



## Licensing, Health and Safety and General Purposes Committee

**Date:** Wednesday, 19 September 2018

**Time:** 6.00 p.m.

**Venue:** Committee Room 1 - Wallasey Town Hall

**Contact Officer:** Anne Beauchamp

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### AGENDA

**1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Committee are 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.

**2. MINUTES (Pages 1 - 8)**

To approve the accuracy of the minutes of the meeting held on 24 May and the special meeting held on 18 July 2018.

**3. MINUTES OF THE LICENSING PANEL (Pages 9 - 24)**

To approve the accuracy of the minutes of the Licensing Panels held on 8 June, 13 July and 10 August 2018.

**4. REVIEW OF HACKNEY CARRIAGE FARES (Pages 25 - 36)**

**5. INDEPENDENT SURVEY OF THE SUPPLY AND DEMAND FOR HACKNEY CARRIAGE VEHICLES IN WIRRAL (Pages 37 - 42)**

**6. DRAFT SEXUAL ENTERTAINMENT VENUE POLICY AND STANDARD CONDITIONS (Pages 43 - 68)**

**7. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR**

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## LICENSING, HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

Thursday, 24 May 2018

Present: Councillor RL Abbey (Chair)

Councillors G Wood A Hodson  
WJ Davies Jordan  
P Stuart D Mitchell

Deputies: Councillors T Anderson (In place of I Lewis)  
M Sullivan (In place of C Meaden)

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

Members of the Committee 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.

### 2 MINUTES

**Resolved** – That the minutes of the meeting held on 21 March 2018 be approved.

### 3 APPOINTMENT OF THE LICENSING PANEL

The Director of Governance and Assurance reported that Standing Order 33(1) required that Committees should keep the need for panels under review and, in particular, the position must be reviewed at the first meeting of a Committee in each municipal year.

He set out the terms of reference of the Licensing Panel and indicated that if it was to be retained in 2018/19 with seven members, the allocation of those places would be 4 Labour, 2 Conservative and 1 Liberal Democrat.

He reported that only named deputies may attend panel meetings in place of a permanent member. Standing Order 25(6)(a) permits appointment of up to a maximum of eight deputies for each political group and deputies would normally be called to serve in the order in which they are nominated.

Unless appointed as full members, the Leaders and Deputy Leaders of the three largest political groups represented on the Council are entitled to attend meetings of all Committees, Sub-Committees and Panels, with the right to speak at the Chair's invitation, but not to vote (Standing Order 25(5) refers).

**Resolved** –

(1) That the Licensing Panel be re-appointed for 2018/2019 with the terms of reference identified until amended or otherwise changed by the Committee and until such time as a new Panel is appointed.

(2) That the following members be appointed to serve on the Licensing Panel in 2018/2019:-

	<u>Members</u>	<u>Deputies</u>
<b>4 Labour Councillors</b>	<b>Paul Stuart (Chair) Ron Abbey (Vice-Chair) Chris Meaden Mike Sullivan</b>	<b>George Davies Jean Stapleton Bill Davies Anita Leech Christina Muspratt Christine Spriggs Adrian Jones Gill Wood</b>
<b>2 Conservative Councillors</b>	<b>Andrew Hodson (s) David Burgess-Joyce</b>	<b>Steve Williams Les Rowlands David Elderton Paul Hayes Tom Anderson Cherry Povall Adam Sykes Gerry Ellis</b>
<b>1 Liberal Democrat Councillor</b>	<b>Dave Mitchell (s)</b>	<b>Allan Brame Phil Gilchrist Christopher Carubia Stuart Kelly</b>

#### **4 DRAFT SEXUAL ENTERTAINMENT VENUE POLICY**

The Assistant Chief Executive sought Members' approval of the draft Sexual Entertainment Venue Policy and a set of draft Standard Conditions for Sexual Entertainment Venue Licences in order that they may be circulated for consultation. Members were also requested to consider delegating the consideration of applications for Sexual Entertainment Venue Licences to the Licensing Panel.

The Licensing Manager reported that Section 27 of the Policing Crime Act 2009 defined a new category of sex establishment namely 'sexual entertainment venue' which provided 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 gave local authorities more powers to control the number and location of these type of premises. The adoption of the amendments to Schedule 3 came into force on 1 April 2011 and since the adoption of the amendments, one application for a Sexual Entertainment Venue Licence had been received and approved by the Council. During this process it had been identified that it would be appropriate to have a Sexual Entertainment Venue Licence Policy to deal with these applications. A draft Policy was circulated to Members as Appendix 1 of the report.

The Licensing Manager also reported that it had been identified that it would be appropriate for all applications for Sexual Entertainment Venue Licences to be referred to the Licensing Panel. A draft list of Standard Conditions had been circulated as Appendix 2 of the report and it was requested that should they be approved, every licence granted, renewed or transferred would be subject to these conditions.

**Resolved –**

- (1) That the draft Sexual Entertainment Policy and set of draft Standard Conditions for Sexual Entertainment Venue Licences be approved for consultation.**
- (2) That the consideration of all applications for Sexual Entertainment Venue Licences be delegated to the Licensing Panel.**

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## LICENSING, HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

Wednesday, 18 July 2018

<u>Present:</u>	Councillor	RL Abbey (Chair)	
	Councillors	G Wood WJ Davies P Stuart	A Hodson D Mitchell
<u>Deputies:</u>	Councillors	D Elderton (In place of I Lewis) S Williams (In place of M Jordan)	
<u>Apologies:</u>	Councillor	C M Meaden	

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

Members of the Committee 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.

### 6 REVIEW OF HACKNEY CARRIAGE FARES

The Corporate Director for Business Management reported upon proposals to amend the Hackney Carriage Tariffs and determine whether it would be appropriate to approve an increase in Hackney Carriage Tariffs subject to any objections being received as part of the consultation process.

The Licensing Manager advised Members that the last increase of hackney carriage fares was in February 2017 when the initial hiring distance on tariff 1 (standard day rate) was reduced. All other tariffs and distances had remained unchanged.

Members were informed that a proposal had been submitted by the Unite Hackney Carriage trade representatives to increase hackney carriage tariffs with effect from 1 October 2018 and the details of the increases were set out within the report. Tables comparing the current and proposed rates and the effect of the proposed increases were attached as appendices to the report.

It was reported that should Members approve the amendments to the current tariffs, the proposal must be advertised for a period of fourteen days and if no objections are received the revised tariff would become effective on 1 October 2018. If objections are received they would be reported back to this Committee for consideration.

Derek Cummins, Unite the Union addressed the Committee and requested that Members consider the proposals, as tariff 2 had not been changed since 2007.

Gary Gregory, Unite the Union expressed the view that none of the proposals were unreasonable in view of costs for vehicles and the minimum wage.

In response to Mark Hazelhurst, Mark Smith and David Falkner who all addressed the Committee to express their opinions, the Chair advised them that they should submit their views and comments through the consultation process.

On a motion by Councillor A Hodson and seconded by Councillor P Stuart it was –

**Resolved – That the proposals to amend the Hackney Carriage Tariffs be approved for consultation and that all Hackney Carriage Licence Holders should be written to advising of the proposals and consultation in addition to the proposals being placed in the local paper.**

## 7 PRIVATE HIRE VEHICLE OPERATOR LICENCES

The Corporate Director for Business Management sought Members' approval to amend the procedure for licensing Private Hire Operators.

The Licensing Manager advised that Private Hire Operator Licences are issued for a period of five years and the Council must be satisfied that an applicant for the grant of a Private Hire Operator Licence is fit and proper before a licence is granted.

Members were informed that an applicant for the grant or renewal of a Private Hire Operator Licence must undergo a criminal record check and obtain a Basic Disclosure before a licence may be granted or renewed except in circumstances where the applicant holds or is in the process of applying for a Private Hire Driver Licence. Criminal record checks are undertaken for Private Hire Drivers on initial application and then every three years on renewal of their licences.

Therefore, a currently licensed Private Hire Driver applying for a Private Hire Operator Licence may not have undertaken a criminal record check for up to three years and it was proposed that all applicants for a Private Hire Operator Licence, including currently licensed Private Hire Drivers must submit a Basic Disclosure with their application, except in circumstances where their application is concurrent with an application for a Private Hire Driver Licence.

