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AGENDA

Committee	PUBLIC PROTECTION COMMITTEE
Date and Time of Meeting	TUESDAY, 2 NOVEMBER 2021, 10.00 AM
Venue	REMOTE MEETING VIA MS TEAMS
Membership	Councillor Mackie (Chair) Councillors Sattar, Asghar Ali, Derbyshire, Goddard, Jacobsen, Hudson, Lancaster, Robson and Wood

1 **Apologies for Absence**

To receive apologies for absence.

2 **Declarations of Interest**

To be made at the commencement of the agenda item in question, in accordance with the Members' Code of Conduct.

3 **Minutes** (*Pages 3 - 24*)

To approve as a correct record the minutes of the previous meeting.

4 **Renewal Application of a Sexual Establishment Licence – Lovecraft, 80 Cowbridge Road East, Cardiff** (*Pages 25 - 38*)

5 **Urgent Items (if any)**

Davina Fiore

Director Governance & Legal Services

Date: Wednesday, 27 October 2021

Contact: Graham Porter,

02920 873401, g.porter@cardiff.gov.uk

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PUBLIC PROTECTION COMMITTEE

11 MAY 2021

Present: Councillor Mackie(Chairperson)
Councillors Asghar Ali, Derbyshire, Goddard, Hudson,
Lancaster, Dianne Rees, Robson and Wood

17 : APOLOGIES FOR ABSENCE

Apologies were received from Cllr Jacobsen.

18 : DECLARATIONS OF INTEREST

No declarations of interest were received.

19 : MINUTES

The minutes of the meetings of 3 November 2020, 1 December 2020, 5 January 2021, 2 February 2021 and 2 March 2021 were approved by the Committee as a correct record.

20 : GREEN FLEET TAXI PILOT: A REQUEST FOR FULL LIVERY

Following a request received from the Welsh Government Members were asked to consider approving a full livery scheme for entirely electric, wheelchair accessible, hackney carriage vehicles as part of a Green Fleet Pilot Scheme. The scheme aims to encourage the taxi trade to switch to zero-emission vehicles. Members were advised that currently the authority only permits full livery on 'London style' taxis.

The Welsh Government scheme will operate in three areas across Wales. The scheme is a 'try before you buy' initiative, allowing taxi drivers to try a fully electric, wheelchair accessible vehicle for 30 days free of charge. The trial will include free electric charging, insurance, vehicle licensing and breakdown cover funded by Welsh Government. The pilot is intended to assist Welsh Government in achieving its target of de-carbonising the taxi fleet entirely by 2028 as it is hoped it will help taxi drivers to realise the financial and environmental benefits of zero-emission vehicles and in turn contribute to the transition from diesel/petrol vehicles to zero-emission vehicles.

A full livery has been requested for the hackney carriages involved in this pilot scheme to ensure the initiative is advertised across the area and to encourage other drivers to be a part of the scheme. A copy of the requested livery design was detailed at Appendix A of the report.

Responding to a question from the Committee, officers confirmed that 16 vehicles will be participating in the scheme. Drivers will be required to make an application to participate in the pilot.

RESOLVED – That:

- (1) the Committee approved the request by Welsh Government to allow full livery on all the fully electric, wheelchair accessible hackney carriage vehicles involved in the Green Fleet Pilot scheme.
- (2) that the Committee agreed to grant delegated authority to an Operational Manager of the Shared Regulatory Services to approve door stickers that will be used to identify Cardiff Hackney Carriages.
- (3) the Committee agreed that Condition 5.2 (f) of the Hackney Carriage Vehicle Licence Conditions be amended as follows:

“Full external advertising livery for one product is permitted on the whole of the vehicle subject to the advertisement being approved by the authority, in writing, prior to its use. This condition applies to purpose-built vehicles which meet the Metropolitan Police Conditions of Fitness, along with fully electric vehicles involved in the ‘Green Fleet Pilot’ scheme’ that also display approved door stickers identifying them as a Cardiff Hackney Carriage.”

21 : REVIEW OF CARDIFF COUNCIL’S STATEMENT OF LICENSING POLICY RELATING TO HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE VEHICLES, DRIVERS AND OPERATORS

The current Statement of Licensing Policy relating to Hackney Carriage and Private Hire Vehicles, Drivers and Operators has been in place since 2008. Members were advised that as new statutory standards have been published by the Department of Transport (DfT) and new recommendations have been published by the Welsh Government it was proposed that the authority review its policy in order to incorporate these new standards and recommendations.

The new standards introduced by the DfT focussed on safeguarding children and vulnerable adults. The Welsh Government recommendations aimed to improve the consistency of licensing standards and increase public safety. The recommendations would also form the basis for the development of national standards for all local authorities in Wales.

Members received a report highlighting the main changes proposed to the Statement of Licensing Policy, as follows:

Drivers

- Requirement for drivers to join the Disclosure & Barring Service
- (DBS) Update Service and have a DBS check every 6 months.
- Overseas criminal record check for drivers.
- Adopting the Welsh Government’s Driver Code of Conduct.
- Updating the Private Hire Driver Conditions in line with the Welsh
- Government’s Recommendations

Vehicle

- Requirement for vehicle proprietors to have an annual DBS check.
- Overseas criminal record check. □ Adopting the Welsh Government's policy on CCTV and Video Point
- of Impact Systems (VIPS)/Dash Cams in taxis and private hire vehicles.
- Impose the Welsh Government's recommendations for accessibility conditions on vehicle proprietors of taxis and private hire vehicles.

