

TITLE	Policing and Crime Act 2009
FOR CONSIDERATION BY	Licensing and Appeals Committee on 6 September 2010
WARD	None specific
GENERAL MANAGER	Mark Moon – Place and Neighbourhoods

OUTCOME

The adoption of the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 relating to licensing of sexual entertainment venues.

RECOMMENDATION

That the Licensing and Appeals Committee recommends that Council adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 relating to licensing of sexual entertainment venues.

SUMMARY OF REPORT

This new legislation provides for local authorities to control sexual entertainment venues by licence. Unless this legislation is adopted there are no direct controls over this type of activity.

Background

Currently there are no sexual entertainment venues in the Borough. Sexual Entertainment is commonly understood to include:

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

These activities do not require licensing under the Licensing Act 2003, albeit that other activities which usually accompany them, such as the sale of alcohol, music and dancing, do.

The Policing and Crime Act 2009 contains provisions which amend Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 which, if the Council adopts them, will require these activities to be licensed. Where adopted, these provisions will allow the Council to refuse an application on potentially wider grounds than is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

The legislation will:

- allow local people to oppose an application for a Sex Establishment licence if

they have legitimate concerns that a Sexual Entertainment Venue would be inappropriate given the character of an area, for example, if the area was primarily a residential area.

- require licences to be renewed at least annually, at which point local people will have the opportunity to raise objections (if any) with their local authority.
- allow a local authority to reject a licence application if they believe that to grant a licence for a Sexual Entertainment Venue would be inappropriate given the character of a particular area.
- allow a local authority to set a limit on the number of Sexual Entertainment Venues that they think is appropriate for a particular area.
- allow a local authority to impose a wider range of conditions on the licences of Sexual Entertainment Venues than they are currently able to under the Licensing Act 2003.

Analysis of Issues

If the Council does not make a resolution to adopt the provisions before 6 April 2011 (one year after commencement) it must consult local people about whether it should make such a resolution.

Reasons for considering the report in Part 2
Not Applicable

List of Background Papers
Home Office Guidance for England and Wales – Sexual Entertainment Venues

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Date 24 August 2010	Version No. 1

TITLE	Advertising on Hackney Carriage Vehicles
FOR CONSIDERATION BY	Licensing and Appeals Committee on 6 September 2010
WARD	None Specific
GENERAL MANAGER	Mark Moon – Place and Neighbourhood Services
LEAD MEMBER	UllaKarin Clark – Lead Member for Corporate Services

OUTCOME

Members are asked to consider an application from a vehicle advertising company to alter our existing policy on advertising on the outside of a Hackney Carriage licensed vehicle such that it be allowed. Members are asked to consider the suitability of the advertising requested on Wokingham Borough licensed vehicles.

RECOMMENDATION

Members are asked to:

1. Agree that the existing policy in relation to advertising on licensed vehicles remain

Or

2. Agree that Hackney Carriage Vehicles should be permitted to carry advertising and to ask officers to draw up guidelines for such applications to be brought back to a future meeting of the Committee together with a schedule of fees.

SUMMARY OF REPORT

This report outlines the details of a request to allow advertising on Hackney Carriage vehicles for members of the committee to consider.

Background

The existing Policy in relation to Hackney Carriage and Private Hire Vehicles states that:

2.6 Advertising on the outside of any licensed vehicle is restricted to the name and telephone number of the owner of the vehicle or operator of the Hackney Carriage /Private Hire Vehicle unless written permission is obtained from Wokingham Borough Council.

The Licensing Team received a request to allow the following advertising formats on our Hackney Carriage Vehicles

- Wrap
- Supaside
- Seats

Pictures of sample pictures of campaigns are attached as Appendix One.

Members may wish to take into consideration that these advertisements appear to be designed for use with black cabs and we currently have a mixed fleet of vehicles licensed as Hackney Carriage Vehicles in Wokingham including multiple purpose vehicles (MPV's), purpose built wheelchair access vehicles and one black cab.

