

# LICENSING PANEL

Friday, 6 October 2017

Present: Councillors A Jones (for R Abbey)  
P Stuart  
D Burgess-Joyce

Apologies: Councillors B Davies  
R Abbey  
C Meaden  
A Hodson  
D Mitchell

## 53 APPOINTMENT OF CHAIR

In the absence of the Chair, it was –

**Resolved – That Councillor P Stuart be appointed Chair for this meeting.**

## 54 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Panel were asked to declare any disclosable pecuniary and non pecuniary interests in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

## 55 ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR - PART 1 - HACKNEY CARRIAGE VEHICLE LICENCE APPLICATION (PEUGEOT E7, REGISTRATION NO. SB06 NUO

The Managing Director for Delivery reported upon an application received to licence a Peugeot E7, registration number SB06 NUO as a Hackney Carriage Vehicle.

It was reported that the applicant had invested in this vehicle as a replacement vehicle as he considered it to be in very good condition due to its service record and low mileage. The vehicle is 11 years old and had been examined at one of the Council's authorised testing stations. The pass certificate was available for Members.

The owner of the vehicle was present at the meeting with his vehicle which members of the Panel inspected.

Members considered the application, however they determined there was no good reason to act outside of the current policy.

**Resolved (2:1 Councillor A Jones dissenting) – That the application to licence the Peugeot E7, registration number SB06 NUO be refused.**

**APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE**

The Managing Director for Delivery reported upon an application for a Sexual Entertainment Venue Licence which had been granted under delegated authority following no representations in respect of a premises to be known as Peachez, Conway Street, Birkenhead. Members were asked to determine appropriate conditions to be placed on the licence.

Mr D Doyle and Mr N Baker, the proprietors of the premises attended the meeting together with their solicitor Mr B Holland.

Mr Holland outlined how the premises would operate and responded to questions from Members. The Licensing Manager displayed images of the premises. Discussions took place in respect of the proposed conditions that could be attached to the Sexual Entertainment Venue Licence and suggested amendments were put forward.

**Resolved –**

- (1) That the images displayed outside the premises be removed.**
- (2) That the following conditions be attached to the Sexual Entertainment Venue Licence in respect of Peachez, Conway Street, Birkenhead:**

**DEFINITIONS**

**Relevant Entertainment** is defined as:

- (a) any live performance; or
- (b) any live display of nudity;

which is of 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 the audience (whether by verbal or other means).

**Performer** is defined as any person operating at a sexual entertainment venue who carries out any activity falling within the definition of Relevant Entertainment.

**CONDITIONS****Door Staff**

- 1. An adequate number of licensed door supervisors, based on a risk assessment undertaken by the licensee, shall be on duty on the premises whilst relevant entertainment takes place.**
- 2. Any individual employed on the Premises to conduct a security activity (within the meaning of section paragraph 2(1)(a) of schedule 2 to the Private Security Industry Act 2001) must be licensed by the Security Industry Authority**

**3. Where door staff are used, the licensee shall ensure that records are kept by the operator of all door staff that are, or have been, working at the premises in the last six months. The profile is to contain proof of identity (copy of passport /photo driving licence) and proof of address dated within the last six months (bank statement /utility bill). Separate proof of address is not necessary when the proof of identity is a photo driving licence. All profiles are to be made immediately available to Authorised Officers upon request.**

## **CCTV**

**4. The CCTV system must meet the minimum specification approved by the Licensing Authority and Merseyside Police and be maintained in good working order to:**

- **Operate on 'real-time' at a minimum rate of 20 frames-per-second, with constant, correct time/date generation.**
- **Have a recording capability of providing individual pictures.**
- **Provide clean, clear and unobstructed camera views of evidential quality in all lighting conditions.**
- **Provide correctly timed and date stamped recordings - which must be stored in date order, numbered sequentially and kept for a period of 31 days and handed to the Police on request.**
- **Export footage to a removable storage medium with a time and date integral to the image – where possible, to also include any software needed to replay the footage.**
- **Ensure exported footage at the same, or similar quality to that recorded on the system recording**

**5. During all periods of licensable activity a nominated and trained member of staff must be on duty, in order to:**

- **view the live CCTV footage**
- **inspect the CCTV system on a daily basis, and ensure that all cameras are in full working order.**
- **record each inspection on a 'CCTV maintenance' log sheet, and endorse with their signature.**
- **facilitate the downloading CCTV footage.**