General

- To commit to reviewing Statement of Licensing Policy every 5 years in accordance with the DfT's Statutory Standards.

The Chairperson opened the debate on this item. Members were supportive of the proposed changes, particularly in relation to the harmonisation of common standards across all Welsh licensing authorities and the requirement for drivers to join the DBS Update Service. Officers stated that drivers would still be required to advise the licensing authority of any offences.

A Member noted that the report highlighted that there were no property or personnel impact assessment implications included within the report. Concerns were raised that the introduction of CCTV into vehicles would clearly have an impact on the property of proprietors. There would also be personnel implications if overseas applicants are required to provide the equivalent of a DBS check from their country of origin. Officers confirmed that should the Committee approve the recommendations in the report those issues would be addressed by the equality impact assessments to be undertaken as part of the consultation process.

The Committee also received representations from Lee Ward and Yusef Jama of Unite union. Lee Ward raised concerns regarding the authority's intention to place all policies in relation to drivers, proprietors and operators under one over-arching policy as this may prove difficult for each party to find information pertaining to them quickly and easily. There was a danger that the resulting policy document would be far too large and confusing. Officers advised that drivers, proprietors and operators would still have easily accessible, stand-alone policies. However, bringing them together in one document would simplify the Statement of Licensing Policy. When a licence is issued the licence holder would be issued with a copy of the policy/conditions relating to the licence. They would not receive the whole Statement of Licensing Policy. Yusef Jama highlighted concerns regarding the requirement to regularly renew driver's identification badges. Officers stated that feedback from the trade would be welcomed regarding this requirement during the consultation.

RESOLVED - That

- (1) the Committee approves the review of its Statement of Licensing Policy relating to the Hackney Carriage (Taxi) and Private Hire Vehicles, Drivers and Operators in line with the new DfT Statutory Standards and the Welsh Government's Harmonisation of Taxi and Private Hire Vehicle Licensing Recommendations.

- (2) the Committee agreed to consult with the trade and the wider public (including relevant local organisations for example; accessibility groups) on a draft Statement of Licensing Policy.

22 : URGENT ITEMS (IF ANY)

No urgent items were received.

The meeting terminated at 1.30 pm

PUBLIC PROTECTION SUB COMMITTEE

11 MAY 2021

Present: Councillor Mackie(Chairperson)
Councillors Goddard and Robson

3 : EXCLUSION OF THE PUBLIC

The following item is confidential and exempt from publication as it contains exempt information of the description contained in paragraph 14 of Part 4 and paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972. The public may be excluded from the meeting by resolution of the Committee pursuant to Section 100A(4) of the Local Government Act 1972 during discussion of this item.

4 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Case 1

The Sub Committee were asked to consider the circumstances regarding a complaint received from a member of the public regarding the conduct of a driver following a road traffic collision. The Sub Committee received representations from the complainant, the driver and three witnesses.

The driver denied that he was at fault and stated that he was discussing the incident with the complainant amicably until the arrival of a third-party witness.

Members adjourned the meeting to consider additional representations and video footage provided by the driver's wife and daughter. Both wife and daughter were also then invited to make representations. There followed an opportunity for members to ask questions and seek clarification where necessary. During questioning Members were advised that the front bumper of the hackney carriage vehicle was hit but there was no significant damage.

The complainant provided her recollection of the incident. The complainant stated that when turning right into Newport Road she was involved in a collision with the driver's hackney carriage vehicle. The complaint stated that the driver swore at her and accused her of moving across into his lane. Both vehicles pulled into a bus stop. Members were advised that a female passenger exited the taxi and began to swear and accuse the complainant of being at fault. The female was filming the exchange on a mobile phone. She began to ask the complainant's passenger to come out of their vehicle. The complainant stated that at this point she became concerned about the welfare of her passenger – her son who has learning disabilities and behavioural issues. Members were advised that the rear wheel arch of the complainant's vehicle was hit leaving a few minor scratches.

The Sub Committee also heard representations from a witness to the incident. The witness stated that the driver had moved across into the complainant's lane and struck her vehicle. The witness admitted becoming angry because not only did the driver deny responsibility he was trying to blame the complainant for the incident.

The complainant stated that the driver of the hackney carriage refused to provide his details and therefore she was unable to leave the scene of the incident.

The Committee decided that on the balance of probabilities the driver's conduct fell below the standards expected from a professional taxi driver in Cardiff.

RESOLVED – That the hackney carriage/private hire drivers licence be suspended for two weeks due to unacceptable conduct.

(2) Case 2

Deferred

(3) Case 3

Deferred

(4) Case 4

The Committee was asked to consider a complaint received from a doctor who was employed to undertake medical fitness assessments of taxi drivers during the application process. It was alleged that the applicant attempted to bribe the general practitioner in order to pass his medical exam. He then became aggressive, intimidating and coercive to members of staff when the bribe was refused.

The Sub Committee received representations from the applicant concerned. There was then an opportunity for Members to ask questions. The driver denied that he had offered a bribe to the general practitioner.

RESOLVED – That that application for a hackney carriage/private hire driver licence be refused.