All advertisements must comply with the British Code of Advertising Practice.

Reading Borough Council do allow advertising on their Hackney Carriage vehicles, theirs is a fleet of black cabs, and I enclose their criteria for advertising which members may wish to take into consideration when deciding whether they would wish officers to develop something similar if they agreed to amend the policy to allow advertising. This is attached as Appendix Two.

Analysis of Issues

Amendments to existing policy in the light of representations.

Reasons for considering the report in Part 2

Not Applicable

List of Background Papers

Hackney Carriage and Private Hire Licensing Policy Guidelines for advertising on Licensed London Taxis

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Date 17 August 2010	Version No. One
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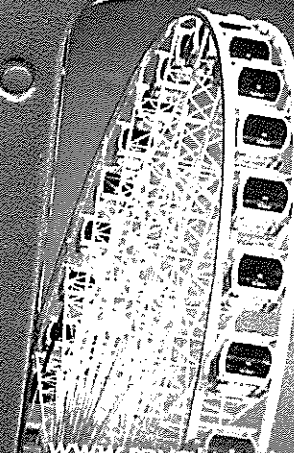
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CRITERIA FOR STATIC AND SCROLLING ADVERT APPLICATIONS INSIDE HACKNEY CARRIAGES

1. Advertising Content - General

- 1.1 All adverts must comply with the British Code of Advertising Practice and it is the responsibility of the agency or individual seeking the Council's approval to ensure that they do so.
- 1.2 Each proposal to be considered on its merits but the following advertisements will not be approved:
 - a) Those with political, ethnic, religious, sexual or controversial texts;
 - b) Those for escort agencies, gaming establishments or massage parlours;
 - c) Those displaying nude or semi-nude figures;
 - d) Those which seek to involve the driver as an agent of the advertisers;
 - e) Those likely to offend public taste (including material depicting bodily functions, genitalia and the use of obscene or distasteful language);
 - f) Those which seek to advertise more than one company.

Except where an event is being promoted which is being sponsored by no more than two sponsors.

2. Static Advertisements

- 2.1 In cabs with a glazed area above the partition, advertising may be permitted on that part of the bulkhead, behind the driver's seat.
- 2.2 No advertising material may be placed on the glazed passenger partition other than official approved notices.
- 2.3 The advertisement is not to exceed the area of screen provided.
- 2.4 Advertisements may be displayed within the passenger compartment or on the base of the occasional (tip-up) seats.
- 2.5 Occasional seat advertisements must be encapsulated in clean non-flammable plastic.
- 2.6 The completed advertisement not to exceed the area of the base of the occasional seat and will be of a maximum of 16 inches square.

3. Moving Images

- 3.1 No moving images, e.g. television, video, computer or similar shall;
- a) be capable of, or
 - b) be permitted to
- be directly viewed by the driver whilst driving.
- 3.2 The screen shall be in such a position that it cannot be viewed with the aid of mirrors or other reflective material by the driver whilst driving, as outlined in Condition 3.1(a) and (b) above.
- 3.3 The screen shall not be in such a position so as to deliberately distract other drivers.
- 3.4 No scrolling or moving advertisement shall be exhibit whilst the vehicle is waiting/plying for hire on a recognised hackney carriage stand or when no passengers are being carried except:
- (a) as part of a static display authorised by the Council.
 - (b) when undergoing a test or inspection by an authorised Officer of the Council, a Police Officer or other authorised person from the Advertising Standards Agency or similar body.
- 3.5 No scrolling or moving advertisement(s) may be shown to the annoyance of any passenger(s) who should be able to communicate easily with the driver to the effect that the advertisement(s) is/are not required.
- 3.6 A clear notice, either situated close to the moving image screen, which is visible to passenger(s) whilst on board, and advises that the moving images will be switched off at the passengers request, must be displayed.
- 3.7 No unauthorised advertising material may be shown.
- 3.8 Only discs showing advertisements provided by authorised advertising agencies shall be used in the equipment provided.
- 3.9 Whilst authorised film trailers or clips may be shown without sound, no full length film, programme or computer game by DVD or similar disc may be played.
- 3.10 Scrolling or moving adverts will comply with Condition 1.2 above and other relevant sections of these conditions.