**6. The CCTV system must:**

- **Incorporate at least one camera on every entrance and exit to the premises - individuals must be recognisable.**
- **Incorporate at least one camera on all areas where the sale/supply of alcohol occurs - individuals must be recognisable**

- **Incorporate at least one camera on any potential queue area external to the premises**

**7. In the event of a technical failure of the CCTV system, the nominated member of staff or Designated Premises Supervisor will ensure the matter is reported to the Licensing Authority within 24 hours.**

**8. A camera which records a facial picture of customers entering the premises shall be situated at the reception and a monitor situated there so customers entering can see same.**

**9. CCTV shall be installed in each room within the premises where the public has access save for the toilet and staff only areas. All cameras shall continuously record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days.**

**10. The premises will provide copies of any recordings upon request by a police officer or an authorised officer of the Council within 24 hours of the request.**

#### **Performers**

**11. Performers shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers.**

**12. Individual records shall be kept at the premises of the real names, stage names and addresses of all Performers working at the premises. The record will include either a copy of their birth certificate, current passport, EU driving licence or national identity card and shall be made immediately available for inspection by the Police and/or the Licensing Authority upon request.**

**13. The licensee shall ensure that all persons employed or permitted to work within the licensed premises hold the appropriate rights to work and shall keep copies of any documentation used to verify the details of these rights where necessary and be readily available for inspection by the Licensing Authority, a Police Officer or Immigration Officer.**

**14. Condition 13 does not relate to persons engaged to carry out repairs or provide services from external companies to the premises, however, such persons must be aged 18 years and over if the premises are open for the purpose of providing sexual entertainment.**

**15. An appropriate room shall be set aside to provide a private changing and rest area for performers to which customers are not admitted.**

**16. At all times during a performance, performers shall have unrestricted access to a dressing room.**

**17. Full nudity is only permitted in the approved VIP area, as stipulated or shown on the approved plan attached to the licence. In all other public areas within the premises the performers and employees must at all times wear at least a G string (female) and or pouch (male) covering the genitalia.**

**18. A performer on any stage area must at all times wear at least a G-string during the performance.**

**19. Performers must redress fully immediately after each performance.**

**20. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as areas where sexual entertainment may be provided.**

**21. Performers may not accept any telephone number, email address, address or contact information from any customer or provide any customer with their contact details.**

**22. Adequate toilets, washing and changing facilities for use by the Performers must be provided.**

**23. There must be no physical contact between Performers whilst performing.**

**24. No performances shall include any sex act involving any other persons or objects or involve any form of auto-erotic stimulation.**

**25. Whenever Relevant Entertainment is being provided there must be no physical contact between Performers and customers or between customers and Performers except for the exchanging of money or tokens at the beginning or conclusion of the performance and only for the purpose of that performance. Clearly legible notices to this effect shall be displayed in each private booth and in any performance area where they can be easily read.**

**26. There must be a written code of conduct for performers. All performers shall be required to certify their agreement to comply with the code and a record must be kept on the premises and be made available upon request by the Police or an authorised officer of the Council.**

**27. The code must include the following:**

- There must be no intentional physical contact between performers and customers at any time, before, during or after the performance, with the exception of leading a customer by the hand to, or from, an area permitted for performances of sexual entertainment in advance of, or following, a performance.**

- The performer may not simulate any sexual act during a performance.
- Performers must not use any inappropriate, lewd, suggestive or sexually graphic language in any public or performance areas of the premises.
- Performers must not touch the breasts or genitalia of another performer, at any time as part of a performance.
- There must be no use of sex articles (as defined by paragraph 4(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982) at any time.
- Performers must fully dress (i.e. no nudity) at the end of each performance.

**28. Accurate payment and remuneration records must be maintained and shall be made available upon request to the Police or an authorised officer of the Council. All fees and charges for performers must be stated in writing and prominently displayed within the changing area.**

**29. The licence holder must implement a written policy to ensure the safety of performers when leaving the premises following any period of work.**

#### **Entrance to Premises**

**30. Any person who appears to be drunk / intoxicated or under the influence of illegal drugs must not be permitted entrance to the premises.**

**31. A policy of random searches of persons entering the premises must be operated.**

**32. The Challenge 25 proof of age scheme must be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification must include the persons photograph, date of birth and either a holographic mark or an ultraviolet mark.**

**33. Whilst Relevant Entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice to that effect must be displayed at the entrance in a prominent position so that it can be easily read by persons entering the premises.**

#### **Customers**

**34. Customers must remain fully clothed at all times. The Performer must not remove any of the customer's clothing at any time.**

