



Licensing, Health and Safety and General Purposes Committee

Date:	Monday, 19 March 2012
Time:	6.00 pm
Venue:	Committee Room 1 - Wallasey Town Hall

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AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members are asked to consider whether they have personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they are.

2. MINUTES (Pages 1 - 2)

To receive the minutes of the special meeting held on 8 March 2012.

3. PROPOSED LOCAL ELECTION FEES 2012/13

Report to follow.

4. HACKNEY CARRIAGE VEHICLE LICENCES (Pages 3 - 8)

5. SEX ESTABLISHMENT FEES (Pages 9 - 12)

**6. PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER TRAINING
(Pages 13 - 16)**

**7. REFERRALS FROM THE ALCOHOL SCRUTINY REVIEW (Pages 17
- 30)**

**8. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR -
PART 1**

9. EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC

The following items contain exempt information.

RECOMMENDATION: That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

10. HACKNEY CARRIAGE VEHICLE LICENCES - EXEMPT APPENDICES (Pages 31 - 60)

11. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR - PART 2

To consider any other business that the Chair accepts as being urgent.

LICENSING, HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

Thursday, 8 March 2012

Present:

Councillor	WJ Davies (Chair)		
Councillors	T Anderson	S Taylor	
	P Glasman	R Wilkins	
	C Jones	K Wood	
	I Lewis	I Williams	
	S Niblock		

28 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had any personal or prejudicial interests in connection with any item on the agenda and, if so, to declare them and state what they were.

No such declarations were made.

29 MINUTES

Resolved - That the minutes of the meeting held on Monday 23 January 2012 be approved.

30 POLLING STATIONS: FURTHER UPDATE

The Head of Legal and Member Services (on behalf of the Director of Law, HR and Asset Management) reported upon the requirement for Members to determine the Polling Place/Station for Polling District WE from two options: -

- (i) Between2Worlds, Guilford Street
- (ii) Wallasey Masonic Hall, Manor Road

It was reported that at its meeting on 23 January 2012, the Licensing, Health and Safety and General Purposes Committee resolved that the Masonic Hall, Manor Road be used as Polling Place/Station for Polling District WE.

Further to this meeting, officers had been made aware that Councillors Dodd and Mooney had not (as the Ward Councillors) been informed or consulted about the Masonic Hall being proposed as a possible alternative Polling Place/Station. The Head of Legal and Member Services apologised to Members for this oversight and reported that it had been deemed appropriate to bring the matter back to a Special Meeting of the Committee in order that all three Ward Councillors were afforded the opportunity to make representations to the Committee.

Councillor J Keeley addressed the meeting to reiterate that he believed the most appropriate Polling Place/Station for Polling District WE was the Masonic Hall.

Councillor D Dodd informed Members that he believed Between2Worlds was the most suitable and accessible Polling Place/Station for Polling District WE.

Councillor B Mooney addressed the meeting and advised Members that she also believed Between2Worlds would be the most suitable location for the Polling Place/Station for Polling District WE.

The Electoral Services Officer responded to questions from Members of the Committee.

It was moved by Councillor S Taylor and seconded by Councillor I Lewis that -

“The Masonic Hall, Manor Road be used as Polling Place/Station for District WE.”

It was moved as an amendment by Councillor C Jones and seconded by Councillor J Salter that -

“Between2Worlds, Guildford Street be used as Polling Place/Station for District WE.”

The amendment was put and carried (6:4).

Resolved - That Between2Worlds, Guildford Street be used as the Polling Place/Station for District WE.

WIRRAL COUNCIL

LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

19 MARCH 2012

SUBJECT:	HACKNEY CARRIAGE VEHICLE LICENCES
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF LAW HR AND ASSET MANAGEMENT
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR BILL DAVIES – COMMITTEE CHAIR
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is for Members to consider the allocation of available Hackney Carriage Vehicle Licences resulting from the decision of the Committee on 23 January 2012 to impose a limit on the number of Hackney Carriage Vehicle Licences issued.

2.0 BACKGROUND AND KEY ISSUES

2.1 At a meeting of this Committee on 23 January 2012 Members resolved to impose a limit of 289 on the number of Hackney Carriage Vehicle Licences issued. Members also requested that options for the allocation of available licences be reported to this meeting and that no further licences be issued pending further consideration of an allocation policy.

2.2 At that time a total of 286 Hackney Carriage Vehicles were licensed and that number remains the same at the date of writing this report.

2.3 Members requested that Officers report back to this meeting regarding the options for allocating available Hackney Carriage Vehicle Licences.

2.4 A number of applications have been received for new Hackney Carriage Vehicle Licences. Members are being asked to consider and determine each application.