(5) Case 5

Adjourned sine die

The meeting terminated at 12.30 pm

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PUBLIC PROTECTION SUB COMMITTEE

1 JUNE 2021

Present: Councillor Mackie(Chairperson)
Councillors Derbyshire and Jacobsen

1 : EXCLUSION OF THE PUBLIC

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2 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Case 1

Members were advised that a complaint had been received from a member of the public who alleged that a driver had refused a fare. The driver was parked on the Cowbridge Road East rank in Canton and the passenger had wanted to go to Kings Road. The complainant stated that the driver had said 'you can walk'. The witness did not attend the hearing

The Sub Committee received representations from the driver who denied that a fare was refused. The driver stated that it was a quiet day and he had been waiting for a fare on the rank for 2 or 3 hours. He was the first vehicle on the rank. A lady approached his vehicle so he opened the window and asked the customer where she wished to go. The customer became angry and refused to get into the vehicle. The driver got out of his vehicle and tried to calm the customer. The customer then left the area on foot.

Member asked a number of questions seeking to clarify what had occurred. Members noted that the driver had attended a BTEC training course on Carrying Passenger by taxi. On the course drivers are taught not to ask passengers their destination until they are inside the vehicle. The driver stated that it is normal practice to open the window and speak to customers before they get into the vehicle.

RESOLVED – That the driver receive a written warning for conduct.

(2) Case 2

The Sub Committee received representations from a driver who had been convicted of a number of offences in relation to consumer protection, unfair trading, hallmarking and Trademark offences. Members were advised that following the receipt of a complaint Trading Standards officers had made

test purchases on items for sale on an Ebay account. The items were sent for analysis. The jewellery was returned as mis-described, the cosmetics were unsafe and the trademark holders confirmed that the goods did indeed infringe the trademark.

Officers from Shared Regulatory Services commenced an investigation and a warrant was executed at the home of the driver. Officers seized items of jewellery, cosmetics and trademarked items along with items used in the distribution of goods such as various sizes of padded envelopes and in addition £12,845 in cash. The investigation showed that the defendants had been trading for a number of years. Members were advised that the sentencing Judge Jones stated that in her opinion this was a large scale, sophisticated business with issues of goods being supplied that were unsafe, being used by individuals who had no idea that they are using an unsafe product.

The Sub Committee received representations from the driver. The driver stated that he had entered into a partnership with another person. They purchased stock from a registered company and they were unaware that the stock was counterfeit. He accepted that he had made a mistake and he was remorseful for it.

Members asked the driver to explain why a large amount of cash found at his home during the execution of a warrant. The driver stated that the cash was his life savings.

RESOLVED – That the hackney carriage/private hire driver licence be revoked for convictions relating to dishonesty.

(3) Case 3

Deferred for 1 month

(4) Case 4

Application 4

The Sub Committee received representations from a driver who was convicted of using a vehicle uninsured against third party risks resulting in 8 penalty points on this DVLA driving licence. The driver was asked to explain the circumstances resulting in the conviction.

Members were advised that the driver was working in Cardiff City Centre. As part of a planned operation, two officers of the Shared Regulatory Services approached his vehicle and asked to be taken to Penarth. The vehicle was a private hire vehicle and the customers had not pre-booked. The passengers paid the fare and left. The driver was subsequently approached by a Licensing Enforcement Officer who cautioned for the offence of plying for hire without a licence. He was subsequently convicted of the above offence and also for not having insurance to carry out the journey,

The driver accepted that he had made an error of judgement and he assured the Sub Committee that he would never repeat the same mistake again. He had no previous endorsements on this driving licence and there were no issues reported during his time working as a licenced taxi driver.

RESOLVED – That the hackney carriage / private hire drivers licence be revoked for a serious driving offence and a HC/PHV use offence

(5) Case 5

Deferred for 1 month

The meeting terminated at 12.30 pm

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PUBLIC PROTECTION SUB COMMITTEE

6 JULY 2021

Present: Councillor Mackie(Chairperson)
Councillors Sattar and Hudson

1 : EXCLUSION OF THE PUBLIC

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2 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Case 1

Deferred for 1 month

(2) Case 2

The Sub Committee heard representations from a driver who was involved in a confrontation with a member of the public. The driver explained the circumstances leading to the confrontation. The driver stated the he regretted his actions and he was aware of his responsibilities in terms of conduct.

RESOLVED – That the driver receives a written warning for unacceptable conduct.

(3) Case 3

Application for a Hackney Carriage / Private Hire Drivers Licence refused.

(4) Case 4

Application for a Hackney Carriage / Private Hire Drivers Licence granted.

The meeting terminated at 1.00 pm

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PUBLIC PROTECTION SUB COMMITTEE

10 AUGUST 2021

Present: Councillor Mackie(Chairperson)
Councillors Derbyshire and Goddard

1 : EXCLUSION OF THE PUBLIC

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2 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Case 1

The Sub Committee received representations from a driver who had received 6 penalty points and a fixed penalty for a driving offence. Members were advised that the driver had used a mobile telephone to receive a video call from his son. The driver was off-duty, there were no passengers in the vehicle and the device was being used 'hands free' at the time. The driver stated that he was unaware that an offence was being committed. The driver accepted that he made mistake and understood why it was considered to be a major traffic offence. There were no other offences to take into consideration and no complaints had been made against the driver.

