

LICENSING AND REGULATORY COMMITTEE

**MEETING HELD AT THE TOWN HALL, BOOTLE
ON 23 NOVEMBER 2009**

PRESENT: Councillor Bigley (in the Chair)
Councillor Papworth (Vice-Chair)

Councillors Blackburn, Bradshaw, Dodd, Fenton,
Friel, Gustafson, Kerrigan, Mahon, Pearson, and
B Rimmer

47. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Hands, D.Rimmer and C.Mainey.

48. DECLARATIONS OF INTEREST

No declarations of interest were received.

49. MINUTES

RESOLVED:

That the minutes of the meeting held on 26 October 2009 be confirmed as a correct record.

**50. PETITION - DE-RESTRICTION OF HACKNEY CARRIAGE
LICENCE PLATES**

The Committee considered a petition submitted in accordance with Rule No. 27 of the Council and Committee Procedure Rules of the Constitution, from Mr D Smith expressing concern in relation to Sefton Council's policy of restricting the number of hackney carriage vehicle licences.

Mr D. Smith attended the meeting in support of the terms of the petition.

RESOLVED:

That the petition be noted.

**51. PETITION - HACKNEY CARRIAGE VEHICLE LICENCES DE-
RESTRICTION**

The Committee considered a petition submitted in accordance with Rule No. 27 of the Council and Committee Procedure Rules of the Constitution, from Mr R Jarman in support of the Local Authority's current policy on numerical restriction of Hackney Carriage Vehicle Licences.

Mr R. Jarman addressed to meeting in support of the terms of the petition.

RESOLVED:

That the petition be noted.

**52. PETITION - HACKNEY CARRIAGE VEHICLE LICENCES DE-
RESTRICTION**

The Committee considered a petition submitted in accordance with Rule No. 27 of the Council and Committee Procedure Rules of the Constitution, from Mr T Crabtree in support of the Local Authority's current policy on numerical restriction of Hackney Carriage Vehicle Licences.

Mr M.England addressed the Committee in support of the terms of the petition.

RESOLVED:

That the petition be noted.

**53. DETERMINATIONS UNDER THE LICENSING ACT 2003: PERIOD
COVERING 10 OCTOBER 2009 TO 6 NOVEMBER 2009**

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

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

For the period 10 October 2009 to 6 November 2009 the Environmental Protection Director had received and determined 48 applications for Premises Licences; 13 applications for Personal Licences and 17 notifications of Temporary Events Notices.

RESOLVED:

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

**54. DETERMINATIONS UNDER THE GAMBLING ACT 2005: PERIOD
COVERING 10 OCTOBER 2009 TO 6 NOVEMBER 2009**

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

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

For the period 10 October 2009 to 6 November 2009 the Environmental Protection Director had received and determined 11 applications for Licensed Premises for Automatic Gaming.

RESOLVED:

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

55. RESULTS OF SEFTON LICENSING SURVEY 2008

Further to Minute No 32 of the meeting held on 28 September 2009, the Committee considered the report of the Environmental Protection Director on the results of the Sefton Licensing Survey undertaken by Mott MacDonald; indicating that the Committee had requested that this paper be considered in conjunction with the findings and recommendations contained within the Community Involvement – Licensing Act Working Group report of the Overview and Scrutiny Committee (Regeneration and Environmental Services); and that Mott MacDonald had been commissioned to gauge how the "notification system" for local residents (including the applicants themselves) perceived the Act to be working in relation to reviews, grants, variations or minor variations.

The Licensing Unit provided addresses of 55 premises that had (within 6 months of the commencement of the Survey in March 2008):

- (1) had a review of a Premises Licence or Club Premises Certificate;
 - (2) applied for a new Premises Licence or Club Premises Certificate;
- or,
- (3) applied for a variation of a Premises Licence or Club Premises Certificate.

Some 3,538 addresses were then selected by Mott MacDonald that were adjacent to the premises or within 50 metres of the boundary of the premises in question; these addresses included both residential and commercial properties and adjacent properties which had a common boundary with the premises and could be considered as being “interested parties” under the Act.

Three separate questionnaires were designed in conjunction with Mott MacDonald and the Licensing Unit and sent, along with a covering letter, to licence applicants, respondents in close proximity to a premises that had been subject to a Licence Review and to those close to premises that had applied for a new licence or a variation to a licence (the “Grants/Variations Survey”).

Attached as appendices to the report were copies of the questionnaires, covering letters and a report indicating the results of the survey.

RESOLVED:

That the contents of the report be noted.

56. COMMUNITY INVOLVEMENT - LICENSING ACT WORKING GROUP

Further to Minute No 24 (4) of the Overview and Scrutiny Committee (Regeneration and Environmental Services) meeting held on 15 September 2009, the Committee considered the report of the Legal Director presenting the final report of the Community Involvement - Licensing Act Working Group.

The Overview and Scrutiny Committee had resolved that:

- (1) the Chair, in consultation with the Overview and Scrutiny Officer be authorised to amend the final report accordingly as a result of comments from this meeting;
- (2) the final report and recommendations detailed in paragraph 9.0 be agreed;
- (3) the final report be referred to the Public Engagement and Consultation Standards Panel for its consideration and comment;
- (4) the final report, together with any comments from the Public Engagement and Consultation Standards Panel be referred to Licensing and Regulatory Committee for consideration and comment.
- (5) the final report be referred to the Overview and Scrutiny Committee (Performance and Corporate Services) for information; and

- (6) the final report together, with any comments from the Licensing and Regulatory Committee and the Public Engagement and Consultation Standards Panel be referred to Cabinet for further consideration.

Attached as an Annex to the report was a copy of the Community Involvement – Licensing Act Working Group final report; and the views of the Committee were sought thereon.