On a motion by Councillor D Mitchell and seconded by Councillor P Stuart it was –

**Resolved – That the amendment to the procedure for licensing Private Hire Operators be approved.**

## 8 PRIVATE HIRE VEHICLE CRITERIA AND LICENCE CONDITIONS FOR NON STANDARD LUXURY VEHICLES

The Corporate Director for Business Management sought Members' approval to amend the procedure for licensing non standard luxury vehicles.

The Licensing Manager advised that the current Special Event Private Hire Vehicle Licence Conditions that came into effect in March 1999 had been approved by this Committee and had not been subject to review since that date.

It was reported that the conditions allowed for an exemption from displaying the plates on the vehicle and the requirement to display door signs and that there were currently eight vehicles subject to those conditions. In September 2017 Members of this Committee approved revised criteria and conditions for standard Private Hire Vehicles and subsequently applications had been received for exemption from displaying plates and door signs which had been considered by the Licensing Panel. The Panel had granted licences subject to Private Hire Vehicle Licence conditions with additional conditions including those relating to the display of plates and door signs.

The Licensing Manager proposed that the Special Event Private Hire Vehicle Licence conditions were replaced with the standard Private Hire Vehicle Licence criteria and conditions approved by Members in September 2017 with any additional conditions imposed by the Licensing Panel for each application should this be considered appropriate and necessary.

On a motion by Councillor D Mitchell and seconded by Councillor P Stuart it was –

**Resolved –**

- (1) That an amendment to the procedure for licensing non standard Private Hire Vehicles be approved.**
- (2) That should an application be received to license a vehicle that does not comply with the current criteria and conditions for private hire vehicles it be considered necessary and appropriate that each application be considered on its own merits and would therefore be referred to the Licensing Panel.**

**9 PRIVATE HIRE VEHICLE LICENCE CONDITIONS**

The Corporate Director for Business Management sought Members' approval in respect of revised Private Hire Driver and Private Hire Vehicle Licence Criteria and Conditions in respect of drivers and vehicles undertaking work exclusively under and in strict accordance with the terms and conditions of a contract issued by the Corporate Director for Strategy and Partnerships to transport children to and from educational establishments.

The Licensing Manager reported that separate Private Hire Drivers and Private Hire Vehicle Licence conditions and Criteria in respect of drivers and vehicles undertaking the work outlined above had been approved in January 2008, however these conditions had not been subject to review since that date. Therefore, further to a review of these conditions, it had been identified by officers from the Licensing Department and the Strategy and Partnerships that there was no longer a requirement to have such different conditions for drivers and vehicles undertaking work exclusively under a contract to transport children to and from educational establishments. It had however been recognised and acknowledged that there does remain justification for retaining a difference in the requirements necessary to become a Private Hire Driver undertaking work exclusively under the terms and conditions of a contract issued by the Corporate Director for Strategy and Partnerships. It was proposed that an applicant seeking to undertake this work be

exempt from the Knowledge Test but that they obtain the MIDAS qualification in place of the VRQ in introduction to the role of the professional taxi and private hire driver. It was also proposed that Private Hire Vehicles undertaking this work be required to produce an MOT Certificate and Compliance Test Certificate for tests undertaken within 28 days prior to a licence being issued. It was further proposed that once a vehicle reaches 6 years of age it would be required to be tested every six months and a six month licence be issued. It was not currently proposed to impose the 10 years age limit that was currently applied to other Private Hire Vehicles but that this would be kept under review.

The draft conditions were attached to the report and the Licensing Manager advised that should they be approved, it be delegated to officers to make any subsequent minor amendments in the standard Private Hire licence conditions.

Members expressed concerns in respect of the 10 year age limit for vehicles not being applied and proposed that this be implemented for new applicants and applications for change of vehicles.

On a motion by Councillor P Stuart and seconded by Councillor A Hodson it was –

**Resolved (7:1) –**

- (1) That the revised Licence Conditions for Private Hire Driver and Private Hire Vehicles which are used to undertake work exclusively under and in strict accordance with the terms and conditions of a contract issued by the Corporate Director for Strategy and Partnerships to transport children to and from educational establishments be approved.**
- (2) That officers be delegated to make any subsequent minor amendments to the standard Private Hire licence conditions.**
- (3) That the revised Criteria as set out in paragraphs 3.3 and 3.4 of the report for applicants and vehicles seeking to be licensed as Private Hire Drivers and Vehicles respectively, to undertake work exclusively under a contract to transport children to and from educational establishments be approved.**
- (4) That the 10 year age limit that currently applies to other Private Hire Vehicles be imposed in respect of any new applications and applications for change of vehicles.**

## LICENSING PANEL

Friday, 8 June 2018

Present: Councillor P Stuart (Chair)

Councillors RL Abbey A Hodson  
C Meaden D Mitchell  
M Sullivan

### 1 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.

### 2 STREET TRADING CONSENT APPLICATION

The Assistant Chief Executive reported upon an application received for a Street Trading Consent for a site located on Queen's Road, Wallasey.

The Licensing Team Leader advised Members that the application had been received for a site located on the paving area on Queen's Road, Wallasey adjacent to Wallasey Town Hall. Members had been provided with the application and the location of the proposed site.

It was proposed that the applicant would use a converted horse box to carry out the street trading offering sandwiches, salad boxes, baked potatoes and hot and cold drinks. Further details on what she would offer were detailed within her application. Photographs of examples of a converted horse box along with an alternative facility were distributed to Members.

The applicant did not attend the meeting.

Members considered the written representations made by the applicant and also had regard to the location of the pitch.

**Resolved – That the application for a Street Trading Consent be refused.**

### 3 PRIVATE HIRE VEHICLE APPLICATION - FORD GALAXY TITANIUM X, REGISTRATION NUMBER ML18 HND

The Assistant Chief Executive reported upon an application received to licence a Ford Galaxy Titanium X, registration number ML18 HND as a private hire vehicle outside the current criteria which states that side and rear windows must allow at least 70% of light to be transmitted through. Members were also asked to consider allowing the vehicle to be exempt from displaying Private Hire Vehicle Licence plates and the drivers of the vehicle to be exempt from wearing a Private Hire Driver Badge.

The owner of the vehicle and his wife were present at the meeting with the vehicle which was inspected by Members of the Panel. He advised Members that he had made the application due to the type of work he wishes to undertake which was luxury chauffeur transfers for members of the public who would particularly require privacy.

**Resolved (5:1) (Councillor R Abbey dissenting) –**

- (1) That the application for a PHV licence be granted subject to a Private Hire Operator Licence being issued.**
- (2) That the proprietor of the Ford Galaxy Titanium X, registration number ML18 HND be issued with a notice providing an exemption from the requirement to display Private Hire Vehicle Licence plates on the vehicle be granted.**
- (3) That the vehicle may only be used in circumstances where confirmation of the booking is made to the customer which includes the following:**
  - **bookings must be made 24 hours in advance;**
  - **the applicant text his customers including a picture of himself as the driver of the vehicle together with his vehicle, his name, badge number and vehicle registration number.**
- (4) That the vehicle may only undertake work through an invoicing system.**

**4 ANY OTHER URGENT BUSINESS - APPLICATION TO APPROVE A KPM AUTOMOTIVE MERCEDES VITO AS A HACKNEY CARRIAGE VEHICLE**

The Assistant Chief Executive reported upon an application received to approve a KPM Automotive Mercedes Vito, registration number GM62 CAB as a Hackney Carriage Vehicle.

The applicant attended the meeting and provided documentation to support his application. The vehicle was inspected by Members.

Members considered the representations made by the applicant and had particular regard to the submissions that the vehicle had undergone a conversion which complied with the same requirements that other vehicles had met when converted to be a purpose built HCV.

**Resolved – That the application to licence a KPM Automotive Mercedes Vito, registration number GM62 CAB as a Hackney Carriage Vehicle be approved subject to the advisories on the MOT being carried out.**

5 **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.

6 **PRIVATE HIRE DRIVER LICENCE (LCC)**

The Assistant Chief Executive reported upon an application received by Mr LCC for the grant of a Private Hire Driver Licence. Mr LCC attended the meeting and made representations in respect of his application.

Members considered the representations made by Mr LRH.

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

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

7 **PRIVATE HIRE AND HACKNEY DRIVER LICENCES (THG)**

The Assistant Chief Executive reported upon an application received by Mr THG for the grant of a Private Hire and a Hackney Carriage Driver Licence. Mr THG attended the meeting together with his son and made representations in respect of his application.

Members considered the representations made by Mr THG regarding the nature of his convictions as well as other material information relevant to his application.