3.0 APPLICATIONS

3.1 Prior to the meeting on 23 January 2012 a number of proprietors had placed orders for new Hackney Carriage Vehicles, as follows:

Mr Abiru ordered a new hackney carriage vehicle on 10 January 2012

Mr Skeete ordered three new hackney carriage vehicles on 12 January 2012

Mr Marnell ordered two new hackney carriage vehicles on 4 November 2011

The proprietors of these vehicles subsequently applied to license them. In accordance with the decision of this Committee on 23 January 2012 no licences have been issued to these applicants. Details of the applications are shown below.

- 3.2 Mr Abiru submitted an application to license a new Mercedes M8 on 18 January 2012, however as he had not taken delivery of the vehicle and therefore it had not undertaken the vehicle compliance test, he was advised that his application could not proceed at that stage. Mr Abiru took delivery of the vehicle on 16 February 2012. A copy of Mr Abiru's application form and order confirmation are attached as exempt documents at Appendix 1.
- 3.3 Mr Skeete placed an order for three new Peugeot E7s on 12 January 2012. He subsequently submitted applications to license the vehicles on 26 January 2012. In accordance with Members decision on 23 January 2012 the licences have not been granted. Having been advised of the Committee decision to impose a limit on the number of Hackney Carriage Vehicle Licences issued, Mr Skeete was able to cancel the order for one of the vehicles. He is, however, contracted to purchase the other two vehicles, for which he has taken out a mortgage on his property. The estimated delivery date for the vehicles is February/March 2012. Copies of Mr Skeete's application forms and order confirmations are attached as exempt documents at Appendix 2.
- 3.4 Mr Marnell placed an order for two new Mercedes M8s on 4 November 2011. He subsequently submitted applications to license the vehicles on 30 January 2012. In accordance with Members decision on 23 January 2012 the licences have not been granted. The estimated delivery date for the vehicles is March 2012. Copies of Mr Marnell's application forms and order confirmations are attached as exempt documents at Appendix 3.
- 3.5 All of the above applicants have been invited to attend the meeting in support of their applications.

4.0 APPLICATION TO RE-LICENSE A HACKNEY CARRIAGE VEHICLE FOLLOWING FAILURE TO RENEW ON TIME

- 4.1 Mr Abadi is the proprietor of a licensed Hackney Carriage Vehicle, registration number T524 JLD. The vehicle was licensed as a Hackney Carriage Vehicle, until 28 December 2011 when it was not renewed.
- 4.2 A renewal notice was sent to Mr Abadi on 2 December 2011.
- 4.3 On 10 January 2012 Mr Abadi submitted an application form for a new Hackney Carriage Vehicle Licence on the vehicle. This licence could not be granted as the vehicle did not comply with criteria for new Hackney Carriage Vehicle Licences in that the vehicle is more than three years old. A copy of Mr Abadi's application form is attached as an exempt document at Appendix 4.
- 4.4 Mr Abadi has been invited to attend this meeting in support of his application.

5.0 OPTIONS FOR ISSUING HACKNEY CARRIAGE VEHICLE LICENCES

5.1 Research with other local authorities has identified a variety of mechanisms which are employed when allocating new Hackney Carriage Vehicle Licences. Each of the methods would require a detailed procedure and policy changes. An outline of the methods encountered are set out below:

5.2 First come first served

Any applicant who had purchased a vehicle and who had obtained a compliance pass certificate for the vehicle would be granted a licence if one was available. This could result in a number of applicants being involved in a “race” to complete the application requirements and the unsuccessful applicants being unable to license vehicles which they had purchased.

5.3 Waiting/expressions of interest list

Prospective applicants notify the local authority of their interest in obtaining a Hackney Carriage Vehicle Licence and names are added to the list in chronological date order. Once a licence becomes available the individual next on the list is contacted and requested to submit an application within a specified period. They are then requested to produce a suitable vehicle within a further specified period.

Where that individual fails to submit an application or produce a vehicle within the required period they would forfeit their right to a new Hackney Carriage Vehicle Licence and the next person on the list is contacted.

5.4 Points system

Potential applicants are allocated points for satisfying certain criteria, for example:

- The length of time they have held a Hackney Carriage Driver Licence
- The hours they intend to work
- Not already holding or previously holding a Hackney Carriage Vehicle Licence.

This option is complex and is open to legal challenge.

5.5 Random selection process

All parties expressing an interest in obtaining a Hackney Carriage Vehicle Licence are allocated a number which is included in a “draw”. The first “out of the hat” is then expected to submit an application and produce a vehicle within a specified period, as in paragraph 3.3.

Consideration has to be given as to when the allocation process should take place ie. immediately the licence becomes available or on a specified date (or dates) in the year.

Consideration also has to be given as to how to invite expressions of interest for licences, eg. by advertising and/or by writing to all licence holders (hackney carriage and possibly private hire)

- 5.6 The current criteria that a hackney carriage vehicle must comply with before being granted a licence is as follows:
- (i) that every vehicle must comply with the Council's Hackney Carriage Vehicle Licence conditions;
 - (ii) that every vehicle must be purpose built and built to accommodate wheelchair disabled passengers;
 - (iii) that every vehicle must be three years old or less from the date of first registration or date of manufacture (whichever is the earlier).