4. Dispensers

No leaflet dispensers to be installed in the passenger compartment.

5. Audio Material

- 5.1 The Licensing Committee taking the view that the fare-paying passenger is a captive audience and paying premium rate for conveyance from one location to another in safety, comfort and privacy, must not be subjected to excessive or intrusive advertising.
- 5.2 Rear compartment audio systems for the sole purpose for advertising are not allowed.
- 5.3 Scheduled public radio broadcasts or audio material on general sale to the public (i.e. CDs, tapes) may be transmitted to the passenger compartment.
- 5.4 Audible advertisements are permitted only if received via a scheduled broadcast from a public radio station.
- 5.5 The audio material must be of a standard that would be acceptable to the Broadcast Standards Council and the authority for broadcasting to all age groups. It must not contain explicit sexual lyrics, profanities or any other language or sounds likely to cause offence.
- 5.6 A current copyright music licence must be obtained from the Performing Rights Society for the cab concerned and be available for inspection whenever the cab is presented for licensing.
- 5.7 Any audio system for the rear compartment of a cab must be approved by the Head of Environment and Consumer Services (or his duly authorised officer) before installation.

6. Conditions to be applied to liveried hackney carriages

- 6.1 All liveries must be approved by the Council and proposals must be accompanied by full colour, three-view art work. The first cab of any contract must be presented at the Council offices for inspection of the finished livery.
- 6.2 Cabs used must be less than two years old with bodywork in good condition. Cabs more than two years old may only be used where any defects in bodywork have been remedied and the vehicle has been re-sprayed to an acceptable standard.
- 6.3 No secondary advertising of any kind will be permitted, whether in the form of the logo of the company preparing the vehicle or the name of the advertising agency.
- 6.4 Provision must be made for the immediate replacement of damaged panels. Cabs will not be allowed to work with damaged or unmatched panels or be accepted for re-licensing in this condition.
- 6.5 No logos or words will be allowed on the boot lid area. (This includes the area between the top of the boot lid and the bottom of the rear screen).

TITLE	Time Allowed for Parties at Licensing Act 2003 Appeal Hearings
FOR CONSIDERATION BY	Licensing and Appeals Committee on Monday 6 September 2010
WARD	None Specific
GENERAL MANAGER	Mark Moon, General Manager Place and Neighbourhoods

OUTCOME

To update the Hearing Procedures for the various types of Hearing Sub Committee that can be held under the Licensing Act 2003.

RECOMMENDATION

That the Licensing and Appeals Committee agree the proposed addition (highlighted in bold italics in Appendix A. Appendix A is an example of one the Hearing Procedures which all contain a similar provision) to the Hearing Procedures for the various Hearing Sub Committees that can be held under the Licensing Act 2003.

SUMMARY OF REPORT

The report sets out the proposed addition to the various Hearing Process Guidelines. The proposed addition is to provide flexibility when considered necessary by the relevant Sub Committee.

Background

Government Guidance for Hearing Sub-Committees indicates that each party should be allowed an equal maximum amount of time in which to give information supporting their evidence in their written application, representation, notice or objection, and that this limit should be determined by the individual local authority.

There are a number of different procedures for the various types of Hearing Sub-Committee that can be held under the Licensing Act 2003 in place e.g. hearing to determine application for a new premises licence. These were agreed by the Licensing and Appeals Committee on 1 February 2005.

On 1 February 2005 the Licensing and Appeals Committee also agreed that the equal maximum time limit for parties to give information supporting the evidence in their written application, representation, notice or objection be set at seven minutes.

