

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY, 23 OCTOBER 2019 AT 10:30 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 APOLOGIES

To receive any apologies.

3 - 8

4 MINUTES

To confirm and sign the minutes of the meeting held on 11 September 2019.

9 - 53

5 LICENSING AUTHORITY POLICIES, PROCEDURES AND DELEGATIONS

Report of the Interim Assistant Director of Regulation & Enforcement.

54 - 63

6 UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS

Report of the Interim Assistant Director of Regulation & Enforcement.

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- 7 **PROSECUTIONS AND CAUTIONS – AUGUST 2019**
- Report of the Interim Assistant Director of Regulation & Enforcement
- 82 - 85**
- 8 **OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS: AUGUST 2019**
- Report of the Interim Assistant Director of Regulation & Enforcement.
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- 9 **SCHEDULE OF OUTSTANDING MINUTES**
- To consider the schedule of outstanding minutes.
- 10 **OTHER URGENT BUSINESS**
- To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.
- 11 **AUTHORITY TO CHAIRMAN AND OFFICERS**
- Chairman to move:-
- 'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.
- 87 - 144**
- 12 **CONTROL OF SEX ESTABLISHMENTS - SEXUAL ENTERTAINMENT VENUE, ADULT WORLD, 1 HINCKLEY STREET, BIRMINGHAM B5 4EB**
- Report of the Interim Assistant Director of Regulation & Enforcement.
- N.B. Application scheduled to be heard at 1230 hours.

BIRMINGHAM CITY COUNCIL**LICENSING AND
PUBLIC PROTECTION
COMMITTEE
11 SEPTEMBER 2019****MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY, 11 SEPTEMBER 2019 AT
1400 HOURS IN COMMITTEE ROOMS 3 AND 4,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Bob Beauchamp, Neil Eustace, Adam Higgs,
Nagina Kauser, Mike Leddy, Majid Mahmood, and Martin
Straker-Welds.

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NOTICE OF RECORDING/WEBCAST

- 1213 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.civico.net/birmingham) and that members' of the press/public may record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

- 1214 Members were reminded that they must declare all relevant pecuniary and non pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

APOLOGIES

- 1215 Apologies were received from Councillors Olly Armstrong, Nicky Brennan, Mary Locke, Bruce Lines and Simon Morrall for non-attendance.

Anti-Counterfeiting Group Awards

- 1200 The Chair welcomed Sajeela Naseer, Head of Trading Standards together with colleagues from Trading Standards nationally in relation to anti-counterfeiting work and Graham Mogg Anti-Counterfeiting Group (ACG) based in High Wycombe. He asked Mr Mogg to present the awards.

Mr Mogg explained that the ACG was a trade association representing 3,500 trademark owners and counterfeiting took £4billion from the economy and threatened 60, 000 jobs. ACG recognises joint and collaborative working in tackling counterfeiting. As Chair of the National Markets Group he had been working with colleagues who were to receive the awards today, on operation BEORMA to target organise criminal activities mainly based in the West Midlands who undertook counterfeiting activities.

Mr Mogg presented Anti-Counterfeiting Group Special Achievement Awards to:-

Mohammed Tariq - Trading Standards
Peter Huston National Trading Standards Intelligence Unit
Sajeela Naseer, Head of Trading Standards, Birmingham, Phil Paige Regional Investigation Team and Councillor Phil Davis Chair of Licensing and Public Protection Committee.

The Chair commented on the strong partnership approach to tackling counterfeiting and spoke of Birmingham's contribution to this work. He thanked all involved in this important work.

MINUTES

- 1216 The Minutes of the meeting held on 17 July 2019, having been previously circulated were confirmed and signed by the Chair.

Councillor Majid Mahmood queried when the Cabinet Member for Homes and Neighbourhoods would be providing further information on the scanner. He continued that he had not received an email relating to the issues concerning food safety that he had raised at the last meeting. The Chair undertook to chase up those issues.

The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.

IMLT UPDATE COMMITTEE REPORT JULY 2019

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See Document No. 1)

Tony Quigley, Head of Illegal Money Lending Team, made an overhead presentation of the work of the England Illegal Money Lending Team (IMLT) which highlighted some stories from real victims and the work undertaken in schools. Tony continued by making introductory comments relating to the report during which he drew members attention to paragraphs 3.2, 3.16, 3.17, 4.1, 8.1, 11, 12, 12.5, 13, 14 and 15.

During the ensuing debate the work of the officers was praised and congratulated. It was noted that becoming involved with an illegal money lender often led to distress for the victim who were often made to undertake criminal activities. The introduction of a Municipal Bank could assist victims further particularly those who could not secure loans at high street banks. The proceeds of crimes money recovered could assist in that regard. It was noted that the vulnerable people in all communities could fall prey to the illegal money lenders and the work undertaken by the IMLT helped the communities as crime often reduced when illegal money lenders were imprisoned.

The Chair requested that information be sent to all Councillors to raise the awareness of the issue of illegal money lending and how people who had borrowed money from an illegal money lender could seek help. He continued one way of doing this was to hold a workshop prior to a full City Council meeting.

1217

RESOLVED:-

That the report be noted.

CLEAN AIR ZONE: MITIGATION MEASURES FOR HACKNEY CARRIAGE VEHICLES

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See Document No. 2)

Emma Rohomon, Acting Head of Licensing, made introductory comments relating to the report and responded to Members comments relating to the need to review the Moratorium on issuing new hackney carriage vehicle licenses following the introduction of the Clean Air Zone in case there was decrease in drivers, the issue about the requirement to have a spare wheel and that the funding of mitigation measure being directed towards individual drivers rather than operators.

1218

RESOLVED:-

- (i) That an exemption to the moratorium of the issuing of new hackney carriage vehicle licences be granted for those vehicles operated through the Clean Air Fund Fleet scheme. (name subject to confirmation); and
- (ii) that, where a conversion has been carried out as part of the Clean Air Zone mitigations (Clean Vehicle Retrofit Accreditation Scheme), the

vehicle licence holder will be exempt from the requirement to carry a spare wheel – although they will be expected to carry suitable alternative means of flat tyre repair such as gas/foam inflation kit.

LICENCING AND PUBLIC PROTECTION BUDGET MONITORING 2019/20 – QUARTER 1

The following report of the Interim Assistant Director of Regulation and Enforcement and Corporate Director Finance and Governance was submitted:-

(See Document No. 3)

Paul Lankester, Interim Assistant Director, Regulation and Enforcement, made introductory comments relating to the report. In response to questions from Councillor Majid Mahmood he confirmed that the Directorate did recover costs for pest control from both Housing and Social Services. He noted that he was aware of the pressures on the Mortuary and Coroners service and was looking at ways to overcome that difficulty in next years budget. He advised that he had confirmation from Central Government that it would be paying all the 1974 inquest costs.

Councillor Mike Leddy, in noting that an officer from finance was not in attendance at the meeting, felt that those officers reporting to the Committee should attend to present their report and he asked if that could be passed on to senior officers. The Chair undertook to ascertain why no finance officer had attended and ensure it did not happen in the future.

1219

RESOLVED:-

- (i) That the latest Revenue budget position at the end of June 2019 (Quarter 1) and Forecast Outturn as detailed in Appendix 1 be noted;
- (ii) that the position for the Savings Programme for 2019/20 as detailed in Appendix 2 be noted;
- (iii) that the position on Capital projects as detailed in Appendix 3 be noted; and
- (iv) that the position on reserves and balances, as detailed in Appendix 4 be noted.

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS: JUNE – JULY 2019

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See Document No. 4)

Emma Rohomon, Acting Head of Licensing, made introductory comments relating to the report and in response to a comment from Councillor Majid Mahmood she explained in detail the Crown Court case in respect of Mohammed Rashid and the reasoning for the decision and award of costs. In response to further comment from the Chair she confirmed that Mr Rashid would not be able to use the name TOA Cars.

1220

RESOLVED:-

That the report be noted.

PROSECUTIONS AND CAUTIONS REPORT – JUNE AND JULY 2019

The following report of the Interim Assistant Director, Regulation and Enforcement was submitted:-

(See Document No. 5)

Paul Lankester, Interim Assistant Director, Regulation and Enforcement indicated the report was for noting and he did not wish to comment on it.

Councillor Martin Straker Weld raised the issue of fireworks and who had regulation of events involving them. He referred to the letting off of fireworks in a public place and after 2300 hours.

Emma Rohomon, Acting Head of Licensing, indicated that the discharge of fireworks in the street was a police matter and there was a requirement to have an explosive licence to store and sell fireworks. It was illegal to discharge fireworks between 2300 hours and 0700 hours except on certain dates. Fireworks were not regulated under the Licensing Act. Paul Lankester, Interim Assistant Director, Regulation and Enforcement indicated that officers would review the situation regarding fireworks and get a briefing note emailed to Committee Members.

During the debate Members made reference to the need to give publicity to the cases within the report, the need to tackle businesses who think it is correct to act illegally because they write off any fines as a business overhead, the sale of knives, food hygiene and the need to undertake enforcement activity away from the City Centre.

Councillor Mike Leddy made reference to the cases within the report and thanked officers, including the senior management team of the department, for the work they did on behalf of the public.

1221

RESOLVED:-

That the report be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 6)

It was noted that a report relating to the Outstanding Minute would be submitted to the next meeting.

1222 **RESOLVED:-**

That all Outstanding Minutes be continued.

OTHER URGENT BUSINESS

The Chair was of the opinion that the following items could be considered as matters of other urgent business in order to expedite consideration thereof and instruct officers to act if necessary:-

Training Sessions

1223 The Chair indicated that from the October meeting the Committee would start at 1030 hours. This would allow sessions to be held before the meeting at say 0915 hours to train Members which he reminded the Committee was now a requirement in the Council's Constitution. He reminded Members that they needed to be trained to allow them sit on the Licensing Sub-Committees.

Coroner's Office

1224 Councillor Majid Mahmood indicated that with the previous Coroner, Members were able to contact him relating to the rapid release of bodies due to religious needs, but the current Coroner did not accept such contact. He requested that the Committee receive a report on the issue of rapid release of bodies.

Paul Lankester, Interim Assistant Director, Regulation and Enforcement indicated that he could be contacted about any particular case and he suggested that the issue could be brought to a briefing session.

AUTHORITY TO CHAIR AND OFFICERS

1225 **RESOLVED:-**

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

The meeting concluded at 1139 hours.

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CHAIRMAN

BIRMINGHAM CITY COUNCIL

**REPORT OF THE INTERIM DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

October 2019
ALL WARDS

LICENSING AUTHORITY POLICIES, PROCEDURES AND DELEGATIONS

1. Summary

- 1.1 This report outlines the policies, procedures and delegations, which have been built up over a number of years in relation to licensing and registration issues, allowing the Licensing Authority to delegate the bulk of the administration associated with the licensing regime to be carried out by Officers.
- 1.2 It also ensures that the Committee itself acts in a manner which is as open and consistent as circumstances allow.
- 1.3 The report consolidates existing policy, procedures and delegations.

2. Recommendations

- 2.1 That the Committee approves the schemes of delegation detailed within the report.

Contact Officer: Emma Rohomon, Acting Head of Licensing
Telephone: 0121 303 6111
E-mail: emma.rohomon@birmingham.gov.uk

3. Background

- 3.1 The City Council has a number of licensing, regulatory and registration powers and duties and the exercise of these powers and duties is delegated to the Licensing and Public Protection Committee. The granting and issuing of specific licences, permits and registrations is delegated to the Director of Regulation and Enforcement on the understanding that any applications giving rise to concern or difficulty may be referred to the Licensing and Public Protection Committee or its sub-committees for determination where appropriate.
- 3.2 As detailed in the Constitution, formulation of a strategic policy sits with the Executive, unless otherwise specified in legislation. In the case of Licensing and registration, this falls within the remit of the Leader of the Council.
- 3.3 The Licensing and Public Protection Committee is responsible for all other aspects of the licensing and registration function, save for Scrap Metal (See Section 5 below) and as such will have the opportunity to influence any proposed new policies or changes to existing policies.
- 3.4 The Licensing Service is responsible for the administration of grants, renewals and transfers as appropriate of hackney carriage and private hire vehicles, drivers and operators licences and for issuing licences under the Licensing Act 2003 and Gambling Act 2005, sex establishment and animal welfare legislation, and issuing permits for charitable collections and massage and special treatments etc. as well as the associated variations, amendments and transfers, which are carried out under policies delegated by your Committee.
- 3.5 The Markets Service is responsible for Street Trading matters. Existing arrangements are currently under review and will be the subject of a further report to be presented to your Committee in due course.

4. Licensing and Public Protection Committee

- 4.1 The licensing function of the City Council is disposed of through the processes and procedures of the Licensing and Public Protection Committee, sub-committees and officers by virtue of the Local Government Acts and other relevant statutory provisions.
- 4.2 The Court of Appeal stated in the “Hope and Glory” case (2011) that the licensing function of the licensing authority is an administrative function, by contrast with the function of the magistrates, which is a judicial function. The Court of Appeal said this:

“The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of power delegated by the people as a whole to decide what the public interest requires.”

This means that it must act in accordance with the two rules of natural justice. These are firstly that everyone has a right to be heard and secondly the rule against bias.

- 4.3 The right to be heard requires that a person directly affected by the matter under consideration must be given a fair opportunity both to state his/her case and to know of and to respond to any objections.
- 4.4 The rule against bias prohibits members participating in any decision if they have a financial or other interest in the outcome. Members will be familiar with this requirement from their general duties as Councillors.
- 4.5 Further guidance on the determination of matters concerning licensing appears at Annexe 1.
- 4.6 In September 2016 Members of the Licensing and Public Protection Committee agreed a Code of Conduct for its members, when sitting as the Licensing Committee. This Code was adopted into the Constitution in September by City Council.
- 4.7 The provisions as set out in the appendices to this report summarise the Council's policies in respect of the activities it licences.

5. Review of Policies

- 5.1 The Statutory Policies have review mechanisms built in which require them to be reviewed or revised on a regular basis. Earlier this month officers met with members to discuss which of the remaining policies should be considered for review or be delegated to either subcommittee or senior officer/officer level. .
- 5.2 Delegating some matters previously reserved to full Committee to sub-committee brings them in line with other legislative regimes such as the Licensing Act 2003 and Gambling Act 2005.
- 5.3 Any move to sub-committees will enable much greater flexibility for both officers and applicants in terms of scheduling matters for determination, and will enable applications to be dealt with in a more efficient and timely manner.
- 5.4 Similarly, delegating some of the straightforward matters currently reserved to the Sub –committees to officer level will allow sub committees more time to deal with more complex matters.
- 5.5 An update report, including a proposed timetable will be produced as soon as possible to update Members on the matters to be reviewed or introduced.

6. Matters Outside of the Licensing and Public Protection Committee Scope

6.1 Scrap Metal:

Matters relating to Scrap Metal Dealers are defined by legislation as an executive function of the City Council and cannot be determined by the Licensing and Public Protection Committee. Your officers still carry out the functions, but under a Policy and delegations reported to the appropriate Cabinet Member.

