



Licensing, Health and Safety and General Purposes Committee

Date:	Monday, 10 January 2011
Time:	6.00 pm
Venue:	Committee Room 1 - Wallasey Town Hall

Contact Officer: Anne Beauchamp
Tel: 0151 691 8608
e-mail: annebeauchamp@wirral.gov.uk
Website: <http://www.wirral.gov.uk>

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 - 14)

To receive the minutes of the meetings held on 13 September and 8 November 2010.

3. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (Pages 15 - 18)

4. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR

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

This page is intentionally left blank

LICENSING, HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

Monday, 13 September 2010

<u>Present:</u>	Councillor	S Taylor (Chair)	
	Councillors	WJ Davies	I Lewis
		S Niblock	K Wood
		T Anderson	D Roberts
<u>Deputies:</u>	Councillors	G Watt (In place of G Ellis)	
		P Glasman (In place of J Salter)	
		A Bridson (In place of R Wilkins)	

14 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

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

Councillor S Niblock declared a personal interest by virtue of his Membership of Merseyside Fire and Rescue Authority (minute 19 post refers).

Councillor K Wood declared a personal interest by virtue of her Membership of the Police Authority.

Councillor D Roberts declared a personal interest by virtue of her Membership of Merseyside Fire and Rescue Authority.

15 MINUTES

Resolved - That the minutes of the meeting held on 28 July 2010 be approved.

16 TAXI LICENSING BUDGET

The Director of Law, HR and Asset Management submitted a report providing Members with a breakdown of income and expenditure in relation to Hackney Carriage and Private Hire Licensing. This followed receipt of a Freedom of Information request for a detailed breakdown of income and expenditure relating to Taxi and Private Hire functions for the periods 2007/8, 2008/9 and 2009/10. In response to the request the information was provided with the report. At the last meeting of this Committee, Members requested that a report be brought to the Committee to explain the reason for the deficit in the budget of £33,115 and its relation to the recharge in respect of the One Stop Shop Service.

It was reported that there was an excess of income over expenditure of £2,822 in 2007/8 and subsequently there was no licence fee increase for 2008/9. A deficit of income to expenditure of £1,747 occurred in 2008//9. For 2009/10 there was a deficit between income and expenditure of £33,115. This sum reflected the effect of the apportionment to Licensing of the total cost for the provision of the One Stop Shop Service of the Council. This charge is balanced by an equivalent budget provided for the purpose.

It was further reported that the financing of the One Stop Shops was made through recharges to those departments using the service. The total budget to Licensing for the One Stop Shop Service for 2009/10 was £66,905.86 and of this £37,467 was attributed to the Taxis account. The total apportionment was based on the following elements: number of queries handled, the complexity rating attached to the enquiries, average handling time for each enquiry, and a unit charge. Licensing enquiries had been rated with a complexity of 3, (1 being the lowest and 4 being the highest level), the handling time had been set at 19 minutes and the total enquiries for the year were stated to be 7,435. Thus, this formula determined the proportion of the total cost that was applicable to each service area. For the purpose of the Freedom of Information request the actual amount of the One Stop Shop Recharge apportioned to Taxi and Private Hire Licences for 2009/10 was based on the percentage of total employee time spent on Taxis which equated to 56%.

Members were informed that the recharge of the One Stop Shop Service to other departments was an 'uncontrollable budget' meaning that the service receiving the charge (in this case Licensing) was not able to directly affect the amount as the charges and costs were not incurred by themselves but were incurred by the department making the recharge (One Stop Shops) and it was simply a proportion of the total charge which was then passed onto them. A budget is allocated to each department and then at the year end it is the actual cost that is then charged out. During the budget process each year the budget for the recharge is reviewed and amended in accordance with the latest percentage figures provided. This budget was shown as a separate line within the receiving department's cost centre. The code and amount were shown within their normal range of codes for their cost centre but was solely for the purpose of allocating the One Stop Shop Service recharge and was not available for any other purpose.

