

MEETING: LICENSING AND REGULATORY COMMITTEE
DATE: Monday 23rd September, 2013
TIME: 6.30 pm
VENUE: Town Hall, Southport

Member

Councillor
Councillor Kerrigan (Chair)
Councillor Robinson (Vice-Chair)
Councillor Ball
Councillor Bradshaw
Councillor Carr
Councillor K. Cluskey
Councillor Dorgan
Councillor Hands
Councillor Keith
Councillor Kermode
Councillor Mahon
Councillor Preece
Councillor Rimmer
Councillor Welsh

COMMITTEE OFFICER: Ruth Appleby.
Democratic Services Officer
Telephone: 0151 934 2181
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E-mail: 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.

We endeavour to provide a reasonable number of full agendas, including reports at the meeting. If you wish to ensure that you have a copy to refer to at the meeting, please can you print off your own copy of the agenda pack prior to the meeting

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AGENDA

1. **Councillor Gustafson**
2. **Apologies for Absence**
3. **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.
4. **Minutes** (Pages 5 - 16)

Minutes of the meeting held on 3 June 2013
5. **Final Draft Revised Licensing Policy - Licensing Act 2003** (Pages 17 - 26)

Report of the Director of Built Environment.

NB a copy of the Draft Revised Licensing Policy can be found at the following link:
<http://modgov.sefton.gov.uk/moderngov/documents/s48462/LR23rdSeptember2013FinalRevisedLicensingPolicyReportAnnex1.pdf>
6. **Provisions contained within the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013** (Pages 27 - 30)

Report of the Director of Built Environment
7. **Estimated Start-up Costs of Implementing Street Trading Legislation** (Pages 31 - 40)

Report of the Director of Built Environment
8. **Determinations made under the Licensing Act 2003 and the Gambling Act 2005: Period Covering 18 May 2013 to** (Pages 41 - 50)

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, BOOTLE ON 3 JUNE 2013

PRESENT: Councillor Kerrigan (in the Chair)

Councillors Ball, Carr, K. Cluskey, Dorgan, Hands,
Keith, Kermode, Preece and Rimmer

1. CHAIR'S WELCOME AND INTRODUCTION

The Chair opened the meeting by extending a welcome to everyone, and in particular, Councillors K Cluskey and Hands, who had returned to the Committee, and in her absence, Councillor Welsh, who was new to the Licensing and Regulatory Committee, but had submitted apologies.

The Chair also extended thanks to Councillors Robertson and Roche who had served on the Committee in 2012/13 but were no longer members.

Particular thanks were extended to Councillor Blackburn who had now left the Committee having served on it for 16 years, since October 1997. Councillor Kerrigan indicated that his knowledge and expertise in Licensing and Regulatory matters would be sadly missed.

RESOLVED:

That the Chair's comments above be noted and endorsed.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bradshaw, Gustafson, Mahon, Robinson and Welsh.

3. DECLARATIONS OF INTEREST

No declarations of interest were received.

4. MINUTES

RESOLVED:

That the Minutes of the meeting held on 11 March 2013, be confirmed as a correct record.

5. RECEIPT OF PETITIONS

The following petitions had been received.

Agenda Item 4

LICENSING AND REGULATORY COMMITTEE- MONDAY 3RD JUNE, 2013

5.1 Petition against the Issue of Fixed Penalty Notices to Hackney Carriage and Private Hire Drivers

The Committee considered a petition which had been submitted by Mr Richard Jarman, a Trade Representative on the Council's Hackney Carriage and Private Hire Trade Working Group, on behalf of hackney drivers in Southport and Bootle / Crosby.

The petition had been submitted in accordance with the Council's Petition Scheme and contained 32 signatures by Sefton residents.

The petition related to Agenda Item 4 – Review of the Hackney Carriage and Private Hire Licensing Conditions Handbook, in respect of Fixed Penalties and Other Matters.

A copy of the following supporting statement submitted with the petition had been included in the agenda for the meeting:

“That fixed penalties which are not, or do not, result in criminal record keeping, (for example a PCN or “litter” ticket or breach of regulations governing “no smoking signs”) need not be reported. [Miscellaneous matters such as the degree of responsibility acceptable in respect of lost property/enforcing no smoking provisions by drivers *may* be resolved with officers] “.

Mr Richard Jarman, Trade Representative on the Hackney Carriage and Private Hire Working Group, addressed the Committee and indicated that he was pleased to state that the matters raised in the petition had been resolved prior to the meeting in consultation with Mr Toohey, Principal Trading Standards Officer.

The Trading Standards and Licensing Manager confirmed that he was satisfied that the issues raised in the petition had been resolved.

Mr Jarman concluded by thanking Mr Toohey for his help in this matter.

RESOLVED: That

- (1) Mr Jarman be thanked for his submission;
- (2) the details of the petition and Mr Jarman's comments thereon, be noted;
- (3) the Trading Standards and Licensing Manager's confirmation that he was satisfied that the matters raised in the petition had now been resolved, be noted; and
- (4) the Trading Standards and Licensing Manager be authorised to make appropriate amendments to the Hackney Carriage and Private Hire Licensing Handbook.

5.2 Petition relating to Advertisements on Hackney Carriage and Private Hire Vehicles

The Committee considered a petition which had been submitted by Mr Richard Jarman, a Trade Representative on the Council's Hackney Carriage and Private Hire Trade Working Group, on behalf of hackney drivers in Southport and Bootle / Crosby.

The petition had been submitted in accordance with the Council's Petition Scheme and contained 33 signatures by Sefton residents.

The petition related to Agenda Item 4 on the Agenda - Review of the Hackney Carriage and Private Hire Licensing Conditions Handbook in respect of Advertisements on Hackney Carriage and Private Hire Vehicles.

A copy of the following supporting statement submitted with the petition had been included in the agenda for the meeting:

- "The proposed new handbook should provide that there should be no full livery advertisements on PHV vehicles.
- That "full livery" advertisements should only be permitted on Wheelchair Accessible Vehicles licensed as Hackney Carriages.
- That advertisements for PHV / hackney carriage firms should be limited in size as currently provided and that they should continue to be approved and controlled by the County of Merseyside Act".

Mr Richard Jarman, Trade Representative on the Hackney Carriage and Private Hire Working Group, addressed the Committee and indicated that he was pleased to say that the matters raised in the petition had been resolved prior to the meeting, in consultation with Mr Toohey, Principal Trading Standards Officer.

The Trading Standards and Licensing Manager confirmed that he was satisfied that the issues raised in the petition had been resolved.

Mr Jarman concluded by thanking Mr Toohey for his help in this matter.

RESOLVED: That

- (1) Mr Jarman be thanked for his submission;
- (2) the details of the petition and Mr Jarman's comments thereon, be noted;
- (3) the Trading Standards and Licensing Manager's confirmation that he was satisfied that the matters raised in the petition had now been resolved, be noted; and

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- (4) the Trading Standards and Licensing Manager be authorised to make appropriate amendments to the Hackney Carriage and Private Hire Licensing Handbook.

6. REVIEW OF THE HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING CONDITIONS HANDBOOK

The Committee considered the report of the Director of Built Environment, advising of the outcome of the review of the Hackney Carriage and Private Hire Licensing Conditions and handbook and seeking endorsement of the proposed changes to those conditions.

The report indicated that changes to policy, legislation and Government guidance since the current handbook was adopted on 1 December 2008 had meant that the handbook required further updating.

As such, a review had been conducted by Mr Toohey, Principal Trading Standards Officer which had involved a critical assessment of the validity of the existing pre-conditions and conditions.

Mr Naisbitt, Trading Standards and Licensing Manager indicated that the review had involved an intense period of consultation with the hackney carriage and private hire trades through the Council's established trade working groups.