6.2 Safety at Sports Grounds – Safety Advisory Groups (SAGs).

Previously, it has been the Licensing and Public Protection Committee who nominated the elected members to sit on Safety at Sports Grounds SAGS. This responsibility now lies with Full Council with up to 4 members per group.

7. Consultation

7.1 This report seeks to reproduce in one document a number of policies which have been implemented over a number of years. It does not seek to introduce any new policies, nor revise any existing policies. As such, no formal consultation was necessary.

7.2 Any new policies or significant amendments to existing policies will be subject to an appropriate consultation process.

8. Implications for Resources

8.1 It is the responsibility of the Committee Chairman and the Interim Director of Regulation and Enforcement to ensure the services provided by the Committee are contained within the approved budget.

9. Implications for Policy Priorities

9.1 The issues addressed in this report relate to the City Council priorities associated with creating a cleaner, greener and safer city and providing excellent services.

10. Public Sector Equality Duty

10.1 This report seeks to reproduce in one document a number of policies which have been implemented over a number of years. It does not seek to introduce any new policies, nor revise any existing policies. Therefore, no new equality analyses have been produced.

INTERIM DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Birmingham City Council Constitution

APPENDIX 1

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING	
Policy Document	
<p>This document details the policies of the Licensing and Public Protection Committee applicable to Hackney Carriage and Private Hire.</p> <p>Policies are codified for ease of reference, and legislative requirements are also cited for completeness and clarity.</p>	
The legislation impacting on hackney carriage and private hire vehicles is the Town Police Clauses Act 1847, Birmingham City Council Hackney Carriage Byelaws 2008, the Local Government (Miscellaneous Provisions) Act 1976, Transport Act 1985, and the Equalities Act 2010.	TPCA 1847, LGMPA 76, TA 85, EA 2010
Although both hackney carriages and private hire vehicles are licensed to carry passengers, there is a distinct difference in the way vehicles can be made available for hire.	TPCA s45
Hackney carriages ("black cabs") are the only vehicles licensed to ply for hire, which means that they may stand on taxi ranks, respond to a flag down in the street, and are generally available for immediate hiring.	TPCA s45
Private hire vehicles must be pre-booked in advance, through a licensed private hire operator and may not use taxi ranks, respond to a flag down in the street, or be offered for immediate hiring.	TPCA s45
Hackney carriage vehicles must be fitted with a taximeter which calculates the fare according to time and distance travelled.	TPCA s68
The meter is tested and sealed to ensure accuracy and compliance with the fare structure agreed by the Licensing and Public Protection Committee.	(byelaw 6)
The current table of fares must be displayed in the vehicle.	TPCA s68 (byelaw 10)
There is no power for the licensing authority to control the fares charged for private hire journeys, the fare structure for each company being set by the licensed operator.	
Conditions of licence require the operator's table of fares to be displayed inside each private hire vehicle.	Conditions (new combined condition 12)
Although both hackney carriages and private hire vehicles are commonly referred to as taxis, the word "taxi" has a statutory definition, by virtue of the Transport Act 1985, and may only be applied to a licensed hackney carriage.	TA 1985 s13
For this reason Birmingham's licensing conditions prevent private hire operators, vehicles or drivers from using the words "taxi" or "cab" in relation to their business.	Conditions (Operator 17)
The hackney carriage fleet is made up exclusively of purpose-built cabs, all of which are equipped for wheelchair accessibility.	Policy HCV1
At present there is a moratorium on the issue of new hackney carriage vehicle licences which was agreed by the former Licensing Committee in September 2008. This moratorium was reviewed in September 2010 and again in September 2014 and 2017 whereupon it was extended for a further three years. The Committee has the authority to revert to the previous arrangements, whereby no limits were imposed, if that is considered appropriate.	Policy HCV2
In addition to the requirements for an annual vehicle inspection and meter test, vehicle owners must also produce insurance for the vehicle, covering its use for public or private hire as appropriate before a licence can be issued. Further, the insurance for licensed vehicles must be maintained continuously throughout the duration of the licence.	Policy Veh1

Licensing Hackney Carriage and Private Hire Drivers	
Individuals must satisfy the authority that they are fit and proper to be licensed drivers.	LGMPA 76 s51
<p>The following application process is designed to ensure services delivered within the City are of a good standard and is subject to the appropriate fees being paid:</p> <ul style="list-style-type: none"> • application received • entitlement to drive in the UK checked • entitlement to work in the UK checked • knowledge test • criminal record check • medical • driving test • disability and safeguarding awareness course ('The awareness course') • licence fee paid • licence issued • (It may be necessary for an application to be referred to Committee at any stage of this process.) 	
Application Received:	
The application form will be checked and details entered onto the Licensing Service computer system.	
Entitlement to drive in the UK Checked:	
An EU or EEA licence is acceptable as long as the counterpart licence issued by DVLA (for EU and EEA drivers) accompanies it. However, vocational drivers may not drive indefinitely on an EU or EEA licence and must produce a United Kingdom DVLA driving licence if they have been resident in the UK for five years or more. An applicant for a hackney carriage or private hire driver's licence must have held a full DVLA driver's licence (or EU equivalent) for at least two years.	Policy DVLA1

Entitlement to work in the UK checked	
The Immigration Act 2016 (the 2016 Act) amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle (PHV) and taxi sector. With effect from 1 December 2016, the provisions in the 2016 Act prohibit any licensing authorities across the UK from issuing to anyone who is disqualified by reason of their immigration status. This duty is discharged by conducting immigration checks. Birmingham City Council has been checking a new applicant's right to live and work in the UK since 2009, so the impact of this new legislation has been minimal.	IMMIGRATION ACT 2016
Knowledge Tests	
Knowledge folders are prepared annually for hackney carriage licences and should remain current for three years from the date of first issue (in exceptional circumstances it may become necessary to amend this duration).	Policy KT1
An applicant may take the test associated with a knowledge folder at any time after issue, up to and including the expiry date subject to test appointment availability.	Policy KT2
Candidates failing to attend or making a third test cancellation without an adequate and evidenced reason should be required to wait twelve months before being allowed to take the test.	Policy KT3
Candidates absent or cancelling, within five clear working days, without an adequate and evidenced reason will forfeit their test fees.	Policy KT4
Knowledge folders contain a combination of legal, licence condition, route and two point location questions applicable to the licence type. Candidates must identify and memorise the answers to those questions and answer a selection of questions as detailed below.	Policy KT5
Knowledge Test - Hackney Carriage	
The hackney carriage knowledge test is conducted in-house and under normal test conditions (no communication with another person except the examiner, no reference to any material during the test except the test paper).	PolicyHCKT1
The test must be completed within two hours if conducted verbally, and three hours if written. (If a candidate wishes to take a written knowledge test, they must also complete the verbal communications test (VCT).)	PolicyHCKT2
The test consists of 106 questions (6 legal, 80 two-point locations and 20 routes) selected at random from the relevant knowledge folder.	PolicyHCKT3
All six legal questions must be answered fully and correctly.	PolicyHCKT4
The applicant must answer 90% of the remaining routes and two point location questions correctly in order to pass the test.	PolicyHCKT5
The applicant must pass this test to progress their application and is allowed three attempts.	PolicyHCKT6
The application process is terminated if the applicant fails the third test. The applicant can re-apply after a period of twelve months from the date of the last failed knowledge test.	PolicyHCKT7
Knowledge Test Private Hire	
The private hire knowledge test is conducted in-house and under normal test conditions (no communication with another person except the examiner, no reference to any material during the test except the answer sheet.	Policy PHKT1

The test is intended to check basic English and communication skills and understanding of Law and licence conditions applicable to a private hire driver. The test does not require any geographical knowledge. The test consists of eighteen questions, six on The Law, six on conditions of licence and further six questions about plying for hire.	Policy PHKT2
The test is conducted verbally and candidates indicate the correct answer on a multiple choice answer sheet.	Policy PHKT3
No more than two wrong answers are allowed in each of the Legal and Conditions sections and a candidate giving three wrong answers in one of those sections will fail the test outright.	Policy PHKT4
The six plying for hire questions must all be answered correctly. Failure to do so is an outright failure of the test.	Policy PHKT6
An applicant is allowed three attempts at a test.	Policy PHKT7
The application process is terminated if the applicant fails the third test. The applicant can re-apply after a period of twelve months from the date of the last failed knowledge test.	Policy PHKT8
All forms of mobile communication device are barred from the test and must be switched off and placed on the table in full view of the examiner before the test begins. Any person found attempting to use a mobile device or whose mobile device activates in any way during the test will be disqualified.	Policy PHKT9
Criminal Record Check	
All applicants and drivers are required to undertake an enhanced Disclosure and Barring Service (DBS) check. Hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974 by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 and convictions are, therefore, never spent.	PolicyDBS1
On initial application, and every three years thereafter, where a licence is granted a driver will be subject to a criminal record check facilitated by the DBS.	PolicyDBS2
Where the DBS check reveals cautions or convictions relating to drugs, dishonesty, violence, or offences of a sexual nature, or reveals any information giving cause for concern, the applicant, or licensed driver will be referred to the Licensing Sub-Committee where the individual's fitness to hold a licence will be considered, unless those matters have already been taken into consideration and passed by Committee.	PolicyDBS3
All new applicants who have been resident abroad as adults must produce evidence of good conduct in that country or the equivalent of a DBS disclosure before their application can be considered. Any matters revealed will be dealt with in the same way as any revealed by the DBS check.	PolicyDBS4
An applicant who has fled an oppressive regime or has other reasonable grounds to believe that obtaining such documentation would be impossible or dangerous may apply to the Licensing Sub-Committee for an exemption and should support that application with a Statutory Declaration and a verifiable character reference from an individual employed in a Prominent 'Regulated Occupation'. Further details in this respect are available on request.	PolicyDBS5
Drivers' licences are currently renewed at the choice of the licensee for one, two or three years, to coincide with the DBS check.	
On renewal, applicants are required to show their current DVLA driving licence for any possible endorsements. This is done by producing their (valid) photocard AND a check code issued by DVLA. This can be obtained at https://www.gov.uk/view-driving-licence	Policy DVLA1
Where a DVLA driving licence check reveals matters or information that gives cause for concern the application can be referred to the Licensing Sub Committee for determination (unless previously considered and passed by Committee).	Policy DVLA2

Medical	
All applicants for the grant of a driver's licence are required to undertake and pass a Group II medical examination for vocational drivers before a licence can be issued. The medical is conducted at Birmingham City Council's Occupational Health Service.	Policy Med1
Once licensed, drivers remain subject to further medical checks as follows: <ul style="list-style-type: none"> • Drivers aged 45 and under - every 5 years • Drivers between 45 and 64 - every 3 years • Drivers 65+ - every year. (unless otherwise specified by Occupational Health)	Policy Med2
Driving Test	
Qualified examiners based within the City Council's Driver Training Service conduct the driving test.	Policy DT1
The applicant must pass the test in order to progress their application and is allowed three attempts.	Policy DT2
The application process is terminated if the applicant fails the third test.	Policy DT3
The applicant is eligible to re-apply after a period of twelve months from the date of the last driving test.	Policy DT4
Disability and Safeguarding Awareness Training	
All new applicants for the grant of a driver's licence must undergo the Birmingham City Council approved awareness training. The course is mandatory and subject to a fee, payable by the applicant.	Policy AT1
Fee Paid and Licence Issued	
An application will not be considered complete until such time as all fees have been paid. A licence is issued with attached conditions and the licensee is considered to have accepted those conditions unless appealed to Magistrate's Court within 21 days of issue, or granted exemption /alternative by a Licensing Sub-Committee.	LGMPA 76 s53
Whilst an application for the grant of a licence is pending the applicant will undertake such tests and checks as the Licensing and Public Protection Committee deem appropriate and this may include new tests introduced whilst the application is in progress.	Policy APP2
An incomplete application on which there has been no activity for a period of twelve months or more, will be deemed abandoned and treated as withdrawn. Where an applicant returns to the Licensing Service to pursue an application deemed abandoned they will be required to submit new forms and undertake all tests with the exception of the awareness course if already taken.	Policy APP3
Driver Licence- Renewal	
A driver's licence is eligible for renewal from a date ten weeks prior to the expiry of the licence. The renewal of a licence will be subject to the policies relating to medicals, DBS checks, outstanding enforcement issues, and DVLA licence checks. An expired driver's licence may be renewed up to one calendar month after the expiry date.	Policy DREN1
Late renewal	
The period of one month after the licence has expired is referred to as the "late renewal period" and any renewal application submitted within the late renewal period will attract the fee associated with the grant of a licence. Any application submitted more than one month after expiry will be considered a new application and will be required to include all tests and checks applicable to a new application. Where there are exceptional circumstances which may warrant an exemption from that requirement, Officers may refer the matter to the Licensing Sub Committee for determination or to agree a later renewal.	Policy DREN2
Multiple Driver Licence Types	

If a driver already holds one type of licence and applies for another type of licence they must undergo all the relevant tests that were either not applicable or not in force at the time the first licence was granted.	Policy MultiBadge 1
In any case where a medical or DBS check on the original licence is more than 12 months old, an applicant will be required to undertake another, the new check becoming current for both licences.	Policy MultiBadge 2
Driving test and Disability Awareness course passes can be carried over to the new application.	Policy MultiBadge 3
Knowledge test passes will not be carried over or exempted except where agreed by Committee.	Policy MultiBadge 4
Any person may request their application be referred to the Licensing Sub Committee for determination; however, the Head of Licensing or their nominated deputies, in consultation with the Chair of the Licensing and Public Protection Committee, may refuse such a request where the request is considered to be frivolous, vexatious or repetitious.	Policy- SubRefusal
Lost or Stolen Driver Licence (Badge)	
In the event a badge is lost or stolen this information must be reported to the Licensing office within three working days (not including Saturday and Sunday).	Policy LossBadge1
If the badge has been stolen the Police must be informed and a Police report number obtained.	Policy LossBadge2
If the badge has been lost a declaration to this effect must be made to the Licensing Offices.	Policy LossBadge3
A replacement badge will be issued on payment of a fee and production of a current DVLA driving licence.	Policy LossBadge4
A person may not legally work as a hackney carriage or private hire driver without being in possession of a current badge.	LGMPA 76 s54(2)(a)