Members were advised that to improve the accessibility of licensing services and to support the policy to migrate services to One Stop Shop Service, the licensing service had sought to develop the delivery of licensing services through the One Stop Shops. The recharge to Licensing reflected the early operation of the arrangements. The apportioned recharge and the service that was being provided were being reviewed.

Mr N Kent, Finance Department responded to questions from Members.

It was moved by Councillor Lewis and seconded by Councillor Sue Taylor that

-

“(1) A further report regarding One Stop Shop Charges be brought back to the next meeting of this Committee and that a member of staff from the Finance Department attend the meeting to outline the report.”

(2) A recommendation be added to the motion to note that the costs of the One Stop Shop are not met by licence fees.”

The motion was put and carried (9:0)

Resolved -

(1) That Members receive the budget report for consideration and request a further report concerning the outcome of the review of One Stop Shop recharges be brought back to the next meeting of this Committee with a member of staff from Finance in attendance.

(2) That it be noted that the costs of the One Stop Shop are not met by licence fees.

17 **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER DRESS CODE**

The Director of Law, HR and Asset Management submitted a report which sought Members approval of a dress code for all licensed hackney carriage and private hire drivers.

Members were informed that the current Private Hire Driver Licence conditions required that a private hire driver was clean and respectable in their dress and person, however, there was no provision under legislation to impose conditions on a hackney carriage driver licence. The report gave details regarding acceptable standards of dress.

Mr D Cummins (United Union) addressed the Committee and expressed his views on the report. He felt that the wording should be more clearly defined and referred to there being no legislation to impose the dress code as a condition of a licence.

Councillor Sue Taylor explained that the code was in draft form and would be defined more clearly when it had been agreed.

The Licensing Manager informed Members that the draft code was in line with other codes in the region and it was expected that it would be complied with voluntarily. Mr D K Abraham, Legal Advisor to the Committee advised Members that the Code was not a legal requirement but that it would provide good guidance and best practice for drivers to follow.

Councillor Niblock stated that the Code would be difficult to enforce and could not take immediate effect as it needed to be more clearly defined

It was moved by Councillor K Wood and seconded by Councillor B Davies that
-

“The Council should adopt the dress code for Hackney Carriage and Private Hire Drivers as detailed in the report with immediate effect and operators be contacted and asked to provide shirts for drivers in support of the dress code.

The motion was put and carried (9:1).

Resolved -

(1) That the Council should adopt the dress code for Hackney Carriage and Private Hire Drivers as detailed in the report with immediate effect.

(2) That operators be contacted and asked to provide shirts for drivers in support of the dress code.

18 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER CONVICTIONS POLICY

The Director of HR, Law and Asset Management submitted a report which sought Members approval of a revised policy in relation to the criteria applicable when considering an applicant for a Private Hire or Hackney Carriage Driver Licence who has criminal convictions.

The report gave details regarding the guidance issued to district councils when deciding to grant licences to hackney carriage and private hire drivers and outlined the timescales during which licence applications should be considered further to an applicant being convicted of an offence. A summary of the proposed key changes to the existing policy was attached to the report.

The Chair supported the report and invited comments from Members.

Councillor Niblock welcomed the new policy, however, he was opposed to changing the number of years an applicant was expected to remain free of conviction for some offences from 3 years in the current policy to 3 to 5 years as he felt this would be a retrograde step. He also felt that the paragraph regarding renewals should be set out clearly.

Councillor Niblock also pointed out that the new policy stated that an applicant would be referred to the Licensing Panel if they had 10 or more penalty points on their driving licence for convictions for miscellaneous offences and felt that this should remain at 6 points as within the existing policy.

Mr Ken Abraham, Legal Advisor to the Committee pointed out that each case was determined upon its own merits and therefore it would be the decision of Members of the Committee whether or not to allow each application.

Councillor Bridson expressed her concerns regarding convictions of drunkenness and felt that a more pro-active approach should be taken with regard to this. The Licensing Manager confirmed that safety campaigns were undertaken with drivers and this message could be included within one of these campaigns.