**35. Customers must remain seated for the duration of a performance.**

**36. Rules / code of conduct for customers must be prominently displayed in each area to which the public are admitted.**

**37. Patrons or members of the audience must not take photographs or record digital images of performers within the premises via a camera or mobile phones.**

**38. Relevant entertainment shall be given only by performers and the audience must not be permitted to participate in the relevant entertainment.**

#### **The Licence**

**39. The licence or a clear copy shall be prominently displayed at all times so as to be easily seen by all persons using the premises.**

**40. The conditions of licence and all such documents listed as Appendices to said licence shall be retained in a clean and legible condition and immediately available for inspection by anyone who so requests.**

**41. At the time of granting the licence in respect of the premises the Council will authorise a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licensee shall ensure that the premises are known solely by that name and by no other, save as provided for by the paragraph below.**

**42. To change the licensed name, an application must be made to the Council not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.**

**43. The licensed premises must not be open or used for the purposes for which the licence is granted except between the hours prescribed within the licence.**

**44. There must be no alterations to the layout plan of the premises without the prior written approval of the Council.**

**45. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified to the Licensing Authority**

**46. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises as shown on the plan, including any change in the permitted**

signs on display shall not be made except with the prior approval of the Council.

#### **Outside of the Premises**

47. No provision of relevant entertainment, or material depicting nudity or relevant entertainment, shall be visible from outside the premises or be promoted through touting, soliciting, etc. whilst on a public thoroughfare.

48. Save for the entrance lobby, the interior of the premises must not be visible to passers-by and to that intent the licensee must ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.

49. All entrances to private areas to which members of the public are not permitted access shall have clear signage stating that access is restricted.

50. Any person employed to supervise or attend to the exterior or entrance area of the premises must, at all times be suitably and sensibly dressed so as not to indicate or suggest the nature of the relevant entertainment taking place at the premises.

#### **Management**

51. The Licensee or some responsible person over the age of 18 nominated by him and notified in writing to the Council for the purpose of managing the sex establishment ("the manager"), shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public for relevant entertainment.

52. The written nomination referred to in condition 51 above shall be maintained in a daily register, kept on the premises and made continuously available for inspection by an officer authorised by the Council or police officer.

53. An incident log must be kept at the premises, and made available on request to the Licensing Authority or the Police, which will record the following:

- (a) all crimes reported to the venue;
- (b) all ejections of patrons;
- (c) any complaints received;
- (d) any incidents of disorder;
- (e) seizures of drugs or offensive weapons;
- (f) any faults in the CCTV system or searching equipment or scanning equipment;
- (g) any refusal of the sale of alcohol;
- (h) any visit by a relevant authority or emergency service;
- (i) any breach of licence conditions reported by a Performer

**54. Employment records for performers and staff must be kept for a minimum of 6 months following the cessation of their employment.**

**55. The licensee must retain a copy of a form signed by each employee and performer confirming that they have read and understood the licence and conditions. The copy must be retained for a period of six months after they cease work at the premises. A copy of the licence and conditions must be given to each performer.**

**56. The person in charge shall not be engaged in any duties that will prevent them from exercising general supervision and they shall be assisted as necessary by suitable adult persons to ensure adequate supervision.**

**57. The licensee must ensure that there is a current insurance policy in force to cover the performers whilst the premises are open and that a copy is displayed in areas where all staff have access.**

**58. The licensee shall endeavour to ensure any marketing communications associated with the Sexual Entertainment Venue or relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.**

**59. Officers of the Council, Police, and other authorised agencies who are furnished with authorities (which will be produced on request) shall be admitted immediately to all parts of the premises at all reasonable times and at any time the premises are open for business.**

**60. The licensee shall not allow the use of vehicles including limousines for the promotion of the relevant entertainment.**

**61. A price list shall be displayed in a prominent position giving the price and the duration of any 'private dances'.**

**62. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except as shown on the plan; within the toilets, within the performers' dressing rooms and/or staff areas.**

**63. Each area where relevant entertainment is conducted shall be supervised and/or contain a panic alarm for the safety of performers.**

#### **Performances**

**64. Relevant Entertainment shall take place only in the designated areas approved by the Licensing Authority as shown on the licence plan. Arrangements for access to the dressing room shall be maintained at all times whilst Relevant Entertainment is taking place and immediately thereafter.**

**65. Private booths must not be fully enclosed. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.**

**66. The Licensee must ensure that during the performance of a table dance:**

**(1) Customers must remain seated during the entire performance of the dance**

**(2) Performers must not approach closer than 30cms (12") to any part of a customer**

**(3) Performers must not part their legs, sit or straddle the customer**

**(4) Performers must not place their feet on the seats.**

**(5) There is no audience participation.**

**57 EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

**Resolved - 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 paragraph 1 of Part I of Schedule 12A (as amended) to that Act. The Public Interest Test had been applied and favoured exclusion.**

**58 PRIVATE HIRE DRIVER LICENCE - APPLICATION (LA)**

The Managing Director for Delivery reported upon an application received by Mr LA for the grant of a Private Hire Driver Licence. Mr LA attended the meeting and made representations in respect of his application for a Private Hire Driver Licence.