Licensing Hackney Carriage and Private Hire Vehicles	
The Law states no-one can drive a hackney carriage or private hire vehicle licensed by Birmingham City Council unless they are licensed to do so i.e. they hold a current valid hackney carriage or private hire driver's licence, as appropriate, issued by Birmingham City Council.	LGMPA 76 s46
Insurance	
Vehicle proprietors must produce current, valid, insurance covering the use of the vehicle for public or private hire as applicable, before a licence can be issued.	LGMPA 76 s48(1)(b)
Transfer of vehicle licence	
Transfer of interest in a licence shall be completed only when the old identity plate(s) and licence are returned to the Licensing Office.	Policy Transfer1
If this cannot be done, the previous owner must sign a declaration informing the Licensing Office of the whereabouts of the vehicle identity plates or the reason the identity plates cannot be produced. This declaration will be used to assist in progressing with the transfer application.	Policy Transfer2
The transfer fee will be charged where interest in a vehicle licence is transferred to another proprietor. Where a renewal or replacement is conducted simultaneously both fees will be due.	Policy Transfer3
Vehicle Replacement	
The replacement fee will be charged when a vehicle is replaced during the life of a licence. Where a renewal or transfer is conducted simultaneously both fees will be due. If transfer, replacement and renewal transactions are conducted simultaneously the replacement fee will be waived.	Policy REP1
Lost or Stolen Vehicle Licence (Plate)	
In the event a vehicle identity plate is stolen the Police must be informed and a Police report number obtained. If the identity plate is lost a signed declaration must be made to this effect. This information must be reported to the Licensing Office within three working days. A replacement plate will be issued on payment of a fee and production of a valid insurance document and DVLA driving licence.	Policy LossPlate1
Licensing a vehicle registered to another keeper:	
Where an applicant for a vehicle licence provides a registration document indicating that the registered keeper is another individual, or legal entity, the applicant will be required to provide a letter from the registered keeper indicating that use of the vehicle as a hackney carriage or private hire vehicle by the applicant, is done with their full knowledge and consent.	Policy Keeper1
Where an applicant for a vehicle licence provides a registration document indicating that the registered keeper is another individual, or legal entity, the applicant will be required to provide a letter from the insurers indicating that they are aware of the arrangement and content to provide appropriate insurance cover in those circumstances.	Policy Keeper2

Expired Hackney Carriage Vehicle Licence	
When a hackney carriage vehicle licence has expired and more than one calendar month has elapsed any attempt to re-licence the vehicle must be referred to the Licensing Sub Committee for determination.	Policy ExpHack1
Approved Vehicle Types – Hackney Carriage	
LGMPA 76 s47	
The Licensing Authority has set down a series of specifications that a vehicle will need to comply with prior to it being accepted as a licensed vehicle:	
<ul style="list-style-type: none"> Vehicles specifically adapted for wheelchair carriage which meet the M1 European standard. All vehicles must meet the requirements of the Specification for wheelchair accessible HCV's attached at appendix 2 	Policy HCVSpec1
<ul style="list-style-type: none"> Any M1 vehicle adapted to be a hackney carriage where the adaptations are approved by the Vehicle Certification Agency (VCA) and the adaptations have VCA certification to European Whole Vehicle Type Approval (EWVTA) or G/B/ Low Volume (Small Series) Type Approval. 	Policy HCVSpec2
<ul style="list-style-type: none"> The front seat of a hackney carriage vehicle will not be included in the seating capacity indicated on the vehicle licence. 	Policy HCVSpec3
<ul style="list-style-type: none"> Any MPV or van derived M1 class vehicle to be licensed as a hackney carriage must be black in colour and must not be fitted with full-body advertising livery. 	Policy HCVSpec4
<ul style="list-style-type: none"> Purpose built Hackney Carriage vehicles cannot be licensed for the purposes of private hire. 	LGMPA 76 s48(1)(a)(ii)
<ul style="list-style-type: none"> With effect from 1 January 2021, any new or replacement vehicle presented for licensing must qualify as an Ultra Low Emission Vehicle (ULEV) 	Policy HCVSpec5
Approved Vehicle Types – Private Hire	
LGMPA 76 s48(1)	
The private hire licensing provisions apply to a variety of vehicles ranging from four-door saloon vehicles to people carriers, however, those vehicles should be:	
<ul style="list-style-type: none"> built to M1 specification. 	Policy PHVSpec1
<ul style="list-style-type: none"> 	Policy PHVSpec2
<ul style="list-style-type: none"> be capable of carrying a minimum of four average sized adults in comfort. 	Policy PHVSpec3
<ul style="list-style-type: none"> All vehicles must be right hand drive and must not have fewer than four road wheels. 	Policy PHVSpec4
<ul style="list-style-type: none"> Cars must have a minimum of four doors giving adequate access to and egress from the vehicle. The design of the car can be saloon, hatchback or estate. 	Policy PHVSpec5
<ul style="list-style-type: none"> Larger vehicles (MPV, minibus, or people mover types) must have sufficient doors of sufficient size to allow passengers to get in and out quickly and safely. 	Policy PHVSpec6
<ul style="list-style-type: none"> Where exit from the rear seats in vehicles equipped with three rows of seats requires operation of a tip seat mechanism, passengers must be able to exit from either side of the vehicle and the tip seats at either end of the middle row must be capable of independent operation. 	Policy PHVSpec7
<ul style="list-style-type: none"> Where a vehicle is equipped with pop-up, or auxiliary seats intended for occasional use only, those seats must not be included in the licensed capacity of the vehicle, unless they meet the minimum seat size 	Policy PHVSpec8

requirements.	
<ul style="list-style-type: none"> Where the vehicle configuration requires a whole bench seat to slide and/or tip for access/egress to the rear seats, the rear seats should not be included in the seating capacity and should be removed to avoid pressure from passengers to carry numbers in excess of the licensed capacity. 	Policy PHVSpec9
<ul style="list-style-type: none"> All vehicles must have a wheelbase (when measured from the centre of the front wheel to the centre of the rear wheel) of at least 2540mm (100 inches). 	Policy PHVSpec10
<ul style="list-style-type: none"> Cars must have a back seat width (when measured in a continuous line from edge to edge) of at least 1220mm (48 inches). 	Policy PHVSpec11
<ul style="list-style-type: none"> Larger capacity vehicles (MPV, minibus, or people mover types) which are fitted with individual seats, or which do not have full width bench seats, must have a minimum 407mm (16 inches) of seat space per passenger across the width of the seat. 	Policy PHVSpec12
<ul style="list-style-type: none"> Seat belts must be provided for all passengers according to the licensed capacity of the vehicle. 	Policy PHVSpec13
<ul style="list-style-type: none"> Vehicles equipped with soft tops, removable hard tops and people carriers (MPV types) described as black on the log book, will not be licensed for the purpose of private hire. 	Policy PHVSpec14
<ul style="list-style-type: none"> Vehicles fitted with darker tints and privacy glass can be licensed where the glass is to factory standard and vehicles are presented to licensing in an unmodified state, vehicles fitted with films, foils, or any other aftermarket tinting will be refused a licence, unless the tinting is removed and the vehicle returned to the manufacturer's standard specification. 	Policy PHVSpec15
<ul style="list-style-type: none"> Vehicles identified as stretched limousines, or novelty vehicles will be considered outside the scope of this definition, in line with current practice. 	Policy PHVSpec16
<ul style="list-style-type: none"> With effect from 1 January 2021, any new or replacement vehicle presented for licensing must qualify as an Ultra Low Emission Vehicle (ULEV) 	Policy PHVSpec17
Private Hire Vehicle Signage Requirements	
<ul style="list-style-type: none"> Unless specifically granted exemption to all or part of the private hire vehicle signage policy, all licensed private hire vehicles must display the full range of prescribed signage throughout the duration of the licence. 	Policy PHVSign1
<ul style="list-style-type: none"> The rear licence plate must be fixed to the exterior rear of the vehicle, in such a position as to be clearly visible. The plate should be attached using a purpose made bracket, or other appropriate fixing in order to render it impossible to remove without the use of tools. 	Policy PHVSign2
<ul style="list-style-type: none"> The Semi-permanent door signs must be applied to the centre of both rear passenger doors and must remain in place for the duration of the licence 	Policy PHVSign3
<ul style="list-style-type: none"> The double sided front windscreen sign must be fixed inside the nearside bottom corner of the windscreen, in a position where it is visible to an observer outside the vehicle and to a front seat passenger. 	Policy PHVSign4
<ul style="list-style-type: none"> A Call Sign number, to be issued by the Licensed Operator, must be displayed in the upper nearside corner of the rear window. 	Policy PHVSign5
<ul style="list-style-type: none"> All plates and signage displayed on the vehicle must be kept clean, unobstructed and must not be altered or tampered with in any way. 	Policy PHVSign6
<ul style="list-style-type: none"> A private hire vehicle must not be driven or operated, unless it is displaying in the manner prescribed, the vehicle identification plates, which must remain continuously attached throughout the duration of the licence, unless the licence is surrendered, suspended or revoked. 	Policy PHVSign7
<ul style="list-style-type: none"> No Smoking signage must be displayed in the vehicle and comply with current smoke free legislation. 	Policy PHVSign8

<ul style="list-style-type: none"> Private Hire Operator Door Signs must be displayed on the front doors of the vehicle whenever the vehicle is employed on a job or available for dispatch. Vehicles <u>MUST</u> display the door sign appropriate to the job on which they are employed and <u>MUST NOT</u> display more than one door sign at the same time or display the door sign for one operator, when undertaking work on behalf of another. 	Policy PHVSign9
<ul style="list-style-type: none"> The plates and signage may only be displayed on the Birmingham City Council licensed private hire vehicles for which they were issued. No one may cause or permit the plates or signs to be placed on any other vehicle. 	Policy PHVSign10
<ul style="list-style-type: none"> If a Private Hire Vehicle Licence expires, is suspended, revoked or refused renewal, the vehicle identity plates by the Licensing Authority, must be returned to the Licensing Office within 7 days. 	Policy PHVSign11
<ul style="list-style-type: none"> Vehicles granted exemption from any of the requirements of the Private Hire Vehicle Signage Policy must carry the exemption letter at all times and it must be produced on request to a Police Officer or an authorised officer of Birmingham City Council or any other local licensing authority. 	Policy PHVSign12
Transfer of Hackney Carriage Vehicle Licence	
A proprietor of a hackney carriage vehicle may replace, swap or change their vehicle with another licensed hackney carriage vehicle of any age.	Policy HCVTran1
In this policy it is understood that the licence and its related vehicle will remain together and not be separated.	Policy HCVTran2
Transfer of Private Hire Vehicle Licence	
Private hire vehicle licences may only be transferred to a vehicle that is less than 8 years old.	Policy PHVTran1
The licence to be transferred into the proprietor's name must relate to a vehicle, that is less than 8 years old. Failure to comply with this policy will result in the private hire vehicle licence being transferred for the duration of the life of the licence; however, the Council will refuse to renew that licence when it expires. This restriction will be removed effective from 1 January 2020, at which time a maximum age for a licensed private hire vehicle of twelve years will come into effect	Policy PHVTran2

Replacement of Hackney Carriage Vehicle Licence	
A hackney carriage vehicle licence may only be transferred to another vehicle (that is to say separated from its related vehicle and moved to another vehicle) that is younger/newer than the age of the vehicle currently licensed.	Policy HCVRep1
Replacement of Private Hire Vehicle Licence	
A licensed private hire vehicle can only be replaced with a vehicle which, is less than 8 years old at the time of the transaction.	Policy PHVRep1
Failure to comply with this policy will result in the refusal of the application.	Policy PHVRep2
Age Limit – Hackney Carriage Vehicles	
No vehicle over the age of 14 years will be granted a licence. With effect from 01/01/2020 this will be replaced with a 15 year absolute age limit.	Policy HCVAge1
No vehicle over the age of 14 years will have its licence renewed unless the vehicle is able to pass the Supplementary Test Plus, in which case the vehicle licence may be renewed on a year by year basis, subject to passing the Supplementary Test Plus on each occasion. With effect from 01/01/2020 this will be replaced with a 15 year absolute age limit and no supplementary test plus will be required.	Policy HCVAge2
Age Limit - Private Hire Vehicles	
No vehicle over the age of 8 years will be granted a licence.	Policy PHVAge1
No vehicle over the age of 8 years will have its licence renewed unless the vehicle is able to pass the Supplementary Test Plus, in which case the vehicle licence may be renewed on a year by year basis, subject to passing the Supplementary Test Plus on each occasion. With effect from 1 January 2020, the Supplementary Test Plus will be discontinued and vehicles may be renewed until they are twelve years old, subject to meeting MOT and standard supplementary test requirements.	Policy PHVAge2
Clean Air Zone Mitigation Exemption for Hackney Carriage Vehicles	
A limited exemption from the moratorium on the issue of new hackney carriage vehicle licences can be allowed for proprietors of hackney carriage vehicles who surrender or allow their vehicle licence to expire between 1 January 2019 and 1 January 2021, to the effect they may apply for the grant of a new hackney carriage vehicle licence irrespective of any moratorium requirement, so long as the applicant meets all of the qualifying criteria below. The vehicle must be of a suitable type and all licensing prerequisites applicable at the time of licensing must be complied with	Policy MitEx1
<ul style="list-style-type: none"> The applicant must be a hackney carriage proprietor who held a current, valid hackney carriage vehicle licence between 1 January 2019 and 1 January 2021. Entitlement to request a new issue hackney carriage plate cannot be transferred to any other party. 	Policy MitEx2
<ul style="list-style-type: none"> The licence in question must have expired or been surrendered between those dates. There will be no entitlement to request issue of a new licence if the original vehicle was sold and/or the licence was transferred to another proprietor. 	Policy MitEx3
<ul style="list-style-type: none"> The transaction must be completed within 24 calendar months to the day of the surrender or expiry of the original licence. Any attempt to obtain a licence after that period, will be treated as a normal grant request and dealt with according to the normal requirements of a grant application, including any restrictions on the issue of new plates applicable at the time of the new application. 	Policy MitEx4