It was moved by Councillor Sue Taylor and seconded by Councillor Glasman that -

“The number of penalty points an applicant would have on their driving licence for convictions for miscellaneous offences before being referred to the Licensing Panel would remain at 6.”

The motion was put and carried (10:0).

It was moved as an amendment to the motion by Councillor Niblock and seconded by Councillor Bridson that -

“The number of years an applicant was expected to remain free of conviction for some offences would remain at 3 years”

The amendment to the motion was put and lost (2:8).

It was then moved as a further amendment by Councillor Sue Taylor and seconded by Councillor Ian Lewis that -

“The policy detailed in Appendix 3 within the report be adopted with immediate effect by the Committee as the policy to be used when determining applications for Hackney Carriage and Private Hire Driver Licences when considering licensed drivers who incur a criminal conviction.”

The motion as now amended was put and carried (9:0) (Councillor Niblock abstaining).

Resolved - That the policy detailed in Appendix 3 within the report be adopted with immediate effect by the Committee as the policy to be used when determining applications for Hackney Carriage and Private Hire Driver Licences when considering licensed drivers who incur a criminal conviction with the amendment that the number of penalty points an applicant would have on their driving licence for convictions for miscellaneous offences before being referred to the Licensing Panel would remain at 6.

19 **CONSULTATION - MINIMUM PRICE FOR ALCOHOL**

Councillor Steve Niblock declared a personal interest in this matter by virtue of being a Member of Merseyside Fire and Rescue Authority.

The Director of Law, HR and Asset Management submitted a report which sought the views of Members in relation to a consultation by the Liverpool City Region Cabinet into proposals to seek a local by-law to enforce a minimum price for alcohol.

The report gave details of a number of authorities that supported minimum pricing and Members were informed that a minimum price per unit of alcohol would apply to both on and off licences. Information was given within the report upon the projected impact on alcohol related deaths in Merseyside.

Councillor Bill Davies drew Members' attention to the quote stated within the report which gave the view of the Chief Medical Officer of Health, Sir Liam Donaldson and felt that this was one of the biggest problems facing society.

Councillor Sue Taylor advised that the effects of alcohol related diseases on young people were getting out of hand and felt that it was time to take a lead and do something positive.

Councillor Steve Niblock asked how the number of units would be calculated. The Licensing Manager referred to the formula for the calculation of units and informed Members that existing legislation prohibits irresponsible drinks promotions at premises where the sale of alcohol is for consumption on the premises.

Councillor Ian Lewis referred to the recommendation of the report and welcomed the opportunity for consultation on this policy.

It was moved by Councillor Sue Taylor and seconded by Councillor Ian Lewis that -

“(1) The Council seeks views on the introduction of minimum pricing of alcohol from the public, partner agencies, those organisations that support individuals with alcohol addiction and community and voluntary groups and that the results of consultations be brought to the next meeting of the Licensing Committee.

(2) Members endorse the usage of Section 235 of the Local Government Act 1972 for the introduction of a local byelaw to deal with this issue if appropriate.”

The motion was put and carried (10:0)

Resolved -

(1) That the Council seeks views on the introduction of minimum pricing of alcohol from the public, partner agencies, those organisations that support individuals with alcohol addiction and community and voluntary groups and that the results of consultations be brought to the next meeting of the Licensing, Health and Safety and General Purposes Committee.

(2) That Members endorse the usage of Section 235 of the Local Government Act 1972 for the introduction of a local byelaw to deal with this issue if appropriate.

20 MEMBER TRAINING

The Director of Law, HR and Asset Management submitted a report requesting Members to identify their training needs.

Members were informed that as they undertook a quasi judicial function in respect of Licensing decisions, it was important therefore that they were able to undertake these duties with knowledge of the relevant legislation and an understanding of the legal process.