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 THG's application for the grant of a Private Hire and a Hackney Carriage Driver Licence be refused.

8 **PRIVATE HIRE DRIVER LICENCE (AJR)**

The Assistant Chief Executive reported upon an application received by Mr AJR for the grant of a Private Hire Driver Licence. Mr AJR attended the meeting and made representations in respect of his application.

Members considered the representations made by Mr AJR.

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

**Resolved (4:2) (Councillors P Stuart and R Abbey dissenting) - That Mr AJR's application for the grant of a Private Hire Driver Licence be approved.**

**Councillors R Abbey, A Hodson and M Sullivan left the meeting.**

**9 PRIVATE HIRE DRIVER LICENCE (DT)**

The Assistant Chief Executive reported upon an application received by Mr DT for the grant of a Private Hire Driver Licence. Mr DT attended the meeting and made representations in respect of his application.

Members considered the representations made by Mr DT.

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

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

**10 HACKNEY CARRIAGE DRIVER LICENCE (BRF)**

The Assistant Chief Executive reported upon an application received by Mr BRF for the grant of a Hackney Carriage Driver Licence. Mr BRF attended the meeting and made representations in respect of his application.

Members considered the representations made by Mr BRF.

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

**Resolved - That Mr BRF's application for the grant of a Hackney Carriage Driver Licence be approved.**

**11 PRIVATE HIRE AND HACKNEY CARRIAGE LICENCES (KM)**

The Assistant Chief Executive submitted a report for Members to consider whether Mr KM should continue to hold a Private Hire and a Hackney Carriage Driver Licence. Mr KM attended the meeting and made representations.

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

**Resolved -**

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

- (2) That Mr KM successfully complete a Driver Awareness Course by 31 July 2018.
- (3) That Mr KM provide a Doctor's note to the Licensing Office confirming he is fit for work as a licensed driver.

12 **HACKNEY CARRIAGE DRIVER LICENCE (CJ)**

The Assistant Chief Executive submitted a report for Members to consider whether Mr CMJ should continue to hold a Hackney Carriage Driver Licence. Mr CMJ attended the meeting together with his solicitor and made representations.

Members considered carefully the representations and the explanations given by Mr CMJ however, they did not consider that he was a fit and proper person to continue to hold a Hackney Carriage Driver Licence.

In coming to their determination the Panel applied the principle of proportionality enshrined within the Human Rights Act 1998. In doing so, Members felt that the protection and safety of the public was of paramount concern.

**Resolved - That Mr CMJ's Hackney Carriage Driver Licence be revoked with immediate effect.**

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## LICENSING PANEL

Friday, 13 July 2018

Present:

Councillors A Hodson  
D Mitchell  
G Wood (for Cllr P Stuart)

Apologies:

Councillors P Stuart  
R Abbey  
C Meaden  
M Sullivan  
D Burgess-Joyce

13 **APPOINTMENT OF CHAIR**

**Resolved – That Councillor A Hodson be appointed Chair for this meeting.**

14 **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.

15 **PRIVATE HIRE VEHICLE LICENCE APPLICATION - PROTON GEN2, REGISTRATION NUMBER GX08 BYA**

The Corporate Director for Business Management reported upon an application received to re-licence a Proton Gen2, registration number GX08 BYA, beyond the normal over-age date for a licensed private hire vehicle. The vehicle had been licensed as a private hire vehicle since 1 May 2015 and the current licence was due to expire on 9 July 2018, however it had been extended to the date of this meeting. The vehicle had been examined at one of the Council's authorised testing stations and 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.

**Resolved – That the application to re-licence the Proton Gen2, registration number GX08 BYA be granted for a further six months.**

16 **PRIVATE HIRE VEHICLE LICENCE APPLICATION - RENAULT ESPACE, REGISTRATION NUMBER VO57 EEH**

The Corporate Director for Business Management reported upon an application received to re-licence a Renault Espace, registration number VO57 EEH, beyond the normal over-age date for a licensed private hire vehicle. The vehicle had been

licensed as a private hire vehicle since 12 January 2016 and the current licence was due to expire on 4 July 2018, however it had been extended to the date of this meeting. A further six month licence had been granted by the Licensing Panel on 15 December 2017. The vehicle had been examined at one of the Council's authorised testing stations and 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.

**Resolved – That the application to re-licence the Renault Espace, registration number VO57 EEH be granted for a further six months.**

17 **PRIVATE HIRE VEHICLE LICENCE - MERCEDES S CLASS AND AUDI A8**

The Corporate Director for Business Management reported upon an application received to licence two vehicles, a Mercedes S Class and an Audi A8, as private hire vehicles outside the current criteria which states that side and rear windows must allow at least 70% of light to be transmitted through and to exempt the vehicles from displaying Private Hire Vehicle Licence plates and to exempt the driver of the vehicle from wearing his Private Hire Driver Badge due to the type of work undertaken by the applicant.

The owner of the vehicle was present at the meeting. He advised Members that he had made the application due to the type of work he undertakes which was luxury chauffeur transfers for members of the public who would particularly require privacy.

**Resolved -**

- (1) That the applicant be permitted to license a Mercedes S Class with rear tinted windows and an Audi A8 with rear tinted windows due to the specific nature of the work undertaken by these vehicles.**
- (2) That the proprietor of the vehicles be issued with a notice providing an exemption from the requirement to display Private Hire Vehicle Licence plates on the vehicles and to exempt the driver of the vehicle from the requirement to wear a Private Hire Driver Badge when driving these vehicles.**
- (3) That the vehicles may only be used in circumstances where confirmation of the booking is made to the customer which includes the following:**
  - bookings must be made 24 hours in advance;**
  - the applicant text/email his customers including a picture of the driver of the vehicle together with details of the name of the driver, badge number and registration number of the vehicle.**
- (4) That the vehicle may only undertake work that is paid for through an invoicing system.**

18 **PRIVATE HIRE VEHICLE LICENCE - MERCEDES E220, REGISTRATION NUMBER LL18 WXV**

The Corporate Director for Business Management reported upon an application received to exempt a Mercedes E220, registration number LL18 WXV from displaying Private Hire Vehicle Licence plates and to exempt the driver of the vehicle from wearing his Private Hire Driver Badge.

The owner of the vehicle was present at the meeting. He advised Members that he had made the application due to the type of work he undertakes which was luxury chauffeur transfers for members of the public who would particularly require privacy.

**Resolved** -

- (1) **That the Mercedes E220, registration number LL18 WXV be licensed as a Private Hire Vehicle.**
- (2) **That the proprietor of the vehicle be issued with a notice providing an exemption from the requirement to display Private Hire Vehicle Licence plates on the vehicle and to exempt the driver of the vehicle from the requirement to wear a Private Hire Driver Badge.**
- (3) **That the vehicle may only be used in circumstances where confirmation of the booking is made to the customer which includes the following:**
  - **bookings must be made 24 hours in advance;**
  - **the applicant text/email his customers including a picture of the driver of the vehicle together with details of the name of the driver, badge number and registration number of the vehicle.**
- (4) **That the vehicle may only undertake work through an invoicing system.**

19 **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.

20 **PRIVATE HIRE DRIVER LICENCE (PS)**

The Corporate Director for Business reported upon an application received by Ms PS for the grant of a Private Hire Driver Licence. Ms PS attended the meeting and made representations in respect of her application.

Members considered the representations made by Ms PS.

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

**Resolved - That Ms PS's application for the grant of a Private Hire Driver Licence be approved.**

21 **PRIVATE HIRE DRIVER LICENCE (LK)**

The Corporate Director for Business Management submitted a report for Members to consider whether Mr LK should continue to hold a Private Hire Driver Licence. Mr LK attended the meeting and made representations.

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

**Resolved -**

- (1) That Mr LK be allowed to continue to hold a Private Hire Driver Licence.**
- (2) That Mr LK successfully complete the NVQ in Road Passenger Vehicle Driving (Taxi and Private Hire) by 10 August 2018 and that it be reported back to the next Panel meeting should Mr LK fail to complete the NVQ by this date.**
- (3) That Mr LK be issued with a written warning as to his future conduct.**

22 **PRIVATE HIRE DRIVER LICENCE (RPP)**

The Corporate Director for Business submitted a report for Members to consider whether Mr RPP should be granted a Private Hire Driver Licence.

Mr RPP attended the meeting and made representations in respect of the report submitted.

