

MEETING: LICENSING AND REGULATORY (URGENT REFERRALS)  
COMMITTEE

DATE: Wednesday 6th November, 2013

TIME: 10.00 am

VENUE: Town Hall, Bootle

**Member**

Councillor Kerrigan (Chair)  
Councillor Preece  
Councillor Robinson

**Substitute Member**

Councillor Bradshaw (Substitute  
Member)  
Councillor Hands (Substitute  
Member)  
Councillor Kermode (Substitute  
Member)

COMMITTEE OFFICER: Ruth Appleby  
Democratic Services Officer  
Telephone: 0151 934 2181  
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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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# **A G E N D A**

**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 - 8)

Minutes of the meeting held on 28 August 2013

**4. Designation of Further Streets under the County of Merseyside Act 1980**

(Pages 9 - 14)

Report of the Director of Built Environment

**5. Re-Adoption of Part 2 of the Local Government (Miscellaneous Provisions) Act 1972**

(Pages 15 - 18)

Report of the Director of Corporate Services

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

## **LICENSING AND REGULATORY (URGENT REFERRALS) COMMITTEE**

**MEETING HELD AT THE TOWN HALL, BOOTLE  
ON 28 AUGUST 2013**

PRESENT: Councillor Kerrigan (in the Chair)  
Councillors Robinson

### **1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Preece and his substitute Councillor Hands.

### **2. DECLARATIONS OF INTEREST**

No declarations of interest were received.

### **3. MINUTES**

RESOLVED:

That the Minutes of the meeting held on 13 November 2012, be confirmed as a correct record.

### **4. IMPLEMENTATION OF THE SCRAP METAL DEALERS ACT 2013**

Further to Minute No. 11 of the Licensing and Regulatory Committee meeting held on 3 June 2013, the Committee considered the Report of the Director of Built Environment on the implementation of the Scrap Metal Dealers Act 2013.

The report was also to be considered by the full Council on 5 September 2013.

The Senior Licensing Officer, Commercial Licensing Unit, presented the report and advised of proposals to give delegated powers to Licensing Sub-Committees and the Director of Built Environment in respect of functions under the Scrap Metal Dealers Act 2013, which were listed in paragraph 4.2 of the report. Approval was also sought for proposed fees to be charged for the process.

The Senior Licensing Officer indicated that since publication of the Committee Report, the Home Office Guidance on setting fees had now

# Agenda Item 3

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WEDNESDAY 28TH AUGUST, 2013

been released and as a result the figures proposed in Paragraph 5.5 of the report had been revisited to take account of this, in particular, with regard to having to have separate fees for Site and Collector's Licences.

Details of these revised fees were listed in the Supplementary Committee Report issued on 22 August 2013, which indicated that the Home Office had also confirmed that it would be paying for the Environment Agency national register and Councils would not have to contribute to this via a re-charge. As such, the previously included estimated re-charge from the Environment Agency for this provision had been removed from the proposed fees.

The proposed revised fees were therefore, as follows:

## Site Licence

Grant - £130

Renewal - £130

Variation - £75

## Collector's Licence

Grant - £95

Renewal - £95

Variation - £75

Arising from discussion, Members raised issues in relation to enforcement and the reaction of the scrap metal, motor vehicle salvage trades and the docks/Peel Holdings, to the revised fees. The Senior Licensing Officer indicated that enforcement fell largely under the remit of the Police and that the scrap metal and vehicle salvage trades and associated organisations had largely responded positively to the revised fees, which had been expected for some time.

RESOLVED: That

(1) Council be recommended to

- (a) approve the revised fees in respect of Scrap Metal Dealers Licences; and
- (b) authorise the amendment of Chapter 7 of the Constitution – Regulatory and Other Committees (Delegations to Regulatory and Non-executive Committees), by the addition of the following:

Licensing and Regulatory Committee:

- (i) To exercise the functions of the Licensing Authority in accordance with the Scrap Metal Dealers Act 2013; and
- (ii) To authorise the Licensing and Regulatory Committee to delegate its functions; and

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- (2) the Director of Built Environment be requested to submit an update report to a future meeting of the Licensing and Regulatory Committee.

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# Agenda Item 4

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**Report to:** Licensing & Regulatory (Urgent Referrals) Committee  
Council

**Date of Meeting:** 6<sup>th</sup> November 2013  
21<sup>st</sup> November 2013

**Subject:** Designation of further streets under the County of Merseyside Act 1980

**Report of:** Director of Built Environment

**Wards Affected:** Molyneux

**Is this a Key Decision?** No

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

**Exempt/Confidential** No

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## Purpose

To seek approval from Council for the designation of further streets for where street trading is prohibited under the County of Merseyside Act 1980.