Members were asked to consider their training needs and preferred method of training in order that officers could develop a schedule of training and source appropriate training.

It was moved by Councillor Sue Taylor and seconded by Councillor Ian Lewis that -

“Members identify their training needs in order that a schedule of training requirements could be developed and appropriate training sourced and that a further report be submitted to the Committee that would identify relevant external and internal training opportunities.”

The motion was put and carried (10:0).

Resolved -

(1) That Members identify their training needs in order that a schedule of training requirements could be developed and appropriate training sourced.

(2) That a further report be submitted to the Licensing, Health and Safety and General Purposes Committee that would identify relevant external and internal training opportunities.

21 **ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR - STREET COLLECTION**

The Director of Law, HR and Asset Management reported upon an application that had been received from the Alzheimer's Society for a street collection permit for a collection to be held on a Sunday. The collection was to take place on the New Brighton Promenade. As the request was for the permit for a street collection on a Sunday, the Director was unable to determine the application under his delegated powers.

Resolved - That the application for a Street Collection Permit by the Alzheimer's Society on New Brighton Promenade, be approved.

This page is intentionally left blank

LICENSING, HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

Monday, 8 November 2010

Present: Councillor S Taylor (Chair)

Councillors G Ellis K Wood
WJ Davies D Roberts
S Niblock J Salter
T Anderson R Wilkins
I Lewis

22 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

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

Councillor Ian Lewis declared a personal interest in item 12 - Independent Assessment of the Supply and Demand for Hackney Carriage Vehicles On Wirral (see minute 31 post) by virtue of him having presented the petition.

Councillor Sue Taylor declared a prejudicial interest in respect of item 9 -Wirral Award (see minute 30 post) by virtue of being a Member of the Wirral Award Working Party.

23 MINUTES

Resolved - That the minutes of the meeting held on 13 September, 2010 be amended and submitted to the next meeting of this Committee.

24 FREEDOM OF THE BOROUGH

The Interim Chief Executive reported upon a proposal to award Mr Stephen Maddox the honour of the Freedom of the Borough for his exceptional contribution to the Borough.

RECOMMENDED - That this Committee recommend to the Council that Mr Stephen Maddox OBE be awarded the honour of the Freedom of the Borough of Wirral.

25 **HACKNEY CARRIAGE VEHICLE LICENCE - APPLICATION TO LICENSE A METROCAB**

The Director of Law, HR and Asset Management reported upon an application to license a Metrocab, registration number V601 DVU as a hackney carriage vehicle.

It was reported that as the vehicle did not strictly comply with paragraph 2(v) of the hackney carriage licensing criteria, "that every vehicle must be three years old or less from the date of first registration or date of manufacture (whichever is the earlier)" officers could not issue the licence under delegated authority. The Director reported that the age of the vehicle since first registration was 11 years.

The applicant attended the meeting together with his Trade Union representative Mr McIntyre. The applicant was unable to present the vehicle to the Committee as it was currently stored off-road. The vehicle had not been tested at any of the Council's authorised testing stations and was not taxed or insured due to the financial implications of undertaking these matters. A Licensing Officer had inspected the vehicle in order to verify photographs of both the interior and exterior of the vehicle submitted by the applicant. The photographs were available for Members to consider at the meeting.

Mr McIntyre explained to Members why the applicant wished to license the Metrocab.

Mr McIntyre responded to questions from Members of the Committee.

Members of the public left the room whilst the Committee considered the application.

In determining the matter the Committee had considered representations from the applicant and from his trade union representative. Members of the Committee had heard no evidence or information to justify the Council departing from its current policy of requiring a vehicle to be three years old or less from the date of manufacture or registration (whichever is the sooner) when granting a licence.

Resolved (7:3) - That the application to license a Metrocab, registration number V601 DVU be refused.

26 **HACKNEY CARRIAGE VEHICLE LICENCE - APPLICATION TO LICENSE A CARBODIES TAXI**

The Director of Law, HR and Asset Management reported upon an application to license a Carbodies Taxi, registration number L578 HHV as a hackney carriage vehicle.