Members considered the representations made by Mr RPP 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 RPP's application for a Private Hire Driver Licence be refused.**

23 **PRIVATE HIRE DRIVER LICENCE (KRD)**

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

Members considered the representations made by Mr KRD.

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

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

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## LICENSING PANEL

Friday, 10 August 2018

Present:

Councillors	C Meaden	D Burgess-Joyce
	A Hodson	D Mitchell

Apologies:

Councillors	R Abbey
	P Stuart
	M Sullivan

24 **APPOINTMENT OF CHAIR**

**Resolved – That Councillor A Hodson be appointed Chair for this meeting.**

25 **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.

26 **PRIVATE HIRE VEHICLE LICENCE APPLICATION - TOYOTA PRIUS, REGISTRATION NUMBER SD58 CPN**

The Corporate Director for Business Management reported upon an application received to re-licence a Toyota Prius, registration number SD58 CPN, beyond the normal over-age date for a licensed private hire vehicle. The vehicle had been licensed as a private hire vehicle since 21 August 2013 and the current licence was due to expire on 20 August 2018. The vehicle had been examined at one of the Council's authorised testing stations and 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.

**Resolved – That the application to re-licence the Toyota Prius, registration number SD58 CPN be granted for a further six months.**

27 **PRIVATE HIRE VEHICLE LICENCE APPLICATION (4 VEHICLES)**

The Corporate Director for Business Management reported upon an application received to licence four Iveco Daily vehicles, Registration Numbers LT52 PYD, LT52 PYG, LT52 PXY and LT52 PXZ as private hire vehicles outside the Council's Policy in respect of vehicles undertaking work exclusively under and in strict accordance with the terms and conditions of a contract issued by the Corporate Director for Strategy and Partnerships to transport children to and from educational establishments.

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

Members expressed concerns in respect of the compliance test certificates and the fact that one of the MOT certificates contained advisories.

**Resolved –**

- (1) That new compliance test certificates be supplied in respect of all four vehicles.**
- (2) That a new MOT certificate be supplied in respect of Iveco Daily, registration number LT52 PXY to demonstrate the advisories have been carried out.**
- (3) That further to the above being completed, this application be re-considered at a Licensing Panel meeting to be held on 29 August.**

**28 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.**

**29 PRIVATE HIRE DRIVER LICENCE (AR)**

The Corporate Director for Business submitted a report for Members to consider whether Mr AR should be granted a Private Hire Driver Licence.

Mr AR attended the meeting and made representations in respect of the report submitted.

Members considered the representations made by Mr AR 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 AR's application for a Private Hire Driver Licence be refused.**

**30 PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER LICENCES (CEE)**

The Corporate Director for Business Management submitted a report for Members to consider whether Mr CEE should continue to hold a Private Hire and a Hackney Carriage Driver Licence.

Mr CEE had requested that this matter be adjourned.

**Resolved - That Mr CEE attend the next meeting of the Licensing Panel.**

31 **PRIVATE HIRE DRIVER LICENCE (LK)**

At the last meeting of the Licensing Panel, the Corporate Director for Business Management submitted a report for Members to consider whether Mr LK should continue to hold a Private Hire Driver Licence.

The Licensing Manager reported that Mr LK had been instructed to successfully complete the NVQ in Road Passenger Vehicle Driving (Taxi and Private Hire) by 10 August 2018 and that it be reported back to the next Panel meeting should Mr LK fail to complete the NVQ by this date.

It was reported that the course is for 6 weeks and Mr LK had registered on to the course which would be due to start next week.

**Resolved – That this be noted.**

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## LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

19 SEPTEMBER 2018

<b>REPORT TITLE</b>	<b>REVIEW OF HACKNEY CARRIAGE FARES</b>
<b>REPORT OF</b>	<b>CORPORATE DIRECTOR FOR BUSINESS MANAGEMENT</b>

### REPORT SUMMARY

The purpose of this report is for Members to consider representations received in respect of a proposed increase to the Hackney Carriage fare tariff advertised in accordance with the decision of this Committee on 18 July 2018.

### RECOMMENDATION/S

That Members consider the representations made to the proposed Hackney Carriage fare tariff increase and determine whether to bring in to force a new table of fares, with or without modifications, as a result of the representations.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

1.1 It is a delegated function of this Committee to set Hackney Carriage Tariffs.

### **2.0 OTHER OPTIONS CONSIDERED**

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

### **3.0 BACKGROUND INFORMATION**

3.1 The Local Government (Miscellaneous Provisions) Act 1976 section 65(1) gives the power to set hackney carriage fares to the local authority as follows:

- 1 A District Council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle; to be paid in respect of the hire of a hackney carriage by means of a table (hereafter in this section referred to as a 'table of fares') made or varied in accordance with the provisions of this section.
- 2 When a District Council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen days from the date of first publication of the notice, within which and the manner in which objections to the table of fares or variation can be made.

3.2 The last increase of hackney carriage fares was in February 2017 when the initial hiring distance on tariff 1 (standard day rate) was reduced. All other tariffs and distances remained unchanged.

3.3 On 18 July 2018 Members considered a proposal to increase the Hackney Carriage fare tariff. Members resolved that the proposal be approved, subject to any objections being received as part of the consultation process.

3.4 The proposed increase was advertised for a period of fourteen days and a newsletter was also sent to every hackney carriage and private hire driver, vehicle and operator licence holder informing them of the proposal.

3.5 A table comparing the current and proposed rates is shown at Appendix 1. A table showing the effect of the proposed increases is attached at Appendix 2.

3.6 During the consultation period five representations have been received in respect of the proposed increases. Two of the representations support the proposal, two of the representations object to the proposal and one of the representations expresses general concerns regarding the proposal. These representations are attached at Appendix 3.

3.7 Members are asked to consider whether to approve the proposed increase to the Hackney Carriage Tariffs in light of the representations received as part of the consultation process.

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 The cost of the public advertisement will be recovered from licence fees.

#### **5.0 LEGAL IMPLICATIONS**

5.1 There are no specific implications arising from this report.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

6.1 There are no specific implications arising from this report.

#### **7.0 RISKS**

7.1 There are no specific implications arising from this report.

#### **8.0 ENGAGEMENT/CONSULTATION**

8.1 The proposal must be advertised for a period of fourteen days.

#### **9.0 EQUALITY IMPLICATIONS**

9.1 There are no specific implications arising from this report.

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#### **APPENDICES**

Appendix 1 – Table comparing the current and proposed rates

Appendix 2 - Table showing the effect of the proposal

Appendix 3 - Representations

#### **REFERENCE MATERIAL**

None

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Licensing Health and Safety and General Purposes Committee	25 November 2015 27 January 2016 23 November 2016 25 January 2017 18 July 2018

### Comparison of current and proposed Hackney Carriage tariffs

	Current rate	Proposed rate
<b>TARIFF 1</b>		
First 300 yards	£2.80	£3.20
Each subsequent 245 yards	20p	
<b>Each subsequent 230 yards</b>		20p
<b>TARIFF 2</b>		
First 900 yards	£3.30	
<b>First 300 yards</b>		£3.60
Each subsequent 205 yards	20p	
<b>Each subsequent 175 yards</b>		20p
<b>TARIFF 3</b>		
First 966 yards	£3.90	
<b>First 300 yards</b>		£3.80
Each subsequent 182 yards	20p	
<b>Each subsequent 165 yards</b>		20p
<b>TARIFF 4</b>		
First 966 yards	£5.20	
<b>First 300 yards</b>		£6.00
Each subsequent 137 yards	20p	
<b>Each subsequent 230 yards</b>		40p