RESOLVED – That the driver receive a written warning for a driving offence.

(2) Case 2

Deferred for 1 month

(3) Application 3

The Sub Committee was asked to consider a complaint received from a member of the public regarding a driver's conduct. Members were advised that a customer had booked a private hire vehicle and requested that the fare be paid on account at the time of the booking. When they reached the destination the driver advised the customer that the booking was coded as a cash fare. A dispute then occurred between the customer and the driver.

The Sub Committee received representations from the driver and his representative. Members were advised that the driver had accepted the booking as a cash fare. During the journey an amicable conversation was

held between the customer and the driver. The customer advised that she would like to pay for the fare by card and the driver therefore advised her to contact Dragon Taxis as he was unable to change the booking via the meter. At the destination the driver did not stop the meter as this would mean that only a cash payment would be accepted. The fare was approximately £8.50 at this point. The driver advised the customer to pay via the link sent to her from Dragon as quickly as possible as this would then stop the meter. The fare was increasing during this delay as the meter was still running and had increased to around £10.50. This led to a dispute.

At some point during the dispute the passenger tried to leave the vehicle. The driver attempted to explain to his passenger that she had locked the door from the inside. He reached into the back of the vehicle to explain how to unlock the door. At no point did he grab the passenger, or her handbag or phone. He did not lock the passenger in the vehicle. The driver stated that he asked the customer to leave the vehicle and he would not accept payment for the fare. The customer refused to do this. The passenger then got out of the vehicle and threw around £8.50 into the vehicle and left.

The Sub Committee also received representations from the customer. Members were advised that the customer often uses taxis and always pays by card. During the journey the customer stated that she advised the driver that she should be paying by card. Upon arrival at the destination the driver expected a cash payment.

The customer stated that the driver grabbed her hand and showed her the meter. She became frightened and phoned Dragon Taxis. During the phone call the driver locked the doors and refused to let her leave the vehicle. The Dragon operator asked the customer to give the driver her phone but she felt that this was not acceptable during a pandemic.

The customer confirmed that the driver then asked her to leave the vehicle without paying. But he was loud and intimidating. She tried to open the door and pay in cash from outside the vehicle as she considered this would be safer. At this point the driver grabbed her hand and tried to prevent her from leaving the vehicle. The driver then tried to grab her handbag.

After paying the driver the customer took photographs of the vehicle and the registration number. She then reported the matter to the police and made a complaint to the Council as she was concerned that same thing could happen to another passenger.

The Sub Committee heard the recordings of 5 telephone conversations between the passenger and Dragon Taxis, including a call made during the incident. The driver's representative sought to clarify details in relation to a number of points made by the customer during the telephone calls.

RESOLVED – That the Hackney Carriage / Private Hire drivers licence be suspended for 3 days for unacceptable conduct.

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The meeting terminated at 2.00 pm

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PUBLIC PROTECTION SUB COMMITTEE

7 SEPTEMBER 2021

Present: Councillor Mackie(Chairperson)
Councillors Goddard and Lancaster

3 : EXCLUSION OF THE PUBLIC

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4 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Application 1

The Sub Committee were asked to consider an application for a hackney carriage/private hire drivers licence. The applicant was a former hackney carriage/private hire driver. The applicant's licence was revoked by a Sub Committee in 2018 due the driver's unacceptable behaviour.

Members were advised that since revocation the applicant completed the BTEC Course on carrying passengers. The applicant was now fully aware of his responsibilities, particularly in relation to the Data Protection Act.

The applicant still did not accept some of the accusations made against him by the complainant when the Sub Committee considered the previous matter. However, he did accept that he had made some mistakes with regard to his conduct and he was regretful.

RESOLVED – That the application for a hackney carriage/private hire drivers licence be refused as the Sub Committee did not consider the applicant to be a fit and proper person to hold a licence.

(2) Application 2

The Sub Committee were asked to consider an application for a hackney carriage/private hire drivers licence. Members were advised that the applicant had served a custodial sentence for perverting the course of justice.

The applicant was asked to explain the circumstances leading to his conviction. The applicant stated that he had committed two driving offences for speeding. Upon receipt of the notification letters he did not advise the proper authority that he was driving the vehicle at the time of the offences. The applicant stated he provided a 'false address' for the first

offence. The letter was sent to his previous address and therefore he did not advise the authority who was driving. However, for the second offence he falsely claimed that his friend was driving the vehicle.

He was subsequently summonsed to court. The court received evidence that he was driving the vehicle at the time of the second offence. He received a four month custodial sentence for perverting the course of justice as a result.

Members noted that the driver had not declared both driving offences or any other convictions on the licence application form.

RESOLVED – That the application for a hackney carriage/private hire drivers licence be refused as the Sub Committee did not consider the applicant to be a fit and proper person to hold a licence.

(3) Application 3

The Sub Committee was asked to consider the circumstances that led to a licenced driver receiving 9 penalty points for driving offences.

The driver stated that he received 6 penalty points for driving without insurance and 3 penalty points for having a defective tyre. The driver was asked to explain the circumstances leading to his first conviction. The driver stated he was driving a private vehicle at the time of the offence. He was fully aware that he was not insured to drive that vehicle. However, he was not aware that he needed to advise the licencing authority of the driving offences. Responding to a question from the Sub Committee the driver stated that whilst he was aware that he was uninsured to drive the vehicle his was only travelling a short distance to a local shop.