It was reported that as the vehicle did not strictly comply with paragraph 2(v) of the hackney carriage licensing criteria, "that every vehicle must be three years old or less from the date of first registration or date of manufacture (whichever is the earlier)" officers could not issue the licence under delegated authority. The Director reported that the age of the vehicle since first registration was 16 years.

The applicant attended the meeting with his vehicle which Members of the Committee inspected. The vehicle had not been tested at any of the Council's authorised testing stations, but did have a current MOT and was taxed and insured.

The applicant advised Members that the vehicle was fuelled by LPG which made it the most economical, efficient and environmentally friendly taxi around and had submitted literature in support of this.

The applicant responded to questions from Members of the Committee.

Members of the public left the room whilst the Committee considered the application.

In determining the matter the Committee had considered representations from the applicant and taken into consideration that the vehicle runs on LPG. The Committee had heard no evidence or information however to justify the Council departing from its current policy of requiring a vehicle to be three years old or less from the date of manufacture or registration (whichever is the sooner) when granting a licence.

Resolved (10:0) - That the application to license a Carbodies Taxi, registration number L578 HHV be refused.

27 REVIEW OF HACKNEY CARRIAGE FARES

The Director of Law, HR and Asset Management reported upon a request to amend hackney carriage tariffs subject to any objections being received as part of the consultation process.

The request had been made to increase the hackney carriage fares at a meeting of the Hackney Carriage and Private Hire Joint Consultative Committee on 16 September 2010 by the Liscard Hackney Carriage Association. The Director provided details of the tariff that had been proposed.

The Director reported that the proposal must be advertised for a period of fourteen days should Members approve the proposed increase and if no objections were received the revised tariff would become effective in December 2010, however, any objections received would be reported back to this Committee for consideration.

Members of the hackney carriage trade present were invited to speak however no-one came forward at the meeting.

Chris Jordan, Managing Director of Wirral Satellite Cars was in attendance and responded to questions from Members of the Committee.

Members of the public left the room whilst the Committee considered the application.

Resolved - That the increase in Hackney Carriage Tariffs be advertised for public consultation in line with the request from the Liscard Hackney Carriage Association.

28 TRAINING FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

The Director of Law, HR and Asset Management provided an update on funding available to support training for hackney carriage and private hire drivers.

Tony Norbury, Merseylearn attended the meeting and gave a presentation which updated Members regarding training and funding available for drivers.

The Chair thanked Mr Norbury for his presentation and stated that this Committee was committed to raising standards for the Borough.

Councillor Ian Lewis asked if any independent assessments had been carried out on the training that had been undertaken.

Mr Norbury reported that Go Skills undertook this type of work and that he could report any responses back to this Committee.

Resolved -

(1) That the report be noted and that there be no changes to the training requirements for hackney carriage and private hire drivers at present.

(2) That the Licensing Officer bring a further report back to this Committee regarding numbers of current drivers undertaking the NVQ.

29 LICENSING BUDGET

The Director of Law, HR and Asset Management submitted a report providing Members with an update of a review of One Stop Shop recharges to the Licensing Budget in respect of Hackney Carriage and Private Hire Licensing.

Members were advised that further to a report being submitted to this Committee at the meeting held on 13 September 2010, discussions had taken place with the Finance Department.

The report provided details on how the calculations were met and set out the methodology used in the calculations.

The Chair thanked the Head of Regulation and the Licensing Manager for the report.

Mr N Kent, Finance Department attended the meeting and responded to questions from Members.

Resolved - That the report be noted.

30 **WIRRAL AWARD 2010**

The Chair declared a prejudicial interest in this matter by virtue of being a Member of the Wirral Award Working Party and left the room during its consideration.

Councillor Tom Anderson, Vice-Chair of the Committee in the Chair.