Members considered the representations made by Mr LA regarding the period he had been driving a licensed Private Hire Vehicle without having a valid Private Hire Driver Licence.

Members had regard to their Policy and in determining the matter Members also gave serious consideration to their overriding responsibility in respect of the protection and safety of the public. The Panel applied the principle of proportionality enshrined within the Human Rights Act 1998 and felt that in seeking to ensure the legitimate aim of the protection of the public the decision made to refuse the application was justified in the circumstances.

**Resolved - That Mr LA's application for the grant of a Private Hire Driver Licence be refused.**

**59 PRIVATE HIRE DRIVER LICENCE - APPLICATION (GA)**

The Managing Director for Delivery reported upon an application received by Mr GA for the grant of a Private Hire Driver Licence. Mr GA attended the meeting and made representations in respect of his application for a Private Hire Driver Licence.

Members considered the representations made by Mr GA regarding the nature of his convictions as well as other material information relevant to his application. Members had regard to their Policy and on this occasion were not persuaded to act outside their Policy.

In determining the matter Members also gave serious consideration to their overriding responsibility in respect of the protection and safety of the public. The Panel applied the principle of proportionality enshrined within the Human Rights Act 1998 and felt that in seeking to ensure the legitimate aim of the protection of the public the decision made to refuse the application was justified in the circumstances.

**Resolved - That Mr GA's application for the grant of a Private Hire Driver Licence be refused.**

60 **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES (CJJ)**

The Managing Director for Delivery submitted a report for Members to consider whether Mr CJJ should continue to hold a Private Hire Driver Licence and a Hackney Carriage Driver Licence. Mr CJJ attended the meeting together with Mr D Cummins, Unite the Union and made representations.

Members gave due consideration to Mr CJJ's representations and exercised their rights to consider each case on its individual merits in light of the representations made.

**Resolved -**

**(1) That Mr CJJ be allowed to continue to hold a Private Hire Driver Licence and a Hackney Carriage Driver Licence.**

**(2) That Mr CJJ be issued with a written warning as to his future conduct.**

61 **PRIVATE HIRE DRIVER LICENCE (PJJ)**

The Managing Director for Delivery reported upon an application received by Mr PJJ for the grant of a Private Hire Driver Licence. Mr PJJ attended the meeting and made representations in respect of his application.

Members gave due consideration to Mr PJJ's representations.

Members had regard to their Policy, however, after careful consideration of the representations made, exercised their right to consider each case on its own merits and on this occasion, Members were persuaded to act outside of their Policy in determining this application.

**Resolved – That Mr PJJ's application for the grant of a Private Hire Driver Licence be approved.**

62 **PRIVATE HIRE DRIVER LICENCE (KJM)**

The Managing Director for Delivery reported upon an application received by Mr KJM for the grant of a Private Hire Driver Licence. Mr KJM attended the meeting together with his solicitor and made representations in respect of his application.

Members gave due consideration to Mr KJM's representations.

Members had regard to their Policy, however, after careful consideration of the representations made, exercised their right to consider each case on its own merits and on this occasion, Members were persuaded to act outside of their Policy in determining this application.

**Resolved (2:1 Councillor P Stuart abstaining) – That Mr KJM's application for the grant of a Private Hire Driver Licence be approved.**

63 **PRIVATE HIRE DRIVER LICENCE (TAW)**

The Managing Director for Delivery reported upon an application received by Mr TAW for the grant of a Private Hire Driver Licence. Mr TAW attended the meeting and made representations in respect of his application.

Members gave due consideration to Mr TAW's representations.

Members had regard to their Policy, however, after careful consideration of the representations made, exercised their right to consider each case on its own merits and on this occasion, Members were persuaded to act outside of their Policy in determining this application.

**Resolved (2:1 Councillor A Jones dissenting) – That Mr TAW's application for the grant of a Private Hire Driver Licence be approved.**