The driver was asked why he had not appeared before the Sub Committee when invited to do so on two previous occasions. The driver stated that he was in hospital at the time but he emailed the licensing authority to advise them that he was unable to attend. The licensing officer stated that there was no record of any email being received. Officers had attempted to contact the driver on numerous occasions.

RESOLVED – That the hackney carriage/private hire drivers licence be revoked for driving offences.

The meeting terminated at Time Not Specified

PUBLIC PROTECTION SUB COMMITTEE

5 OCTOBER 2021

Present: Councillor Mackie(Chairperson)
Councillors Sattar and Goddard

1 : EXCLUSION OF THE PUBLIC

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2 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Case 1

Application for the grant of a Hackney Carriage/Private Hire Drivers Licence refused.

(2) Case 2

The Sub Committee were asked to consider a report regarding the conduct of a driver. Members were advised that the driver had continued to work for a number of different operators after testing positive for coronavirus and being instructed to self-isolate.

The driver confirmed that he received a PCR test for coronavirus on 16 July 2021. On 17 July 2021 he was contacted by Track and Trace who confirmed that his test result was positive. He was instructed to self-isolate for 10 days. The driver stated that he did not self-isolate and he continued to work continuously throughout the period, accepting fares and transporting passengers.

Officers also raised concerns that driver was not living at the address he provided to the Licensing Authority. He had used a false residential address for both his Hackney Carriage/Private Hire application and his DVLA licence. He subsequently confirmed that was living at a different address with another person. This was contrary to the information he provided to Track and Trace who were advised that he lived alone.

RESOLVED – That the Hackney Carriage/Private Hire Drivers Licence be revoked for unacceptable conduct.

The meeting terminated at Time Not Specified

**CARDIFF COUNCIL
CYNGOR CAERDYDD**

Agenda No.

PUBLIC PROTECTION COMMITTEE: 2 November 2021

Report of the Head of Shared Regulatory Services

**Renewal Application of a Sexual Establishment Licence –
Lovecraft, 80 Cowbridge Road East, Cardiff**

1. Background

- 1.1 Sex Establishment Licences are issued under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Mr Simon Sternchuss is the holder of a Sex Establishment Licence in respect of Lovecraft, 80 Cowbridge Road East, Canton, Cardiff. The licence was first granted in September 2001.
- 1.2 An annual renewal application in respect of the premises was received by the Licensing Section on 13 August 2021. As part of the application there is a statutory 28 day consultation period during which a notice is displayed at the premises and advertised in a local newspaper. The final date for objections was 10 September 2021.
- 1.3 During the consultation period, one objection was received, detailed in Appendix A.

2. Details of Objections Received

- 2.1 The objection refers to the current window display at the premises. It is stated that the window display features the traditional gender symbols for male and female and “these symbols appear in much of the relationship and sex education material used within primary and secondary schools and are as such linked in children’s minds with sex and relationships”, resulting in children asking what the shop is for. The objector also states that the “location of this shop, close to primary schools and encountered by children on a daily basis” stands in opposition to the aims of the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015.
- 2.2 Photographs of Lovecraft, taken 16 September 2021, are detailed in Appendix B.

3. Procedural Guidance

- 3.1 A licence can only be refused on the following grounds, which are contained within the Local Government (Miscellaneous Provisions) Act 1982:
 1. A Licence must be refused if
 - a) the applicant is under 18 years of age

- b) the applicant has had a licence revoked in the last year
- c) the applicant has not been resident in the UK for the previous six months
- d) the applicant is a company, which is not incorporated in the UK
- e) the applicant has had an application for the premises refused in the previous twelve months.

None of these grounds apply in this case.

2. A licence may be refused (ie the Committee has a discretion) if

- a) the Committee considers the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason
- b) the business would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the licence if he made the application himself.
- c) the number of sex establishments in the relevant locality is equal to or exceeds the number, which the Committee considers is appropriate for the locality.
- d) the Committee considers that the grant of the licence would be inappropriate, having regard to the: -
 - (i) character of the relevant locality; or
 - (ii) use to which any premises in the vicinity are put; or
 - (iii) layout, character, or condition of the premises.

3.2 In considering the application the proceedings must be conducted as a hearing of the applicants' case and not as an adversarial contest between the opposing parties. Having regard to existing case law, it is recommended that in considering the application the following procedure be adopted:

- That the applicant be permitted to hear and note what the objector says;
- The committee hears no other objectors who wish to address it, as no other written objections were received before the end of the 28 day objection period;
- The objector may speak to the meeting. The objector must restrict the presentation to the written submission and how it relates to the statutory grounds for refusal;
- The applicant should then have the opportunity to address the committee on the application and provide information in support of the application;
- The objector may be present to listen to the case put by the applicant but may not speak;
- The Committee to ask the objector, the applicant, and the public to leave the room while the members consider their decision; and
- The objector, the applicant, and the public be invited to return to hear the Committee announce the decision.

3.3 Section 11 of the of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 provides that were the renewal application has been submitted before its expiry the licence will remain in force until the authority determines the application.

