/2012 |
| Premise Licence | Cafe Bravo                    | 505-507 Lord Street                    | Southport     | Change of Name and/or Address | 01/08/2012 |
| Premise Licence | Frankie & Benny's             | Ormskirk Road                          | Aintree       | Variation of DPS              | 01/08/2012 |
| Premise Licence | Spar                          | 1-3 High Park Place                    | Southport     | Transfer                      | 03/08/2012 |

|                 |                        |                       |           |                  |            |
|-----------------|------------------------|-----------------------|-----------|------------------|------------|
| Premise Licence | Genting Club Southport | Promenade             | Southport | Variation        | 08/08/2012 |
| Premise Licence | Crown Inn              | 18-20 Coronation Walk | Southport | Transfer         | 09/08/2012 |
| Premise Licence | Freshfield Hotel       | 1 Massams Lane        | Formby    | Minor Variation  | 09/08/2012 |
| Premise Licence | Morrisons              | Lord Street           | Southport | Minor Variation  | 13/08/2012 |
| Premise Licence | Greek Taverna          | Liverpool Road North  | Maghull   | Transfer         | 15/08/2012 |
| Premise Licence | Birkers                | 4A Liverpool Road     | Birkdale  | Variation of DPS | 16/08/2012 |
| Premise Licence | Portland Hotel         | 27 Bedford Road       | Birkdale  | Variation of DPS | 16/08/2012 |
| Premise Licence | Cheshire Lines         | 81 King Street        | Southport | Variation of DPS | 17/08/2012 |

**Annex 2**

| type                               | name                          | address2                   | address3  | action                  | date       |
|------------------------------------|-------------------------------|----------------------------|-----------|-------------------------|------------|
| Licensed Premises Automatic Gaming | The Oldy Club                 | Ormskirk Road              | Aintree   | Grant                   | 09/07/2012 |
| Adult Gaming Centre                | Quicksilver                   | 2/3 New Strand The Hexagon | Bootle    | Change of Circumstances | 17/07/2012 |
| Licensed Premises Automatic Gaming | Black Orchid Gentlemen's Club | 8 Coronation Walk          | Southport | Grant                   | 30/07/2012 |
| Licensed Premises Automatic Gaming | Macy's Bar & Bistro           | 1a Bath Street             | Southport | Grant                   | 02/08/2012 |
| Converted Casino                   | Genting Club Southport        | Promenade                  | Southport | Variation               | 07/08/2012 |
| Licensed Premises Automatic Gaming | Crown Inn                     | 18-20 Coronation Walk      | Southport | Grant                   | 13/08/2012 |
| Licensed Premises Automatic Gaming | Oast House                    | 12-14 Stanley Street       | Southport | Grant                   | 22/08/2012 |

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