Mr Toohey, Principal Trading Standards Officer, presented the report, explaining that the review had been carried out in an open and transparent manner with information and ideas being drawn from the Trades at the scheduled Trade liaison meetings and at dedicated 'sub group' meetings. The 'sub group' meetings had been arranged specifically to discuss potentially contentious policy issues and ensure statutory or customary requirements to consult with affected parties had been complied with.

The report indicated that the review highlighted that:

- the handbook Version 1.1 was out of date;
- minor inconsistencies of policy across licence types;
- confused lines of responsibility;
- ambiguities within the 'Convictions' policy;
- overuse of complicated language;
- unnecessary onerous conditions; and
- the need for a review of the Council's Compliance Testing regime.

Paragraph 3 of the report outlined the following key changes:

- Format of the Document - the policy and conditions were now presented in an indexed user friendly way with key topics

detailed in thematic annexes, for example the Convictions Policy.

- Enhancement of the Client Charter, defining the standards of service clients should expect.
- Review of the Licensing Requirements in consultation with the trade had removed ambiguity and points of contention, for example the meaning of 'sufficient identifiers' (Part 4 (h)).
- Explanatory notes had been added where it was considered appropriate to explain the Council's interpretation of the legislation and as a guide to the likely enforcement action that may be taken for breaches of legislation or conditions, for example 'Part 12'.

The Handbook consolidated policy changes made since October 2008.

The new "Statement of Policy and Guidelines Relating to the Relevance of Convictions" was a significant policy change which introduced a more detailed and rigid policy in relation to sex offences and offences against the person. This was consistent with the other Merseyside Taxi Licensing Authorities.

The report concluded that it was proposed that policy and conditions of licence should further be reviewed following the publication of the Law Commission Review of the hackney carriage and private hire legislation and the publication of the Government's proposals/Guidance on this matter.

The Principal Trading Standards Officer reminded Members of the 2 petitions relating to the issue of Fixed Penalty Notices and Advertisements on Hackney Carriage and Private Hire Vehicles, submitted by Mr Jarman, as referred to in Minute Nos 5.1 and 5.2 above and the Committee's agreement that the appropriate amendments be incorporated in the Handbook.

The Trading Standards and Licensing Manager concluded by indicating that since publication of the report, the One Stop Shop Manager had requested that the proposed implementation date for the Handbook, be postponed until 1 August 2013, to provide enough time for the training of One Stop Shop staff.

RESOLVED: That

- (1) the results of the review of the Hackney Carriage and Private Hire Licensing Conditions be noted;
- (2) the agreement to incorporate changes to the handbook following

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consultation on the petitions submitted by Mr Jarman, indicated in Minute Nos. 5.1 and 5.2 above, be confirmed;

- (3) the adoption of the revised handbook and the provisions contained therein as the Hackney Carriage and Private Hire Licensing Scheme for Sefton be endorsed;
- (4) the date for implementation of the revised handbook be 1 August 2013, to enable the One Stop Shop to provide appropriate staff training; and
- (5) Mr Toohey be thanked and commended for his hard work in carrying out the Review of the Hackney Carriage and Private Hire Licensing Conditions Handbook in consultation with the taxi trade representatives over the past 9 months.

7. REFORMING THE LAW OF TAXI AND PRIVATE HIRE SERVICES - AN UPDATE

Further to Minute No. 14 of 30 July 2012, the Committee considered the report of the Director of Built Environment, advising of the Government and Law Commission responses to the consultation about reforming the law of Taxi and Private Hire Services.

The Trading Standards and Licensing Manager presented the report, reminding Members that in July 2011, the Law Commission had announced that it had been asked to review the law relating to the regulation of taxis and private hire vehicles, with a view to its modernisation and simplification, having due regard to the potential advantages of deregulation in reducing burdens on business and increasing economic efficiency; that the consultation had attracted over 3,000 written responses from a wide range of stakeholders and that both the Government and Law Commission had published statements in response to the consultation.

Sections 2 and 3 of the report summarised the key points of the Government and Law Commission's statements.

The report concluded by indicating that there was currently disagreement between the Government and Law Commission on a number of key issues but in particular, quantity controls of hackney carriage vehicles and enforcement powers, and that in order to complete its task the Law Commission would have to take into account a wide range of views and draw up a firm plan of action which would require a careful balancing act. The final report of the Law Commission and draft bill was due to be published at the end of 2013.

The Trading Standards and Licensing Manager concluded by answering questions raised by Members.

RESOLVED: That

- (1) the report on the Government and Law Commission responses to the consultation about reforming the Law of Taxi and Private Hire Services be noted; and
- (2) the Director of Built Environment be requested to submit a further update report following publication of the Law Commission Report later on in the year.

8. TAXI LICENSING PERFORMANCE REPORT 2012/13

Further to Minute No. 9 of 28 May 2012, the Committee considered the report of the Director of Built Environment updating on the Hackney Carriage and Private Hire Licensing facilities provided by Sefton Plus and the enforcement activities of the Taxi Licensing Team during the period 1 April 2012 to 31 March 2013.

The Trading Standards and Licensing Manager apologised to Members for an error in Paragraph 4 of the report and stated that the dates should read '1 April 2012 to 31 March 2013', not the previous year.

The report provided comparative statistics in respect of taxi licensing and Knowledge Test appointments at Bootle and Southport One stop Shops and compared the number of license applications processed compared to previous years. Paragraph 4 of the report provided a summary of service performance for the period.

The Trading Standards and Licensing Manager indicated that the appointment system in both One Stop Shops had available capacity, which, if used, could reduce the number of 'drop-ins' and waiting time, not just for the Trade but for other Council clients. However, he was pleased to report that the number of 'wasted' hours had been reduced by 31% compared with the same period in 2011/12 and that this had been achieved by operating a waiting list for Knowledge Test applicants and offering 'no show' places to applicants who were prepared to wait and take an available space at short notice.

Section 5 of the report also provided details of the Taxi Licensing Team's Enforcement performance and prosecution statistics for the period.

The Trading Standards and Licensing Manager concluded by answering questions raised by Members.

RESOLVED: That

- (1) the Taxi Licensing Performance Report for 2012/13 be noted;
- (2) The error in Paragraph 4 stating that the dates should read '1 April 2012 to 31 March 2013', not the previous year, be noted;

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- (3) Taxi Licensing Performance Reports be submitted for the Committee's consideration on a bi-annual basis; and
- (4) Staff at Sefton Plus and the Taxi Licensing Enforcement Team be commended for their achievements over the past year.

9. INTRODUCTION OF A BYELAW - COSMETIC TREATMENTS

The Committee considered the report of the Director of Built Environment on the Council's adoption of a new model byelaw governing acupuncture, tattooing, semi permanent skin colouring, cosmetic piercing and electrolysis and the consequent revocation of the Council's existing byelaws covering this activity.

The report indicated that to ensure that the new byelaw could be legally enacted, the Council had to ensure that it had adopted the latest technical and legal definitions of the various cosmetic treatments and as such, the report proposed a technical resolution to demonstrate that the provisions of Sections 14 to 17 of Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 applied within the Borough of Sefton.

The report outlined the procedural steps for the adoption of the new model byelaw, which was to be called 'Byelaws for Acupuncture, Tattooing, Semi Permanent Skin Colouring, Cosmetic Piercing and Electrolysis'. One of the steps outlined in the report was the requirement for Council's approval of the byelaws which would be considered at its meeting on 27 June 2013. The text for the proposed new byelaw was set out in Appendix B to the report.

Mr T Wood, Environmental Health (Commercial) Manager presented the report and answered questions thereon.