<ul style="list-style-type: none"> A new issue hackney carriage vehicle licence can be issued for a suitable vehicle qualifying as a replacement for the last vehicle associated with the expired or surrendered licence, subject to compliance with the replacement vehicle policies and any requirements of the CAZ applicable at the time of application. 	Policy MitEx5
<ul style="list-style-type: none"> The transaction will be a new licence application and the fees charged will be those appropriate to a new licence application at the time of the transaction. 	Policy MitEx6
<ul style="list-style-type: none"> All normal requirements for the issue of a licence will apply, including but not limited to MOT, insurance, log book, age and emission standards applicable at the time of the transaction. 	Policy MitEx7
Vehicle Testing – ALL Vehicles	
All vehicles are subject to a standard MOT test to determine mechanical fitness and a more stringent supplementary test dealing with the vehicle's condition, appearance and suitability prior to licensing.	LGMPA 76 s48
An MOT certificate presented for the purpose of replacement of a vehicle or the renewal or granting of a licence must be less than ten weeks old at the time of the transaction, that time period to be calculated from the date of inspection.	Policy Veh2
The law provides that a private hire vehicle cannot, in its type, design or identification, lead anyone to believe that it is a hackney carriage.	LGMPA 76 s48(1)(a)(ii)
Private Hire Operators	
All Birmingham licensed operators must operate from premises within the City boundaries.	LGMPA 76 S46
Operators' fares are not regulated but each operator is required to ensure that their particular charges are displayed or available on request to each person travelling in a private hire vehicle.	(new combined condition 12)
An applicant for the grant of or renewal of an operator's licence will be asked to disclose details of any previous convictions and also an applicant for the grant of an operator's licence will be asked for details of any previous experience of working within the private hire industry including any other licences held, either currently or previously and whether any such licence has ever been revoked or suspended for any reason..	Policy Op1
Planning permission must be obtained for the premises where the operation is to be based, unless the applicant can provide confirmation from the Planning Department that such permission is not required.	Policy Op2
The records to be maintained include records of all journeys undertaken, and information and documentation relating to the vehicles and drivers operated, together with their "call signs".	LGMPA 76 s56
The fee payable for an operator's licence reflects the structure of the operation and the number of drivers and vehicles managed, in that it is set according to the officer time afforded to the licence. This fee is payable at the time the application is submitted.	Policy Op3
Renewal applications for operator licences must be submitted to the Licensing Office at least 14 days before expiry, fully completed and with all necessary accompanying paperwork.	Policy Op4
Failure to comply with this requirement may prevent a new licence from being issued on or before the expiry of the old licence.	Policy Op5
Private Hire Operator Door Signs	
Operators must provide a pair of appropriate door signs for each vehicle operated by their company and take steps to ensure drivers fix the signs in the centre of the front doors of their private hire vehicles, whenever employed on a job or available	Policy OpSign1

for dispatch.	
Operator Door signs may be of such design as the operator deems appropriate, subject to compliance with the following requirements.	Policy OpSign2
<ul style="list-style-type: none"> The sign must include the company name as displayed on the licence certificate. 	Policy OpSign3
<ul style="list-style-type: none"> The sign must include the phrase BE BOOKED, BE INSURED, in block capital letters using as a minimum 120 point Arial font (30mm in height) in a contrasting colour, so as to be easily seen. 	Policy OpSign4
<ul style="list-style-type: none"> The sign must not be designed either in colour or style, to mimic the sign used by another operator in Birmingham or any surrounding authority 	Policy OpSign5
<ul style="list-style-type: none"> Any new sign must be approved by officers before being issued for use on vehicles. As such it is recommended a draft copy be submitted for approval before signs are printed. A sign considered inappropriate by officers, must not be issued to drivers. 	Policy OpSign6
Committee Policies Relating to Hackney Carriage and Private Hire Drivers	
An applicant for a hackney carriage or private hire driver's licence must have held a full DVLA driver's licence for at least two continuous years.	Policy Dri1
Disqualification from Driving	
The Licensing Sub Committee will not be disposed to grant new applications or applications for renewal of hackney carriage or private hire driver's licences from persons who have been disqualified from driving until such time that such applicants have gained sufficient recent driving experience and become re-acquainted with driving conditions following reinstatement of DVLA licences; further that the period of further driving experience should be at least equivalent to the period of disqualification. For example, a driving disqualification of six months will mean a rehabilitation period of six months from the date the DVLA licence is reinstated. However, a rehabilitation period may be reduced at the discretion of the Committee where an applicant has successfully completed an approved driving course as part of the sentence.	Policy Dri2
Driving Offences Associated with Drink or Drugs	
<p>The Licensing Sub Committee will not be disposed to grant or renew applications for licences to drive hackney carriage or private hire vehicles where the applicant has been convicted of a driving offence associated with drink or drugs under the Road Traffic Acts for the following periods, following reinstatement of the DVLA driving licence</p> <p>In the case of disqualification a minimum of two years if the period of disqualification is longer Policy Dri2 will apply. two years where there is no disqualification.</p>	Policy Dri3

Plying For Hire: First and Any Subsequent Offences	
Drivers convicted of a first offence of plying for hire, and driving with no insurance should be revoked.	Policy Dri4
Drivers convicted only of plying for hire should be subject to suspension for a minimum period of six months for the first offence.	Policy Dri5
For any subsequent offence, consideration should be given to the ultimate penalty of revocation of a drivers licence.	Policy Dri6
Refusal of Applicants with a Conviction for any Sexual Offence	
An applicant with a conviction for any sexual offence should normally be refused.	Policy Dri6
An Applicant Refused or Revoked by another Authority	
Where an applicant has had a licence refused or revoked by another local authority, that application shall be referred to and determined by the Licensing Sub-Committee.	Policy Dri7
Further Applications from Applicants or Drivers Refused or Revoked	
An application for the grant of a hackney carriage or private hire driver's licence must be referred to the Licensing Sub-Committee for determination under any of the following circumstances:	Policy Dri8
<ul style="list-style-type: none"> • application previously refused; 	Policy Dri9
<ul style="list-style-type: none"> • licence previously revoked or refused upon renewal; 	Policy Dri10
Further, an application will not be considered within 12 months of the date of refusal, revocation or unsuccessful appeal, whichever is the later.	Policy Dri11
Refusal of Applicants with a Conviction for a Drugs Related Offence	
An applicant with a conviction for a drug-related offence should normally be refused.	Policy Dri12
Failure of Three or More Knowledge Tests per Application	
Where an applicant has failed three knowledge of the city tests in connection with an application for a hackney carriage or private hire driver's licence, that application will be refused on the grounds that the person is not considered to be a fit and proper person to hold such a licence.	Policy KT6
An applicant may re-submit an application for the grant of a driver's licence one year after the date of the third knowledge test. This application will be treated as a new application and the applicant must undertake and pass the appropriate tests.	Policy KT7
Failure of Three Driving Tests per Application	
Where an applicant has failed three driving tests in connection with an application for a driver's licence that application will be refused on the grounds that the applicant is not considered to be a fit and proper person to hold such a licence.	Policy DT3
An applicant may re-submit an application for the grant of a driver's licence one year after the date of the third driving test, however, should a further failure occur this application will be presented to the Licensing Sub Committee for determination.	Policy DT4

Working Dogs	
Since March 2001 licensed hackney carriage and private hire drivers in England have been under a duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers can apply for an exemption from the duty on medical grounds if they have a condition that is aggravated by contact with dogs to allow them to continue in the trade. Drivers must comply with the requirements of the exemption.	EA 2010 s168-171
Wheelchair Accessibility	
licensed hackney carriage and private hire drivers must: <ul style="list-style-type: none"> • transport wheelchair users in their wheelchair • provide passengers in wheelchairs with appropriate assistance • charge wheelchair users the same as non-wheelchair users 	EA 201 s165
Suspension, Revocation and Refusal to Renew Licences	
A hackney carriage or private hire vehicle licence may be subject to suspension, revocation or refusal, or renewal, by the Licensing Sub- Committee, on the following grounds: <ul style="list-style-type: none"> • The vehicle is unfit for use as a hackney carriage or private hire vehicle. • Any offence or non-conformity with the legislative provisions by either the operator or the driver. • Any other reasonable cause. 	
A hackney carriage or private hire driver's licence may be suspended, revoked or refused on renewal by the Committee on the following grounds: <ul style="list-style-type: none"> • Since the grant of the licence the driver has been cautioned or convicted of an offence involving drugs, dishonesty, indecency or violence. • Any offence or non-compliance with the legislative provisions by the driver. • Any other reasonable cause. 	LGMPA 76 s61
In all the above cases, and where applicants for the grant of a licence have been refused, there is a right of appeal against the Committee's decision to the Magistrates' Court. The outcome of all appeals is reported to the Licensing and Public Protection Committee on a regular basis.	LGMPA 76 s61-63

Immediate Action on the grounds of Public Safety:

Where information is received regarding a licensed driver which indicates there may be an immediate risk to public safety, that information will be shared with the Chair of the Licensing and Public Protection Committee to consider the immediate revocation of the driver's licence.

Such action to be reported to the next available Licensing and Public Protection Committee as part of the Actions Taken by the Chair between Meetings report.

Any decision to revoke will be communicated to the driver as soon as is reasonably practicable by way of a letter, ordinarily hand delivered by Enforcement Officer(s).

It is not possible to reinstate a licence after revocation without a successful appeal. In the event that the allegations are found to be completely unproven, i.e. a case of mistaken identity or other verified information which exonerates the driver completely, the matter will be put to the Chair to consider a 'fast-track' grant application, in order to grant a 'new' licence, for the duration of the remainder of the previous licence, and negating the requirement for additional tests etc. This negates the need for a costly and time-consuming appeal, and enables the driver to be back on the road in the shortest possible time. Matters which are less definitive will be referred to a sub-committee for consideration, notwithstanding the driver's right to appeal to the courts.

SCHEME OF DELEGATIONS (HCPH)

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Setting of Fees and charges	All Cases		
Agree standard conditions i.e. vehicle / driver/operator etc.	All Cases	Requests for exemption may be considered by sub committee	
When a hackney carriage vehicle licence has expired and more than one calendar month has elapsed		any attempt to re-licence the vehicle	
Where a private hire vehicle is converted to LPG (Liquid Petroleum Gas)			Providing the installation is conducted by a UKLPG approved installer or has been inspected and approved by a UKLPG installer, so that the vehicle details are listed on the UKLPG Register.
AUTHORITY TO SUSPEND, REVOKE OR REFUSE TO RENEW OR REFUSE TO GRANT ANY LICENCE OR APPLICATION:			
in the case of a licensed vehicle being found to be in contravention of legislation,			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the officer is not satisfied as to the fitness of the vehicle, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the officer is not satisfied as to the accuracy of the taximeter, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the vehicle does not have adequate insurance cover, or			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if the vehicle is unroadworthy or in a dangerous condition.			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847
if an officer is not satisfied as to the fitness of a driver following a medical report from the Occupational Health Service.			Officers delegated this authority are those authorised for the purpose of the LGMPA 76 and TPCA 1847

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Where the applicant has 11 points on their DVLA licence or a conviction or caution for an offence			All Cases

that does not fall within the category of drugs, violence, dishonesty or of a sexual nature.			
Where an applicant has cautions over two years old, such application will be granted.			All Cases
Where an applicant has a conviction(s) for dishonesty, whatever the sentence, including a prison sentence, then such application will be granted provided at least ten years has lapsed since the last conviction for dishonesty.			All Cases
Where an applicant has an absolute discharge for any offence, with no other offences, such application will be granted.			All Cases
Where an applicant has failed 3 verbal communication tests, or 3 Knowledge tests, or 3 driving tests, then such application will be refused.			All Cases
Where an applicant has previously been refused or his/her licence revoked, whether by Birmingham City Council or another Local Authority, any further application will be refused within a 12 month period starting from the date of the refusal/revocation of the previous licence.		All Cases	
Where a private hire driver is convicted for plying for hire (first offence), then their private hire driver's licence will normally be suspended for a minimum period of 6 months.		All Cases	
Where a private hire driver is convicted for plying for hire and no insurance, then their private hire driver's licence will normally be revoked.		All Cases	
Grant/renewal of a licence where a driver is convicted of a drink/drug related driving offence or has been subject to a driving ban		All Cases	
Renewal of a drivers licence after the late renewal period where the circumstances for the lateness are on medical grounds only. (late renewal fee applies)			All case

Hackney Carriage / Private Hire	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub- Committee	Officers (Senior Licensing Officer or above)
When confirmation is received to the effect that the holder of the licence has been banned from driving by a Court of Law and is no longer in possession of a valid DVLA driving licence.			All Cases
Approval of the installation of safety screens in private hire vehicles, where MIRA testing and approval, or an equivalent European test certificate can be produced for the proposed screen			All Cases
Approval of certain standard exemptions to the current licence conditions for private hire operators and vehicles, where the applicant can demonstrate that the exemption is justified (limousines, stretched and special event vehicles carrying out private hire work within the city)			All Cases
Grant of licence where the applicant has 6 points on their DVLA licence or a conviction or caution for an offence that does not fall within the category of drugs, violence, dishonesty or of a sexual nature.			Licensing officer and above
Consideration of suitability of evidence as to good character where applicant is from a failed state and cannot comply with requirement to provide a DBS.			All cases

GENERAL LICENSING POLICY DOCUMENT**(Matters not addressed by Statement of Licensing Policy, Statement of Gambling Principles or Sexual Entertainment Policy)**

The General Licensing Team is responsible for a wide range of licensing functions, which include sales of alcohol, late night refreshment, regulated entertainment, sex establishments, charitable collections, scrap metal and gambling premises.

Administration of the Animal Welfare licensing function is under the remit of Environmental Health. The Senior Animal Welfare Officer and the administration team are located at Garretts Green. Inspection and enforcement is carried out by the Senior Animal Welfare Officer.

Massage and Special Treatment Establishments

Birmingham City Council Act 1990.

- Only a very small number of local authorities in the country have similar powers. The legislation was originally aimed at controlling massage and various treatments which could carry a health and safety risk to the public, e.g. water borne disease and exposure to UV rays. The Act has led to a whole range of premises being included, from health and fitness centres to hairdressing salons.
- Anyone conducting an establishment for treatment by way of massage is required to be licensed; other forms of treatment also include Solaria, Therapeutic Spa Baths, Sauna, Turkish Baths, Aromatherapy massage and Herbal Baths.
- Each licensed premises is subject to an annual visit by a Licensing Enforcement Officer.
- When considering applications for licences consultation is carried out with West Midlands Police. There are also statutory requirements placed on applicants to post notices on the premises giving passers-by opportunity to comment or object.
- All licences are subject to a set of conditions which regulate the manner in which the premises must be operated.



BCCA90 MST
Standard Conditions

Sex Establishments

Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the “Act”).

The Act gives local authorities the adoptive powers to control sex establishments which are defined as a sex shop, a sex cinema or a sexual entertainment venue (SEV)

Sex Shops and Sex Cinemas

A sex shop is a premises used for a business, which consists, to a significant degree, of selling what are termed sex articles. These commonly include magazines, DVDs and different forms of sex aids.

A sex cinema is any premises used to a significant degree for showing of films, which are concerned primarily with, or relate to, or are intended to stimulate or encourage sexual activity.

The key words in the statutory definition are the words “to a significant degree”. This is not defined by the Act but case law suggests ‘significant’ implies a higher standard than ‘more than trifling’. In almost all cases the ratio between the sexual and other aspects of the business would be material: the absolute quantity of sales, the character of the remainder of the business, the nature of the display and the nature of the articles themselves are all considerations. No single factor is decisive and the Committee must decide which considerations are material and what weight to attach to them.

When considering applications for licences consultation is carried out with West Midlands Police, Ward Councillors and the Licensing Enforcement Team. There are also statutory requirements placed on applicants to advertise in the local press and post notices on the premises giving passers-by opportunity to comment or object.

The criteria for consideration are:

- the suitability of the applicant;
- whether the person applying will actually be responsible for operating the business
- the location and suitability of the premises; and
- whether the number of sex establishments within that locality is equal to or exceeds the number which the Council considers appropriate for the area.

Other than where the suitability of the applicant is concerned, there is no automatic right of appeal against a decision to refuse a licence and, therefore, an applicant’s only remedy would normally be by way of judicial review.