Table showing effect of the proposal

	Distance	Fare based on current tariff	Fare based on proposed tariff	Percentage increase
<b>Tariff 1</b>	300 yards	£2.80	£3.20	14.3%
	1 mile	£4.00	£4.60	10.0%
	2 miles	£5.60	£6.00	7.1%
	3 miles	£7.00	£7.60	8.5%
	4 miles	£8.40	£9.20	9.5%
	5 miles	£9.80	£10.60	8.2%
	10 miles	£17.00	£18.40	8.2%
<b>Tariff 2</b>	300 yards	£3.30	£3.60	9.1%
	1 mile	£4.30	£5.40	25.6%
	2 miles	£5.90	£7.40	25.4%
	3 miles	£7.70	£9.40	22.1%
	4 miles	£9.30	£11.40	22.6%
	5 miles	£11.10	£13.40	20.7%
	10 miles	£19.70	£23.40	18.8%
<b>Tariff 3</b>	300 yards	£3.90	£3.80	-2.6%
	1 mile	£4.90	£5.60	14.3%
	2 miles	£6.90	£7.80	13.0%
	3 miles	£8.70	£10.00	14.9%
	4 miles	£10.70	£12.00	12.1%
	5 miles	£12.70	£14.20	11.8%
	10 miles	£22.30	£24.60	10.3%
<b>Tariff 4</b>	300 yards	£5.20	£6.00	15.4%
	1 mile	£6.40	£8.80	37.5%
	2 miles	£9.00	£11.60	28.9%
	3 miles	£11.60	£14.80	27.6%
	4 miles	£14.20	£18.00	26.8%
	5 miles	£16.80	£20.80	23.8%
	10 miles	£29.60	£36.40	23.0%

**Calvert, Margaret**

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**From:** [REDACTED]  
**Sent:** 24 August 2018 13:41  
**To:** Regen-TaxiLicensing  
**Subject:** Hackney Carriage Tariff Increase Proposal

Dear Wirral Council Licensing Representatives,

As a Wirral licensed private hire operator we would like to make representation regarding the proposal to increase hackney carriage tariffs as set out in the TAXI AND PRIVATE HIRE AUGUST 2018 information sheet. [REDACTED]

We fully endorse and support these staggering price hikes which will increase the cost of travelling in a Wirral licensed hackney carriage vehicle by as much as 25%.

The new rate of £5.40 for a single mile of a weekday evening compares very favourably with Delta's £2.50.

Ill conceived and unsustainable hackney carriage fare structures throughout the Liverpool City Region have already led to private hire services dominating more than 80% of the Merseyside taxi market.

Wirral's proposed increase will assist us greatly in cornering the remainder of this market and we therefore give this proposal our full support in the hope that it goes ahead.

Regards

[REDACTED]

**Calvert, Margaret**

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**From:** [REDACTED]  
**Sent:** 15 August 2018 12:05  
**To:** Regen-TaxiLicensing  
**Subject:** Hackney tariff increase proposal

To whom this may concern, this email is to confirm i agree with the increase proposal for hackney tariff charges.

[REDACTED]

[REDACTED]

**Calvert, Margaret**

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**Subject:**

FW: Proposed Hackney Tariff Increase

I have read that an increase in the Hackney Carriage tariff has been proposed by Unite. If this is correct can you take this email as my official objection to the increase.

I think that the proposed increases are excessive.

On the day tariff alone it will put a minimum of 40p to 60p on a short journey.

This will only make our customers look for alternative transport options ie private hire.

Also yet again this was a proposal from a small minority of union members. ( I am led to believe approx 12 at the meeting) that are yet again trying to impose an increase on the other non union drivers on the Wirral.

I personally believe that what with the financial pressure some of our customers are under, to ask for this increase shows a total lack of common sense.

[REDACTED]

Sent from my iPhone

**Calvert, Margaret**

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**From:** [REDACTED]  
**Sent:** 24 August 2018 13:00  
**To:** Regen-TaxiLicensing  
**Cc:** [REDACTED]  
**Subject:** JCC Taxi Representative

Dear Panel,

I have had a number of nominations since your news letter August 2018 to represent Hackney drivers licensed with Wirral Borough Council, the majority operate through the Eye Cab system currently thirty two drivers.

Whilst all these drivers are members of the Unite Union they feel they have been badly represented in the past resulting in the demise of the hackney trade on the Wirral through the lack of a democratic vote over issues that effect all the drivers operating on the Wirral today.

In the past years I have held positions through the Unite Union and well experienced in Union policies to provide all drivers with up to date information and a democratic vote on any issues that may arise in the future regardless of them being a Union member or not.

My belief is all drivers have the chance to voice their opinion and not a select few that have left us were we are today, therefore I accept their nomination and please accept this email to notify you of my interest.

#### **HACKNEY CARRIAGE INCREASE PROPOSAL.**

Again as above only a select number of drivers have put this proposal forward and the majority of the drivers must have the chance to accept or reject the proposal through a democratic vote, therefore this proposal should not be presented to the committee without the facts and figures of a democratic vote of the drivers who the proposal effects, this proposal should be backed up by figures that the whole trade has been consulted upon and not a select few that claim they represent us all.

Therefore I object to the proposal put forward on the grounds that proper consultation has not taken place and does not reflect the true feelings of the people who it directly effects.

[REDACTED]  
[REDACTED]

**Calvert, Margaret**

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**From:** [REDACTED]  
**Sent:** 15 August 2018 19:56  
**To:** Regen-TaxiLicensing  
**Subject:** tarriff proposal

regarding the proposed tariff. I have several concerns.

On the proposed tariff on tariff 3 the rate is actually reduced from £3-90 to £3-80 , Is this a misprint or is this the actual proposal?

When WBC introduced the requirement for calendar controlled meters a tariff structure was agreed between the drivers and WBC this was a 4 rate tariff as follows. Tariff 1 - Standard day rate

Tariff 2 - Standard day rate plus 25% 10pm till 6 am and Bank holidays

Tariff 3 - Standard day rate plus 50% Bank holiday night rate

Tariff 4 - Standard day rate plus 100% Christmas and New year day and night

When this was implemented it was agreed that there would be an annual increase that was to be equal to the london PCO rate rise which takes into consideration all relevant cost of living increases. This was never implemented and has resulted in a significant reduction in driver earnings across the board. This is also affecting the quality of the Taxi fleet as drivers are unable to upgrade to New Vehicles and are resorting to buying used vehicles that are up to ten years old which comply with WBC conditions as a new vehicle would now cost £55,599 for a new TX5. £34,295 for a new ford procab or £44,495 for a new Mercedes M8 taxi.

At the moment the WBC hackney cab tariff is less than the tariffs in place for 4 seater private hire vehicles and when a 5 or 6 seater vehicle is requested a 50% surcharge is applied to the tariff.





## LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

19 SEPTEMBER 2018

<b>REPORT TITLE</b>	<b>INDEPENDENT SURVEY OF THE SUPPLY AND DEMAND FOR HACKNEY CARRIAGE VEHICLES IN WIRRAL</b>
<b>REPORT OF</b>	<b>CORPORATE DIRECTOR FOR BUSINESS MANAGEMENT</b>

### REPORT SUMMARY

The purpose of this report is to seek Members views in respect of undertaking a consultation exercise in respect of two options set out in the final recommendations of the report produced by CTS Traffic and Transportation Ltd on their Independent Survey of the Supply and Demand for Hackney Carriage Vehicles.

### RECOMMENDATION/S

That Members determine whether a consultation exercise should be undertaken in respect of two options set out in the final recommendations of the report produced by CTS Traffic and Transportation Ltd on their independent survey of the supply and demand for Hackney Carriage Vehicles in Wirral.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 Members are required to have regard to the recommendations within the Independent Survey of the Supply and Demand for Hackney Carriage Vehicles undertaken by CTS Traffic and Transportation Ltd

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The Committee may determine that no action is required at this time.

### **3.0 BACKGROUND INFORMATION**

- 3.1 At a meeting of this Committee held on 23 January 2012 Members resolved to impose a limit of 289 on the number of Hackney Carriage Vehicle Licences issued. The limit was set at 289 following recommendations made by Halcrow Group Limited who undertook an independent survey to ascertain the level of demand for Hackney Carriage Vehicles at that time. This decision was made following a period of 10 years of the council operating a Policy of no limit on the number of Hackney Carriage Vehicles.
- 3.2 During the 10 year period when there was no limit to the number of licences that could be granted, the number of Hackney Carriage Vehicles rose from 126 to 309 in 2007/8. The number of vehicles licensed then started to decline and reduced to 289 when the survey was undertaken..
- 3.3 At the time the Policy was determined it was also necessary to identify an allocation policy to determine how licences would be issued should the number of applications exceed the number of licences that could be granted. A random selection policy was implemented from 25 September 2012 and operated until 22 March 2017 when the number of licences available began to exceed the number of applications. The current number of vehicles licensed as Hackney Carriage Vehicles is 244 which subsequently means that whilst there is currently a limit set at 289 a licence could be granted to an applicant wishing to licence a vehicle as a Hackney Carriage Vehicle.
- 3.4 The primary legislation governing the licensing of Hackney Carriage Vehicles is the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and The Transport Act 1985.
- 3.5 Until the Transport Act 1985 came into effect Licensing Authorities had an unfettered discretion to limit the number of Hackney Carriage Vehicles that it would license. Section 16 of The Transport Act 1985 removed that unrestricted power to limit the number of Hackney Carriage Vehicles. As a consequence the number of Hackney Carriage Vehicles may be limited but only on the following basis; a licence may be refused, for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet'.