RESOLVED: That

- (1) the report be noted; and
- (2) the recommendation for the Council's adoption of the proposed new byelaw set out in Annex B to the report, that the provisions of Sections 14 to 17 of Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 apply within the Borough of Sefton, be endorsed.

10. LICENSING CONTROLS RELATING TO STREET TRADING AND PEDLARS

Further to Minute No. 37 of 11 March 2013, the Committee considered the report of the Director of Built Environment which provided an overview of the law relating to street trading and pedlars as requested.

The report highlighted the differences between street traders and pedlars, namely, that street trading was primarily a matter for a local authority, requiring adoption of the provisions contained in the legislation; whilst street peddling was primarily a matter for the police.

The report indicated that the street trading provisions had never been formally adopted within Sefton and the Licensing Unit received few or no complaints regarding street trading or peddling. However, should the Council resolve to adopt legislation in respect of street trading, then the fee revenue would be unlikely to cover the cost of the administration and enforcement of the scheme.

The Trading Standards and Licensing Manager presented the report and answered questions thereon.

Arising from discussion it was proposed that a cost analysis study be undertaken into the feasibility of the Council's adoption of street trading provisions to help deter rogue traders, such as ticket touts at the Grand National, etc.

RESOLVED: That

- (1) the report be noted; and
- (2) the Director of Built Environment be requested to undertake and submit a report on a cost benefit analysis study into the feasibility of the Council's adoption of street trading provisions to help deter rogue traders in the Borough, for consideration at the next meeting on 23 September 2013.

11. PROVISIONS CONTAINED WITHIN THE SCRAP METAL DEALERS ACT 2013

Further to Minute No. 21 of 24 September 2013, Committee considered the report of the Director of Built Environment on the provisions contained within the Scrap Metal Dealers Act 2013.

Section 2 of the report provided a summary of the Act.

The Trading Standards and Licensing Manager explained that the Act would be effective from 1 October 2013, was being brought into force to help address scrap metal theft / fraud and that enforcement duties would fall to both the Police and local authorities.

RESOLVED: That

- (1) the report be noted; and
- (2) update reports be provided once further Regulations are issued by the Secretary of State.

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12. LOCAL LICENSING PERFORMANCE REPORT 2012/13

Further to Minute No. 29 of 19 November 2012, the Committee considered the report of the Director of Built Environment on Licensing performance for the period 1 October 2012 to 31 March 2013 against the 2012/13 Local Licensing Service Plan which was submitted on a biannual basis.

The report provided details of the Unit's programmed inspections under the Licensing Act 2003, details of service requests received, the Council's licensing leafleting scheme, applications accepted for process, details of reviews held and general licensing details.

As requested on 19 November 2012, the report also provided details of LA03 Licenses surrendered, indicating that for the period 1 October 2012 to 31 March 2013, 9 Licenses had been surrendered, which was the same number as that for the equivalent period for 2011/2012 and that the full 12 months figure was 23 compared with 24 for 2011/12, a decrease of 4%.

The Trading Standards and Licensing Manager presented the report, referring in particular to paragraph 7.8, indicating that the sickness referred to therein had now been resolved.

RESOLVED: That

- (1) the report be noted; and
- (2) the Director of Built Environment be requested to submit further reports on a biannual basis.

13. DETERMINATIONS MADE UNDER THE LICENSING ACT 2003 AND THE GAMBLING ACT 2005: PERIOD COVERING 9 FEBRUARY 2013 TO 17 MAY 2013

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, 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 9 February 2013 to 17 May 2013, the Director of Built Environment had received and determined the following numbers of applications:

Under the Licensing Act 2003:

- | | |
|--|-----|
| • Premises Licences | 107 |
| • Personal Licences | 52 |
| • Club Premises Certificates | 1 |
| • Temporary Event Notices | 57 |
| • Notification of Late Temporary Event Notices | 27 |

Under the Gambling Act 2005:

- | | |
|--------------------------------------|---|
| • Gambling Premise Licences | 4 |
| • Family Entertainment Permits | 1 |
| • Licensed Premises Gaming Permits | 1 |
| • Licensed Premises Automatic Gaming | 5 |

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.

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Agenda Item 5

Report to: Licensing & Regulatory Committee Council **Date of Meeting:** 23rd September 2013
21st November 2013

Subject: Final draft revised Statement of Licensing Policy – Licensing Act 2003

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 seek Council approval of the revised Statement of Licensing Policy.

Recommendation(s)

That the Licensing and Regulatory Committee:

- i) Consider and agree the final draft of the revised Statement of Licensing Policy, <http://modgov.sefton.gov.uk/moderngov/documents/s48462/LR23rdSeptember2013FinalRevisedLicensingPolicyReportAnnex1.pdf> (Annex 1); and,
- ii) Refer the agreed revised Statement of Licensing Policy to Council for approval.

That Council:

- i) Approve the revised Statement of Licensing Policy, as per the following link. <http://modgov.sefton.gov.uk/moderngov/documents/s48462/LR23rdSeptember2013FinalRevisedLicensingPolicyReportAnnex1.pdf> (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	√		

Agenda Item 5

	Services and Strengthening Local Democracy			
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Reasons for the Recommendation:

To enable the timely revision of the Statement of 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:

Legal	The Head of Corporate Legal Services (LD1750) has been consulted and has no comments to add.							
Finance	The Head of Corporate Finance and ICT has no comments on this report because the contents of the report have no financial implications. (FD2445)							
Human Resources	None.							
Equality	<table border="0"> <tr> <td>1. No Equality Implication</td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>2. Equality Implications identified and mitigated</td> <td><input type="checkbox"/></td> </tr> <tr> <td>3. Equality Implication identified and risk remains</td> <td><input type="checkbox"/></td> </tr> </table>		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"/>
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 proposed consultation process was considered appropriate by the Sefton Public Engagement and Consultation Standards Panel on 9th November 2012 and the consultation took place between 1st May 2013 and 24th July 2013.

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 Licensing Act 2003.
- The Police Reform and Social Responsibility Act 2011.
- SI No. 1129 (C.38) / 2012 *The Police Reform and Social Responsibility Act 2011 (Commencement No. 5) Order 2012.*
- Guidance issued under Section 182 of the Licensing Act 2003.
- Report to Licensing & Regulatory Committee, 28th May 2012 – *Changes to the Licensing Act 2003.*
- Report to Licensing and Regulatory Committee, 19th November 2012 – *Licensing Act 2003 – proposed timetable for revision of Statement of Licensing Policy.*
- Report to Licensing and Regulatory Committee, 11th March 2013 - *Draft revised Statement of Licensing Policy – Licensing Act 2003*
- Project proposal to Sefton Public Engagement and Consultation Standards Panel, 9th November 2012 - *Revision of Statement of Licensing Policy.*
- Existing Statement of Licensing Policy.

1. Background

- 1.1 Members will recall that Section 5 of the Licensing Act 2003 (“the LA03”) formally required that the Licensing Authority had to prepare and publish a statement of its licensing policy (“the Policy”) every three years and that changes made to the LA03 by the Police Reform and Social Responsibility Act 2011 in April 2012 extended this period to every five years.
- 1.2 Further that licensing policies published in respect of the three year period that began on 7 January 2011 are to be treated as though they apply for a period of five years beginning from that date.
- 1.3 During each five year period, the Licensing Authority must keep its Policy, in respect of that period, under review and make such revisions to it, at such times, as it considers appropriate.
- 1.4 The existing Policy has been kept under review since coming into force on 7th January 2011 and no revision has been deemed necessary to date. However, the Policy requires revising due to changes that were made to the LA03 via the Police Reform and Social Responsibility Act 2011 in April and October 2012.