Members may wish to review the criteria in respect of the issue of future Hackney Carriage Vehicle Licences which could include an amendment to the age requirement for new licences.

- 5.7 In considering the options for the future allocation of licences the Head of Legal and Democratic Services has advised that a policy for the allocation of taxi vehicle licences must be subject to public consultation.

6.0 RELEVANT RISKS

- 6.1 There are none arising directly from this report.

7.0 OTHER OPTIONS CONSIDERED

- 7.1 There is no provision for other options to be considered.

8.0 CONSULTATION

- 8.1 The Head of Legal and Democratic Services has advised that a policy for the future allocation of the taxi vehicle licences must be subject to public consultation.

9.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 9.1 There are no specific implications arising from this report.

10.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 10.1 There are no specific implications arising from this report.

11.0 LEGAL IMPLICATIONS

- 11.1 A decision of the Committee may be subject to Appeal

12.0 EQUALITIES IMPLICATIONS

12.1 Has the potential impact of the proposal been reviewed with regard to equality?

No because of another reason which is: The report provides information to the Committee. A future allocation policy is likely to have equalities implications but that will be for a future report.

13.0 CARBON REDUCTION IMPLICATIONS

13.1 The number of taxis on the road may have an impact on carbon emissions.

14.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

14.1 The availability of taxis during the night time is important to ensure that those involved in the night time economy can safely get home.

14.2 There are community safety implications arising out of this report due to the safety aspects of Hackney Carriage Vehicles.

15.0 RECOMMENDATION/S

15.1 That Members consider and determine the applications received as detailed in section 3.0.

15.2 That Members note the information concerning options for an allocation policy and instruct the Director of Law, Human Resources and Asset Management to arrange for a public consultation in respect of the allocation of available hackney carriage licences.

16.0 REASON/S FOR RECOMMENDATION/S

16.1 Members requested at their meeting on 23 January 2012 that no new licences be issued until the matter is considered by the Committee at this meeting.

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EXEMPT APPENDICES: These appendices are exempt because they contain personal information regarding the individual concerned.

Appendix 1 – Application for a Hackney Carriage Vehicle Licence made by Baba Tunde Fatai Ab Abiru

Appendix 2 – Two Applications for Hackney Carriage Vehicle Licences made by Lynton Skeete

Appendix 3 - Two Applications for Hackney Carriage Vehicle Licences made by Shaun Marnell

Appendix 4 - Application for a Hackney Carriage Vehicle Licence made by Javad Rezai Mahdi Abadi

REFERENCE MATERIAL

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Licensing, Health and Safety and General Purposes Committee	23 January 2012

WIRRAL COUNCIL

LICENSING, HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

19 MARCH 2012

SUBJECT:	SEX ESTABLISHMENT FEES
WARD AFFECTED:	ALL WARDS
REPORT OF:	DIRECTOR OF LAW, HR AND ASSET MANAGEMENT
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is for Members to set a level of fees for the Licensing of Sex Establishments.

2.0 BACKGROUND AND KEY ISSUES

2.1 On 10 January 2011, Members of the Health and Safety and General Purposes Committee approved the adoption of the amendments to Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982, made by Section 27 paragraph 2(2) of Schedule 3 to the Policing and Crime Act 2009, which came into effect on 1 April 2011.

2.2 The Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 allows the Council to control by way of its licensing regime, sex establishments in the form of sex cinemas and sex shops.

2.3 The Policing Crime Act 2009, Section 27, defined a new category of sex establishment namely 'sexual entertainment venue' which provides the means for local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 and gives local authorities more powers to control the number and location of these type of premises. Entertainment permitted within a Sexual Entertainment Venue can include:

- Lap Dancing
- Pole Dancing
- Table Dancing
- Strip Shows
- Peep Shows
- Live Sex Shows

2.4 The Local Government (Miscellaneous Provisions) Act 1982 enables the authority to charge the applicant for the grant, renewal or transfer of a licence a "reasonable fee". All costs of providing the service must be included in the fee so that there is no subsidisation by general tax payers.

2.5 Whilst authorities should not charge unfairly large fees it is possible to set fees which reflect the true costs of providing an efficient licensing service.

2.6 The cost of the following activities can be included in the calculations of costs for local authorities:

- Dealing with applications
- Inspection
- Dealing with representations
- Holding Committee Hearings
- Involvement in Appeals
- Future reviews of Sexual Entertainment Venue Policy

2.7 An estimate of the costs of licensing such premises which includes the above activities has been calculated and it is estimated that there will be a cost to the Licensing Section of £1,200 per application. Members are therefore asked to determine the fee based on this estimate of costs subject to a review of costs being undertaken in 12 months time.