It was agreed that whilst the implementation of the recommendations within Community Involvement - Licensing Act Working Group report may potentially have resources implications, and would need to be monitored throughout the trial period, greater public engagement should be welcomed.

RESOLVED: That Cabinet be requested:

- (1) to endorse the recommendations in paragraph 9.0 of the report of the final report; and
- (2) if so minded, to approve the recommendations in paragraph 9 of the report, refer their decision to all Area Committees for information.

57. LOCAL LICENSING: HALF YEAR PERFORMANCE REPORT 2009/10

Further to Minute No. 51 of the meeting held on 20 April 2009, the Committee considered the report of the Environmental Protection Director updating 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, 170 premises had been inspected between 1 April 2009 and 30 September 2009; that 103 were found to be operating correctly and that 67 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, 46 premises had been inspected between 1 April 2008 to 31 March 2009; that 20 premises were found to be operating correctly and that 11 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 270 Service Requests and that such requests were handled in accordance with departmental timescales.

It was clarified that the targets for inspections were set by the Environmental Protection Department based on a desktop exercise; that some inspections were rolled over from last year due to long term sickness absence and a vacancy freeze; that these issues were being addressed; and that whilst the Environmental Protection Director was confident of meeting inspection targets for all premises in category A, some licensed premises in category B could be rolled over to next year.

RESOLVED:

- (1) that the report and the fact that further update reports will be submitted, as necessary, be noted; and
- (2) the Environmental Protection Director be requested to produce a report regarding the regulation of tanning salons within the Borough.

**58. TAXI LICENSING: HALF YEAR PERFORMANCE REPORT
2009/10**

Further to Minute No 52 of the meeting held on 20 April 2009, the Committee considered the report of the Environmental Protection Director that provided an update service performance in relation to Taxi Licensing for the period 1 April 2009 to September 2009.

RESOLVED: That

- (1) the report, and that further update reports would be submitted on a bi-annual basis, be noted; and
- (2) the attendance and pass rates of taxi licensing knowledge tests be raised with the representatives of the Hackney Carriage/Private Hire Joint Working Group.

**59. THE ROAD TRAFFIC VEHICLE (VEHICLE EMISSIONS) (FIXED
PENALTY) (ENGLAND) REGULATIONS 2002**

The Committee considered the report of the Environmental Protection Director seeking approval for the adoption of Section 6 of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 (the Regulations) to be better able to respond to concerns about air pollution, fumes and odours caused by stationary vehicles left with their engines idling; and for the delegation of the powers to the Environmental Protection Director to utilise such powers; and indicating that a decision on this matter was required as the Council's current constitution required both the Licensing and Regulatory Committee and the Cabinet Member - Environmental to approve the adoption of this legislation and delegation of the relevant powers in order for officers to utilise them.

The report indicated that the Regulations were introduced to support Local Air Quality Management and the achievement of the National Air Quality

Strategy objectives; and concluded that adoption of Part 6 of the Regulations would give Environmental Protection Department officers the necessary legislative backing to pursue incidents of stationary vehicles leaving their engines running where persuasive methods had failed; that reference to a legal requirement would assist enforcement and increase the chance of persuasive methods succeeding; and that it was proposed that powers be delegated to the Environmental Protection Director to enable him to authorise appropriate officers. The powers would therefore be used to strengthen the approach of Environmental Protection Department Officers when dealing with complaints about operators and drivers.

RESOLVED: That

- (1) the adoption of Part 6 of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 be approved; and
- (2) the Council be recommended to amend the Responsibility of Functions of the Constitution by addition of the following delegation to the Environmental Protection Director

"Environmental

C. Environmental Protection Director

20. Authority to enforce the powers contained in Part 6 of the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002."

60. CHARITIES ACT 2006 - CONTROL OF CHARITY COLLECTORS

Further to Minute No 75 of the Southport Area Committee meeting held on 30 September 2009 the Licensing and Regulatory Committee considered the report of the Legal Director on the Charities Act 2006 – Control of Charity Collectors; indicating that concern had been raised by residents regarding the “aggressive” form of charity collection on Chapel Street, Southport; that whilst the Local Authority was able to issue and regulate Street Collection Licenses under Section 5 of the Police Factories etc (Miscellaneous Provisions) Act 1916, as amended by the Local Government Act, 1972, Schedule 29, as the rules dated back to 1916, i.e. prior to direct debit, standing orders and credit card donations, the Local Authority had no powers to regulate “professional fundraisers” who collected direct debit mandates etc; and that as further powers to help address this issue would be part of the Part 3 of the Charities Act which has yet to be rolled out, the Committee be requested to approve the content of the letter attached as an annex to the report from the Legal Director, on behalf of the Local Authority, to the Office of the Third Sector to request that the implementation of Part 3 of the Charities Act be completed as soon as possible.

RESOLVED: That

- (1) the content of the letter from the Legal Director requesting The Office of the Third Sector implement Part 3 of the Charities Act 2006 as soon as possible, be approved; and
- (2) the letter also be sent to the Charities Commission, based in Liverpool, for information.

61. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A to the Act. The Public Interest Test has been applied and favours exclusion of the information from the press and public.

62. COUNSEL ADVICE ON CURRENT NUMERICAL RESTRICTIONS, CONDITIONS AND PRECONDITIONS FOR HACKNEY CARRIAGE VEHICLE LICENCES

The Committee considered the report of the Environmental Protection Director on Counsel advice on current numerical restrictions conditions and pre-conditions for hackney carriage vehicle licences.

RESOLVED: That

- (1) the report be noted; and
- (2) the Environmental Protection Director be requested to devise a strategy to address Counsel's recommendations.