3.4 An applicant refused renewal has the right of appeal against the decision of the authority to a Magistrates and Crown Court. An applicant refused under 2(c) or (d) above does not have a right of appeal although the applicant may apply for judicial review of the decision.

4. **Power to prescribe standard conditions**

4.1 Local authorities have the power to make regulations prescribing standard conditions applicable to licences for sex establishments. This is the case in Cardiff and the Regulations for Sex Establishments are detailed in Appendix C.

4.2 The regulations state that ‘the Council reserves the right to amend, delete or add conditions at any time if deemed appropriate.’

4.3 The committee would be unable to attach an additional condition to a single sex establishment licence, but instead could add a condition to the current standard conditions made under the regulations, which would then apply to all licensed sex establishments in Cardiff.

5. **Window Display Condition**

5.1. Condition 20 of Cardiff’s standard sex establishment conditions states:
‘No window shall contain any sign, advertising material, goods or display likely to cause an offence to persons passing the window’

This condition is fairly subjective and difficult to enforce, as what one person may consider to be offensive may be acceptable to another.

5.2 At its meeting of [2 October 2012](#), the Public Protection Committee considered 15 objections to the annual renewal application for this premises, all of which related to the suitability of the window display. At the meeting, the applicant gave an assurance that should an item displayed in the window cause an offence it would be removed following receipt of a complaint. The Committee resolved to grant the application and considered it unnecessary to attach a further condition to the standard Sex Establishment Licence conditions.

5.3 At its meeting of [6 October 2015](#), the Public Protection Committee considered a single objection to the annual renewal application for this premises, which related to the window display. The objector requested that a condition be added to the licence restricting the window displays as customers are “well aware of the nature of the goods on sale”. The Committee was asked to determine the application. Members discussed the merits of the application and the representation received. The Committee did not consider that the shop window display to be offensive. Similar displays can be found in the windows of nationally recognisable ‘high street’ stores in the City Centre.

6. Achievability

This report contains no equality personnel or property implications.

7. Legal Implications

7.1 There is a right of appeal to the Magistrates Court against any refusal to grant the application.

7.2 All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

8. Financial Implications.

8.1 The licensing service is required to be self financing with all expenditure being met from fees and charges.

9. Recommendation

a) That the objection to the renewal of the sex establishment licence in respect of Lovecraft, 80 Cowbridge Road East, Cardiff, be considered.

Dave Holland
Head of Shared Regulatory Services

16 September 2021

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: Public Protection Committee

Public Protection Committee Report – 2 October 2012

Public Protection Committee Report - 6 October 2015

6 6 SEP 2021

[REDACTED]
Canton, Cardiff
[REDACTED]

LICENSING SECTION

Chief Strategic Planning & Environment Officer
Licensing Section, Cardiff Council
City Hall, Cathays Park CF10 3ND

2nd September 2021

Dear Madam/Sir,

I would like to register an objection to the renewal of the licence held by Simon Tony Sternschuss for the 'Lovecraft' sex shop at 80 Cowbridge Road East CF11 9DN.

The location of the shop is on a busy shopping street in an otherwise largely residential area only yards from one primary school, St Mary's Catholic Primary School, and only a short distance from Severn Primary School on Severn Road. It is also directly opposite a bus stop used by families travelling to and from the schools and the city centre. It is also around the corner from a number of religious establishments, including the Bilal mosque, and Cowbridge Road East is the shopping street most accessed by pupils from the nearby Fitzalan High School after the school closes.

The change in window treatments in recent years demonstrated the unease many members of the public had felt with the products and messages on display. The windows now display large images directly relating to sexual themes in that they use the traditional symbols for male and female alongside newer variations. These symbols appear in much of the relationship and sex education material used within primary and secondary schools and are as such linked in children's minds with sex and relationships.

There is no question that young children ask parents and carers what the shop is for and what the different words mean in the displayed signage including 'rubberwear' and 'marital aids', as well as the required description of 'sex shop'. It is very obvious to all passing that it is a 'sex shop'. The signage is inappropriate and encourages the association of sex with commercialisation - sex is a natural and positive activity that children should associate with the sharing of mutual pleasure in an atmosphere of mutual respect. The association with this premises acts against such understanding.

Welsh Government has only recently closed their consultation on Sex and Relationships Education, a consultation that aimed to ensure that children learned about sex and relationships in a way that fostered safety and respect, being valued and supported so that "Learners develop understanding of the impact of different types of behaviour on others – both what you say and what you do - and the importance of self-regulation to ensure rights are respected. Learners should be taught that their right to be free from all forms of discrimination, violence, abuse and neglect is enabled by trusted adults who support their safety, as well as through legal protections that exist for all including consideration of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015". In my view the location of this shop, close to primary schools and encountered by children on a daily basis - stands in opposition to these aims.

Yours
[REDACTED]

FREEHOLD
ejhales
FOR SALE
029 2037 8844
www.ejhales.co.uk

LOVECRAFT
ADULT BOUTIQUE

ADULT BOUTIQUE

LOVECRAFT

ADULT BOUTIQUE

WWW.LOVECRAFTCARDIFF.CO.UK

WWW.LOVECRAFTCARDIFF.CO.UK
02920 387168

WWW.LOVECRAFTCARDIFF.CO.UK
02920 387168

LINGERIE
(1512 8 - 26)

MARITAL AIDS

BOOKS

MAGAZINES

GAMES

AROMAS

RUBBERWEAR

NOVELTIES

WWW.LOVECRAFTCARDIFF.CO.UK
02920 387168

LOVECRAFT

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LOVECRAFT

CARDIFF COUNTY COUNCIL REGULATIONS FOR SEX ESTABLISHMENTS

Cardiff County Council, in exercise of the powers conferred upon them by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 and of all other powers enabling them in that behalf make the following Regulations.