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- 1.5 If a licensing authority determines and publishes its Policy in this way, a new five year period commences on the date that it is then published.
- 1.6 Before determining its Policy, the Licensing Authority must consult the persons listed in Section 5(3) of the LA03. Those being:
- The chief officer of police for the area;
 - The fire and rescue authority for the area;
 - The Primary Care Trust or Local Health Board for an area;
 - Persons/bodies representative of local holders of premises licences;
 - Persons/bodies representative of local holders of club premises certificates;
 - Persons/bodies representative of local holders of personal licences; and,
 - Persons/bodies representative of businesses and residents in its area.
- 1.7 The views of the above have to be given appropriate weight when the Policy is being determined.
- 1.8 In addition to the above, the Authority must also have regard to Guidance issued under Section 182 of the LA03 by the Home Office.
- 1.9 Members will also recall that at their Meeting on 19th November 2012 they endorsed the timetable for the production of the revised Policy, the details of which can be summarised as follows:

March 2013

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

May/July 2013

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

August/September 2013

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

November 2013

- Publish revised Policy (to come into effect from 30th November 2013).

- 1.10 Due to alterations to the Council's cycle of Meetings, the earliest Meeting of the Council where this matter can now be considered is 21st November 2013 and it is therefore proposed that the Policy should now come into effect on 9th December 2013.

2.0 The revised Statement of Licensing Policy

2.1 The consultation took place between 1st May 2013 and 24th July 2013. 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 11th March 2013, and these are indicated below.

2.3 Paragraph 1.12 deleted to remove out of date information.

2.4 Existing Paragraphs 1.13 to 1.15 re-numbered accordingly.

2.5 Paragraph 2.6 revised to provide further information to applicants, to now read:

The holder of a Personal Licence is required by the Act to report (as soon as reasonably practicable) to the Licensing Authority any change to their name or address. Similarly should they receive a conviction for any relevant criminal offence or foreign offence they must report this in writing (again as soon as reasonably practicable) to the Licensing Authority.

2.6 Paragraph 5.9, beginning of bullet point list additional Responsible Authority added:

The relevant licensing authority and any other licensing authority in whose area part of the premises is situated.

2.7 Paragraphs 2.15 and 2.16 merged to remove details of Temporary Event Notice limits which may be increased by Government, new Paragraph 2.15 to now read:

TENs are subject to certain limits, which are set by statute, further information on these can be found on the Sefton Council website at www.sefton.gov.uk.

2.8 Paragraph 4.7 deleted to remove out of date information; existing Paragraph 4.8 re-numbered accordingly.

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Ref	Respondent	Comments	Appraisal	Response
001	Mr Lee Le Clercq Regional Secretary, British Beer & Pub Association, North of England	States that there is nothing within the proposed Statement that his Association would have problems with.	N/A	N/A
002	Cllr T. Hartill	Has read the policy, has no issues with it's contents.	N/A	N/A
003	Mr Roy Marshall via email	<ul style="list-style-type: none"> States that the Licensing Laws are "too liberal and where brought in by the last labour government to try to adopt a mediterranean culture of drinking" and are not working. Clubs should be made to close their premises no later than 2am and pubs by 11.30pm. Any one found to be drunk should be prosecuted and anyone needing NHS treatment for alcohol related problems should be charged a fee. Any shops found to be selling to underaged people should have their licence revoked immediately with no second chances. Clubs should also be made to pay a fee for additional police presence and be shut down if they serve alcohol to people who they believe have had to much to drink. 	<p>N/A</p> <p>Not allowed to set "standard" licensing hours for the Borough.</p> <p>Such prosecutions are covered within primary legislation; charges for NHS treatment outside Policy remit and would need to be enacted by Central Government.</p> <p>Covered by Review process and primary legislation. Licensing Sub-Committees have to consider evidence before them, we cannot pre-judge such cases.</p> <p>Covered under Late Night Levy process, needs evidence of problems to bring in; currently no evidence. Powers to close premises covered within primary legislation.</p>	<p>N/A</p> <p>No change in Policy needed.</p> <p>No change in Policy needed.</p> <p>No change in Policy needed.</p> <p>No change in Policy needed.</p>

Ref	Respondent	Comments	Appraisal	Response
004	Jo Higham via email	<p>States that she <i>would go back many years, when pubs opened until 10.30. No late night clubs and people falling out of them drunk and incapable and ready for fighting thus this filling A&E so causing mayhem. Supermarkets should not be almost giving booze away, years ago they had regulated hours when they could sell alcohol.</i></p>	<p>Not allowed to set “standard” licensing hours for the Borough. Minimum pricing for supermarkets would need primary legislation.</p>	<p>No change in Policy needed.</p>
005	Mr Steve Cain via email	<p>States that he is an ex-doorman who is disgusted with some pubs and how they are allowed to run.</p> <p>States that doorstaff should not be letting customers who are drunk into venues and that pubs should be run in the proper manner and that operators should be <i>firm, be honest and be professional</i> and that they will find that more people will come to their venues.</p> <p>Goes on to state that he <i>has been in venues in Southport that are run in a proper manner where when a person has obviously had to much to drink they are refused entry or allowed another drink and asked to leave.</i></p> <p>Indicates that Southport should have a <i>licencing patrol like they have in Blackpool checking venues and reporting venues who act in a irresponsible way, maybe that way you wont need half of Seftons police for on West St on a thur fri sat night, freeing them up to do real policing instaed of babysitting people who cant handle their drink.</i></p>	<p>No changes proposed to Policy</p>	<p>N/A</p>

Ref	Respondent	Comments	Appraisal	Response
006	Anne Rimmer via email	<p>Feels that allowing 24 hr drinking should be reviewed. States that <i>young adults do not go out into town or city centres as they spend hours at home drinking spirits which can be bought so cheaply from offlicences & supermarkets before going out.</i></p> <p>Indicates that her <i>concern is how many of these young adults will have sclerosis of the liver & be generally in poor health. Someone needs to look at the ridiculous drinking laws we have in this country. Why not be the first borough to raise concern for the next generation</i></p>	Not allowed to set “standard” licensing hours for the Borough. Minimum pricing for supermarkets would need primary legislation.	No change in Policy needed.
007	Constable Steve Woods Sefton Licensing Unit Marsh Lane Police Station Marsh Lane Bootle, L20 5HJ	Fully agrees with amendments made	N/A	N/A

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Agenda Item 6

Report to: Licensing & Regulatory Committee **Date of Meeting:** 23rd September 2013

Subject: Provisions contained within “*The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 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 inform Members of the provisions contained within *The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013*.

Recommendation(s)

That Members note this Report and its contents.

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		√	

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Reasons for the Recommendation:

To give Members an overview of changes that have been made to the definitions of regulated entertainment contained with the Licensing Act 2003.

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:

Legal	The Head of Corporate Legal Services (LD1749/13) has been consulted and has no comments to make.
Finance	The Head of Finance and ICT (FD2444) has been consulted and has no comments to make.
Human Resources	None
Equality	
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 whether or not these changes will impact on the other work of the Unit.

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 Licensing Act 2003.
- The Live Music Act 2012.
- Statutory Instrument 1578 / 2013 – *The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013* – 26th June 2013.
- *Proposed response to DCMS consultation – “Regulated Entertainment - A Consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003”* – Report to Licensing & Regulatory Committee 21st November 2011.
- *Changes to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012* – Report to Licensing & Regulatory Committee 19th November 2012.

1. Background

- 1.1 Members will recall the DCMS consultation document entitled “*Regulated Entertainment - A Consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003*” which was followed by the implementation of the Live Music Act 2012.
- 1.2 In response to the consultation, a Written Ministerial Statement was laid before Parliament on 7th January 2013 which proposed a number of deregulatory measures relating to the Licensing Act 2003 (“the LA03”), which it stated would be delivered through a range of legislative mechanisms, including through this Order.
- 1.3 The Government state that the intention of this Order is to *remove unnecessary bureaucracy and cost from community performance activities and local sport regulation in particular, as well as bolstering creativity, community participation and volunteering opportunities, and removing burdens from small and medium sized business.*
- 1.4 The provisions of the Order came into force on 27th June 2013.