Proposed addition and reason for suggested change:

- It is proposed that the maximum amount of time each party is given to present information or their representation remains at seven minutes. However, in some cases such as the level of information provided by one or more parties, this time limit may be considered unworkable. It is therefore proposed that some flexibility be introduced into the Hearing Procedures (see Appendix A for an example) to allow any party to request an extension. All Parties would be asked to indicate how long they believe they would require to present their information, before the hearing. All Parties will be asked to contact the Clerk at least 5 working days prior to the hearing if they would like an extension to the time limit. Any extension of the time given to present would be at the discretion of the Sub Committee for that hearing. In any case all Parties would continue to be given equal time to put their case, in line with Government guidelines.

Reasons for considering the report in Part 2

N/A

List of Background Papers

Hearing Procedures for the various types of Hearing Sub Committee that can be held under the Licensing Act 2003.
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Minutes of the Licensing and Appeals Committee 1 February 2005
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Contact Madeleine Shopland	Service Democratic Services
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Date 02.08.10	Version No. 1
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HEARING PROCEDURE – APPLICATION TO VARY A PREMISES LICENCE

1. Sub-Committee to elect a Chairman for this Hearing only.
2. Chairman to welcome all Parties and introduce the Members of the Sub-Committee.
3. Chairman to ask Sub-Committee if they have any interests to declare.
4. Chairman of Sub-Committee to outline procedure and reaffirm that only information relevant to representations can be considered and that such information must be relevant to the Licensing Objectives. Chairman to confirm that all parties understand this. The four Licensing Objectives are: -
 - The Prevention of Crime and Disorder;
 - Public Safety;
 - The Prevention of Public Nuisance; and
 - The Protection of Children from Harm.
5. The Licensing Officer will introduce the Hearing report and update the Sub-Committee on any developments following publication of the report whenever required.
6. Applicant to present application, including any witnesses. This is normally no longer than 7 minutes. **Whilst this is the standard time limit given to each party to make their representation the Applicant may wish to request an extension. It will be the decision of the Sub Committee, at the hearing, whether an extension to the time limit for making representations is given. All parties will be given equal time to put their case.**
7. Responsible Authorities that have made representations and any Interested Parties that have made representations may, with the permission of the Sub-Committee, question the Applicant and witnesses.
8. Each Responsible Authority that has made representations to present their representations including any witnesses. Each Responsible Authority has 7 minutes to present their representation. **Whilst this is the standard time limit given to each party to make their representation the Responsible Authority may wish to request an extension. It will be the decision of the Sub Committee, at the hearing, whether an extension to the time limit for making representations is given. All parties will be given equal time to put their case.**
9. The Applicant may ask questions of each Responsible Authority if permitted to do so by the Sub-Committee, but will, in any event, be given the opportunity to respond to comments made by other parties at the end of the Hearing.
10. Any Interested Parties that have made representations to present their representations including any witnesses. Each Interested Party has 7 minutes to present their representation. **Whilst this is the standard time limit given to each party to make their representation the Interested Party may wish to request an extension. It will be the decision of the Sub Committee, at the hearing, whether an extension to the time limit for making representations is given. All parties will be given equal time to put their case.**
11. The Applicant may ask questions of each Interested Party if permitted to do so by the Sub-Committee.
12. The Sub-Committee can question any Party at any stage.
13. In order to facilitate effective Hearings, Interested Parties making similar representations will be asked to nominate a spokesman to present their representations. At the conclusion of a spokesman's representation, the

Chairman will ask the other Interested Parties if they have any other points to raise.

14. Questions by the Sub-Committee and, when permitted, by the Applicant, will be directed to the nominated spokesman in the first instance.
15. The Applicant will be given the opportunity to respond to comments made.
16. After hearing the application and all representations, the Sub-Committee will ask any further questions of any party that it may have.
17. The Chairman will ask all parties if they have any further relevant points that have not been covered in the Hearing and to give a brief summary of their evidence and information with the Applicant going last in order.
18. All parties other than the Sub-Committee and support staff from Wokingham Borough Council's Legal and Democratic Services team to leave the Hearing.
19. The Sub-Committee shall determine the application. The decision will be notified in writing to all parties after the Sub-Committee has reached its decision.