

**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

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]

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## 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 STRIPTEASE 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.