2. Summary of the Order

- 2.1 The Order amends the descriptions of entertainment to be found within paragraph 2 of Schedule 1 of the LA03 so that indoor sporting events and the performance of plays or dance are now only licensable where certain conditions are applicable.
- 2.2 The first such condition is that the entertainment:
 - (a) Takes place in the presence of an audience, and

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- (b) Is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.
- 2.3 The second condition is relevant only to a performance of a play, and is applicable if one or more of the following applies:
 - (a) The audience consists of more than 500 persons;
 - (b) The entertainment takes place before 8am on any day;
 - (c) The entertainment takes place after 11pm on any day.
- 2.4 The third condition is relevant only to an indoor sporting event, and is applicable if one or more of the following applies:
 - (a) The audience consists of more than 1000 persons;
 - (b) The entertainment takes place before 8am on any day;
 - (c) The entertainment takes place after 11pm on any day.
- 2.5 The fourth condition is relevant only to a performance of dance, and is applicable if one or more of the following applies:
 - (a) The audience consists of more than 500 persons;
 - (b) The entertainment takes place before 8am on any day;
 - (c) The entertainment takes place after 11pm on any day;
 - (d) The entertainment is relevant entertainment within the meaning of paragraph 2A of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (meaning of “sexual entertainment venue”).
- 2.6 Therefore outside of these conditions the provision of indoor sporting events and the performance of plays or dance are no longer classed as regulated entertainment, for the purposes of the LA03, and will therefore be outside of the licensing regime.
- 2.7 For example, an indoor sporting event that takes place between 7am and 11.30pm on a particular day is licensable in respect of activities taking place between 7am and 8am and between 11pm to 11.30pm only.
- 2.8 In addition to the above the Order also amends the definition of a ‘sporting event’ in paragraph 16(2) of Schedule 1 to the LA03, so that a boxing or wrestling entertainment can no longer be authorised as an indoor sporting event.
- 2.9 Similarly, the definition of a ‘boxing or wrestling entertainment’ in paragraph 17 of Schedule 1 is amended so as to make clear that a contest, exhibition or display that combines boxing or wrestling with one or more martial arts is a ‘boxing or wrestling entertainment’ for which, if other conditions are satisfied, an authorisation (e.g. a premises licence or a club premises certificate) may be required under the LA03. This is to ensure that a licence is still required for entertainment activities deemed to be of higher risk, such as mixed martial arts, following the amendment outlined in 2.8 above.

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Report to: Licensing & Regulatory Committee **Date of Meeting:** 23rd September 2013

Subject: Estimated start up costs of implementing Street Trading legislation.

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 estimated start up costs of implementing Street Trading legislation and the options available to them.

Recommendation(s)

That the Licensing & Regulatory Committee:

- i) Note the contents of the Report, and
- ii) Determine the preferred course of action.

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		√	

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Reasons for the Recommendation:

To give Members an overview of the estimated start up costs of implementing Street Trading legislation and request a policy steer.

What will it cost and how will it be financed?

(A) Revenue Costs

The costs of the Options contained in this report are designed to give an indication of the potential costs of implementation and are based on previous experience in implementing Licensing legislation.

Option 1

There are no additional financial costs arising from this option.

Option 2

Costs in the region of £2,300 are estimated which could be contained within existing resources by virtue of the fact that existing staff time would be utilised to develop this option.

Option 3

Costs in the region of £25,150 are estimated which could not be contained within existing resources. Members would need to consider the introduction of a fee charging regime, to offset some or all of these costs, if they wished to pursue this option further.

In addition, there are likely to be ongoing costs of enforcement connected to Option 3 (and to a lesser extent, Option 2) for which fees could not be charged and for which no budgetary provision exists. These costs are not estimated and would relate to the degree of offending and the level of proactive enforcement desired.

(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:

Legal	The Head of Corporate Legal Services (LD1748/13) has been consulted and has no comments on the report.
Finance	The Head of Finance and ICT (FD2443/13) has been consulted and comments have been incorporated into the report.
Human Resources	None

Equality		
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 arising from this Report.

What consultations have taken place on the proposals and when?

None.

Are there any other options available for consideration?

Yes – included in the Report.

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Implementation Date for the Decision

N/A

Contact Officer: Kevin Coady
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Background Papers:

- The Local Government (Miscellaneous Provisions) Act 1976 & 1982.
- The Highways Act 1980.
- The County of Merseyside Act 1980.
- R (Hemming & Others) v Westminster City Council, Court of Appeal, 24th May 2013.
- “Street Trading and Pedlary in Great Britain - A report of research into the application and perception of local authority controls and pedlar legislation” – 2009.
- Report to Licensing & Regulatory Committee - *Licensing controls relating to Street Trading and Pedlars* – 3rd June 2013.

1. Background

1.1 Members will recall the report entitled “*Licensing Controls Relating to Street Trading and Pedlars*” presented to the Committee on 3rd June 2013.

1.2 Members RESOLVED that:

The Director of Built Environment be requested to undertake and submit a report on a cost benefit analysis study into the feasibility of the Council’s adoption of street trading provisions to help deter rogue traders in the Borough, for consideration at the next meeting on 23 September 2013.

1.3 Three options have been considered and a cost breakdown for each option included in this report. In order to make the costing process more transparent an estimate of the officer time involved in completing each activity has been included in relevant paragraph (with further breakdowns to be found within the Annexes to this Report).

1.4 Costs are based on an hourly rate of about £53 and estimates are based on experience drawn from implementing the processes for the Licensing Act 2003. The potential financial impact is therefore only indicative, with actual costs being dependent on the extent to which a particular option was developed.

2. Option1 – The Status Quo

2.1 Members could decide to keep the status quo and not implement any form of street trading scheme.

2.2 The Department’s Civica database has been interrogated for the period 1st April 2009 to 30th April 2013 and no complaints have been recorded with regard to street trading type matters.

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- 2.3 There is other legislation currently in place within Sefton to partially regulate street trading matters.
- 2.4 Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 allows a highway authority to make an order preventing persons selling anything on a highway (to prevent danger). This has been done within Sefton to control the parking of motor vehicles for sale on certain named streets within the Borough.
- 2.5 Section 147A of the Highways Act 1980 was brought in to prohibit hot food vans trading on or near trunk roads. It prohibits sales on or near a trunk road, typically in lay-bys. Councils do not need to do anything apart from enforcement. Section 137 can be used to prosecute a trader for obstruction of the highway (a person selling goods on the highway can be considered to be an obstruction).
- 2.6 Under Section 115E of the Highways Act 1980, a Council can grant permission (i.e. highways amenity licence) to persons to use objects or structures in the highway, for the purpose of generating income. Within Sefton this procedure is used for events on the highway such as continental markets, Victorian festivals and Christmas events etc.
- 2.7 There are no additional costs associated with Option 1.
- 3. Option 2 – Designate Further Streets under the County Of Merseyside Act 1980.**
- 3.1 In 1981 the Council adopted provisions under The County of Merseyside Act 1980 to designate a number of town centre streets and holiday areas as prohibited streets where trading was not allowed.
- 3.2 Members could decide to designate further streets within the Borough under this Act if they think that appropriate.
- 3.3 There will be a requirement for officers to identify and draw up a list of the new roads to be designated.
- 3.4 It is estimated that it would take officers *6 hours* to complete this early preparatory work with an indicative cost of about *£300*.
- 3.5 There will be a requirement for the Council to publish a Notice in a local newspaper, circulating within the area, advertising its intention to designate further places. At this stage there is also a requirement to post the Notice in the places to which it relates.
- 3.6 There will then be a further requirement, once the designations have been approved, for the Council to publish a further Notice in a local newspaper.
- 3.7 It is estimated that it would take *4 hours* for Legal to draft the appropriate Notices and *2 hours* for officers to place Notices on the new places designated, with the total indicative cost of this and of placing the Notice in a local newspaper being in the region of *£1,500*.