The Director of Law, HR and Asset Management presented for consideration the recommendations of the Wirral Award Working Party held on 13 October 2010. The Wirral Award was intended to confer civic recognition upon individuals or organisations resident or located in Wirral for outstanding achievement within the previous twelve months, or for distinguished service to the Borough over a period of twenty years or more.

It was reported that once nominations had been agreed a presentation ceremony and formal dinner would be held.

Resolved - That the Wirral Award 2010 be conferred on the following recipients recommended by the Wirral Award Working Party, and the suggested arrangements be agreed:

- **John Moffat**
- **Brenda Thompson**
- **Susan Nicholson**
- **Joan Cook**
- **Carolyne Hankey**
- **Frank Morris**
- **Peter Spindler**
- **Margaret Delaney**
- **Doreen Cooke**
- **Jo Wood**

31 **INDEPENDENT ASSESSMENT OF THE SUPPLY AND DEMAND FOR HACKNEY CARRIAGE VEHICLES ON WIRRAL**

Councillor Ian Lewis declared a personal interest in this matter by virtue of him having presented the petition.

The Director of Law, HR and Asset Management provided a report to enable Members to appoint an independent consultant to undertake an assessment of the supply and demand for Hackney Carriage Vehicles on Wirral.

It was reported that on 28 July 2010 Members of this Committee authorised officers to proceed with a tender for the independent investigation into the supply and demand for Hackney Carriage Vehicles on Wirral. In response to the advertisement made, three companies had submitted proposals for undertaking the work.

The Licensing Manager responded to questions from Members.

It was proposed by Councillor Steve Niblock and seconded by Councillor Sue Taylor that -

“Halcrow be appointed to undertake an assessment of the supply and demand for Hackney Carriage Vehicles on Wirral.”

Resolved (10:0) - That Halcrow be appointed to undertake an assessment of the supply and demand for Hackney Carriage Vehicles on Wirral.

WIRRAL COUNCIL

LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

10 JANUARY 2011

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is to seek the approval of Members to the proposed 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, in order that it may be recommended to Council for final approval on the 14 February 2011 and for the provision to come into force on the 1 April 2011. Approval is also sought to recommend to Council that any application under the above amended legislation be delegated to this Committee for determination.

2.0 BACKGROUND

2.1 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. This was adopted by Wirral Council on 6 October 1982 and came into force on 8 November 1982.

2.2 Section 27 of The Policing Crime Act 2009 introduces a new category of sex establishment called 'sexual entertainment venue' which allows 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.

2.3 Paragraph 2A of Schedule 3 as inserted by Section 27 of the 2009 Act sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment'.

2.4 A sexual entertainment venue is defined as 'any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer'.

2.5 The meaning of 'relevant entertainment' is "any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience". An audience can consist of just one person.