## Recommendation(s)

That Licensing & Regulatory (Urgent Referrals) Committee:

- i) Endorse the designation of those areas referred to in Annex 1 under Section 36 of the County of Merseyside Act 1980 for where street trading is prohibited.

That Council:

- i) Approves the designation of those areas referred to in Annex 1 under Section 36 of the County of Merseyside Act 1980 for where street trading is prohibited;
- ii) That the Head of Corporate Legal Services be authorised to arrange for the publication of the Council's proposals and be appointed as the proper officer of the Council for the receipt of any objections received.

## 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:

Prior to advertising the intention to designate further streets under the County of Merseyside Act 1980 a formal resolution to do so by Full Council is required.

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

### (A) Revenue Costs

Costs in the region of £2,300 are estimated which could be contained within existing resources.

### (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 (LD1889/13) has been consulted and any comments have been incorporated into the report	
<b>Finance</b>	The Head of Finance and ICT (FD2584/13) has been consulted and notes for the recommended action (option 2) estimated costs of £2,300 can be contained within existing resources	
<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 arising from this Report.

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

None.

## Are there any other options available for consideration?

Not to designate further streets under the County of Merseyside Act 1980.

## Implementation Date for the Decision

Following the Meeting.

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

## Background Papers:

- The County of Merseyside Act 1980.
- Report to Licensing & Regulatory Committee - *Licensing controls relating to Street Trading and Pedlars* – 3<sup>rd</sup> June 2013.
- Report to Licensing & Regulatory Committee - *Estimated start up costs of implementing Street Trading legislation* – 23<sup>rd</sup> September 2013.

## Background

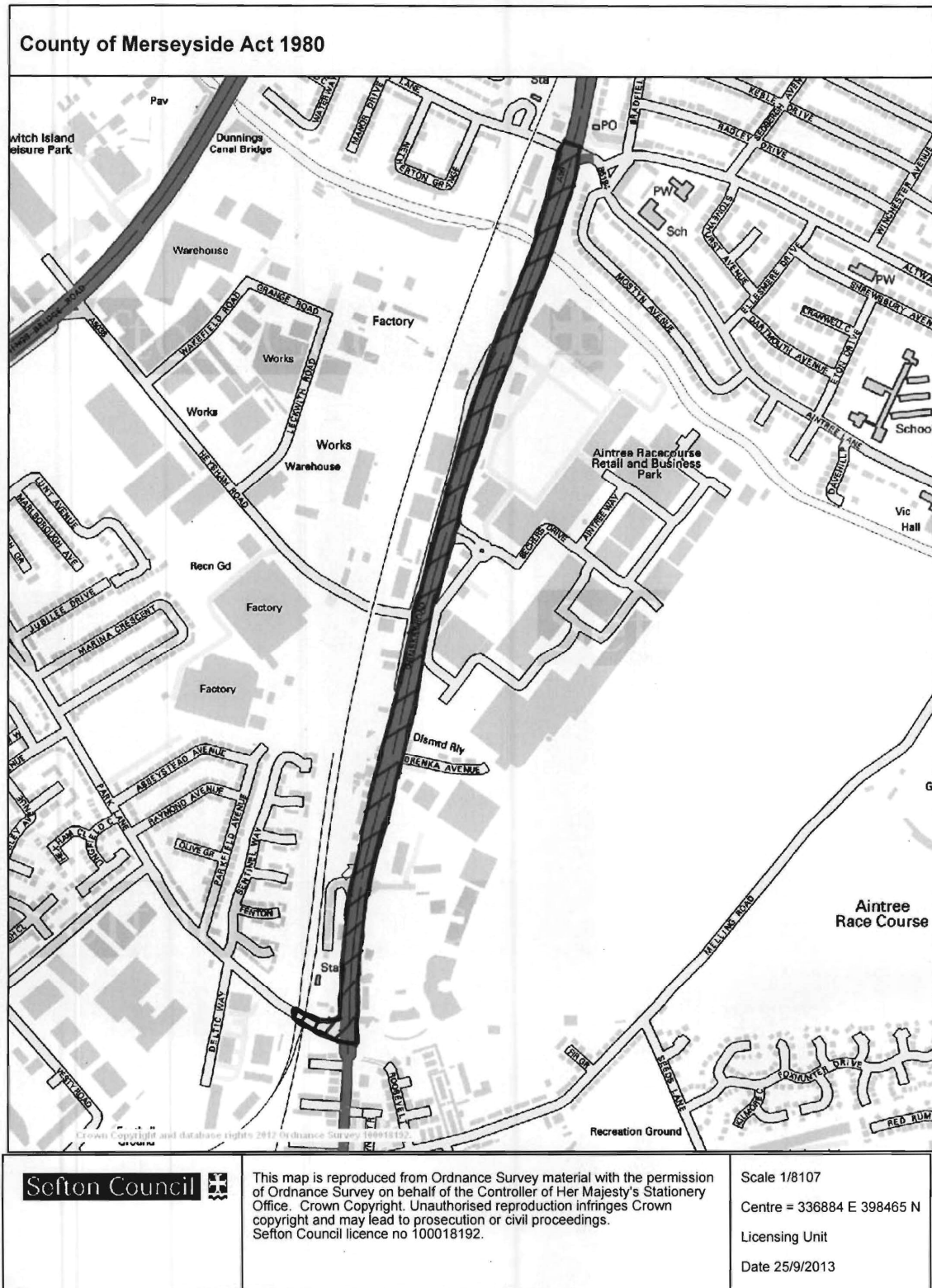
1. At their Meeting on 11<sup>th</sup> March 2013 Members of the Licensing and Regulatory Committee expressed concerns with regard to street trading matters within the Borough and in particular ticket touting taking place at the Grand National Meetings in Aintree.
2. In 1981 the Council adopted provisions under Section 36 of 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. A Report was considered at the meeting of the Licensing and Regulatory Committee on 23<sup>rd</sup> September 2013 in which officers proposed three options to Members. The Licensing and Regulatory Committee resolved that the option for: *“the designation of further streets under the County of Merseyside Act 1980, be adopted in order to address the issue of ticket touting at the Grand National Meetings in Aintree”*.