The Department for Transport Taxis and Private Hire Licensing Best Guide states that 'This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. '

- 3.6 An independent survey of the supply and demand for Hackney Carriage Vehicles in Wirral was undertaken during 2017 by CTS Traffic and Transportation Ltd and the findings of this survey were reported to a meeting of this Committee on 1 February 2018. Members of that Committee resolved that the conclusions and recommendations of the independent study of supply and demand for Hackney Carriage Vehicles (taxis) carried out by CTS Traffic and Transportation Ltd be noted and that Members have regard to the report when determining any future policies in respect of Private Hire and Hackney Carriage Vehicle licences.
- 3.7 The report acknowledged that within the current limit of 289 licences there were licences available as the number of vehicles licensed at the time of the survey was 258. The executive summary of the report in respect of the survey of the supply and demand for Hackney Carriage Vehicles includes the following findings:
- Rank observations identified Asda in Birkenhead as the busiest rank and the next two busiest ranks were Cloughton Road and Liscard. The night rank Conway Street provided just 3% of total estimated weekly passengers.
  - Overall estimates of Hackney Carriage usage suggest insufficient demand for the present fleet although many do operate and gain significant fares from belonging to telephone networks.
  - Observations reported that of six active ranks surveyed just one saw poor service and one saw fair service, all others were good and one was reported as having very good levels of customer service.
  - The only main desire for 'new' active ranks was for locations in New Brighton.
  - Face to face interviews were undertaken with members of the public on the street which revealed that people were more confident of getting a Hackney Carriage in the daytime than at night with 14% of those surveyed reporting they could not get a Hackney Carriage. It was reported that people generally were unaware that they could flag down a Hackney Carriage Vehicle.
  - It was reported that the police 'felt that there was a weekend overnight shortage of both hackney carriage and private hire in the area that did lead to potential issues of crime and disorder'
  - Mystery shopping found good service from active ranks and good service on trips taken.

- The survey found that the overall response from the trade when seeking their views was low but that the response that was provided expressed a strong feeling that the limit on the number of Hackney Carriage licences should be retained. Nearly two thirds of hackney carriages responding said they worked on telephone bookings. The survey reported that the main trade concerns were lack of rank spaces and overall rank provision.
- The survey found there was no culture of hailing Hackney Carriage Vehicles in Wirral.
- It was stated in the report that the industry standard evaluation showed no unmet demand that was significant but went on to say that much off peak demand is expected to be by phone rather than people going to ranks.
- Levels of demand suitable for Hackney Carriage Vehicles focus on specific locations and daytime and that ‘there does not appear to be enough sufficiently rewarding work available either for these pockets of demand to be met by either hackney carriage or private hire means’. The report went on to say ‘on the contrary, most drivers appear to make enough living from daytime, weekday work so that they do not need to consider less attractive working periods, and that the ‘overall usage (both in terms of supply and demand) and availability of both hackney carriage and private hire in the area is not what it might be’ and that ‘the overall level of the industry clearly needs significant reinvigoration for the benefit of the overall economy of the area.’
- The survey reported that ‘the overall issue for Wirral is that present demand for licensed vehicle services is generally both disparate and low volume, but that there are frustrated potential customers who need to be able to interact with the trade to benefit the overall economy of the area. The report goes further stating that ‘The issue is how to marry supply to demand at these lower levels. The implications for those visiting the area are more severe as there is very high potential they will have poor experiences that may restrain their willingness to invest in the area or to return. Something needs to happen to reverse the spiral of decline.’

3.8 It is explained within the report that the usual purpose of undertaking an independent survey of the demand for Hackney Carriage vehicles is to determine whether the limit on Hackney Carriage vehicle numbers are sustained and this usually occurs against the background of all licences being issued and the potential for someone to apply for a licence only to be refused by the Council when they believe there is no significant unmet demand. The report acknowledges that ‘Wirral plates are currently available’ and goes on to say ‘this means current plate values are low or non-existent as anyone wanting a plate could have one’.

- 3.9 The report states that ‘In essence, neither keeping nor removing the limit appears to provide any impact on the current issues identified by this review.’ And further that ‘the key aim is providing a service that meets developing needs and also puts the area in a good place for those coming into the area.’
- 3.10 The survey concluded that on the basis of the evidence gathered in respect of the demand for Hackney Carriage Vehicles in Wirral there was no significant unmet demand for Hackney Carriage Vehicles. In reference to this finding the recommendations within the report stated that the Committee is able to continue the policy of limiting hackney carriage vehicle numbers as this policy could be defended if necessary but also that the Committee could remove the limit in order to allow further future potential for development of the fleet when required. The recommendations within the report went on to state that ‘ it is also very clear there are significant issues within the licensed vehicle industry - both on supply and demand sides- which need to see change for the overall benefit of the economy of Wirral.’
- 3.11 The report presents two options within its final recommendations as follows:
- The committee is able to continue the policy of limiting hackney carriage vehicle numbers if it wishes and this could be defended if necessary.
  - The committee could also remove the limit policy in order to allow further future development of the fleet when required
- 3.12 The Department for Transport ‘Taxis and Private Hire Licensing Best Guide’ states that in circumstances where local authorities are considering whether restrictions should continue on the number of Hackney Carriage licences ‘ the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?
- 3.13 It is proposed therefore that a consultation exercise is undertaken with the public and relevant stakeholders in respect of the two options contained within the final recommendations of the Survey Report and referred to in paragraph 3.11 of this report.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are costs associated with undertaking consultation.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 A decision of this Committee can be subject to legal challenge.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

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

## 7.0 RISKS

7.1 There are no specific implications arising from this report.

## 8.0 ENGAGEMENT/CONSULTATION

8.1 The report is proposing a consultation exercise be undertaken with members of the public and relevant stakeholders.

## 9.0 EQUALITY IMPLICATIONS

9.1 There are no specific implications arising from this report.

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## APPENDICES

### REFERENCE MATERIAL

None

### SUBJECT HISTORY (last 3 years)

<b>Council Meeting</b>	<b>Date</b>
Licensing Health and Safety and General Purposes Committee	1 February 2018



## LICENSING, HEALTH AND SAFETY, AND GENERAL PURPOSES COMMITTEE

19 SEPTEMBER 2018

<b>REPORT TITLE</b>	<b>DRAFT SEXUAL ENTERTAINMENT VENUE POLICY AND STANDARD CONDITIONS</b>
<b>REPORT OF</b>	<b>CORPORATE DIRECTOR FOR BUSINESS MANAGEMENT</b>

### REPORT SUMMARY

The purpose of this report is to seek Members approval of the draft Sexual Entertainment Venue Policy. Members are also asked to approve standard conditions to be placed on all Sexual Entertainment Venue Licences.

### RECOMMENDATION/S

That the draft Sexual Entertainment Venue Policy and Standard Conditions be approved.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 Whilst there is no statutory requirement to have a Sex Licensing Policy, such a policy could be relied upon should there be a legal challenge in respect of decisions made relating to licensing sex establishments.

### **2.0 OTHER OPTIONS CONSIDERED**

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

### **3.0 BACKGROUND INFORMATION**

- 3.1 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 came into force on the 1 April 2011.
- 3.2 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.
- 3.3 The Policing Crime Act 2009, Section 27, defines 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.
- 3.4 Upon resolving to adopt the amendments of Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 Members of the Health and Safety and General Purposes Committee have agreed to put in place an appropriate policy to deal with applications for both sex establishments and sexual entertainment venues. A draft Sexual Entertainment Venue policy can be found at appendix 1.
- 3.5 The Local Government (Miscellaneous Provisions) Act 1982 also permits Local Authorities to prescribe standard conditions applicable to Sexual Entertainment Venue Licences. A draft list of Standard Conditions can be found at Appendix 2. If these conditions are approved, every licence granted, renewed or transferred will be subject to these conditions. An applicant who does not wish to have any of these conditions, must communicate this to the Authority at the time of making the application.
- 3.6 Local Authorities are also entitled to attach individual conditions where concerns have been identified.
- 3.7 On 24 May 2018 Members of the Licensing, Health and Safety, and General Purposes Committee approved a draft Sexual Entertainment Venue Policy so that it may be circulated for consultation.
- 3.8 The consultation period began on 25 May 2018 and closed on 6 July 2018.

