

**LICENSING COMMITTEE
THURSDAY 28th SEPTEMBER 2010**

PRESENT – Councillor Hussain I (in the Chair), Councillors Barry, Davies, Maxfield, Oldfield, Pearson D, Pearson J, Solkar, Tapp, Walsh and Wright.

RESOLUTIONS

14 Welcome and Apologies

The Chair welcomed everyone to the meeting. Apologies were received from Councillor Jim Smith.

15 Minutes of the Meeting held on 22nd July 2010

RESOLVED – That the minutes of the meeting of the Committee held on 22nd July 2010 be confirmed and signed as a correct record, subject to the following addition to the notes on minute 11:

That Councillors had expressed concerns that the MOT regulations for Taxi Drivers were too stringent and caused unnecessary failures. The Committee asked that this issue be further investigated to assess if the regulations could become more in line with standard MOT tests.

Matters arising

The Committee were informed that a Focus Group had been established to investigate the issue of Taxi MOT regulations, and invited the Chair and Vice Chair of the Committee to attend. The Chair and Vice Chair asked that any views and concerns regarding this issue from Committee Members be brought to their attention, so that they could feed back to the focus group.

16 Declarations of interest

Councillor David Pearson declared a personal interest in agenda item 5 [member of human rights organisation 'Object'] (Report: The Licensing of Sexual Entertainment Venues) Councillor Pearson remained in the meeting during discussion on the item

17 Review of the Statement of Licensing Policy

A report was submitted to inform Members of the outcome of the current triennial review of the Statement of Licensing Policy. The report stated that each Licensing Authority must in respect of each three year period determine its policy with respect to the exercise of its

licensing functions and publish a statement of that policy (a licensing statement) before the beginning of that period.

Before determining its policy for a three year period, a licensing authority must consult-

- The chief officer of police for the licensing authority's area
- The fire authority for that area
- Such persons as the licensing authority considers to be representative of holders of premises licences issued by the authority
- Such persons as the licensing authority consider being representative of holders of club premises certificates issued by the authority.
- Such persons as the licensing authority considers to be representative of holders of personal licences issued the authority
- Such other persons as the licensing authority consider being representative of businesses and residents in its area.

The period of consultation commenced on 1st July 2010 and will end on 30th September 2010.

At the time of writing the report no responses had been received.

The Government are currently undertaking a review of the Licensing Act. A recent consultation named "rebalancing the licensing act" ended on 8th September, the aims of which is to give more powers to the communities on licensing decisions. If there is a legislative change the policy will be amended to reflect this.

During each three year period, a licensing authority must keep its policy under review and make revisions to it at such times it considers appropriate. Blackburn with Darwen's policy was reviewed in 2007, a draft policy was placed before Members on 22nd July 2010.

Where revisions are made, the licensing authority must publish a statement of the revisions or a revised licensing statement. With the imminent legislative changes, the policy will only be published on the web.

The revisions in the policy will have to be approved by the executive board. Consultations have been carried out, via a mail shot, with all the authorities as laid down in statute, and with trade organisations. Awareness of the policy review was raised for residents of the borough with promotion on the Councils website.

RESOLVED - That the report be noted and that Members support the review and consultation of the Statement of Licensing Policy.

18 Report: The Licensing of Sexual Entertainment Venues

A report was submitted to request that Members consider the outcome of a consultation and the draft policy, and, if appropriate request the Council to adopt the amendment, to allow the licensing of sexual entertainment venues.

The amendment brings the licensing of lap dancing and pole dancing clubs and other similar venues under the regime set out in the Local Government (Miscellaneous Provisions) Act 1982, which is currently used to regulate establishments such as sex shops and sex cinemas. Adoption of the Act will mean operators providing "relevant entertainment", such as lap dancing clubs will have to apply for a separate sex establishment licence. These premises are currently licensed under the Licensing Act 2003 as "regulated entertainment" whereby local people can only object on the grounds of the four licensing objectives. Under the new regime local people will be able to make representations on wider grounds and have greater say over the number and location of the establishments in their area. Licence holders will have to renew annually, at which point local people again will have the opportunity to raise objections.

There will be exemptions for premises where the sexual entertainment is provided infrequently, ie not more than eleven occasions in a twelve month period, they must be greater than one month apart and must not last for more than 24hours. These premises will still be regulated under the Licensing Act 2003. Any premises who are not licensed for entertainment will need to apply for Temporary Event Notices.

Existing Operators who hold a premises licence or a club premises certificate under the 2003 Act will not be given preferential treatment or be automatically granted licences under the provisions of the schedule 3 of the 1982 Act. They will however be able to continue to operate over a 12 month transitional period starting from when the new provisions are adopted to give existing operators time to adapt.

During the first six months of the transitional period both existing and new operators can apply for a new licence. At the end of this period the licensing authority must consider all applications together and cannot grant any licences until all the applications have been considered. The number of licences maybe limited so it would be unfair to grant on a first come first served basis. Once considered, a licensing authority can grant as many licences as they see fit in accordance with the policy. After the first six months, licences can still be applied for and each application must considered individually on its own merit.

The consultation period on whether the Council should adopt the new provisions ran from July 2010 to September 2010 and the following groups were consulted:

- Police Licensing Team
- Shared Neighbourhood teams
- Ward Councillors
- Businesses Licensed under the Licensing Act 2003
- Resident and Business Associations
- Faith Groups

At the time of writing this report there had been 33 responses.

The policy will be a guide for applicants and Members detailing procedural matters, including the mandatory reasons an application will be refused and the discretionary reasons a Council can refuse a licence (ie location and locality of a premises)

Section 27 came into force on 6th April 2010. Local Authorities may now resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so it can have effect in their area. Adoption is a matter for the Council on recommendation from the Licensing Committee.

If the Local Authority fails to adopt Schedule 3 within 12 months of the new legislation taking effect, it must then carry out a full public consultation exercise before formally adopting.

Although many local authorities will have already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and cinemas, a further resolution is necessary before the provisions introduced by Section 27 will have effect in the local authority area.

The procedure for local authorities to adopt Schedule 3 as amended by Section 27 is set out in section 2 of the 1982 Act. Firstly, the local authority must pass a resolution specifying that the amendments made by section 27 to that Schedule, shall apply to their area and the day on which it shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed.

The local authority shall publish notice that they have passed the resolution referred to above for two consecutive weeks in a local newspaper. The first publication shall not be later than 28 days before day specified in the resolution for the provisions to come into force in the local authority's area.

The draft policy for sexual entertainment venues details the following:

- Administrative matters such as application procedures, fees, hearing procedures
- The suitability of the applicant to hold a licence

- The locality and the number of sex establishments allowed
- The character of the relevant locality

RESOLVED - That Members have considered the outcome of the consultation and the draft policy and request that the Council adopt the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009, to allow the licensing of sexual entertainment venues.

19 Exclusion of the Press and Public

It was resolved that the press and public be excluded from the meeting during consideration of the following items by virtue of Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

20 Minutes of the General Licensing Sub Committees

RESOLVED – That the minutes of the meetings of the General Licensing Sub Committees held on 27th July, 31st August and 7th September 2010 were confirmed by Members present who had served at those meetings and were signed as a correct record.

Signed.....
Chair of the meeting at which the Minutes were signed

Date.....