

LICENSING AND REGULATORY COMMITTEE

**MEETING HELD AT THE TOWN HALL, BOOTLE
ON 7 JUNE 2010**

PRESENT: Councillor McGuire (in the Chair)
Councillor D Rimmer (Vice-Chair)

ALSO PRESENT Councillors Bradshaw, Carr, Doran, Fenton, Friel,
Ibbs, Kerrigan, Mahon, Papworth, Preece and
Sir Ron Watson

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor B.Rimmer and Larkin

2. DECLARATIONS OF INTEREST

Member	Minute No	Interest	Action
Cllrs Friel and Kerrigan	11 - Sex Establishment (Sex Shop) Licence – Scandals Adult Superstore, 304 Derby Road, Bootle, L20 8LN	Prejudicial - They are Ward Councillors where the superstore would be sited if the licence was granted	Left the room and took no part in the consideration of the item.
Cllr Carr	12 – The Licensing of Limousines	Personal - Taxi Trade representative in Knowsley	Stayed in the room, took part in the consideration of the item and voted thereon

3. MINUTES

RESOLVED:

That the Minutes of the meeting held on 19 April 2010 be confirmed as an correct record.

4. THANK YOU TO FORMER COUNCILLOR MARK BIGLEY

The Committee asked that their thanks be passed to former Councillor Mark Bigley for his contribution as former Chair of the Committee.

5. LOCAL LICENSING: PERFORMANCE REPORT 2009/10

Further to Minute No. 57 of the meeting held on 11 November 2009, the Committee considered the report of the Environmental and Technical Services Director on the programmed inspection regime for those premises licensed under the Licensing Act 2003 and the Gambling Act 2005.

The report indicated that, under the Licensing Act 2003, 192 premises had been inspected between 1 October 2009 and 31 March 2010; that 132 premises were found to be operating correctly and that 76 premises were found to have committed various breaches under the Licensing Act 2003, and detailed such breaches. Most premises were able to attend to the breaches at the time of the initial visits and whilst the Licensing Officer was still in attendance.

The report indicated that, under the Gambling Act 2005, 43 premises had been inspected between 1 October 2009 to 31 March 2010; that 36 premises were found to be operating correctly and that 7 premises were found to have committed various breaches and detailed such breaches. All premises were able to attend to the breaches at the time of the initial visits and whilst the Licensing Officer was still in attendance.

The report, concluded by detailing that the Licensing Unit had received 411 Service Requests and that such requests were handled in accordance with departmental timescales.

RESOLVED: That

- (1) the report and the fact that further update reports will be submitted, as necessary, be noted; and
- (2) a report in relation to the criteria used to categorise the number and frequency of inspections for all premises be brought to the next appropriate Committee for Members' consideration.

6. DETERMINATIONS MADE UNDER THE LICENSING ACT 2003: PERIOD COVERING 1 APRIL 2010 TO 21 MAY 2010

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

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

been delegated, the Committee would receive regular reports on decisions made so that they maintained an overview of the general licensing situation.

For the period 6 February 2010 to 31 March 2010 the Environmental and Technical Services Director had received and determined: 52 applications for Premise Licences; 23 applications for Personal Licences; and 73 notifications of Temporary Event Notices.

RESOLVED:

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

**7. DETERMINATIONS MADE UNDER THE GAMBLING ACT 2005:
PERIOD COVERING 1 APRIL 2010 TO 21 MAY 2010**

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

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

For the period 6 February 2010 to 31 March 2010, the Environmental and Technical Services Director had received and determined: 6 applications for licensed premises gaming permits; 9 applications for licensed premises automatic gaming; and 1 application for club machine permits.

RESOLVED:

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

**8. DRAFT REVISED STATEMENT OF LICENSING POLICY -
LICENSING ACT 2003**

The Committee considered the report of the Environmental and Technical Services Director that sought comments on the draft revised Statement of Licensing Policy. The report also advised Members of the proposals for wider consultation on the draft revised document.

Attached as an annexe to the report was a copy of the draft revised Statement of Licensing Policy.

Officers responded to a variety of questions from Members regarding definitions and points of clarification within the report and added that Sefton Council was doing more than any other local authority in England regarding this matter.

RESOLVED: That

- 1) the draft revised Statement of Licensing Policy, as detailed in the annex to the report, be approved;
- 2) the actions being taken to progress the revision of the Statement of Licensing Policy, subject to the removal of the proposal to undertake 400 interviews with members of the public, be approved; and
- 3) a meeting of the Licensing and Regulatory Urgent Referrals Committee to be arranged discuss the powers available under the Licensing Act 2003 to tackle issues of serious crime.

9. EARLY MORNING ALCOHOL RESTRICTION ORDERS

The Committee considered the report of the Environmental and Technical Services Director on the early morning alcohol restriction orders to be implemented through the proposed changes to be made to the Licensing Act 2003 (LA03) by the Crime and Security Act 2010 (CSA10) indicating that a motion was moved in Parliament on 10 February 2010 requesting the House to “instruct” the Bill Committee to consider certain amendments to the CSA10 to amend the LA03 to give local authorities powers to “ban 24 hour licences in their area”; that whilst the CSA10 received Royal Assent on 8 April 2010, the provisions to amend the LA03 would not come into force until the Secretary of State laid the necessary Commencement Order; and that Section 55 of the CSA10 would amend the LA03 by inserting five new sections (sections 172A to 172E) into Part 9 of the CSA10.