## Further streets to be designated

4. In order to address the problems of ticket touts at the Grand National Meetings in Aintree it is therefore recommended that the Council designate the following additional areas as prohibited for street trading:
  - Ormskirk Road between Park Lane and Copy Lane and
  - Park Lane from its junction with Ormskirk Road to the railway bridge.

Annex 1 contains a map of the area concerned.

5. The Council is recommended to designate these further streets within the Borough under this Act, subject to reconsideration, if it receives any formal objection to the public notice of the designation.
6. For information the existing areas designated under the 1980 Act can be found within Annex 2.



# Agenda Item 4

## Annex 2

Southport	Formby	Crosby & Waterloo
<ol style="list-style-type: none"> <li>1. The Promenade</li> <li>2. The Esplanade</li> <li>3. The Marine Drive</li> <li>4. The Marine Drive Bridge spanning the Marine Lake</li> <li>5. Any part of the walk around the Marine Parks</li> <li>6. Nevill Street</li> <li>7. Coronation Walk</li> <li>8. Rotten Row</li> <li>9. Lord Street</li> <li>10. St. George's Place</li> <li>11. Palace Road</li> <li>12. The Memorial Square</li> <li>13. Scarisbrick Avenue</li> <li>14. London Street</li> <li>15. Chapel Street</li> <li>16. Eastbank Street</li> <li>17. Duke Street from Lord Street to Rotten Row</li> <li>18. So much of Weld Road, Oxford Road and Shore Roas as lies between the Liverpool to Southport Railway Line and the shore</li> <li>19. Any place within 300 yards of the Market Hall</li> </ol>	<ol style="list-style-type: none"> <li>1. Brows Lane</li> <li>2. Bushby's Lane</li> <li>3. Chapel Lane</li> <li>4. Church Road</li> <li>5. Duke Street</li> <li>6. Freshfield Road</li> <li>7. Gores Lane</li> <li>8. Green Lane</li> <li>9. Halsall Lane</li> <li>10. Kirklake Road</li> <li>11. Lifeboat Road</li> <li>12. Liverpool Road</li> <li>13. Paradise Lane</li> <li>14. Queens Road</li> <li>15. Piercefield Road</li> <li>16. Ravenmeols Lane</li> <li>17. Ward Avenue</li> <li>18. St Lukes's Church Road</li> <li>19. School Lane</li> <li>20. Southport Road</li> <li>21. Three Tuns Lane</li> <li>22. Timms lane</li> <li>23. Victoria Road</li> <li>24. Wrigley's Lane</li> </ol>	<ol style="list-style-type: none"> <li>1. Cambridge Road</li> <li>2. Mariners Road</li> <li>3. Great George's Road between Waterloo Road and the Seashore</li> <li>4. South Road between Brighton Road and the Seashore</li> <li>5. Hall Road West between the railway level crossing and Burbo Bank Road North</li> <li>6. Marine Terrace and Marine Crescent</li> </ol>

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**Report to:** Licensing and Regulatory  
Urgent Referrals Committee      **Date of Meeting:** 6 November 2013  
Cabinet      7 November 2013  
Council      21 November 2013

**Subject:** Re-adoption of the Local Government (Miscellaneous Provisions) Act 1976

**Report of:** Head of Corporate Legal Services      **Wards Affected:** All Wards

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

**Exempt/Confidential** No

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## **Purpose/Summary**

The report provides details of the proposal to re-adopt the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act") within the Borough of Sefton.