2.8 A table comparing the fees in neighbouring local authorities is attached at Appendix 1.

3.0 RELEVANT RISKS

3.1 The fee set should enable the Authority to recover the cost of administration of the licence.

4.0 OTHER OPTIONS CONSIDERED

4.1 There is no provision for other options to be considered.

5.0 CONSULTATION

5.1 A consultation is not required to set these fees as all fees are set on a cost recovery basis.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are no specific implications arising from this report.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

7.1 There are no Resource Implications as fees should be set on a cost recovery basis.

8.0 LEGAL IMPLICATIONS

8.1 There are no specific legal implications arising from this report.

9.0 EQUALITIES IMPLICATIONS

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no specific implications arising from this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no specific implications arising from this report.

12.0 RECOMMENDATION

12.1 Members are asked to set a level of fees for the Licensing of Sex Establishments.

13.0 REASONS FOR RECOMMENDATION

13.1 The Local Government (Miscellaneous Provisions) Act 1982 permits the Authority to set a reasonable fee when recovering costs for the Licensing of Sex Establishments.

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APPENDICES

Appendix 1 - Table comparing neighbouring local authorities fees

REFERENCE MATERIAL

None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date

Sex Establishment Fees

	New application	Renewal	Transfer
Liverpool	£5,000	£1,600	
Cheshire West and Chester	£5,000	£2,000	£1,800
Sefton	£1,242	£1,242	£623
West Lancs	£5,700.70	£5,700.70	

WIRRAL COUNCIL

LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

19 MARCH 2012

SUBJECT:	PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER TRAINING
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF LAW HR AND ASSET MANAGEMENT
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR BILL DAVIES – COMMITTEE CHAIR
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is to seek a decision from Members in respect of currently licensed drivers who have not complied with the training requirement.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 In September 2006 Members resolved that with effect from 1 November 2006 all current Private Hire and Hackney Carriage drivers will be required to complete a training course in Transporting Passengers by Taxi and Private Hire within a five year period from the implementation date of 1 November 2006.
- 2.2 At the meeting of this Committee on 10 November 2011 it was reported that a number of currently licensed drivers had not complied with the training requirement. Members resolved that officers be given delegated authority to suspend the Private Hire or Hackney Carriage Driver Licence of any licensed driver who has not enrolled to undertake the required training by 29 November 2011 and to suspend the Private Hire or Hackney Carriage Driver Licence of any licensed driver who has not completed the required training by 28 March 2012.
- 2.3 Twelve licensed drivers were identified as not having enrolled to undertake training and suspension notices were issued to those drivers on 2 December 2011.
- 2.4 Eleven of these drivers either enrolled on a training course or surrendered their licences. One driver remains suspended.
- 2.5 In February 2010 Members further resolved that all new applicants must obtain a Vocationally Related Qualification in Road Passenger Transport (VRQ) prior to being granted a licence and then achieve the Level 2 National Vocational Qualification in Road Passenger Vehicle Transport (NVQ) within 12 months of being issued with a licence.

- 2.6 In all these cases drivers have enrolled to undertake the training and therefore have been allowed to continue to hold a licence until 28 March 2012 to enable them to obtain the relevant qualification.
- 2.7 The Licensing Service have been advised by a number of training providers that due to changes in funding available to deliver the required training, whilst drivers have enrolled for training, they will be unable to deliver the required training by 28 March 2012. It is reported that this affects approximately 25 drivers. In view of this Members are asked to consider appointing a further deadline of 14 May 2012 by which Drivers must complete the training.
- 2.8 Changes to funding available for training has also had an effect on those drivers, having obtained the BTEC have to obtain an NVQ within 12 months of being issued with a licence. This can result in no funding being available for drivers to obtain the NVQ. Mr Norbury from Merseylearn will attend the meeting to update Members regarding the funding available for training and the qualifications available to drivers. In view of these changes Members are asked to review the requirement for drivers to obtain an NVQ within the first twelve months of being granted a Licence.

3.0 RELEVANT RISKS

- 3.1 The safety of passengers could be at risk due to the lack of training undertaken by drivers.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 There is no provision for other options to be considered.

5.0 CONSULTATION

- 5.1 This is not a matter which requires consultation.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 There are no specific implications arising from this report.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 7.1 There are no specific implications arising from this report.

8.0 LEGAL IMPLICATIONS

- 8.1 A decision of the Committee may be subject to Appeal

9.0 EQUALITIES IMPLICATIONS

- 9.1 Has the potential impact of the proposal been reviewed with regard to equality?

No because there is no relevance to equality.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no specific implications arising out of this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no planning implications arising out of this report.

12.0 RECOMMENDATION/S

12.1 Because of the funding changes detailed within the report Members consider setting a new deadline of 14 May 2012 for Taxi Drivers to complete the training requirement.

12.2 Members are asked to review the requirement for drivers to obtain an NVQ within the first twelve months of being granted a Licence.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 It is a responsibility of this Committee to determine the appropriate action to be taken.