Sex Shop Conditions



Sex Cinema
Conditions

Sexual Entertainment Venues

A Sexual Entertainment Venue (SEV) is defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.

The meaning of ‘relevant entertainment’ is “any live performance or live display of nudity which is of such nature that it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)”.

These definitions would apply to the following forms of entertainment as they are commonly known: lap dancing; pole dancing; strip shows; peep shows; and live sex shows.

The legislation provides exemptions from the definitions of SEVs as follows:

- Sex shops and sex cinemas (these are separately defined in Schedule 3 to the 1982 Act).
- Premises which provide relevant entertainment on an infrequent basis.

These are detailed as premises where:


- no relevant entertainment has been provided on more than 11 occasions within a 12 month period
- no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
- no such occasion has lasted longer than 24 hours.

On 12th October 2010, Birmingham City Council resolved to adopt the provisions to control SEVs. A separate Sexual Entertainment Venue Policy, to apply to the whole of Birmingham, was published and became effective from 3 January 2011. This Policy was revised in October 2014 and was effective since 1 November 2014. The policy is currently under review.

The Sexual Entertainment Venue Policy document contains full details of the licensing regime applicable to Birmingham including application procedures, standard conditions and delegations. The Standard conditions were revised with effect from 1st November 2014 (on all licences granted or renewed after that date).



SEV Policy

Charitable Street Collections	
Police, Factories etc., (Miscellaneous Provisions) Act 1916.	
The Act prescribes Regulations, which govern the conduct of collections being made for charitable or other purposes in any street or public place.	 Model Street Collection Rules
This could include a collecting box or tin, or even the sale of any articles or magazines where there is a representation at the point of sale that part of the proceeds are being applied to charitable or other purposes.	
Organisations do not have to be a registered charity but checks are made to ascertain that the organisation is genuine, and for new organisations or charities, copies of the latest accounts may be requested. Details of the promoter are forwarded to the West Midlands Police to afford them the opportunity to comment on the suitability of the applicant. The promoter of the collection or permit holder is also required to submit a return within one month of the collection taking place to show the amount collected and details of how the proceeds have been applied particularly on expenses.	
In September each year, an advertisement is placed on the Birmingham City Council website inviting applications to be lodged by 1 November for the following year. In order to allow for a fair opportunity of collection dates for all prospective charitable organisations, applications are restricted to either one collection that covers the “whole city” or two separate dates for a selection of districts.	
All applications received by 1 November each year are given priority for dates and areas and efforts are made to allocate preferred dates to each of the individual organisations. To avoid any clash of interest permits are not granted to two separate organisations to collect in the same place on the same day. For those organisations applying later than 1 November, applications are allocated on a first come first served basis provided that the requested date and area is still available.	
“Face to face” fundraising usually relates to the collection of direct debits / standing orders from shoppers/pedestrians. Such appeals are normally conducted by professional fundraising companies that are remunerated by charities. Where a professional fundraiser is involved in a charitable street collection on behalf of a charity, our procedures require that a copy of the statutory fundraising agreement is submitted with the application as this gives details of the costs of the fundraising.	
Under the Model Street Collection Regulations, “no payment shall be made out of the proceeds of a collection, directly or indirectly, to any other person connected with the promotion or conduct of the collection other than payments which have been specifically approved by the Council.”	
All such face-to-face street collection applications are, therefore, referred to Committee for consideration with the expectation that an applicant demonstrates how any potential donors are made fully aware of the remuneration costs involved and the relationship between the company and the charity.	
There is no right of appeal against the refusal to grant a street collection permit.	
The Charities Act 2006 was introduced to change the way in which charitable collections were regulated, however, the Act was implemented in phases and to date the provisions relating to public charitable collections have still not been introduced.	

It should be noted that a part of the Charities Act 2006 that was introduced, amended the Charities Act 1992 in relation to the statement required to be made by professional fundraisers when raising money for particular charitable institutions. The statement must give the method by which the fundraiser's remuneration in connection of the appeal is determined and the notifiable amount of that remuneration.

House to House Collections

House to House Collections Act 1939.

Whereas street collection permits are normally issued to cover a period of one or two days, a house to house collection licence can be granted for any period up to one year.

With regard to vetting and checking to ascertain whether the organisation applying is genuine or not, the same procedures apply as for street collections.

There is a requirement for the promoter of the collection to make a return following the collection.

Collections generally take place from door to door or from one public house to another.

Some of the larger well-known charities such as British Red Cross, Christian Aid, Shelter, RNLI etc., have a Government exemption from having to apply for a licence, but most of the smaller, and particularly local groups and organisations need a licence before they can collect money (or articles which they intend to give away or sell later), from door to door.

As with the procedure for street collections, where a charitable organisation is utilising the services of a professional fundraising company, our procedures require that a copy of the statutory fundraising agreement is submitted with the application.

Unlike street collections, there is a statutory right of appeal against the refusal to grant a house to house collection licence. In this case, the right of appeal is to the Secretary of State, and the grounds for refusal are set out in the Act.

Skin Piercers

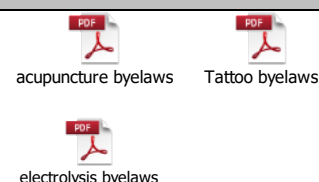
Local Government (Miscellaneous Provisions) Act 1982 Part VIII



Local Government Act 2003

Local Government (Miscellaneous Provisions) Act 1982 Part VIII applies to the registration of persons operating at premises to provide the following types of skin piercing: Acupuncture, Tattooing and Electrolysis.

Byelaws were introduced in 1985 to regulate these activities.

The Local Government Act 2003 came into effect on 1 April 2004 and introduced the registration and inspection of all businesses which carry out cosmetic skin piercing and semi-permanent skin colouring.



Byelaws were introduced in 2006 to regulate these activities.	 cosmetic skin piercing byelaws  Semi-perm skin colouring byelaws
Inspection and enforcement is carried out by officers of Birmingham's Environmental Health Service.	
This is purely a registration function, with no provision for objection or refusal. Registration Certificates are issued by Senior Licensing Officers or above.	

Village Greens The Commons Act 2006	
The Local Authority is the 'Registration Authority' for the purposes of the legislation.	
Applications can seek the inclusion in the register of town and village greens of land which is claimed to have qualified for registration by virtue of continuous usage by inhabitants of the locality for lawful sports and pastimes as of right over a period of 20 years. In order for an application to succeed it must satisfy all parts of the statutory test.	
Applications are reported to the Licensing and Public Protection Committee.	
In cases where objections give rise to a serious dispute of fact between the applicant and the objectors, a public inquiry may be held before an independent inspector, who will then put forward a recommendation to the Registration Authority.	
The final decision will be taken by the Licensing and Public Protection Committee, or a Licensing Sub-committee if so delegated.	

Animal Welfare

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Repeals and replaces;

Animal Boarding Establishments Act 1963

Breeding of Dogs Acts 1973 and 1991

Pet Animals Act 1951

The Performing Animals (Regulations) Act 1925

Riding Establishments Acts 1964 and 1970

The new Regulations came into force 1 October 2018 and require inspection by a suitably qualified inspector prior to issue of a licence. The Regulations introduced numerous changes including powers to the local authority to suspend, vary or revoke a licence. There is a new star rating system where operators can achieve a higher standard and therefore a longer licence period. There are also general and specific conditions provided in relation to the following activities;

Anyone involved in the business of providing accommodation for other people's animals (being cats or dogs). Licensed premises include home dog boarders, where individuals board dogs in their own home and also dog day care centres.

Dog Breeding – the regulations now require a licence where a person breeds 3 litters of puppies in any 12 month period (reduced from a previous 5 litter test), or if any person is in the business of breeding and selling dogs. All new licence applications are required to be inspected by a veterinary surgeon.

Selling Animals as Pets – pet shops are now required to keep additional documentation in respect of animals' health and welfare, provide environmental enrichment for animals and the minimum cage sizes for animals has been increased.

Exhibiting Animal – the regulations changed the previous certificate of registration requirement for performing animals into a formal licensing arrangement and tightens up the scope to reflect the modern use of animals, e.g. mobile zoos, ponies for parties.

Riding Establishments – any person who is in the business of hiring out horses or ponies for riding or instruction must be licensed. When considering applications there is a requirement for an independent report to be obtained from an approved veterinary surgeon. An applicant for the grant or renewal of a licence must undergo or present an enhanced Disclosure and Barring Service (DBS) record check (not more than 3 months old) with the submission of an application form.

Dangerous Wild Animals

The Dangerous Wild Animals Act 1976 (as amended)

The Act contains a schedule detailing a variety of animals for the purposes of the Act e.g. venomous snakes and certain monkeys etc.

Zoos, pet shops and circuses are exempt from the provisions of the Act. There are no current licences in place; however, the Act provides powers to the Council to seize any animal being kept on premises which are unlicensed.

There is a requirement for an independent report to be obtained from a veterinary surgeon before a licence can be granted.

Zoos

Zoo Licensing Act 1981

This Act classes a Zoo as any establishment, other than a circus or pet shop, where non-domesticated animals are kept for public exhibition.

Licences are initially granted for four years and then renewable every six years.

Zoos must observe standards of modern zoo practice which have been specified by the Secretary of State.

Inspections are carried out annually by the Senior Animal Welfare Officer, however, at least twice during the term of the licence; formal inspection must be carried out by Secretary of State appointed inspectors.

Notices

Where applications carry a requirement to advertise in the local press, it is recommended advertisements are placed in The Birmingham Mail, The Birmingham Post, or, for applications relating to premises in Sutton Coldfield, the Sutton Observer.

Policy
Notice1

Should applicants wish to use an alternative publication they are advised to consult with officers at the Licensing Service.

In circumstances where Birmingham City Council Licensing Service is required to publish notices in the local press such notices will be placed in the Birmingham Mail or the Birmingham Post.

Policy
Notice2

Film Classification

On 21st March 2012 Birmingham City Council's Licensing Committee agreed a formal procedure for dealing with requests to exhibit films that have no certificate from the British Board of Film Classification (BBFC).

Requests for film classification must be submitted 28 days prior to the proposed screening, be made in writing and give details of the following:

- where and when the film is to be exhibited,
- intended audience profile,
- suggested film classification,

All requests must be accompanied by a brief synopsis and a copy of the film in standard DVD format.

Where Birmingham City Council has determined the classification of a film it will be subject to the following standard conditions:

- *A notice must be displayed both inside and outside of the premises to ensure that persons entering are readily aware of the classification attached to any film or trailer.*
- *No person is to be admitted to any part of the programme unless they are of the age permitted by the relevant classification. This condition does not apply to members of staff under the relevant age provided that the prior written consent of the person's parent or legal guardian is obtained.*

General information

If a premises licence, issued under the Licensing Act 2003 authorises film exhibitions, the licence holder **must** comply with any recommendation by the British Board of Film Classification (BBFC), or if the film has no classification, then in accordance with any recommendation by the Licensing Authority.

A Licensing Authority can either determine the appropriate classification of any film which has not been the subject of classification by the BBFC; or determine a different classification to that determined by the BBFC to apply generally in Birmingham.

The BBFC classifies films in the following way:

U	Universal (suitable for all).
PG	Parental Guidance (some scenes may be unsuitable for young children).
12	Suitable for age 12 years and over.
12A	Suitable for age 12 years and over, or younger when accompanied by an adult.
15	Suitable for age 15 years and over.
18	Suitable for 18 years and over.

Exemptions

The Licensing Act 2003 sets out exemptions for the provision of regulated entertainment from requiring a licence under the Act:

- Film exhibitions for the purposes of advertisement, information or education; if the sole main purpose of the exhibition is to demonstrate any product, advertise any goods or services, or provide information, education or instruction, even if they simultaneously entertain;
- Film exhibitions in museums and art galleries; if the exhibition consists of or forms part of an exhibition put on show for any purpose of the museum or art gallery, even if they amount to the provision of entertainment.

Enforcement

Licensing Enforcement Officers and Licensing Compliance Officers are issued with an identity card and authorisation. They enforce the provisions of the legislation for which they are authorised. This includes but is not limited to:

- Birmingham City Council Act 1990
- Equalities Act 2010
- Gambling Act 2005
- House to House Collections Act 1939
- Licensing Act 2003
- Local Government Act 1972 (Section 222)
- Local Government Act 2003
- Local Government (Miscellaneous Provisions) Act 1976 Part II
- Local Government (Miscellaneous Provisions) Act 1982 Part I, II, VII
- Police Factories, etc. (Miscellaneous Provisions) Act 1916 (Street Collections)
- Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002
- Private Security Industry Act 2001
- Town Police Clauses Act 1847 and 1889
- Hackney Carriage Byelaws,

Officers undertake inspections, offer advice, deal with requests for assistance, investigate complaints and take part in planned exercises including operations with other enforcement agencies.

The premises and individuals licensed under the above Acts will be risk rated and inspected as and when appropriate in line with that rating, to ensure compliance with the legislation and any conditions attached to their licences. Inspections may also take place upon the grant, renewal or transfer of a licence or upon the receipt of a complaint.

Private hire operators will be risk rated and inspected an appropriate number of times during the year. Officers will check that the documents and records relating to drivers, vehicles and bookings are as prescribed by their conditions of licence. All operators will receive at least one inspection during the course of the operational year.

Stop check exercises are regularly undertaken with the assistance of the Police. Licensed vehicles are stopped and inspected to ensure that they and their drivers are complying with conditions of licence and are safe to carry members of the public. If defects on the vehicle are noted such as loose radios, bald tyres or defective lights, the plate licence may be suspended until the issues are rectified.

As well as routine inspections and high visibility exercises, Officers undertake exercises, where they pose as members of the public and make test purchases. Again this is to check licensees are complying with the legislation and their conditions of licence.

Officers also work jointly with agencies such as the Police and DVSA (formerly VOSA).

Further information can be found within the Regulation and Enforcement, Enforcement Policy.