3.9 During this consultation, the draft Policy was circulated to the Chief Officer of Merseyside Police as well as existing and future potential holders of sex establishment licences. Details of the consultation were also published on the Council's website.

3.10 In response to this consultation, comments have been received from Merseyside Police and from an applicant who currently has an application pending for a Sexual Entertainment Venue Licence. Merseyside Police advise that they have no specific comments in respect of the Policy or conditions but request that they be consulted in respect of specific applications. The comments received from the current applicant relate directly to their application.

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 The costs incurred in undertaking this consultation will be recovered from Licence fees.

#### **5.0 LEGAL IMPLICATIONS**

5.1 A decision of this Committee can be subject to legal action.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

6.1 There are no specific implications arising from this report.

#### **7.0 RELEVANT RISKS**

7.1 If a policy is not agreed then this could result in a lack of transparency, accountability, certainty and consistency in respect of decision making.

#### **8.0 ENGAGEMENT/CONSULTATION**

8.1 Consultation has been undertaken in respect of this application. See paragraphs 3.7, 3.8, 3.9 and 3.10 of this report.

#### **9.0 EQUALITY IMPLICATIONS**

9.1 There are no specific implications arising from this report.

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#### **APPENDICES**

Appendix 1 – Draft Sexual Entertainment Venue Policy

Appendix 2 - Draft list of Standard Conditions

#### **REFERENCE MATERIAL**

None

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Licensing, Health and Safety, and General Purposes Committee</b>	<b>24 May 2018</b>



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# **Sexual Entertainment Venue Policy**

Draft  
September 2018

**Wirral Licensing Authority  
Town Hall  
Brighton Street  
Wallasey  
CH44 8ED**

**0151 691 8043**

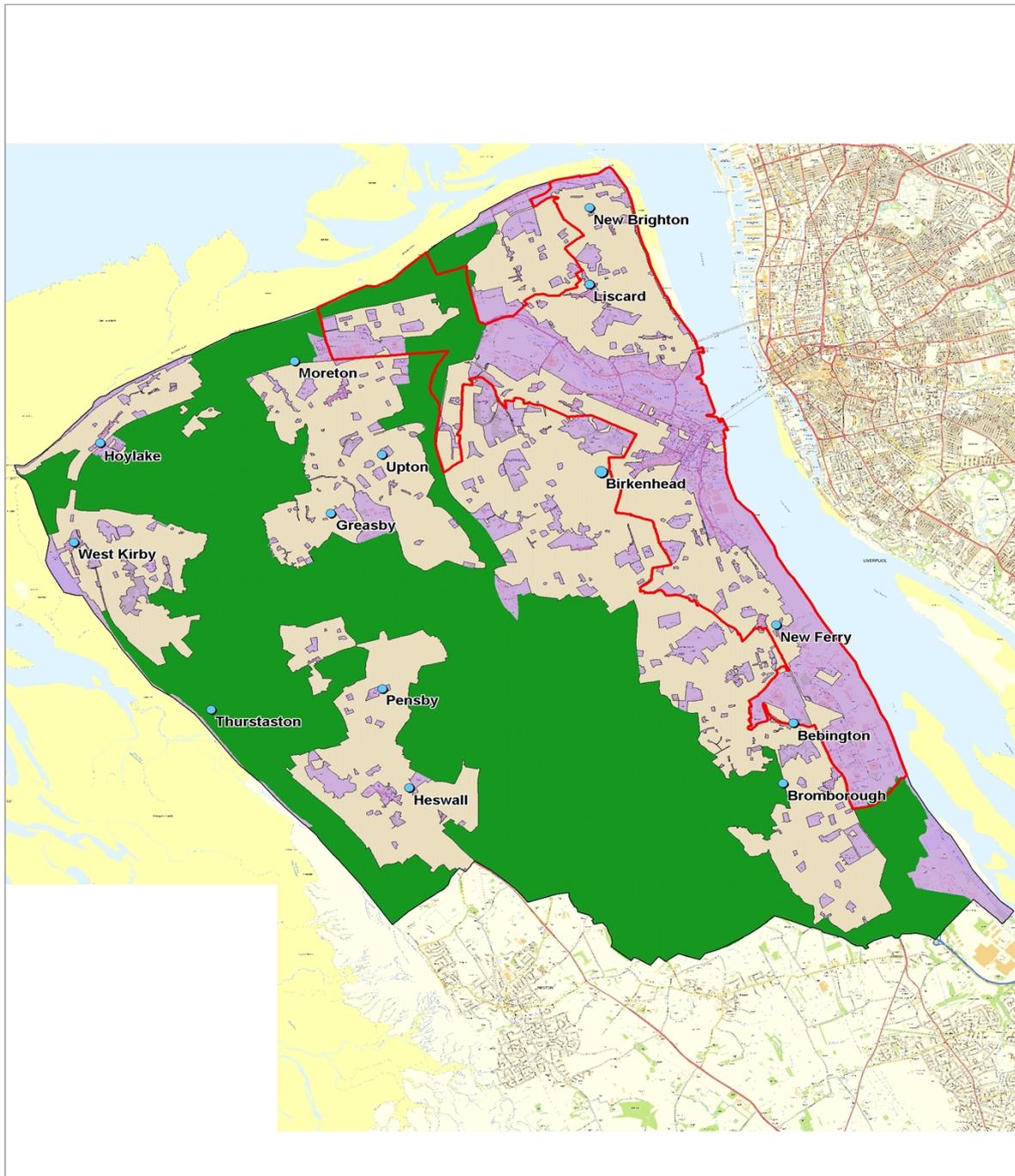
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# 1. BACKGROUND

1.1 Wirral Borough Council is situated in the County of Merseyside, which contains no district Councils, but 5 metropolitan councils: Knowsley, Liverpool, Sefton, St Helens and Wirral. The Council area has a population of 322,216 (ONS 2016 midyear population estimates) making it the second largest after Liverpool in the County in terms of population. In terms of area it is the largest in Merseyside, covering 60.1 square miles. The Borough is mainly urban in outlook, with 32.85 square miles (54.66% of the borough) covered in Residential, Industrial or Commercial buildings.



- Regeneration Priority Area
- Primarily Residential Areas
- Rural/Greenbelt Areas
- Other Urban/Developed Areas

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## 2. PREFACE

- 2.1 Wirral Council has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) so that sexual entertainment venues in the Borough can be licensed.
- 2.2 The 1982 Act and the 2009 Act can be viewed at [www.legislation.gov.uk/](http://www.legislation.gov.uk/).
- 2.3 Consultation on this policy will be carried out between 25 May 2018 and 6 July 2018.
- 2.4 In developing this policy, account was taken of the legal requirements of the 1982 Act and the duties under
  - (a) section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
  - (b) the Regulators' Code 2014 not to impede economic progress by the regulations we set out to support or enable economic growth for compliant businesses and to particularly consider the impact of regulations on small businesses; and
  - (c) the Provision of Services Regulations 2009 to ensure requirements are:
    - (i) non-discriminatory
    - (ii) justified by an overriding reason relating to the public interest
    - (iii) proportionate to that public interest objective
    - (iv) clear and unambiguous
    - (v) objective
    - (vi) made public in advance, and
    - (vii) transparent and accessible
- 2.5 This Statement of Licensing Policy sets out the Council's requirements for premises to be licensed as sexual entertainment venues within the means of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (As Amended).

### **3. DEFINITION OF SEXUAL ENTERTAINMENT VENUE**

- 3.1 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.

“Relevant entertainment” means –

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

which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

The definition of relevant entertainment is expected to apply to the following terms of entertainment as they are commonly understood:

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

Relevant entertainment is not restricted to the above defined terms of entertainment and will be considered with regard to the nature of the entertainment, not the name it is given.