RESOLVED:

That the report and the fact that further reports would be submitted once the provisions came into force be noted.

10. SEX ESTABLISHMENT LICENCE - SEXUAL ENTERTAINMENT VENUE

Further to Minute No. 84 of the meeting held on 22 February 2010, the Committee considered the report of Environmental and Technical Services Director on the sex establishment licence – sexual establishment venue and seeking approval of the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009. The report indicated the delegation

of powers to Licensing (Sexual Entertainment Venues) Sub-Committees and the Environmental and Technical Services Director in respect of certain functions under the Policing and Crime Act, 2009 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act, 1982 and the introduction of proposed conditions and fees in respect of this process.

The report also indicated that Schedule 3 of the Policing and Crime Act 2009 (PCA09) inserted a new category of “sex establishment” called a “sexual entertainment venue” into Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 (LGA82), therefore bringing the licensing of lap dancing and pole dancing clubs and other similar venues under the regime set out in the 1982 Act, which was currently used to regulate establishments such as sex shops and sex cinemas, rather than under the Licensing Act 2003 (“the LA03”); that guidance issued by the Home Office indicated that whilst local authorities should judge each case on its own merits, it would be expected that the definition of relevant entertainment would apply to the following forms of entertainment as they commonly understood, namely: lap dancing; pole dancing; table dancing; strip shows; peep shows and live sex shows; that the guidance indicated that the mere fact that there was a display of nudity did not mean that a sex establishment licence would necessarily be required; and that the relevant entertainment must be provided for the financial gain of the ‘organiser’ or ‘entertainer’.

RESOLVED: That

- (1) the adoption of Schedule 3 the Local Government (Miscellaneous Provisions) Act, 1982, as amended by Section 27 of the Policing and Crime Act, 2009; be endorsed;
- (2) the recommended delegation of functions to the Licensing (Sexual Entertainment Venues) Sub-Committee be endorsed;
- (3) the proposed conditions and fees be endorsed; and
- (4) Cabinet be requested to approve the recommendations set out in paragraphs (a) – (c) detailed in the report.

**11. SEX ESTABLISHMENT (SEX SHOP) LICENCE - SCANDALS
ADULT SUPERSTORE, 304 DERBY ROAD, BOOTLE, L20 8LN**

The Committee considered the report of the Environmental and Technical Services Director on Sex Establishment (Sex Shop) Licence - Scandals Adult Superstore, 304 Derby Road, Bootle, L20 8LN indicating that a licence was required for any person wishing to operate either a Sex Cinema, a Sex Shop or a Sexual Entertainment Venue under the Local Government (Miscellaneous Provisions) Act 1982; that a Sex Shop is defined as ‘any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with or for stimulating or encouraging sexual activity

or acts of force or restraint which are associated with sexual activity'; that the Standard Conditions relating to Sex Establishment (Sex Shops) Licences were approved on 22 March 2004 by the Council; that Paragraph 2 of these Conditions stated that: "except with the previous written consent of the Council no sex shop shall be open to the public earlier than 9am in the morning and shall be closed not later than 8pm in the evening on any day Monday to Friday and not later than 9pm in the evening on Saturdays. The sex shop shall not be open on Sundays or any Bank Holidays or any public holidays"; and that the hours requested by the applicants exceeded those allowed for in the Standard Conditions and should Members be minded to grant the application, as applied for, then the Standard Conditions would be amended for these premises only to show the hours as requested.

The application had been advertised in the prescribed manner; no public objections had been received with regard to this application; and a copy of the Standard Conditions was attached as an annex to the report.

Stephen and Lilian Kershaw, applicants, were in attendance at the meeting and spoke in support of the application.

RESOLVED:

That subject to the conditions as detailed in the report and that the renewal of the licence in 12 months time be referred back to the Committee for further consideration, the application for the granting of a sex establishment licence (sex shop) in respect of Scandals Adult Superstore, 304 Derby Road, Bootle, L20 8LN, be granted.

12. THE LICENSING OF LIMOUSINES

Further to Minute No. 104 of the meeting held on 19 April 2010, the Committee considered the report of the Environmental and Technical Services Director on the licensing of limousines, indicating that following the Traffic Commissioner's decision to no longer issue Public Service Vehicle (PSV) Operator licences to cover the hiring of Limousines being used for "drinking parties", vehicles were required to be licensed under the Private Hire legislation administered by local authorities; that Sefton Council conformed to Department of Transport's "Best Practice" for licensing of all limousines and novelty vehicles; that under the Licensing Act 2003 ("the LA03"), alcohol could not be sold on a moving vehicle and the vehicle could not be licensed for that purpose, but licensing authorities could consider applications for the sale of alcohol from a parked or stationary vehicle. The report concluded that a method or framework for hire and reward of licensing and the LA03 licensing were in place and that any complaints received by the Environmental and Technical Services Department would be investigated in consultation with the Police and/or VOSA as appropriate.

LICENSING AND REGULATORY COMMITTEE- MONDAY 7TH JUNE,
2010

RESOLVED:

That the report be noted.

13. FAREWELL TO IAN WILLIAMS, COMMITTEE ADMINISTRATOR

The Committee requested that their thanks be passed to Ian Williams, Committee Administrator, for his contribution and support to the Committee during his tenure.