SCHEME OF DELEGATIONS

(For matters not addressed in individual policy documents)

Miscellaneous	Decision to be made by:		
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Massage & Special Treatment Licence		If objection received	If no objection received
Skin piercing registration			All Cases
face-to-face street collection applications		All cases where collectors are paid, or where fundraisers are paid directly or indirectly from proceeds of collection	All other cases
House to House collections applications		Cases referred by Licensing Officers for determination	All cases (unless application raises concerns i.e. allocation of proceeds)
Village Green Consideration of application	All cases		
Village Green – instruction of independent inspector	All cases		
Village Green – determination of application	All Cases		

Matter to be dealt with:	Decision to be made by:		
The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018		Environmental Health Operations Manager (or above)	Senior Animal Health and Welfare Officer
Grant		All cases	All cases
Refusal		All cases	
Variation		All cases	
Suspension		All cases	
Revocation		All cases	

DELEGATION OF FUNCTIONS REGARDING THE LICENSING ACT 2003**(Extract from Statement of Licensing Policy)**

Subject	Sub Committee	Officers
Application for personal licence.	If a Police objection is made.	If no objection.
Application for personal licence with relevant unspent convictions.	If a Police objection is made.	
Application for premises licence/ club premises certificate.	If a relevant representation is made.	If no relevant representations.
Application for provisional statement.	If a relevant representation is made.	If no relevant representations.
Application to vary premises licence/club premises certificate.	If a relevant representation is made.	If no relevant representations.
Request to vary designated premises supervisor.	If a Police objection is made.	All other cases.
Request to be removed as designated premises supervisor.		All cases.
Application for transfer of premises licence.	If a Police objection is made.	All other cases.
Application for interim authorities.	If a Police objection is made.	All other cases.
Application to review premises licence/club premises certificate.	All cases.	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases.
Decision to object when Local Authority is a consultee and not the relevant authority considering the application.		All cases.
Determination of application to vary premises licence at community premises to include and alternative licence condition	If a Police objection is made.	All other cases.
Determination of a Police objection to a STANDARD temporary event notice.	All cases.	

Application for minor variation of premises licence/club premises certificate		All cases (for decision whether to consult other Responsible authorities and for Determination)
Determination of a Police / EH objection to a temporary event notice.	All cases except where objection requires inclusion of conditions from existing premises licence and applicant is in agreement	Where objection requires inclusion of conditions from existing premises licence and applicant is in agreement
Attachment of Conditions from existing premises licence to TEN	Where applicant objects to conditions	If applicant is in agreement
Issuing of Counter notice for STANDARD TEN	Following determination hearing	Where limits are exceeded
Issuing of counter notice for Late TEN		All cases
Suspension of licence for non payment of fees		All cases
Requests for a change to the film classification awarded by the BBFC	All cases	
Requests for classification of films where there is no BBFC classification	Where there is concern about the content of any film submitted or the proposed exhibition of the film	Where appropriate procedure is followed and no concerns as to content
Request for implementation of Early Morning Restriction Order	FULL Committee	
Request for imposition of Late Night Levy	Full City Council	
Statement of Licensing Policy	Full City Council	
Cumulative Impact Assessment		

APPENDIX 4

DELEGATION OF FUNCTIONS REGARDING THE GAMBLING ACT 2005

(Extract from Statement of Gambling Principles)

Subject	Full Council	Licensing & Public Protection Committee	Licensing Sub-Committees	Officers
Three year licensing policy	X			
Policy to permit casino	X			
Fee setting (when appropriate)		X		
Application for premises licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Gambling Commission	Where no representations received or representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Review of a premises licence			X	
Application for a club/gaming club machine permits			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn

Cancellation of club gaming/club machine permits			X	
Application for other permits			Where an application is received to operate more than 4 gaming machines on an alcohol licensed premises	Where an application is received to operate 4 or less gaming machines on an alcohol licensed premises
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Decision to attach/exclude a premises licence condition			X	
To administer and carry out all other functions not specifically mentioned in the delegation to the Licensing & Public Protection Committee, which are capable of being delegated to an officer as provided in the Gambling Act 2005 and any regulations made under that Act, together with any related functions				X

Sexual Entertainment Venues

(From SEV Policy)

SCHEME OF DELEGATION OF DECISION-MAKING AND FUNCTIONS

The Licensing and Public Protection Committee is responsible for making licensing decisions with Sub-Committees and officers having delegated powers to make some decisions. The table below describes how licensing decisions will be made. This scheme of delegations will be subject to regular review

Nothing within this scheme of delegations shall prevent matters being referred to a higher level where appropriate. E.g. officers may refer matters to a sub committee, or a sub-committee may refer a matter to full committee. Decision to be made by:			
Matter to be dealt with:	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Application for grant or transfer	All cases		
Application for renewal or variation	If relevant objection made		If no relevant objection made
Minor variation application	If relevant objection made		If no relevant objection made
Revocation of Licence	All cases		
Cancellation of Licence			All cases
Make/amend regulations prescribing standard conditions, terms and restrictions	All cases		
Setting of fees	All cases		
Waiver	All cases		
To make and amend policy relating to the licensing of sex establishments	All cases		
To enforce the provisions of Part II and Schedule 3 of the Local Government Miscellaneous Provisions Ac 1982			All cases

GOOD PRACTICE AND PROCEDURE

The following are points that your Committee should bear in mind when making decisions concerning individual licences and should be read in conjunction with the Members' Code of Conduct and the Member/Officer Protocol. They are based on the large number of legal cases in which the courts, including the European Courts, have considered different aspects of a local authority's licensing functions. However, your Committee should be aware that in certain cases there are additional requirements resulting from specific legislation.

1. Political/Party Group Meetings

Group meetings should be concerned with policy reports, not the discussion of individual licence applications etc. The use of a party political whip is inconsistent with the rules of natural justice and should be avoided by Councillors sitting on the Licensing and Public Protection Committee.

2. Members

Members should be mindful of the requirements concerning the disclosure of interests and when it is necessary for a member to vacate a meeting. In cases of doubt the Director of Legal Services, or his representative, should be consulted. Details are set out in the Council Constitution.

3. Social Media

What are social media?

Social media is the term to describe websites and online tools which allow people to interact with each other by creating their own content. The content could, for example, be blogs, videos or short messages, known as tweets, via twitter.

On social media sites users share information, discuss opinions and may create interest groups or pages. Ultimately people use these sites and tools to build online communities and networks which encourage participation and engagement.

Types of Social Media:

- Blogging and microblogging – online journals – Twitter is an example of microblogging, where entries are limited to 140 characters
- Online Forums – people with similar interests sharing information and opinions – AccyWeb is an example

- Social networking sites – these facilitate connections between people who already know each other, often in a social context, but are increasingly used by businesses to promote their products or services- Facebook is an example
- Video and photo publishing – sharing videos and photographs worldwide – Flickr is an example

Some general legal issues:

- **Libel** – If you publish an untrue statement about a person which is damaging to their reputation, they may take a libel action against you. The same thing may happen if, for example, someone else publishes something libellous on your website, you know about it and don't take swift action to remove it. A successful libel claim could result in the award of damages against you,
- **Copyright** – Placing images or text on your site from a copyrighted source (for example extracts from publications or photos), without obtaining permission, is likely to breach copyright laws. Therefore don't publish anything you are unsure about, or obtain prior permission. A successful claim for breach of copyright would be likely to lead to an award of damages against you.
- **Data Protection** – Do not publish the personal data of individuals unless you have their express permission.
- **Bias and Predetermination** – if you are involved in making licensing decisions, do not say anything through social media (or indeed anywhere) that suggests you have completely and irrevocably made your mind up on an issue that is due to be formally decided upon. While your likely view on a particular application may be well known, you need to be able to show that you attended the committee or hearing prepared to take on board and weigh all the evidence and arguments, and were genuinely persuadable to a different view. If you weren't, the decision may be later challenged as invalid. If a person has suffered some sort of detriment as a result of such an invalid decision, they may have a claim against the council for damages.
- **Wednesbury Unreasonableness** – members must also always been seen to acting reasonably in relation to the Committee process and consideration of all applications; if detriment arises a Third Party may commence Judicial Review proceedings.

Use of Social Media by Members of Committee

- Although the use of Social Media can be an invaluable tool for a Member of the Council/Committee Member it is important that such usage is properly managed at all times and that particularly a clear distinction is maintained between Private usage and Member usage. It is important that Social Media is not perceived by any Third Party to interfere with the proper decision making process. Members are advised to exercise extreme caution

before commenting on social media, or in the conventional press, on any licensing decisions which they are, or are likely to be involved in making. This is to ensure that their comments may not be interpreted to mean that members have already determined a licence application, which could be used against the local authority.

- The same applies to Council Members who are not members of the Licensing & Public Protection Committee, but whose comments or actions on social media could be misinterpreted. If elected Members make any comments when representing residents who are objecting to licence applications they must not link their comments in any way to members of the Committee.
- During Committee hearings it is particularly important that mobile communication devices, including telephones and tablet computers or Social Media are not used, whether for research or communication purposes. The use of any form of Social Media or mobile telephones at Committee may lead to an inference of bias, pre-determination or Wednesbury Unreasonableness.

4. The Applicant

Ordinarily the applicant should be given the opportunity of being heard by your Committee before the application is determined, even if this is not an express requirement of the relevant statute. The applicant should also be allowed to be accompanied by a legal or other representative if they so desire.

5. Third Parties to a Hearing

Any person or body wishing to make representations or objections in respect of an application or notice should be given the opportunity to do so. Subject to any statutory restriction the nature of the representations or objections should be disclosed to the applicant in advance of the meeting so that they may consider their response. The identity of an objector should not be disclosed to the applicant without their consent, unless any statutory provision state otherwise.

6. Disclosure of Information

The applicant should be given prior knowledge of the nature of the Council's concerns, and of those of any objectors.

The extent of the disclosure should also be sufficient to avoid the applicant having to request an adjournment to allow time for proper consideration of the matters they are obliged to address.

7. Evidence

Each member of your Committee should be supplied with copies of every document that has been supplied both by and to the applicant and any third parties to the hearing. If any new

documents are produced at the meeting, each party should have the opportunity to inspect them. In certain cases there may be statutory provisions which require another party's consent, if applicable, to new documentation being introduced at the meeting.

8. Adjournments

Any request for an adjournment should not be refused if to do so would effectively deny the applicant a fair hearing.

9. The Hearing

The procedure is intended as a general framework to ensure the rules of natural justice apply and that a fair hearing is presided over by an "independent and impartial tribunal". The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed:

- a. Members present should identify themselves so that the applicant may be satisfied that there has been no breach of the rule against bias.
- b. A licensing officer will outline the relevant details of the application or matter under consideration.
- c. Usually the applicant will present his or her case first, at the conclusion of which members may ask questions. A similar opportunity will then be afforded to any third party to a hearing making representations or objections to the application.
- d. The applicant should be given the opportunity to ask questions of those third parties.
- e. Once the licensing officer, the applicant and any third party to the hearing have given evidence and answered any questions, the third party shall first be given an opportunity to make brief closing remarks, and then the applicant to make their final closing remarks on the application under question. All parties should leave the room, so that only the Committee, the Committee Manager and the Director of Legal Services' representative remain.

During the hearing members must not discuss the merits of the case. This should be left until the applicant, any objectors and officers involved in the case have left the room.

The only members who may participate in the decision making are those who have seen and heard all the evidence and have been present for the subsequent discussion.

Once the applicant, any third party and officers have left the meeting they may be recalled to provide further information or clarification but all of them must return, not just the person from whom further information is required.

10. The Decision

Once the Committee has reached its decision the parties must be recalled and informed verbally of the decision with the exception of applicants and drivers for a hackney carriage or private hire licence or personal licence who only receive the decision later in writing. If reasons for the decision are to be given, which will usually be the case, this will be done in writing at a later date. Notice of any right of appeal should also be given to the parties.

BIRMINGHAM CITY COUNCIL

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF
REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

23 OCTOBER 2019
ALL WARDS

UPDATE REPORT ON UNAUTHORISED ENCAMPMENTS

1. Summary
- 1.1 This report provides Committee with an update on work being undertaken to further manage unauthorised encampments in the city since the last report on the 16th May 2019.
2. Recommendations
- 2.1 That the report is noted and outstanding minute number 1169 be discharged.
- 2.2 That Committee requests a further report to be brought in 3 months to update on the various work items contained within this report.
- 2.3 That the letter at Appendix 2 be approved subject to the comments of the Portfolio Holder for Homes and Neighbourhoods.

Contact Officer: Mark Croxford, Head of Environmental Health
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3. Background

- 3.1 This report is an update on activities since the last report to your Committee on 16th May 2019.
- 3.2 An unauthorised encampment is one which is established on land without the express permission of the landowner. The groups responsible generally comprise elements of Gypsy, Romany, Traveller or other ethnic groupings and are collectively known colloquially as “travellers” or more correctly GRT.

Proposed Transit Sites

- 4.1 As previously reported, colleagues in Housing and the Inclusive Growth Directorate have applied for capital funding to bring the two transit sites in the BDP forward and into operational use, these being at Proctor Street and Hubert Street, Nechells. Currently £50k has been approved from the Homes England Grant and a further capital expenditure of £290k has been identified for 2019/20 and 2020/21 to bring all of this work forward.
- 4.2 As committee is aware from the last report, contractors were asked to develop the Proctor Street transit site. This work to bring the site into use is now complete and the site was handed back to the City on the 25th September 2019. Appendix 1 contains photographs of the developed site.
- 4.3 There is no update for the Tameside Drive site as the matter remains with legal services. The last update was “The work stream to bring Tameside Drive transit site back into operational use proceeds slowly. As previously advised, this matter has now been forwarded to Legal Services as it does not appear to be able to be completed by way of negotiated agreement. A formal procedure has now started with initial letters going to the residents occupying Tameside Drive. The intention is to accommodate the existing residents on the site with permanent tenancy agreements and the remainder of the site to be converted to a transit site. This can only be delivered once appropriate tenancy agreements are in place”.
- 4.4 Further investigations have been made into Aston Brook Street, where there is one caravan on this proposed site. It has been confirmed that there has been a caravan on this site for more than 10 years. Therefore, similar to Tameside Drive, letters have been delivered and our Legal Services team is now in discussion with the solicitor acting on behalf of the resident on the site.

5. Motion at Full Council

- 5.1 At Septembers full Council meeting a motion was debated and passed requiring consideration to be given to the following:
 - i. Write to the government expressing support for the proposed new powers (relates to extension of Sec 62 to adjacent authority areas) and for making

deliberate trespass a criminal offence, but raise concerns about the impact on cash-strapped local authorities of allowing neighbouring authorities to avoid their responsibilities towards the gypsy and traveller community. This letter should make the case for both of these to be implemented as soon as possible and also for additional funding to be provided to police services and local authorities to allow them to carry out this work effectively.

- ii. Continue to work to revise the existing protocol agreed with the West Midlands Police. The council has a legal requirement to meet its equality duty and must consider the welfare of trespassers and is required in law to decide whether it can tolerate the encampment.
- iii. Continue to work on building the detailed evidence base required to gain a city wide injunction against unauthorised encampments to enable the speedy removal of such encampments and prevent the practice of moving from site to site within the city boundaries.
- iv. Request the relevant Director and officers to see what more can be done to recover costs through the courts from trespassers for the associated legal fees, repairs to property and cleaning costs and to report back to Housing and Neighbourhoods Overview and Scrutiny Committee.
- v. Work with local councillors, friends of parks and other community groups to identify areas vulnerable to trespass and prioritise those for appropriate preventative and deterrent measures as and when funding permits. A report to be provided back to Housing and Neighbourhoods Overview and Scrutiny Committee.
- vi. Promote clearer reporting mechanisms for residents so that swift action can be taken at the first sign of unauthorised encampments being set up and that the relevant officers report back on steps taken to Housing and Neighbourhoods Overview and Scrutiny Committee.
- vii. Considers providing sufficient legal campsites to enable the Council to apply to the Courts for a City wide injunction to prohibit unauthorised campsites and incursions as a matter of urgency.