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WIRRAL COUNCIL

LICENSING, HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

19 MARCH 2012

SUBJECT:	REFERRALS FROM THE ALCOHOL SCRUTINY REVIEW
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF LAW, HR, & ASSET MANAGEMENT
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR BILL DAVIES
KEY DECISION?	YES

1.0 EXECUTIVE SUMMARY

- 1.1 This report is to present to Committee referrals from Cabinet of 17 March 2011, following their consideration of the final report of the Scrutiny Programme Board's Alcohol Scrutiny Review.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 At the meeting of the Scrutiny Programme Board, held on 14th September 2009, Members agreed to undertake an in-depth scrutiny review regarding progress towards implementation of the Alcohol Strategy in Wirral. The Board Members agreed that volunteers should be sought from among scrutiny members to form a Panel. It was agreed that the review should be managed by the Scrutiny Programme Board due to the cross-cutting nature of the topic and the impact on a number of areas such as health, young people, anti-social behaviour / community safety, trading standards and licensing.
- 2.2 Subsequently, the final report of the Alcohol Scrutiny Review¹ was considered at Cabinet² of 17, March, 2012. It was resolved that the following recommendations from the Report be referred to the Licensing, Health & Safety and General Purposes Committee:-

E. Legislative framework

Wirral Council Cabinet is encouraged to lobby the Home Office for changes in the law aimed at reducing the supply of alcohol to young people by:

- Limiting the promotion of the sale of alcohol, for example, through 'happy hours'
- Restricting the use of alcohol as a 'loss leader' by supermarkets and other retail outlets

- Reducing the promotion of alcohol through advertising
- Reducing the scale of proxy sales by imposing greater fines on those purchasing alcohol on behalf of under-age drinkers

F. Minimum unit pricing for alcohol

The Review Panel supports the principle of minimum unit pricing for alcohol. Council is requested to engage positively in the process to introduce a regional minimum price for alcohol in the Merseyside region.

G. Cumulative Impact Policy

Council should actively seek to introduce a Cumulative Impact Policy, as has been introduced by Local Authorities such as Liverpool and Brighton, in order to tackle the increase in outlets in specific hotspot areas.

J. Relationship with Magistrates

The Council is encouraged to further develop a tripartite relationship with magistrates and the Police in order to cultivate a mutual understanding of issues relating to the application of licensing laws in the courts.

- 2.3 A number of proposals have been suggested by government that will if enacted influence the legislative framework affecting recommendations E, F, and G. In addition, a new national alcohol strategy has been heralded for some time but has still not been launched. Presentation of these referrals has been held in anticipation of the imminent introduction of changes announced.
- 2.4 Set out below is the current situation in respect of the recommendations referred from Cabinet.

3.0 MINIMUM PRICE FOR ALCOHOL

- 3.1 A minimum unit price for alcohol would set a floor price for a unit of alcohol meaning it cannot be sold for lower than that price. There is strong international evidence that tackling price, as part of a package of measures, including education and diversion - can help reduce alcohol consumption and related harm.
- 3.2 A report on the subject was considered by a meeting of this Committee held on, 13 September 2010³, in the context of a proposal that local authorities on Merseyside should seek a local bye-law to implement a minimum price for alcohol throughout Merseyside.

3.3 On 21, March, 2011 the Licensing, Health and Safety and General Purposes Committee considered a report of the Director of Law, HR and Asset Management. The report presented the results of a public consultation into the principle of the implementation of a minimum unit price for alcohol. The result of the consultation was consistent with national information which showed that opinion for and against a minimum price for alcohol is broadly balanced.

3.4 The Committee of the 21, March, 2011 agreed the following resolution:

“That Members do not support the proposals to seek a local by-law to enforce a minimum unit price for alcohol.”

In coming to its decision the Committee took into account an announcement that the Government intended to introduce its own measures.

3.5 At the Council meeting of 18, April 2011, the following motion in the name of Councillor Mitchell and Councillor Bridson was considered.

This Council:

(1) Expresses its concern about the serious issues for the health, safety and wellbeing of young people that the Alcohol Scrutiny Review report raises, in particular, data from The Local Alcohol Profiles for England, published by the North West Public Health Observatory in September 2010, which ranks Wirral as 323 out of 326 local authority areas for alcohol-specific hospital admissions for under-18s.

(2) Welcomes the Cabinet decisions that tackling alcohol misuse is a priority for Wirral, both in the Corporate Plan and the Council Budget.

(3) In particular, gives support for the Scrutiny Review Panel's recommendation F:

(4) “Minimum unit pricing for alcohol - The Review Panel supports the principle of minimum unit pricing for alcohol. Council is requested to engage positively in the process to introduce a regional minimum price for alcohol in the Merseyside region.”

(5) States its commitment to the principles of minimum pricing for alcohol and pledges to work together with other agencies, as appropriate, to secure minimum pricing for alcohol in the Merseyside region, set at an appropriate level to deter young drinkers.

(6) Welcomes the measures proposed by Government to set a minimum price for alcohol at ‘duty plus VAT’ as a step in the right direction, but believes there is more that should be done.