2.6 The definition of relevant entertainment can include the following:

Lap Dancing
Pole Dancing
Table Dancing
Strip Shows

Peep Shows
Live Sex Shows

- 2.7 Decisions as to whether a premises should be licensed as a sexual entertainment venue will depend on the content of the entertainment provided.
- 2.8 Paragraph 2A(3) of Schedule 3 sets out those premises that are not classed as sexual entertainment venues for the purpose of the legislation. These are:
- (i) Sex Shops and Sex Cinemas (which are separately defined in Schedule 3 to the 1982 Act)
 - (ii) Premises that provide relevant entertainment on an infrequent basis. These are defined as premises where
 - a) no relevant entertainment has been provided on more than 11 occasions within the last 12 month period
 - b) no such occasion has begun within a period of one month beginning with the end of the previous occasion and
 - c) no such occasion has lasted longer than 24 hours
- 2.9 Premises that provide relevant entertainment on an infrequent basis will continue to be regulated under The Licensing Act 2003 insofar as they provide regulated entertainment under the Act.
- 2.10 Schedule 7 to the 2009 Act amends The Licensing Act 2003 to ensure that premises for which a sexual entertainment licence is required do not also require a Premises Licence unless they also carry on other licensable activities such as the supply of alcohol. Premises which fall under the exemption created for infrequent entertainment, as referred to in paragraph 2.8 above, do not require a sexual entertainment venue licence but will need an appropriate authorisation under The Licensing Act 2003, for example to cover the performance of dance. The exemption from requirements of The Licensing Act 2003 for live music or the playing of recorded music at venues that are licensed as sexual entertainment venues does not apply to such venues.
- 2.11 The powers provided by Section 7 of the 2009 Act are not mandatory and will only apply where they are adopted by local authorities. If the provisions are adopted they will allow the Council potentially wider grounds, than permitted under The Licensing Act 2003, upon which to consider an application. The provisions also enable local people to have a say on the regulation of these type of premises.
- 2.12 Should Members resolve to adopt 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 a 'transitional period' will come into effect once the adoption process has been completed.
- 2.13 The procedure for local authorities to adopt amendments made by Section 27 of the 2009 Act is set out in Section 2 of The Local Government (Miscellaneous Provision Act) 1982. Firstly the local authority must pass a resolution specifying that the amendments shall apply and the day on which they shall come into force. The specified day must be one month after the day on which the resolution was passed.

- 2.14 The local authority shall publish a notice that they have passed the resolution for two consecutive weeks in a local newspaper. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force. It is therefore proposed that the specified date should be 1 April 2011. As stated above this will mark the start of a 'transition period'.
- 2.15 The 'transition period' will last for 12 months beginning with the specified date for the amendment to come into force. Six months following the 1st appointed day will be known as the 2nd appointed day and the day on which the transitional period ends will be known as the 3rd appointed day.
- 2.16 There is currently one premises licensed as a sex shop in Wirral, located at 4 Marion Street Birkenhead, known as Scandals. The transitional period will have no effect on these premises.
- 2.17 There are currently no known premises in Wirral providing entertainment within the definition of a 'sexual entertainment venue' and therefore no premises currently licensed that would have to take any action during the transition period. The transition period will however, be relevant to any new applications received on or after the 1st appointed day as this triggers processes that have to be followed during this period of time.
- 2.18 In considering the application for Scandals on 23 July 2001 Members of this Committee also resolved that the number of sex establishments appropriate for Central Birkenhead be one. Other than this resolution there is no current policy in place relating to sex establishments.
- 2.19 Upon resolving to adopt the amendments to Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 Members may wish to review the resolution made in 2001 and have in place appropriate policies to deal with applications for both sex establishments and sexual entertainment venues. Should this be the case a further report will be brought to this Committee.

3.0 FINANCIAL & STAFFING IMPLICATIONS

- 3.1 There are no financial implications arising out of this report.

4.0 EQUAL OPPORTUNITIES IMPLICATIONS

- 4.1 There are no equal opportunities implications arising out of this report.

5.0 ANTI POVERTY IMPLICATIONS

- 5.1 There are no specific anti poverty implications arising directly out of this report.

6.0 SOCIAL INCLUSION IMPLICATIONS

- 6.1 There are no specific social inclusion implications arising directly out of this report.

7.0 LOCAL AGENDA 21 IMPLICATIONS

7.1 There are no specific Local Agenda 21 implications arising directly out of this report.

8.0 **LOCAL MEMBER SUPPORT IMPLICATIONS**

8.1 This report affects the entire Borough.

9.0 **COMMUNITY SAFETY IMPLICATIONS**

9.1 There are no community safety implications arising directly out of this report.

10.0 **PLANNING IMPLICATIONS**

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

11.0 **BACKGROUND PAPERS**

11.1 There are no background papers.

12.0 **RECOMMENDATION**

12.1 That Members of this committee approve and recommend to Council for final approval at its meeting on the 14 February 2011 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 in order for the provision to come into force on the 1 April 2011.

12.2 That Members also recommend to Council that any application under the above amended legislation be delegated to this Committee for determination.

This report was prepared by Margaret O'Donnell who can be contacted on 0151 691 8606.