5.2 It is proposed that the Chair and the Cabinet Member for Homes and Neighbourhoods write to the Home Secretary and The Minister for Housing, Communities and Local Government to discharge bullet point i. above. The proposed text of the letter is in appendix 2 to this report.

5.3 The joint protocol in tackling unauthorised encampments (bullet point ii. above) is out of date following the introduction of the transit site. We are currently looking to revise our Memorandum of Understanding with West Midlands Police and once agreement has been reached it will be published and distributed.

5.4 Statements have been submitted to Legal Services to apply for a city wide injunction in-line with bullet point iii. above and information in paragraphs 6 below.

5.5 Bullet points iv. to vii. will be addressed shortly and an update given in 3 months.

6 Injunctive Action

6.1 An injunction is a legal remedy obtained in a civil or criminal court. It takes the form of a Court Order that compels a named person or an identified group to refrain from specific acts. All of the injunctions currently obtained by your officers have been obtained under antisocial behavior powers and have the power of arrest attached. A person that fails to comply with an injunction may be fined, imprisoned or have their assets seized.

6.2 All of the existing park injunctions were successfully extended on the 3rd July 2019 to the 1st July 2021. These can be viewed at Birmingham City Council's web page by searching for encampment injunctions.

6.3 Statements have been submitted to legal services for a city wide injunction now that the transit site is available.

7. Consultation

7.1 The report is for information and, therefore, no consultation has been undertaken.

7.2 Information continues to be made available to MPs and elected members to offer support in reducing the impact on communities that unauthorised encampments have and to reduce the burden on land owning departments.

8. Implications for Resources

8.1 Regulation and Enforcement is responsible for the assessments leading up to legal action, the service of notices and arrangement of resources for an eviction to occur. The default costs (bailiff actions), the repair of land and its cleansing, is borne by the land owning departments. The Environmental Health resources employed in carrying out the work detailed in this report are contained within the approved budget available to your Committee.

9. Implications for Policy Priorities

9.1 This work supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

10. Public Sector Equality Duty

- 10.1 The management of unauthorised encampments is a process that affects groups and individuals who are (mostly) from specific and defined ethnic minorities e.g. Romany Gypsies, Irish Travelers.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

Appendix 1



There are 15 pitches that allow for a large caravan and towing vehicle to be parked beside the caravan.



The Transit site forms an "L" shape and these two photographs look down each leg from the angle.



There is a lockable toilet block on site with cubicles for male and females.



Male and Female toilets are the same with 2 water closets a wash basin and a sluice.



There is heating provided for the winter.



Sluice and Wash basin



To the rear of the cabinet is a stand pipe for water (insulated silver box) which is closed and locked until pitches are rented and then the box is opened and a tap is fitted. The other green box is the box for service meters.

Proposed Letter text to Government to be drafted

Proposed text

Dear Minister,

We are writing following a recent meeting of Birmingham City Council on 10 September 2019, where a Notice of Motion was considered regarding the strengthening of powers to deal with unauthorised encampments.

On 6 February 2019, the then Home Secretary, the Right Honourable Sajid Javid MP reported to Parliament that he was considering the variation of the current police powers to tackle unauthorised encampments. The proposals were reported as:

- i. *lower the number of vehicles needed to be involved in an illegal camp before police can act from 6 to 2;*
- ii. *give the police powers to direct travellers to sites in neighbouring local authorities. Currently they can only direct trespassers to sites in the same are;*
- iii. *allow officers to remove trespassers from camping on or beside a road; and,*
- iv. *increase the time from 3 months to a year, during which travellers are not allowed to return to a site they have already been removed from.*

Birmingham Council is fully supportive of these changes and would like to see them implemented without further delay. Further the Council supports making deliberate trespass a criminal offence.

In making these points Birmingham is fully aware of its and other Council's duties to the Gypsy Roma and Traveller community. The City Council is keen to see all councils play their part in discharging these duties and is concerned that some cash-strapped local authorities may allow neighbouring authorities to avoid their responsibilities towards the gypsy and traveller community. Birmingham would therefore request that serious consideration is given to requiring all Councils in England and Wales to assess if they have had any unauthorised encampments in the preceding 5 years. Where there is a demand, then these authorities should have access to sufficient central funds enabling all councils to provide transit sites to meet the needs of both the travelling and resident traveller communities. This in turn will have a positive impact on the settled community by preventing recurring unauthorised encampments, as well as protecting the parks and open spaces for everyone to use and enjoy. In Birmingham a small car park has been converted to a transit site of 15 pitches for around £100,000. If there were numerous sites across the country this would effectively mean that there would never be any need for parks and other open spaces to be subject to unauthorised encampments.

We hope you will give due consideration to these comments and put in place the proposed amendments to the legislation as a matter of urgency.

Yours sincerely

Councillor Sharon Thompson JP
Portfolio Holder for Homes & Neighbourhoods

Councillor Philip Davis
Chair of Licensing & Public Protection Committee

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING SERVICE DIRECTOR REGULATION AND
ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

23rd OCTOBER 2019
ALL WARDS

PROSECUTIONS AND CAUTIONS – AUGUST 2019

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of August 2019.
2. Recommendation
 - 2.1 That the report be noted.

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3. Results

3.1 During the month of August 2019 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- No Licensing cases were finalised during August 2019. One simple caution was administered as set out in Appendix 1.
- 43 Environmental Health cases resulted in fines of £11,202 together with two suspended prison sentences, two disqualifications from owning animals and one disqualification from owning a pet shop. Prosecution costs of £15,386 were awarded. No simple cautions were administered as set out in Appendix 2.
- Two Trading Standards cases resulted in two community orders. Prosecution costs in the sum of £1,500 were awarded. Six simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in August 2019 and cases finalised by district April 2019 – August 2019.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2019 to August 2019.

4. Consultation

4.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and business in terms of the regulation duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

5. Implications for Resources

5.1 Costs incurred in investigating and preparing prosecutions, including officers' time, the professional fees of expert witnesses etc. are recorded as prosecution costs. Arrangements have been made with the Magistrates Court for any costs awarded to be reimbursed to the City Council. Monies paid in respect of fines are paid to the Treasury.

5.2 For the year April 2019 to August 2019 the following costs have been requested and awarded:

Licensing

£3,684 has been requested with £2,763 being awarded (75%)

Environmental Health

£125,696 has been requested with £93,768 being awarded (75%).

Trading Standards

£21,936 had been requested with £13,603 being awarded (62%).

- 5.3 For the month of August 2019 the following costs have been requested and awarded:

Licensing

No costs have been requested or awarded

Environmental Health

£19,754 has been requested with £15,386 being awarded (78%).

Trading Standards

£2,188 had been requested with £1,500 being awarded (69%).

- 5.4 Since the start of the financial year until the end of August 2019 the following income has been received from the courts.

Licensing

£828 has been received.

Environmental Health

£11,952 has been received including Waste Enforcement cases.

Trading Standards

£757 has been received.

(Total £13,537).

- 5.5 This will not directly correlate to the values awarded in the same time period as individual cases are often cleared in instalments with the associated fines and court costs taking precedence over the settling of BCC legal costs. Therefore, income received may relate to cases from the previous financial year or earlier.

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

No Licensing cases were finalised during August 2019

LICENSING SIMPLE CAUTIONS

During the period of August 2019 one simple caution was administered.

Local Government (Miscellaneous Provisions) Act 1976

Section 48(6) & Section 54(2) One caution was issued for failing to display a private hire vehicle licence plate and for failing to wear the drivers badge in a position and manner as to be plainly and distinctly visible

ENVIRONMENTAL HEALTH CASES**WASTE OFFENCES**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	8/8/19	Shir Agha Meakhel Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Hussain Food Store, 247 Pretoria Road, Birmingham was disposed of within 7 days.	£450 fine £1,190 costs (£1,190 requested)	Stockland Green	Heartlands
2	8/8/19	Kingdom Private Ltd 883 Washwood Heath Road Birmingham B8 2NA	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Chicken.Com, 883 Washwood Heath Road, Birmingham was disposed of within 7 days.	£400 fine £371 costs (£371 requested)	Ward End	Ward End
3	8/8/19	Haroon Lookman Birmingham	Environmental Protection Act 1990 Pleaded guilty to six offences; one offence of instructing unknown persons to collect and dispose of the waste from Highfield Fish Bar, 6 Highfield Road, Birmingham without ensuring that the persons were authorised to transfer waste and five offences of intentionally obstructing an authorised officer in the exercise of his powers or duties by giving a false name.	£420 fine (£210 x 2) No separate penalty on remaining offences. £400 costs (£1,257 requested)	Sparkhill	Alum Rock

4	14/8/19	Abdul Karim Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information on how waste from Clearance Centre, 112 Cherrywood Road, Birmingham was disposed of within 7 days.	£300 fine £570 costs (£570 requested)	Sparkhill	Bordesley & Highgate
5	22/8/19	Joab Tawanda Rusike Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information on how waste from I Sell, 35 Station Road, Erdington, Birmingham was disposed of within 7 days.	£300 fine £100 costs (£482 requested)	Castle Vale	Erdington
6	22/8/19	Halima Mohamed Birmingham	Environmental Protection Act 1990 Pleaded guilty to two offences; one offence of failing to comply with a notice requiring written information on how waste from Gaf Tailoring, Unit 2, 92 High Street, Kings Heath, Birmingham was disposed of and one offence of failing to comply with a requirement in a demand for information relating to business waste produced at the business.	£300 – offence 1 No separate penalty for remaining offence £605 costs (£605 requested)	Handsworth	Brandwood & Kings Heath
7	22/8/19	Lee Nguyen Birmingham	Environmental Protection Act 1990 Anti-Social Behaviour, Crime and Policing Act 2014 Pleaded guilty to three offences; one offence of failing to comply with a notice requiring written information on how waste from Envy, 11 The Radleys, Sheldon, Birmingham was disposed of within 7 days and two offences of failing to comply with the conditions of a notice requiring the defendant to cease the practice of using “illegal advertisements” to promote Envy in that unauthorised advertisements were found on Olton Boulevard East and Greenwood Avenue, Birmingham.	£600 (£300 x 2 offences 1 & 2) No separate penalty for remaining offence £300 costs (£634 requested)	Handsworth	Sheldon

8	22/8/19	Cyril Murtagh Birmingham	Environmental Protection Act 1990 Pleaded guilty to three offences of depositing controlled waste, namely a number of black bags of waste, on land outside 137 Monyhull Hall Road, Birmingham on three separate occasions.	£500 – offence 1 No separate penalty for remaining offences £500 costs (£1,475 requested)	Druids Heath & Monyhull	Druids Heath & Monyhull
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FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
9	14/8/19	RCJ Catering Ltd Unit 4-5 3 Langton Road Birmingham B8 3DG	Food Safety and Hygiene (England) Regulations 2013 Found guilty in their absence of six offences relating to conditions found at Roti & Curry Junction, Unit 4-5, 3 Langton Road. Birmingham. The premises was not kept clean, racking used to store clean pots was dirty, ceiling cladding was dirty in the dry store area and a wooden pallet used for cooling pots of cooked food was filthy. The flooring in the main kitchen was not properly sealed; floor paint had cracked and peeled away leaving exposed concrete. Walls in the dry store were damaged. Food tongues, a blender and a jug used to scoop rice were filthy. Touch points throughout were dirty. A ready to eat chocolate cake was stored directly on top of raw meat; some uncovered food was left to cool on the floor whilst cleaning was taking place. There were no procedures based on HACCP.	£1,000 – offence 1 No separate penalty for remaining offences £100 costs (£1,720 requested)	Alum Rock	Alum Rock

ANIMAL WELFARE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
10	22/8/19	Nazar Hussain Birmingham Mohammed Nabeel Birmingham	<p>Pet Animals Act 1951, Animal Welfare Act 2006 & Wildlife and Countryside Act 1981</p> <p>Nazar Hussain, being the licence holder of Bordesley Green Pets and Aquatics, 149 Bordesley Green, Birmingham, pleaded guilty to 12 offences; five of failing to comply with the licence conditions in that a cockatiel was found with a broken wing and leg and had not received appropriate care and treatment, partridges were not kept in suitable accommodation, cockatiels, budgerigars and quail were accommodated without appropriate environmental enrichment, quail and budgerigars were not supplied with adequate water, partridges were kept in housing which did not minimise stress from other animals, cats were roaming free in the shop and there was no evidence that staff were competent in pet shop management and animal handling, One offence of causing a cockatiel to suffer and four offences of failing to ensure that the needs of animals were met. Two offences of keeping a cockatiel and a partridge in cages which were not large enough to allow the birds to stretch their wings.</p> <p>Mohammed Nabeel, being the Manager of the pet shop, pleaded guilty to seven offences; one of failing to obtain veterinary treatment in respect of a cockatiel, two of keeping a cockatiel and a partridge in cages which did not permit the birds to stretch their wings and four of failing to ensure that the needs of a cockatiel, adult rabbits, quail and budgerigars were met.</p>	<p><u>Nazar Hussain</u></p> <p>10 weeks imprisonment suspended for 12 months.</p> <p>10 years disqualification from keeping animals.</p> <p>10 year disqualification from owning a pet shop</p> <p>£2,815 costs</p> <p><u>Mohammed Nabeel</u></p> <p>10 weeks imprisonment suspended for 12 months.</p> <p>10 years disqualification from keeping animals.</p> <p>£2,815 costs</p> <p>(£5,630 requested)</p>	Garretts Green	Bordesley Green

LITTERING OFFENCES (NON SJP)

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
11	8/8/19	Liam Abrahams Bedford	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham	£100 fine £220 costs (£220 requested)	Out of area	Ladywood

DETAILS OF LITTERING OFFENCES

	Date Case Heard	Name	Fine/Penalty & Costs	Ward of defendant
12	9/8/19	Mohammed Ahmed Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Small Heath
13	9/8/19	Rashied Kaej Alfoudari Coventry Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
14	9/8/19	Jamie R Ashley Rugby Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
15	9/8/19	Dayl Bird Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Bordesley Green

16	9/8/19	Gergana Boneva Wolverhampton Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
17	9/8/19	Wen Qiang Cai Dudley Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
18	9/8/19	Alexandru Cornea Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Erdington
19	9/8/19	Adrian Donaldson Dudley Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
20	9/8/19	Petru Dormenco Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Nechells
21	9/8/19	Marius Dumitru Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Aston
22	9/8/19	Mark Hall Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Pype Hayes
23	9/8/19	Steve Hughes Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Lozells

24	9/8/19	Rachel Hughes Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Lozells
25	9/8/19	Sobiya Hussain Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Bromford & Hodge Hill
26	9/8/19	Joanne Jones Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Harborne
27	9/8/19	Anil Kumar Laddher Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Handsworth Wood
28	9/8/19	Muhammed Lal Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Moseley
29	9/8/19	Changjian Li Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Bournbrook & Selly Park
30	9/8/19	Jenna Lindsey Solihull Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
31	9/8/19	Alexandru Mihai Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Alum Rock

32	9/8/19	Ann Marie Morgan Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Bordesley & Highgate
33	9/8/19	Usana El Jandaou Moxhlis Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Sparkbrook & Balsall Heath
34	9/8/19	Onyela Ohagei Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Weoley & Selly Oak
35	9/8/19	Awat Rasul Bristol Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
36	9/8/19	Toby Rowland Leicester Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
37	9/8/19	Jennifer Rudzianskas Bedford Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
38	9/8/19	Sophie Sallis West Bromwich Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
39	9/8/19	Sandu Sopoiala Birmingham Proved in absence	£220 fine £175 costs (£175 requested)	Nechells

40	9/8/19	Stephanie Stoney Leicester Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
41	9/8/19	Kathryn Stubbs Birmingham Guilty plea	£40 fine £75 costs (£175 requested)	Brandwood & Kings Heath
42	9/8/19	Levy Vidal Wolverhampton Proved in absence	£220 fine £175 costs (£175 requested)	Out of area
43	9/8/19	Jim L Worrall Tamworth Guilty plea	£192 fine £75 costs (£175 requested)	Out of area

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
9/8/19	32	£6,832	£5,400	£5,600

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

No simple cautions were administered during August 2019.