## **Recommendation(s)**

That the Licensing and Regulatory Urgent Referrals Committee:

1. Recommends the Cabinet to recommend to the Council that the Head of Corporate Legal Services be authorised to provide notice, in accordance with Section 45 of Part II of the Local Government (Miscellaneous Provisions) Act 1976, ('the Act') of the Council's intention to pass a resolution to re-adopt the provisions of Part II of the Act in relation to the Council's administrative area, with effect from 7<sup>th</sup> February 2014, subject to no adverse comments being received in relation to that notice; and
2. If such adverse comments are received this matter be referred back to the Licensing and Regulatory Committee and that Council be advised; and

That the Cabinet:

3. Receives and approves the recommendation of the Licensing and Regulatory Committee and recommends to Council for approval; and

That Council:

4. Receives and approves Cabinet's recommendation

# Agenda Item 5

## 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	✓		

### Reasons for the Recommendation:

A recent judgment has been made regarding decisions to prosecute under Part II of the Act. A local authority has been successfully challenged where it could not demonstrate that the prescribed notice procedure had been followed in its adoption of the Act some 35 years previously.

Re- adoption Part II of the Act is proposed for the purposes of clarification for the future, without prejudice to the Council's previous adoption made pursuant to the Act, and to ensure certainty in any enforcement action taken under the Act.

Generally, Cabinet is not involved in matters pertaining to licensing. However, this re-adoption is not determination, approval, consent and licence or registration concerning a licence, permission and therefore falls to be considered by the Council's Executive

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

**(A) Revenue Costs:** Publication of the statutory notices will be financed from the Taxi Licensing budget, are likely to be in the region of £1,000.

**(B) Capital Costs:** Nil

### **Implications:**

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



**Legal**

Where the Town Police Clauses Act 1847 is in force throughout a district Council, Section 45(3) of the 1976 Act provides that a council may resolve that Part II of the 1976 Act is to apply in the area.

The Council may not pass a resolution adopting Part II of the 1976 Act unless it has (a) published a notice of intention to pass the resolution in a local newspaper circulating in the area for two consecutive weeks; and (b) served a copy of the notice, not later than the date on which it is first published in the newspaper on each Parish or community council within the area to be affected.

**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: Re-adoption of the Act will provide clarification and certainty.**

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

The Head of Corporate Finance and ICT (FD2627) has been consulted and any comments have been incorporated into the report.

**Are there any other options available for consideration?** No, failure to re-adopt the Legislation may result in uncertainty in the Council's ability to take enforcement action.

**Implementation Date for the Decision:**

Action will be taken immediately following Council, to notify of the proposed re-adoption. If no adverse comments are received, the re-adoption will be effective from 7 February 2014.

**Contact Officer: Suzette Cain**

**Tel: 0151 934 2288**

**Email: [suzette.cain@sefton.gov.uk](mailto:suzette.cain@sefton.gov.uk)**

**Background Papers:**

The following papers are available for inspection by contacting the above officer:

1. Decision in Aylesbury Vale District Council –v- Call a Cab and Ahtiq Raja .

# Agenda Item 5

## 1. Introduction/Background

- 1.1 Part II of the Local Government (Miscellaneous Provisions) Act 1976 regulates the licensing of private hire and hackney carriage vehicles, drivers and operators. The legislation contains provisions which allow local authorities to control the operation and use of private hire and hackney carriage vehicles and to protect the public by ensuring that vehicles are fit for use as licensed vehicles and drivers are 'fit and proper' to act. The local authority must be able to demonstrate that the provisions of Part II of the 1976 Act have been adopted by the Council following the proper procedures.
- 1.2 Recent case law has seen decisions to prosecute for offences under Part II challenged successfully where a Council was unable to demonstrate, some 35 years after the event, that it had followed the prescribed notice procedure in its adoption of Part II. The paperwork was simply not available. In order to have a robust position, which would not be challengeable, it is suggested that it would be beneficial to re-adopt the resolution for the purpose of clarity for the future and to ensure certainty in any enforcement action taken under the legislation. In doing so, Council records will ensure that the necessary paperwork to evidence the re-adoption is available.
- 1.3 It is therefore proposed that the Committee recommend to Cabinet that authority be given for the provision of notice, in accordance with section 45 of the Local Government (Miscellaneous Provisions) Act 1976, of the Council's intention to re-adopt the provisions of Part II of the 1976 Act. In accordance with statutory requirements, such notice will consist of the publication of a notice of intention in local newspapers for two consecutive weeks and service of the notice on the Town and Parish Councils within the Borough.