(7) Therefore, in light of the above, requests the Licensing, Health, Safety and General Purposes Committee reconsider the issue of alcohol minimum pricing at its next meeting.

3.6 An amendment to the above motion, in the name of Councillors Bill Davies and John Salter was proposed as follows;

Delete all after paragraph (1) and insert:

(2) Council recognises that high priority has to be given to tackling alcohol misuse on Wirral.

(3) Council believes the measures proposed by Government to set a minimum price for alcohol at “duty plus VAT” will, in reality, set the minimum cost so low as to have little effect on the problem.

(4) Council therefore agrees with the Review Panel support for the principle of minimum unit pricing for alcohol as a means of reducing alcohol consumption and the harm done by that consumption.

(5) Council believes that minimum unit pricing for alcohol, set at an appropriate level, should be a cross party decision which is applied nationally in order to avoid any distortions to local trade.

(6) Council believes that every effort should be made regionally to set a reasonable pricing policy, which deters young drinkers, on a voluntary basis

(7) However, Council is concerned that any use of by-laws across the Region compelling minimum unit pricing could severely disadvantage local traders by driving customers across local authority borders to purchase alcohol, and the goods they would otherwise have purchased at the same time, in a neighbouring authority without the by-laws. Council further believes that Wirral would be particularly vulnerable geographically to this effect.

(8) Council is also concerned that there could be an increase in illicit trading in alcohol to avoid the by-laws with the associated danger of increasing criminality.

(9) Council therefore requests officers to draw up a detailed and considered report for Cabinet, setting out the advantages and disadvantages, both social and economic, of using by-laws to set a regional minimum price per unit, before proceeding any further.

3.7 On being put to Council the amendment was lost (22:39) and the motion also lost (13:48)

- 3.8 The Government announced in January 2011, announced measures to ban retailers from selling drinks for less than the value of duty and VAT owed on them. This would, for the first time, effectively set an individual minimum value for each product under which the price cannot drop. However, stores and landlords would not have to take into account the cost of producing the drinks when setting a price meaning they can still sell the drinks at a loss in order to entice customers to buy more. The ban is set to be introduced from 6 April 2012. Sir Ian Gilmore, a liver specialist and chairman of the UK Alcohol Alliance in the Royal College of Physicians, is quoted as saying of the measure “It is a remarkably low floor which will catch very, very few products,”
- 3.9 A new Alcohol Strategy is due to be published later this year and may go further in recommending a higher minimum unit price for alcohol. The Daily Telegraph⁴ reported on the 04 march 2012, that the Prime Minister has plans to introduce a minimum price for alcohol of 40p a unit.
- 3.10 The Liverpool City region Child Poverty and Life Chance Strategy⁵ has a commitment to the introduction of a minimum unit price for alcohol at 50p per unit. This has been publicly supported by the Cheshire and Merseyside Director of Public Health.

4.0 CUMULATIVE IMPACT POLICY

- 4.1 The Guidance⁶ on the Licensing Act 2003, made under S182 states the following with respect to the concept of “Cumulative Impact”;

““Cumulative impact” is not mentioned specifically in the 2003 Act but means in this Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement”.

“In some areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises. These conditions are more likely to

occur in town and city centres, but may also arise in other urban centres and the suburbs”.

- 4.2 The Guidance goes on to state that there must be an evidential basis for such a policy and therefore there should be information that demonstrates cumulative impact to be a local problem.
- 4.3 After considering the evidence and after consulting with interested parties (specified in the guidance) the licensing authority may be satisfied that cumulative impact element is included in the council’s licensing policy.
- 4.4 The steps to be followed by the licensing authority are specified as follows:
 - Identify concern about crime and disorder or public nuisance
 - Consider whether there is good evidence that crime and disorder or nuisance are `happening and are caused by the customers of licensed premises, or that the risk of `cumulative impact is imminent
 - Identify the boundaries of the area where problems are occurring
 - Consult with those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation
 - Include and publish details of a special policy
- 4.5 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
- 4.6 However a cumulative impact policy does not relieve the responsible authorities (e.g. Police, Environmental Health) from making representations. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 4.7 An important additional point is that as the guidance states, “The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives”.

4.8 The Guidance also provides a list of other measures to control cumulative impact: (The comments describe the situation for Wirral in relation to these issues)

- Planning controls – The current Supplementary Planning Guidance⁷ provides for cumulative impact issues to be taken into account for planning applications. The issue is being given additional consideration in the developing Core Planning Strategy
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority. The Council works closely with Wirral Chamber of Commerce to promote a clean and safe town centre through various initiatives.
- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols – The council operates a comprehensive CCTV system in conjunction with Merseyside Police. Reviews of taxi ranks are undertaken in consultation with businesses and the taxi trade.
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly. Wirral has designated areas across the borough where alcohol cannot be consumed publicly.
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices. Merseyside Police have a strategic response to disorder and anti-social behaviour as part of the work of the Community Safety Partnership. They also issue fixed penalty notices for disorder as appropriate, and a system of “Banning Orders” operates across Wirral.
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk. A training programme to help staff of licensed premises to refuse alcohol to persons that are drunk has been delivered (funded by Wirral Primary Health Trust, PCT).
- The confiscation of alcohol from adults and children in designated areas. Wirral, Wirral (PCT) and Merseyside Police undertake joint operations to tackle street drinking by young people.
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.

- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question. Wirral has made extensive use of these powers.
 - Other local initiatives that similarly address these problems. Wirral, Wirral PCT and Merseyside Police have developed a “Charter” for licensed premises which sets out a minimum standard of best practice for the management of premises.
- 4.9 Since the introduction of the Licensing Act 2003 in 2005, there has only been one request for the consideration of a cumulative impact policy. The request was submitted by residents of Hoylake. The Licensing Act 2003 Committee, of 28, September 2008 considered the matter and the evidence supplied by responsible authorities. The Committee determined that there was insufficient evidence for to support the introduction of a special cumulative impact policy for Hoylake

5.0 RELATIONSHIP WITH MAGISTRATES

- 5.1 In determining matters under the Licensing Act 2003 decisions must be made having regard to the relevant legislation, Statutory Guidance, The Council’s Statement of Licensing Policy and relevant case law. At Hearings held before the Licensing Act 2003 Sub Committee and the Magistrates Court on Appeal, the decision makers have to make determinations informed by these references.
- 5.2 Merseyside Police work closely with Licensing Officers in both exchanging relevant information and undertaking joint enforcement activities. Any issue raised through this work that was considered relevant to the Magistrates Court is communicated through the Council’s Licensing Solicitor. It is acknowledged that each party must have an up to date knowledge and understanding of the legislation.
- 5.3 The Council’s Licensing Solicitor has a good working relationship with the Court and is in attendance at Court on a weekly basis. This provides both the Court and the Council an ongoing opportunity for matters to be raised and discussed.
- 5.4 The undertaking of tripartite meetings between the parties involved could undermine and prejudice the Judicial Appeal process as the Magistrates have to determine whether a decision of the Licensing Act 2003 Sub Committee is wrong and in doing so may alter that decision.

6.0 LEGISLATIVE FRAMEWORK

- 6.1 There have been developments in respect of some of the elements of the recommendation.

- 6.2 In respect of “Limiting the promotion of the sale of alcohol, for example, through ‘happy hours’”, new mandatory conditions applying to licences were introduced from 6th April 2010.
- 6.3 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010⁸, set out five new conditions that apply to all licensed premises and those with a club premises certificate. The effect of the conditions is to:
- Ban irresponsible promotions;
 - Ban the dispensing of alcohol directly into the mouth; and
 - Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
 - Require an age verification policy to be in place to prevent underage sales; and
 - Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.
- 6.4 The Guidance from the Home Office defines irresponsible promotions as “any activity or offer that encourages customers to drink in a way that could cause a significant risk of breaching one or more of the four licensing objectives”. It also provides examples of the types of promotions that are therefore prohibited. For example: Drinking games that speed up drinking or large quantities of alcohol free or at discounted prices.
- 6.5 The latter example above therefore prevents promotions such as:
- “women drink for free”;
 - “half price drinks for under 25s”;
 - discount nights for students; or
 - cheap drinks for fans of a specific sporting team.
 - “all you can drink for £10”;
 - “pay £5 entry and then drink up to 12 shots”;
 - “10 pints for £10”; or
 - “pay your entry fee then drink for free until 10pm”.
- 6.6 However, and especially pertinent to the “happy hour” element of the recommendation the Guidance states that;
- “This condition will not ban promotions that are run in a manner consistent with responsible drinking such as the majority of standard alcohol retail practices. We are not banning happy hours, pub-crawls or general discounting of alcohol per se. These activities will only fall foul of this condition if they are promoted and organised in an irresponsible way”.

- 6.7 As regards “Restricting the use of alcohol as a ‘loss leader’ by supermarkets and other retail outlets”. This problem would be improved by the introduction of a minimum unit price for alcohol as described above in paragraph 3.8.
- 6.8 Reducing the promotion of alcohol through advertising. The report into alcohol of the Parliamentary Health Committee⁹ (2009), concluded that:

“The current system of controls on alcohol advertising and promotion is failing the young people it is intended to protect. The problem is more the quantity of advertising and promotion than its content. This has led public health experts to call for a ban. It is clear that both the procedures and the scope need to be strengthened”.

The pending Government Alcohol Strategy may address these issues. The Daily Telegraph⁴ on the 4 March 2012 reported that the Government intends to ban advertisements for cheap alcohol.

- 6.9 There has been no development in respect of, “Reducing the scale of proxy sales by imposing greater fines on those purchasing alcohol on behalf of under-age drinkers”. The new Police and Social Reform Act 2011 (See 7.0 below) has included a measure to double the fine for **premises** that persistently sell alcohol to under 18s. The length of the suspensions that can be imposed for such premises is also increased.