- Definitions**
1. (a) In these Regulations the following expressions that is to say “Sex Establishment”, “Sex Shop”, “Sex Cinema”, “Sex Article”, and “Vessel” shall have the meanings respectively assigned to them by Schedule 3 of the Act.
 - (b) In these Regulations the following expressions shall have the meanings hereby respectively assigned to them namely: -

“the Act” -	means the Local Government (Miscellaneous Provisions) Act, 1982.
“the Council” -	means Cardiff County Council.
“the licensed premises” -	means any premises, vehicle, vessel or stall licensed under the Act.
“Licence holder” -	means any person who is the holder of a sex establishment licence.
“Sex establishment licence” -	means a licence granted pursuant to Schedule 3 of the Act.
“Approval of the Council”	means the approval of the Council in writing under the hand of the Head of Regulatory Services or his nominated representative.
“Consent of the Council”	means the consent of the Council in writing under the hand of the Head of Regulatory Services or his nominated representative.
“Approved”	means by the Council in writing under the hand of the Head of Regulatory Services or his nominated representative.
- General**
2. In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
 3. The Council reserves the right to amend, delete or add conditions at any time if deemed appropriate.

4. The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law, order or regulation other than the Third Schedule of the Local Government Miscellaneous Provisions) Act 1982. Whilst utilising the Licence the Licence holder shall take into account any legislation that impinges on the activities proposed.
5. The holder of a Sex Establishment Licence shall observe such regulations and conditions as may be approved by the Council from time to time for cinemas having a licence under the Cinemas Act 1985 as shall be applied by the Council by special condition to the Sex Establishment licence, giving such reference to the said Cinema Licence conditions as may be deemed appropriate and the regulations and conditions shall have the same force and effect as if the same were severally contained in these regulations.
- Times of operation**
6. Except with the previous consent of the Council a Sex Establishment shall not be open to the public before 9 a.m. and shall not be kept open after 11 p.m.
7. Except with the previous consent of the Council a Sex Establishment shall not be open on Sundays, Good Friday and Christmas Day.
- Standard Conditions**
8. The Licensed premises shall not be used for any purpose other than the business of a Sex Establishment.
9. Where the Licensee is a body corporate or an unincorporated body any change of Director/Company Secretary or any other person responsible for the management of the body is to be notified to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council.
10. The Licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his / her absence and of whom details (including photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the Premises during the whole time they are open to the public.
11. The name of the person responsible for the management of a Sex Establishment be he / she the Licensee or a manager approved by the Council shall be prominently displayed within the Sex Establishment throughout the period during which he / she is responsible for its conduct.
12. No person previously convicted of:
- an offence connected to a Sex Establishment either licensed or unlicensed
 - a sexual offence
 - an offence relating to the sale of restricted 18 videos may be employed at the premises or be involved in supplying entertainment or goods at the premises.

13. The Licensee and a responsible person approved under Regulation 11 shall maintain a daily register to be kept on the premises in which he / she shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his / her absence and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within thirty minutes of the Sex Establishment opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
- Premises**
14. Copies of the licence and the conditions attached to the licence shall be clearly displayed so that every person entering the premises can see a copy of both the licence and the conditions.
15. The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the premises.
16. Any charge for entering the premises shall be clearly and legibly displayed outside the premises so that all persons can read it before entering the premises.
17. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or similar matter shall be displayed outside the premises without the written permission of Cardiff County Council, except for those signs or notices that are required to be displayed by these licence conditions.
18. The entrance to the premises shall be so designed and constructed as to prevent persons outside the premises having a view of the interior.
19. All windows must be dressed or designed so as to prevent persons outside the premises having a view of the interior.
20. No window shall contain any sign, advertising material, goods or display likely to cause an offence to persons passing the window.
21. Lighting in all parts of the premises must be in operation continuously during the whole time the premises are open as a sex establishment.
22. The premises shall be maintained in good repair and condition.
23. All parts of the Premises shall be kept in a clean and hygienic condition to the satisfaction of the Council.
24. Doors and openings which lead to parts of the premises which are not open to the public shall be clearly marked "staff only" or by some other sign that deters the public from using such doors or openings.
25. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
26. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the establishment who are disabled.