### **4. MAKING AN APPLICATION**

- 4.1 Local Government (Miscellaneous Provisions) Act 1982 (As Amended) provides a maximum licence period of one year. The authority may grant a shorter licence if it thinks fit. A shorter period may be granted for example where a licensee wants a licence for a limited period for a trade exhibition or a show.
- 4.2 An application for the grant, variation, renewal or transfer of a licence must be made in writing to the Licensing Authority together with the application fee in accordance with the requirements set out below.
- 4.3 There are three separate notice requirements:
1. The applicant must, within seven days after the date of the application, publish an advertisement in a local newspaper circulating in the local authority’s area. A suggested form of advertisement is available on request from the Licensing Section.
  2. Where the application is in respect of premises the applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of application. Again a suggested form of notice is available on request.
  3. The applicant must send a copy of the application to the Chief Officer of Police no later than seven days after the date of the application. Where the

application is made electronically it is for the Local Authority itself to send the copy within seven days of receipt of the application.

- 4.4 The application form can be used for grant, variation, transfer and renewal applications. Applicants must provide their name, address, age (where the applicant is an individual), the premises address and the proposed licensed name of the premises.
- 4.5 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that the exterior design of the premises shall be such that the interior of the premises is not visible to passers-by.
- 4.6 In addition applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority.
- 4.7 Applicants for Sexual Entertainment Venues must also submit a copy of their Code of Conduct for performers and customers. The Council's standard conditions set out what must be included in the Code of Conduct.
- 4.8 Officers of the Licensing Service may, as part of the application process, visit the locality of the premises to establish whether there are any characteristics of the locality which may require consideration by the Licensing Panel.
- 4.9 With regards to online application tacit authorisation does not apply to new grant applications for Sexual Entertainment Venue licences. This means the applicant must wait for the Licensing Authority to determine the application before they can operate a Sexual Entertainment Venue.

## **5. FEES**

- 5.1 The Local Government (Miscellaneous Provisions) Act 1982 (As Amended) permits the authority to set a reasonable fee. The Council's Licensing Health and Safety and General Purposes Committee will set licensing fees in respect of sexual entertainment venues to recover the costs of carrying out the licensing function under that Act namely: administration (including any hearings or appeals), and inspection of premises.
- 5.2 The above process is also applicable to the function of licensing Sexual Entertainment Venues and the appropriate fees will be available on the Council's website at: [www.wirral.gov.uk](http://www.wirral.gov.uk).

## **6. MAKING OBJECTIONS TO APPLICATIONS**

- 6.1 The Local Government (Miscellaneous Provisions) Act 1982 (As Amended) permits a wide range of persons to raise objections about the grant, renewal, variation or transfer of a Sexual Entertainment Venue licence. Objectors can include residents, resident associations, trade associations, businesses, Councillors (providing they do not sit on the Licensing Panel considering that particular application) or MPs. The Police are a statutory consultee for all applications.
- 6.2 Objections must be made in writing (email is acceptable) no later than 21 days after the date of the application to the Licensing Authority and should include the following:

- the name and address of the person or organisation making the objection
- the premises to which the objection relates

6.3 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The grounds relevant to the majority of objectors are as follows:

That the grant or renewal of the licence would be inappropriate:

- having regard to the character of the relevant locality, or
- the use to which any premises in the vicinity of the premises, vehicle or vessel or stall in respect of which the application is made.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the 1982 Act will be rejected by the Licensing Authority. Where objections are rejected the objector will be given written reasons.

6.4 The Licensing Authority will not consider objections that are frivolous or vexatious or which relate to moral grounds, as these are outside the scope of the 1982 Act. Decisions on whether objections are frivolous or vexatious will be made objectively by the Licensing Authority and where objections are rejected the objector will be given written reasons.

6.5 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.

6.6 All applications will be considered by the Licensing Panel. The applicant will be informed of any objections received in respect of their application and the objection(s) will become public documents. A copy of the hearing procedure will be sent to the applicant and any objectors prior to the hearing.

## **7. DETERMINATION OF AN APPLICATION**

7.1 All applications for the grant of a Sexual Entertainment Venue licence will be determined by the Licensing Panel. Valid objections to any application will be considered by the Licensing Panel or delegated to a Licensing Panel at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing Panel's procedure for hearings, which is available from the Licensing Service.

7.2 The Local Government (Miscellaneous Provisions) Act 1982 (As Amended) provides five mandatory grounds and four discretionary grounds for refusal of a Sexual Entertainment Venue licence. Each application for a Sexual Entertainment Venue will be decided upon its own merits and the Licensing Authority will give clear reasons for its decisions. Any decision to refuse a licence MUST be relevant to one or more of the following grounds:

### **7.3 Mandatory grounds for refusal**

Specific mandatory grounds for refusal of a licence are set out in paragraph 12(1)(a to e) of Schedule 3 in the 1982 Act. A licence cannot be granted:

- (a) to any person under the age of 18 years
- (b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months
- (c) to any person, other than a body corporate, who is not resident in an European Economic Area or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an European Economic Area; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal

#### **7.4 Discretionary grounds for refusal**

The only discretionary grounds upon which the Council may refuse an application for the grant or renewal of a licence on one or more of the grounds specified in Schedule 3 paragraph 12(3) are that:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons
- (b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he/she made the application himself/herself
- (c) the number of sex entertainment venues, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality
- (d) that the grant or renewal of the licence would be inappropriate, having regard:
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

### **8. UNSUITABILITY OF AN APPLICANT**

8.1 In respect of 7.4(a) and (b) above with regard to the unsuitability of an applicant to hold a licence, the criteria for Members to consider are:

- that the Operator is honest
- that the Operator is qualified by experience to run the type of sex establishment in question
- that the Operator understands the general conditions

- that the Operator is proposing a management structure which delivers compliance with the operating conditions e.g. through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for welfare of performers
- that the Operator can be relied upon to act in the best interests of performers e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored
- that the Operator can be relied upon to protect the public e.g. transparent charging, freedom from solicitation
- that the Operator can show a track record of management of compliant premises, or that he/she will employ individuals who have such a track record

## **9. NUMBER OF SEXUAL ENTERTAINMENT VENUES**

- 9.1 As set out within paragraph 7.4(c) above, paragraph 12 of Schedule 3 provides that a Local Authority may refuse an application if it is satisfied that the number of sexual entertainment venues or of a particular kind in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.
- 9.2 The Council may choose to set a guidance upper limit on the number of Sexual Entertainment Venues which it considers appropriate in any locality within the Council's administrative area but each application will be considered on its merits.

## **10. RELEVANT LOCALITY**

- 10.1 With reference to paragraph 7.4(d) 'relevant locality' for the purposes of paragraph 12 of Schedule 3 of the Act means:
- (i) in relation to the premises, the locality where they are situated, and
  - (ii) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sexual entertainment venue.
- 10.2 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Licensing Authority shall consider, among other considerations, whether the grant of the application would be inappropriate, having regard to:
- (a) the fact that the premises are sited in a residential area
  - (b) the premises are sited near shops used by or directed to families or children, or no frontages frequently passed by the same
  - (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples
  - (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets

(e) places and or buildings of historical/cultural interest, tourist attractions

- 10.3 The Council will consider the extent of the locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define locality as the whole of the Council's administrative area or an entire town.
- 10.4 When hearing an application for the grant of a Sexual Entertainment Venue licence, the Licensing Panel shall have regard to the guidelines set out above but subject to the overriding principle that each application will be determined on its merits.
- 10.5 The Council would expect that applications for Sexual Entertainment Venue licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

## **11. LICENCE CONDITIONS**

- 11.1 The Council intends to adopt standard conditions in respect of **sex shops** and sexual entertainment venues, which will apply to all respective licences granted, unless such conditions have been expressly excluded or varied. These proposed standard conditions will be provided separately.
- 11.2 However, following a hearing, the Licensing Panel may attach further conditions to a licence, considered necessary and proportionate in the public interest including, but not limited to, the interest of public policy, public security, public health or the protection of the environment. This could include conditions restricting the opening and closing times of the premises.

## **12. DURATION OF LICENCES**

- 12.1 Unless a shorter period is specifically stated, all licences will be granted for one year, which shall be the maximum duration of any licence.

## **13. WAIVERS**

- 13.1 The Council will not normally grant a waiver for a sexual entertainment venue licence but will consider applications on their individual merits. Applicants will be expected to demonstrate exceptional circumstances in justifying why the licensing requirement should be waived.

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**WIRRAL COUNCIL**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982,**  
**SCHEDULE 3**

**SEXUAL ENTERTAINMENT VENUE LICENCE**

These conditions are made by Wirral Council under Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 (as amended).

**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 profile 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. A CCTV system must be in operation at the premises. 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 to 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 phone.
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 ('the Responsible Person') 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.