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- 3.8 As a result of 3.5 above officers will need to consider any representations received and address any concerns raised prior to publishing Notice that further places have been designated. This would involve liaising with objectors, preparing further reports for Committee to consider as a result etc.
- 3.9 It is estimated that the costs in respect of considering / dealing with issues raised during the advertising phase would take officers *10 hours* to complete with an indicative cost of about £500.
- 3.10 Therefore, the total estimated officer time expended in designating further places under this Act would be *22 hours* therefore the total cost of this option including advertising will be in the region of **£2,300**. Again it is emphasised that this cost gives an indication of the potential financial impact of this proposal. Given the relatively limited amount of time that would be needed to develop this option, it is considered that this work would be undertaken within the scope of existing staff resources and therefore with no additional budgetary implications.
- 3.11. Annex 1 contains a table showing the activity breakdown of how further streets could be designated.

4. Option 3 - Local Government (Miscellaneous Provisions) Act 1982

- 4.1 Officers will need to estimate the number of applications that may be received as a result of the scheme's implementation. This will involve drawing upon the Department's databases for food registration, highway licences etc. in order to produce a list of likely traders that would be caught by the Scheme.
- 4.2 Similarly officers will need to estimate how many applications would be received in the "first wave" from potential traders and how many would have to be subject to follow up enquiries. An assessment would also have to be made on those traders who would fail to apply and as a result be subject to enforcement action.
- 4.3 All of these matters will be critical in making the eventual fee calculations in order to try and enable actual cost recovery for the Authority.
- 4.4 It is estimated that this early preparatory work would take officers *36 hours* to complete with an indicative cost of £1,900.
- 4.5 The Council would need to determine policy in relation to street trading prior to making any resolution to adopt the street trading provisions.
- 4.6 The main purpose of such a policy would be to set out a transparent decision making framework (in respect of processing applications for street trading) for applicants and residents.
- 4.7 Any policy would need to include such matters as:
- The streets that were to be designated for licence.
 - The streets that were to be designated for consent.
 - The streets that were to be prohibited from any kind of street trading.

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- An overview of the application process and what relevant information the Council would take into account in considering the suitability of the application (applicant photographs, details of trading unit to be utilised etc).
 - An overview of who the Council would consult with in reaching a determination (Food Safety, Noise Control, Trading Standards etc).
 - A description of the decision making process, including avenues of appeal for an applicant.
 - An overview of the fee structure.
 - An overview of the conditions that would be applicable in respect of a licence.
 - An overview of the conditions that would be applicable in respect of consent.
 - An overview of the enforcement policy.
- 4.8 There will be a requirement to consult on these proposals and any issues raised will have to be considered.
- 4.9 It is estimated that the preparatory work for producing the street trading policy, and the consultation to be undertaken in respect of it, would take officers *216 hours* to complete at an indicative cost of *£11,400*.
- 4.10 There will be a requirement to put a variety of administration and enforcement protocols in place to enable the Scheme to be properly run:
- Create the application forms for the various processes involved.
 - Create the computer templates for the various processes involved (including the creation of the various “standard” correspondence letters linked to same).
 - Create the procedure manual for the various processes involved.
 - Create the standard Committee Report templates for appeal cases.
 - Create the appropriate WebPages for the Sefton Website (and populate same).
 - Create and develop enforcement protocols.
- 4.11 It is estimated that the preparatory work for putting in place the appropriate administration and enforcement protocols, would take officers *180 hours* to complete at an indicative cost of *£9,500*.
- 4.12 There will be a requirement for the Council to publish a Notice in a local newspaper, circulating within the area, advertising its intention to pass a resolution to bring in street trading provisions.
- 4.13 There will then be a requirement, once the resolution has been passed, for the Council to publish a Notice in a local newspaper that they have passed the resolution for two consecutive weeks.
- 4.14 It is estimated that it would take *4 hours* for Legal to draft the appropriate Notices, with the total cost of this, and the placing the Notices in a local newspaper, being approximately *£1,850*.
- 4.15 As a result of 4.12 above officers will need to consider any representations received and address any concerns raised prior to publishing Notice that the resolution has been passed. This would involve liaising with objectors, preparing further reports for Committee to consider as a result etc.

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4.16 It is estimated that the costs in respect of considering / dealing with issues raised during the advertising phase would take officers *10 hours* to complete with an indicative cost of about *£500*.

4.17 Therefore, the total estimated officer time expended in implementing a street trading scheme would be *446 hours* (approximately 12 weeks in officer time), therefore the total cost of this option including advertising will be **£25,150**. When compared to Option 2, this represents a potentially more significant utilization of resources and at a cost which could not be contained within existing budgetary provision. Members would need to consider the introduction of a fee charging regime, to offset some or all of these costs, if they wished to pursue this option further.

4.18 Annex 2 contains a table showing the detailed activity breakdown of how a street trading scheme would be implemented.

5. Enforcement costs of a street trading regime

5.1 A street trading regime would need enforcing to ensure that it was effective. That enforcement would need to be undertaken at the relevant times when trading was being undertaken, it is expected that this would primarily be in evenings and weekends or during events. The two key areas of enforcement are:

- Preventing any unlicensed businesses from trading; and
- Dealing with complaints concerning unlicensed traders..

5.2 The Council currently does not offer such an out of hours service and therefore an ongoing cost for this provision, via overtime costs, shift allowance or time off in lieu, can be anticipated. These envisaged ongoing costs have not been included within this Report.

5.3 Any time off in lieu accrued by officers for out of hours working would have a knock on effect on their day to day duties, particularly those that involve statutory deadlines that have to be met.

5.4 Two recent cases have underlined the importance of adhering to these (namely *Mu Mu Enterprises v North Somerset DC*, June 2013 and *Tinseltown NW3 Ltd v London Borough of Camden*, October 2012). Both cases led to costs being awarded against the relevant Council for a failure to adhere to statutory timeframes or procedures correctly.

5.5 It is estimated that the ongoing duties of enforcing and administering a street trading scheme could not be absorbed within the existing Licensing Unit set up and would therefore have an extra ongoing resource implication.

5.6 Members should be aware that per *R (Hemming & Others) v Westminster City Council* (Court of Appeal on 24th May 2013) any fee charged under the regime cannot include the Council's enforcement costs of unlicensed traders.

5.7 The views and direction of the Committee are sought.

Designate Further Streets under the County Of Merseyside Act 1980.