7.0 POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011¹⁰

- 7.1 The Bill received royal assent on 15 September 2011 however it is yet to be brought into force. It amends and supplements the Licensing Act 2003 with the intention of ‘rebalancing’ it in favour of local authorities, the police and local communities. The measures include:

- Licensing Authorities become “responsible authorities”
- Primary care Trusts and Local Health Boards become responsible authorities.
- The evidential burden on licensing authorities is reduced
- The vicinity test in relation to who may make a representation is removed
- Introduces greater flexibility in relation to the scrutiny and utility of temporary event notices.
- Provides for doubling the maximum fine for premises which persistently sell alcohol to under 18s, and for increasing the period of suspensions which can be imposed on such premises.

- Allows local councils to charge more for late-night licenses to pay for additional policing.
- 7.2 The Act includes a commencement provision for the government to commence any or all of the provisions when it so chooses. Legislative procedure and protocol normally means that measures are brought into force on one of two common commencement dates in April or October each year. Some of the alcohol provisions introduced in the Act require changes to secondary legislation and regulations prior to commencement. The statutory guidance issued under section 182 of the Licensing Act 2003 will also be amended to reflect the changes introduced by the Act before the first provisions are commenced.

8.0 RELEVANT RISKS

- 8.1 Alcohol abuse is a significant cause of ill health and cost to the National Health Service

9.0 OTHER OPTIONS CONSIDERED

- 9.1 The Report provides information to members for their consideration.

10.0 CONSULTATION

- 10.1 This Report was subject to consultation with the Drug and Alcohol Action Team (DAAT)

11.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 11.1 There are none arising directly from this report.

12.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 12.1 There are none arising directly out of this report.

13.0 LEGAL IMPLICATIONS

- 13.1 There are none arising directly out of this report.

14.0 EQUALITIES IMPLICATIONS

- 14.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because of another reason which is

The report is an information report which in itself does not have equalities implications. A subsequent decision of the committee may have such implications.

15.0 CARBON REDUCTION IMPLICATIONS

15.1 There are none arising directly out of this report.

16.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

16.1 There are none arising directly out of this report.

17.0 RECOMMENDATIONS

17.1 That Members consider the recommendations referred to this Committee from Cabinet of 17 March, 2011.

18.0 REASONS FOR RECOMMENDATIONS

18.1 The recommendations arising from The Alcohol Scrutiny Report: "Access to Alcohol by Young People" was considered by Cabinet of the 17 March 2011 and recommendations E, F, G, and J as detailed in 2.2, above, were referred for consideration by this Committee.

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APPENDICES

None

REFERENCE MATERIAL

1. Report of the Alcohol Scrutiny Board January 2011 and Appendix: Access to Alcohol by Young People in Wirral Report



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2. Minutes of the Cabinet held on 17 March 2011
[http://democracy.wirral.gov.uk/documents/g3068/Printed%20minutes,
%2017th-Mar-2011%2018.15,%20Cabinet.pdf?T=1](http://democracy.wirral.gov.uk/documents/g3068/Printed%20minutes,%2017th-Mar-2011%2018.15,%20Cabinet.pdf?T=1)

3. Report to the Licensing, Health and Safety and General Purposes Committee 13, September 2010.



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4. Daily Telegraph 4-03-12:

<http://www.telegraph.co.uk/news/uknews/9122063/Adverts-for-cheap-alcohol-could-be-banned.html>

5. Liverpool City Region: Child Poverty and Life Chances Strategy 2011-2014,

6. Licensing Act 2003 Guidance under S182, Home Office, October 2010



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7. Supplementary Planning Guidance Wirral MBC: SPD3 Hot Food Takeaways, Restaurants, Cafes and Drinking Establishments (October 2006).

<http://www.wirral.gov.uk/my-services/environment-and-planning/planning/local-development-framework/supplementary-planning-documents>

8. SELLING ALCOHOL RESPONSIBLY: The New Mandatory Licensing Conditions Home Office April 2010.



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9. Health Committee – First Report, Alcohol, 10 December 2010.

<http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhealth/151/15102.htm>

10. Police Reform and Social Responsibility Act 2011

http://www.google.co.uk/url?q=http://www.legislation.gov.uk/ukpga/2011/13/contents/enacted&sa=U&ei=bGBXT9LqK4ix0QWd_LGMAw&ved=0CCAQFjAA&usq=AFQjCNF5iyXWU0_sEyRt39apzVrYims11w

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Minimum Unit Price for Alcohol: Licensing, Health and Safety and General Purposes Committee	13 September 2010.
Council	21 March 2011.
Alcohol Scrutiny Report:	17 March 2011
Cabinet	18 April 2011
Scrutiny Program Board	05 January 2011
Health and Wellbeing Overview and Scrutiny Committee	22 March 2011

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