27. All exhibits, displays, demonstrations and like activities must be open and available to all customers at no charge other than any initial entrance fee to the establishment and there shall be no individual cubicles or rooms designed to accommodate individual persons or groups of persons where exclusive demonstrations, displays, exhibits or similar activities may take place, unless authorisation/consent is first granted by the Council.
28. Warning signs as specified in the Indecent Displays (Control) Act 1981 must be clearly exhibited at the entrance to the premises.
29. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
30. No change from use as Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.
- Safety**
31. The Licensee shall take all reasonable precautions for the safety of the public and employees.
32. The Licensee shall comply with any fire prevention and safety measures that may be required by the Council and or the South Wales Fire Service and shall maintain and keep available for use all specified fire fighting equipment and extinguishers.
- Conduct & Management**
33. The licensee shall maintain good order on the premises at all times.
34. No person under 18 years of age shall be admitted on the premises.
35. No tickets shall be sold and no admission money taken in a place to which members of the public, other than permitted customers of the Sex Establishment, have access.
36. The licensee shall ensure that the premises are not used by prostitutes (male or female) for soliciting or any immoral purpose.
37. Neither the licensee nor any other person shall seek to obtain custom for the sex establishment by means of personal solicitation outside or in the vicinity of the establishment.
38. No leaflet, card, paper, advertising sheet or similar matter promoting the establishment or any goods or service offered by the establishment shall be distributed in the vicinity of the establishment, unless authorisation/consent is first granted in writing by Cardiff County Council.

39. Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint, which are associated with sexual activity, shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.
40. The licensee shall make staff available to ensure good order and free passage for customers on access and egress routes and car parks belonging to the licensee.
41. The licensee shall prevent the sale, display for sale or offer for sale of any article, goods or service on access or egress routes and car parks belonging to the licensee.
42. No dancing or other entertainment of a like kind shall be provided or permitted unless authorised by the Council.
- Goods available
in Sex
Establishments** 43. Only merchandise which is legally available in Great Britain from retail outlets, mail order companies or party planners may be sold, hired, loaned or supplied, displayed, advertised or demonstrated at the establishment.
44. No film or video shall be exhibited, sold, hired, loaned or supplied unless it has been (a) passed by the British Board of Film Censors and bears a certificate to that effect or (b) approved by the Council and complies with the Video Recordings Act 1984 and it is a reproduction authorised by the owner of the copyright.
45. All sex articles and other things displayed for sale, hire, exchange or loan shall be clearly marked to show the price being charged.
46. The licensee shall without charge, display and make freely available literature and contact names and telephone numbers of organisations and associations that give advice and counselling on matters relating to sexual problems, family planning and sexually transmitted diseases.
47. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase, hire exchange or loan and a notice to this effect is to be prominently displayed within the Sex Establishment.

**CONDITIONS OF LICENCE RELATING TO THE PROVISION OF LAP
DANCING, TABLE SIDE DANCING AND ANY OTHER ENTERTAINMENT
INVOLVING STRIPEASE AND/OR NUDITY AT PREMISES LICENSED FOR
PUBLIC ENTERTAINMENT**

1. Total nudity (the exposing of genitals) shall only be permitted on stage and at no other place in the premises.
2. No sex act shall take place.
3. The area proposed for striptease (involving complete nudity) shall:-
 - a) be in a position where the performance cannot be seen from the street.
 - b) be in a designated area of the premises with segregation from the audience.
 - c) be in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.
4. The area proposed for lap dancing, table side dancing (involving partial nudity) shall be in a position where the performance cannot be seen from the street.
5. There shall be no physical contact between persons appearing on stage and the audience. The entertainment shall be given only by performers/entertainers and the audience shall not be permitted to participate.
6. Persons appearing on stage should have direct access to the dressing room without passing through or in close proximity to the audience.
7. Lap dancers/table side dancers must immediately dress at the conclusion of each performance.
8. The licensee, performer and any person concerned in the organisation or management of the entertainment shall not encourage, or permit encouragement of the audience to throw money at or otherwise give gratuities to the performers (except as permitted by condition 10 below)
9. Entertainment provided by topless dancers to customers seated at tables may only take part in those parts of the premises approved by the Council. No audience participation shall be permitted.
10. There shall be no physical contact between customers and the dancers except for the placing of money or tokens into the hands of the dancer at the beginning or conclusion of the performance. Whilst the dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers. Notices to this effect shall clearly be displayed at each table and at the entrance to the premises.
11. Should a customer attempt to touch a dancer, the dancer must withdraw and report the matter to her / his manager/supervisor.
12. There shall be no physical contact between dancers whilst performing.
13. The topless dancers shall at all times wear a G-string or similar piece of clothing that covers the appropriate part of the body.

14. The Licensee will immediately deal with any report of contact, misconduct or provocation by a customer or dancer.
15. No telephone number, address or information leading to any further meeting may be passed from customer to dancer or vice versa.
16. No dancer may perform if they are intoxicated.
17. No member of the public shall be admitted or allowed to remain in the dance area if they appear to be intoxicated.
18. All members of the public shall remain seated in the dance area other than when they arrive, depart, visit the toilet or go to the bar.
19. Members of the public should not be permitted to congregate in the bar area.
20. Signs must be displayed at the entrance to the dance area stating:-
 - a) "Any customer attempting to make physical contact with a dancer will be asked to leave"Signs must be sufficient in size, legible and positioned so as to be read by all customers entering the dance area.
21. No dancer shall perform any sexually explicit or lewd act.
22. Whilst dancing takes place not less than(insert agreed number)...of Door Supervisors registered under the Council's Licensed Premises Supervisors Registration and Training Scheme shall be employed in the part of the premises used for dancing unless alternative arrangements are approved by the Council.
23.
 - a) CCTV shall be installed to cover all areas where dancing will take place. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 28 days with time and date stamping.
 - b) Tape recordings shall be made available to an authorised officer of the Council or a Police Officer together with facilities for viewing.
 - c) The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours notice.