Activity	Time spent (hours)
Early preparatory work	
Obtain relevant maps	1
Identify and draw up list of streets to be designated	5
Total	6
Notice requirements	
Legal draft Notice	4
Place Notices on relevant designated street	2
Deal with queries over Notice	4
Deal with objections to Notice (including liaising with residents)	4
Complete follow up Reports to Committee	2
Total	16

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Annex 2

Local Government (Miscellaneous Provisions) Act 1982

Activity	Time spent (hours)
Early preparatory work	
Scope potential existing numbers of traders who may be caught by scheme	10
Formulate estimated initial work flow	7
Formulate estimated initial enforcement work to ensure applications	7
Formulate fee structure	8
Prepare Report to HR re staffing issues	4
Total	36
Formulate Street Trading Policy	
Designate streets to be licensed / consents / prohibited	30
Create standard conditions for streets to licensed / consents	25
Set up protocols with other agencies	15
Design flowchart for application process	15
Design flowchart for decision making process	15
Write Draft policy for Committee	25
Write Committee Report for draft Policy / consultation proposals	10
Arrange and carry out consultation for Policy (incl Engagement Panel Report / presentation)	45
Deal with any queries re consultation	9
Deal with consultation responses	9
Final Report to Committee to sign off on Policy	8
Publish Policy on website and place copies in Libraries	5
Carry out communication strategy for Policy publication	5
Total	216
Admin / Enforcement protocols	
Design and create application forms	35
Create computer templates and create linked standard letters	35
Create procedure manual for officers (incl admin and enforcement)	30
Create notes of guidance for applicants	10
Create standard Committee Reports for appeals	15
Create webpages for Sefton.Gov.UK	20
Create enforcement policy / protocols	35
Total	180
Notice requirements	
Legal draft Notice	4
Deal with queries over Notice	4
Deal with objections to Notice (including liaising with residents)	4
Complete follow up Reports to Committee	2
Total	14

Agenda Item 8

Report to: Licensing & Regulatory Committee **Date of Meeting:** 23rd September 2013

Subject: Determinations made under the Licensing Act 2003 and the Gambling Act 2005: period covering 18th May 2013 to 29th August 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 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 update 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	√		

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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:

Legal	The Head of Corporate Legal Services (LD1832/13) has been consulted and has no comments to add.
Finance	The Head of Corporate Finance and ICT has no comments on this report because the contents of the report has no direct financial implications. FD2527 /13
Human Resources	None.
Equality	
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 18th May 2013 to 29th August 2013 the following number of applications have been determined under this Act:

• Applications made under Premise Licences	103
• Applications made under Personal Licences	37
• Applications made under Club Premise Certificates	1
• Notification of Temporary Event Notices	75
• Notification of Late Temporary Event Notices	28

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

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3. Numbers determined – Gambling Act 2005

3.1 During the period 18th May 2013 to 29th August 2013 the following number of applications have been determined under this Act:

- Applications made under Gambling Premise Licences **4**
- Applications made under Licensed Premises Gaming Permits **6**
- Notifications given for Licensed Premises Automatic Gaming **4**

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

Annex 1

type	name	address2	address3	action	date
Premise Licence	Cathay Garden	1 Leicester Street	Southport	Grant	20/05/2013
Premise Licence	B & M Stores	Dunnings Bridge Road	Netherton	Grant	21/05/2013
Premise Licence	Spar	146 Portland Street	Southport	Variation following Review	21/05/2013
Premise Licence	Martin McColl	36 Fernhill Road	Bootle	Variation of DPS	22/05/2013
Premise Licence	McColls	191 - 193 Altway	Aintree	Variation of DPS	22/05/2013
Premise Licence	Our Lady Of Walsingham Parish Centre	Stand Park Avenue	Netherton	Variation of DPS	22/05/2013
Premise Licence	Railway Hotel	2 Duke Street	Formby	Variation of DPS	22/05/2013
Premise Licence	Savers	Halsall Lane	Formby	Variation of DPS	22/05/2013
Premise Licence	Tesco Stores Limited	Hawthorne Road	Litherland	Variation of DPS	22/05/2013
Premise Licence	Formby Village Town Centre	Chapel Lane	Formby	Transfer	23/05/2013
Premise Licence	The Gild Hall	Church Road	Formby	Variation of DPS	23/05/2013
Premise Licence	Harvester	Unit 10 Aintree Racecourse Retail Park	Ormskirk Road	Variation of DPS	23/05/2013
Premise Licence	Hoghton Arms	2 Hoghton Street	Southport	Transfer	23/05/2013
Premise Licence	Super Saver	96-98 Linacre Lane	Bootle	Transfer	23/05/2013
Premise Licence	M & B Wines	71-73 Randall Drive	Netherton	Variation	24/05/2013
Premise Licence	Hoghton Arms	2 Hoghton Street	Southport	Variation of DPS	29/05/2013
Premise Licence	The Shakespeare	1 Scarisbrick New Road	Southport	Transfer	29/05/2013
Premise Licence	Horse & Jockey	Waddicar Lane	Melling	Variation of DPS	31/05/2013
Premise Licence	Netherton Hotel	Church Road	Litherland	Minor Variation	31/05/2013
Premise Licence	New Labour Club	206 Knowsley Road	Bootle	Transfer	31/05/2013
Premise Licence	St Mary's College Playing Fields	Little Crosby Road	Crosby	Variation of DPS	31/05/2013
Premise Licence	Waitrose	Three Tuns Lane	Formby	Variation of DPS	31/05/2013
Premise Licence	Blue Anchor Inn	32 School Lane	Aintree	Minor Variation	03/06/2013
Premise Licence	The Endbutt Hotel	63 Endbutt Lane	Crosby	Variation of DPS	03/06/2013
Premise Licence	The Liver Public House	137 South Road	Waterloo	Minor Variation	03/06/2013
Premise Licence	Meadows Hotel	89A Liverpool Road South	Maghull	Minor Variation	03/06/2013
Premise Licence	Nags Head Hotel	Green Lane	Thornton	Minor Variation	03/06/2013

Club Premises Certificate	North Meols Lawn Tennis Club	Mill Lane Crescent	Southport	Grant	03/06/2013
Premise Licence	The Birkey Hotel	35 Cooks Road	Crosby	Transfer	04/06/2013
Premise Licence	Bold Hotel	583-587 Lord Street	Southport	Minor Variation	04/06/2013
Premise Licence	Coronation Hotel	12 King Street	Southport	Transfer	04/06/2013
Premise Licence	The Endbutt Hotel	63 Endbutt Lane	Crosby	Transfer	05/06/2013
Premise Licence	The Frank Hornby	Eastway	Maghull	Variation of DPS	05/06/2013
Premise Licence	Marks & Spencer Simply Foods	Halsall Lane	Formby	Variation of DPS	05/06/2013
Premise Licence	Marstons	Marine Parade	Southport	Variation of DPS	05/06/2013
Premise Licence	AnS Food and Wine	3 Dover Road	Maghull	Change of Name and/or Address	07/06/2013
Premise Licence	Weld Blundell Arms	Scaffold Lane	Ince Blundell	Variation of DPS	10/06/2013
Premise Licence	Bold Arms	59-61 Botanic Road	Southport	Minor Variation	12/06/2013
Premise Licence	Bistrot Verite	7 Liverpool Road	Birkdale	Change of Name and/or Address	13/06/2013
Premise Licence	Crosby Hotel	75 Liverpool Road	Crosby	Variation of DPS	17/06/2013
Premise Licence	Bargain Booze	187 Altway	Aintree	Variation	18/06/2013
Premise Licence	Lime	7-11 Lord Street	Southport	Variation of DPS	19/06/2013
Premise Licence	Bistro Moulin	73 Old Mill Lane	Formby	Licence Holder Transfer & Variation of DPS	21/06/2013
Premise Licence	Sainsburys	Lord Street	Southport	Variation of DPS	21/06/2013
Premise Licence	So Salsa	2-4 Cooks Road	Crosby	Variation of DPS	21/06/2013
Premise Licence	Tesco Stores Limited	Hawthorne Road	Litherland	Variation of DPS	21/06/2013
Premise Licence	The Barbers Parlour	58 King Street	Southport	Grant	24/06/2013
Premise Licence	Bargain Booze	42 Liverpool Road	Lydiate	Variation	24/06/2013
Premise Licence	Blue Anchor Inn	32 School Lane	Aintree	Variation of DPS	24/06/2013
Premise Licence	Iceland	8-10 The Marian Square	Netherton	Variation of DPS	26/06/2013
Premise Licence	Lion & Unicorn	6-8 Church Road	Waterloo	Variation of DPS	26/06/2013
Premise Licence	Falstaff	68 King Street	Southport	Variation of DPS	27/06/2013
Premise Licence	Tesco Stores	Town Lane Kew	Southport	Minor Variation	28/06/2013
Premise Licence	Bargain Booze	42 Liverpool Road	Lydiate	Variation of DPS	01/07/2013
Premise Licence	One Stop Stores Ltd	71-73 Randall Drive	Netherton	Licence Holder Transfer & Variation of DPS	01/07/2013
Premise Licence	Discount Beers	156D Liverpool Road North	Maghull	Removal of DPS	05/07/2013

Premise Licence	Kirkstone Hotel	102 Moss Lane	Litherland	Variation of DPS	08/07/2013
Premise Licence	One Stop Shop	30-32 Belmont Street	Southport	Change of Name and/or Address	08/07/2013
Premise Licence	St William Of York Parochial Club	Edge Lane	Crosby	Variation of DPS	09/07/2013
Premise Licence	One Stop Shop	2-4 Cross Green	Formby	Variation of DPS	12/07/2013
Premise Licence	Spar	251-257 Liverpool Road	Birkdale	Variation of DPS	12/07/2013
Premise Licence	Marks & Spencer Plc	34-38 Chapel Street	Southport	Variation of DPS	15/07/2013
Premise Licence	The Phoenix	4-6 Coronation Walk	Southport	Variation of DPS	16/07/2013
Premise Licence	Blue Anchor Inn	32 School Lane	Aintree	Variation of DPS	17/07/2013
Premise Licence	Discount Beers	156D Liverpool Road North	Maghull	Variation of DPS	17/07/2013
Premise Licence	Eden Vale Hotel	Glovers Lane	Netherton	Transfer	17/07/2013
Premise Licence	One Stop Stores	123-129 South Road	Waterloo	Variation of DPS	17/07/2013
Premise Licence	Falstaff	68 King Street	Southport	Variation of DPS	18/07/2013
Premise Licence	Lime	7-11 Lord Street	Southport	Transfer	19/07/2013
Premise Licence	Darts Newsagents	88-90 Bispham Road	Southport	Grant	24/07/2013
Premise Licence	The Priory Public House	64 Sefton Road	Litherland	Variation of DPS	24/07/2013
Premise Licence	St Teresa's C M S	98A Upper Aughton Road	Birkdale	Transfer	24/07/2013
Premise Licence	Asda	Derby Road	Southport	Minor Variation	29/07/2013
Premise Licence	Webleys	43 Linacre Lane	Bootle	Variation of DPS	31/07/2013
Premise Licence	Bodrum Kebab Plus	19 Forest Road	Southport	Transfer	01/08/2013
Premise Licence	The Mons	36-38 Breeze Hill	Bootle	Rejected	02/08/2013
Premise Licence	Saffron Indian Restaurant	92 St Johns Road	Waterloo	Variation of DPS	02/08/2013
Premise Licence	Tesco Stores Ltd	6-10 Molyneux Way	Aintree	Variation of DPS	02/08/2013
Premise Licence	Village Inn	70 Haileybury Avenue	Aintree	Variation of DPS	02/08/2013
Premise Licence	Martin McColl	36 Fernhill Road	Bootle	Variation of DPS	05/08/2013
Premise Licence	Spar	21-23 Liverpool Road	Birkdale	Variation of DPS	05/08/2013
Premise Licence	St Patricks Social & Parish Hall	35 Marshside Road	Southport	Variation of DPS	05/08/2013
Premise Licence	The Atkinson	Lord Street	Southport	Grant	06/08/2013
Premise Licence	Marstons	Marine Parade	Southport	Minor Variation	08/08/2013
Premise Licence	Frankie & Benny's	Ormskirk Road	Aintree	Variation of DPS	09/08/2013
Premise Licence	Tesco Stores Limited	46 Crosby Road North	Waterloo	Variation of DPS	09/08/2013

Premise Licence	Weld Blundell Arms	Scaffold Lane	Ince Blundell	Variation	09/08/2013
Premise Licence	Quo Vadis	4-6 Chapel Lane	Formby	Transfer	12/08/2013
Premise Licence	Castle Leisure Ltd	245-249 Stanley Road	Bootle	Variation of DPS	14/08/2013
Premise Licence	Debenhams Plc	535-563 Lord Street	Southport	Change of Name and/or Address	14/08/2013
Premise Licence	Grapes Hotel	Green Lane	Formby	Variation of DPS	14/08/2013
Premise Licence	Weld Blundell Arms	Scaffold Lane	Ince Blundell	Transfer	15/08/2013
Premise Licence	Birkers	4A Liverpool Road	Birkdale	Variation of DPS	16/08/2013
Premise Licence	Blue Anchor	1/3 Tithebarn Road	Southport	Licence Holder Transfer & Variation of DPS	16/08/2013
Premise Licence	Woodwards Wine and Cafe Bar	16 Chapel Lane	Formby	Variation of DPS	16/08/2013
Premise Licence	The Stanley Arms	74 Litherland Road	Bootle	Grant	19/08/2013
Premise Licence	Nisa Today	81-83 Park Lane	Netherton	Variation of DPS	20/08/2013
Premise Licence	Greek Taverna	Liverpool Road North	Maghull	Transfer	21/08/2013
Premise Licence	Greek Taverna	45 South Road	Waterloo	Transfer	21/08/2013
Premise Licence	St Teresa's C M S	98A Upper Aughton Road	Birkdale	Variation	21/08/2013
Premise Licence	U-Thai Restaurant and Bar	241b Lord Street	Southport	Grant	21/08/2013
Premise Licence	Oast House	12-14 Stanley Street	Southport	Variation of DPS	27/08/2013
Premise Licence	Marstons	Marine Parade	Southport	Minor Variation	28/08/2013
Premise Licence	Strand News	231 Stanley Road	Bootle	Grant	28/08/2013

type	name	address2	address3	action	date
Licensed Premises Gaming Permit	Blue Anchor Inn	32 School Lane	Aintree	Variation	23/05/2013
Licensed Premises Gaming Permit	Meadows Hotel	89A Liverpool Road South	Maghull	Variation	23/05/2013
Licensed Premises Gaming Permit	Netherton Hotel	Church Road	Litherland	Variation	23/05/2013
Licensed Premises Gaming Permit	The Birkey Hotel	35 Cooks Road	Crosby	Variation	03/06/2013
Family Entertainment Centre	Silcocks Amusements	34-36 Nevill Street	Southport	Grant	07/06/2013
Adult Gaming Centre	Silcocks Amusements (Unit 1)	40 Nevill Street	Southport	Variation	10/06/2013
Betting (other than a track)	William Hill	164-166 Linacre Road	Litherland	Variation	21/06/2013
Betting (other than a track)	William Hill	117 Deyes Lane	Maghull	Transfer	28/06/2013
Licensed Premises Automatic Gaming	Eden Vale Hotel	Glovers Lane	Netherton	Grant	19/07/2013
Licensed Premises Automatic Gaming	Horse & Jockey	Waddicar Lane	Melling	Grant	24/07/2013
Licensed Premises Automatic Gaming	Blue Anchor	1/3 Tithebarn Road	Southport	Grant	15/08/2013
Licensed Premises Gaming Permit	Toby Carvery	13 Church Road	Formby	Grant	20/08/2013
Licensed Premises Gaming Permit	Weld Blundell Arms	Scaffold Lane	Ince Blundell	Grant	23/08/2013
Licensed Premises Automatic Gaming	Byng House (R B L Conv Home)	30 Promenade	Southport	Grant	28/08/2013

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