TRADING STANDARDS CASES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
44	22/8/19	Israr Ismail Burton on Trent	<p>Electrical Equipment (Safety) Regulations 2016 & Trade Marks Act 1994</p> <p>Pleaded guilty to five offences; two of failing to verify, prior to making electrical equipment, namely AC/DC adaptors, available on the market, that the manufacturer had complied with the regulations relating to labelling and that the products were accompanied by instructions and safety information and three of having in possession at Sari Electronics Ltd trading as Xtreme Mobiles, 28D Great Hampton Street, Birmingham an Apple power adaptor, Apple ear pods and Samsung earphones which bore registered trademarks without the consent of the trade mark holders</p>	<p>12 month Community Order with 120 hours unpaid work</p> <p>Forfeiture order granted in respect of 543 seized items.</p> <p>£1,500 costs (£2,188 requested)</p>	Out of area	Newtown
45	30/8/19 at Birmingham Crown Court	Dildar Khan Birmingham	<p>Tobacco and Related Products Regulations 2016, Trade Marks Act 1994 & Fraud Act 2006</p> <p>Pleaded guilty to six offences; one of possessing for supply 35 packets of cigarettes at Zahir Supermarket, 476-478 Bordesley Green, Birmingham which failed to carry the required health warnings, one of possessing for supply 335 packs of oral tobacco which was prohibited as tobacco for oral use must not be produced or supplied, three offences of possessing hand rolling tobacco which bore registered trademarks without the consent of the trade mark holders and one offence of carrying on a fraudulent business, namely offering counterfeit hand rolling tobacco and cigarettes, not lawfully permitted to be sold in the UK.</p>	<p>12 month Community Order with a 20 day rehabilitation activity requirement focusing on criminal behaviour</p> <p>POCA timetable set</p>	Heartlands	Heartlands

TRADING STANDARDS SIMPLE CAUTIONS

During the period of August 2019 six simple cautions were administered.

Criminal Justice Act 1988

Three cautions were issued for selling a knife to a person under the age of 18 years.

Tobacco and Related Products Regulations 2006 & Standardised Packaging of Tobacco Products Regulations 2015

Two cautions were issued for selling tobacco products for smoking which breached regulations in that the colour of the packaging was incorrect and they did not carry health warnings

Trade Marks Act 1994

One caution was issued for having in possession, custody or control in the course of a business, 72 items which bore signs identical to or likely to be mistaken for registered trademarks.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – AUGUST 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	0	0	0	0	0	0	0	0
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	33	0	0	0	0	0	0	33
Environmental Health (non FPNs)	0	1	1	4	2	0	0	1	0	1	0	10
Trading Standards	0	0	0	1	1	0	0	0	0	0	0	2

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – AUGUST 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	0	0	0	0	0	0	0	0
Environmental Health (FPNs) Not paid and prosecuted	1	2	2	3	4	1	4	2	0	0	14	33
Environmental Health (non FPNs)	0	2	2	2	0	0	2	1	0	1	0	10
Trading Standards	0	0	0	1	0	0	0	0	0	0	1	2

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-AUGUST 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	4	0	0	0	1	0	0	6
Environmental Health (FPNs) Not paid and prosecuted	0	1	0	0	268	0	0	0	0	0	0	269
Environmental Health (non FPNs)	1	3	11	15	25	2	5	3	2	2	0	69
Trading Standards	0	0	0	2	2	1	3	0	1	3	0	12

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-AUGUST 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	1	0	2	2	0	0	0	0	1	0	6
Environmental Health (FPNs) Not paid and prosecuted	17	12	15	18	32	7	22	9	2	14	121	269
Environmental Health (non FPNs)	1	7	12	12	18	0	6	3	1	2	7	69
Trading Standards	0	0	0	2	1	0	3	1	1	3	1	12

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2019 – MARCH 2020

Waste Investigation Outcomes													
	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	64	97	93	94	92								440
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	37	59	64	51	45								256
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	36	0	34	5	7								82
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences(£80)	0	0	0	0									0
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	0	6	2	3	2								11
Prosecutions													
Number of prosecution files submitted to legal services, (number produced quarterly).	13	10	35	9	9								76

BIRMINGHAM CITY COUNCIL

**REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

23 October 2019
ALL WARDS

OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
August 2019

1. Summary
 - 1.1 This report advises the Committee of the outcomes of appeals against the Sub Committee's decisions which are made to the Magistrates' Court, and any subsequent appeals made to the Crown Court, and finalised in the period mentioned above.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Emma Rohomon, Acting Head of Licensing
Telephone: 0121 303 6111
E-mail: Emma.Rohomon@birmingham.gov.uk

3. Summary of Appeal Hearings for August 2019

	Magistrates'	Crown
Total	2	
Allowed		
Dismissed		
Appeal lodged at Crown		
Upheld in part	1	
Withdrawn pre-Court		
Consent Order		
Remitted back to the Sub Committee	1	

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In August 2019 no costs were requested.
- 4.3 For the fiscal year thus far, April 2019 to August 2019, costs associated to appeal hearings have been requested to the sum of £7354.25 so far with reimbursement of £6158.25 so far (83.73%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2019 to August 2019, costs contra Birmingham City Council associated to appeal hearings, £0.00.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Prosecution files and computer records in Legal Proceedings team.

MAGISTRATES' COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Safdar Hussain	07.08.2019	Upheld in Part	£0.00	£0.00	The appeal was against the decision of the Sub Committee to revoke Mr Hussain's hackney carriage driver's licence on 13.02.2018 due to him accumulating five speeding endorsements in a period less than 18 Months. The District Judge heard that Mr Hussain was driving at 34 mph and that 3 of the offences had been incurred at almost the same time. The Judge noted the length of time which had elapsed since the decision and was told that although Mr Hussain had appealed within the statutory time limit the Court had not progressed his appeal and had not listed it for a prompt hearing .He said that it was Mr Hussain's good fortune that the Court did not deal with it in a prompt manner as he would not otherwise have had 2 years since the last offence in which to demonstrate a clean driving record to the Court. The judge said that he was able to consider that additional evidence which the Sub Committee could not. He said that he had given considerable weight to the Sub Committee decision and been slow to interfere. Had the appeal been heard last year Mr Hussain would have lost his licence for good but there were new factors and he considered that a suspension of 6 weeks was appropriate.

MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
2	Mr Imran Saghir in respect of Costcutter Unit D1 26 Ryland Street Birmingham B16 8FW	12.08.19 and 13.08.19	Remitted back to the Sub Committee	£0.00	£0.00	The appeal was against the decision of the Sub Committee to revoke the premises licence on 07.01.2019 following an application for review submitted by West Midlands Police. Both the appellant and the respondent agreed to compromise the appeal and commended this to the court, however two members of the public attended court who had not made representations or been offered as witnesses prior. They were allowed to address the court, they were not aware of the compromise agreement. District Judge Strongman considered his options and decided that he would not approve a compromise in these circumstances where there were continuing objections by local residents. He could not say the compromise was right. It would be remitted to the Licensing Committee with no order as to the costs of the appeal.

BIRMINGHAM CITY COUNCIL**LICENSING AND PUBLIC PROTECTION COMMITTEE****23 OCTOBER 2019****SCHEDULE OF OUTSTANDING MINUTES**

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
1169 16/05/2019	<u>Update Report On Unauthorised Encampments</u> – The Assistant Director of Regulation and Enforcement be requested to report further in three months' time to update on the various work items contained within the report.	See agenda Item No. 6

BIRMINGHAM CITY COUNCIL**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF REGULATION AND
ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE****23rd OCTOBER 2019**
LADYWOOD**CONTROL OF SEX ESTABLISHMENTS - SEXUAL ENTERTAINMENT VENUE,
ADULT WORLD, 1 HINCKLEY STREET, BIRMINGHAM B5 4EB****1. Summary**

- 1.1 Birmingham City Council's Sexual Entertainment Venue Policy became effective from 1st November 2014.
- 1.2 An application has been received for the renewal of the Sexual Entertainment Venue (SEV) Licence granted to Coventry Road Lingerie Limited in respect of premises known as Adult World, 1 Hinckley Street, Birmingham B5 4EB.
- 1.3 At the time of writing this report there are 8 SEV licences granted to premises within Birmingham 7 of which, including this premises, are located within the area bounded by the ring road (A4540).
- 1.4 As stated in Birmingham City Council's SEV Policy the Council considers that the part of the City which falls within the ring road (A4540) is an area which is appropriate to have an upper limit guide on the number of SEV's the appropriate upper limit being eight.

2. Recommendation

- 2.1 That Committee consider and determine the application for the renewal of the Sexual Entertainment Venue licence in respect of Adult World, 1 Hinckley Street, Birmingham B5 4EB having considered the objection received and having regard to the options contained in paragraph 6.1 of the report.

Contact Officer: Emma Rohomon, Head of Licensing (Acting)

Telephone: 0121 303 9780

E-mail: emma.rohomon@birmingham.gov.uk

Originating Officer: David Kennedy, Principal Licensing Officer

3. Background

- 3.1 An application has been received from Coventry Road Lingerie Limited to renew the Sexual Entertainment Venue Licence granted in respect of the premises known as Adult World, 1 Hinckley Street, Birmingham B5 4EB. A copy of the application, appropriately redacted of personal and sensitive data, is attached at Appendix 1.
- 3.2 The applicant has confirmed that the external scheme of the premises remains unchanged as to that approved by the Licensing & Public Protection Committee on 23rd July 2018. A copy of which is attached at Appendix 2.
- 3.3 The hours of operation permitted by the existing licence are 09:30am to 10:00pm Monday to Saturday and 12:00noon to 4:00pm Sunday.
- 3.4 The applicant has confirmed that they inadvertently omitted to include the operating hours for Sunday's on their renewal form but have subsequently confirmed that they wish the hours to remain as per the existing licence.
- 3.5 The nature of the entertainment as described on the application form is lap dancing and stage strip shows (every 2 hours). The applicant has confirmed the relevant entertainment will involve full nudity.
- 3.6 The applicant has submitted club rules. A copy of which is attached at Appendix 3.
- 3.7 A plan of the premises detailing where the Sexual Entertainment will take place is also part of the application procedure. A copy of which is attached at Appendix 4.

4. Consultation

- 4.1 The applicant was required to advertise the application in a local newspaper, post a notice outside of the premises for a period of 21 days and serve a copy of the application to the Chief Officer of Police.
- 4.2 In addition upon receipt of an application the Licensing Section consults with the relevant Local Policing Unit, the Licensing Enforcement Team and also notifies the appropriate Ward Councillors.
- 4.3 West Midlands Police have not responded to the application within the statutory consultation period.
- 4.4 A representative of the Licensing Enforcement Team has confirmed that they have no objections to the renewal of the licence. A copy of their report is attached at Appendix 5.
- 4.5 An objection has been received from a representative of The Old Rep Theatre. A copy of which is attached at Appendix 6.

- 4.6 A copy of the Council approved standard conditions for Sexual Entertainment Venue licences are contained within the current Sexual Entertainment Venue policy a copy of which is attached at Appendix 7.
- 4.7 Location plans, including a plan showing the proximity of the other existing licensed Sexual Entertainment Venues to the premises, are attached as Appendix 8.
- 4.8 All parties have been invited to attend the hearing.

5. Matters for Consideration

- 5.1 When considering an application for the renewal of a licence, the Committee should have regard to any observations submitted to it by the Chief Officer of Police and any objections that the Licensing Authority has received from anyone else within 28 days of the date of the application.
- 5.2 Subject to any new information produced at the hearing it does not appear that any of the mandatory grounds of refusal apply to the application currently due for consideration. For example, a licence shall not be granted to a person who is under the age of 18 or who has had a previous application for the same premises refused within the last 12 months.
- 5.3 The only discretionary grounds upon which the Council may refuse an application are those grounds specified in Schedule 3 paragraph 12(3) of the Local Government (Miscellaneous Provisions) Act 1982 as amended:
- a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or any other reason;
 - b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by, or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
 - c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - d) that the grant or renewal of the licence would be inappropriate, having regard:
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

6. Options Available

6.1 The Committee may:

6.1.1 Grant the application as it stands in which case the licence will be renewed subject to the Council approved Standard Conditions.

6.1.2 Grant the application as it stands subject to the Council approved Standard Conditions unless they have been expressly excluded or varied and/or other Specific Conditions or restrictions that the Committee deem reasonable, necessary proportionate and justifiable.

6.1.3 Refuse the application on one or more of the grounds as outlined in paragraph 5.3 above.

7. Right of Appeal

7.1 An applicant has a right of appeal to the Magistrates Court against decisions to refuse to grant, renew, vary or transfer a licence, the imposition of conditions or the revocation of an existing licence.

7.2 It should be noted that although no right of appeal lies against a decision made on the discretionary grounds set out in paragraphs 5.3(c & d) above, the applicant could challenge a refusal on the aforementioned grounds by way of a judicial review.

8. Implications for Resources

8.1 A fee of £2,367 is payable for renewal of this Sexual Entertainment Venue licence, if the application is subsequently refused then 50% of the fee will be refundable.

8.2 In the event of an appeal hearing, the Magistrates power to award costs derives from Section 64 of the Magistrates Courts Act 1980 which entitles them to make such order as they think just and reasonable.

9. Implications for Policy Priorities

9.1 The application that is the subject of this report should be considered in accordance with the published Birmingham City Council Sexual Entertainment Venue Policy.

10. Public Sector Equality Duty

10.1 No specific implications have been identified.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

APPENDIX 1 (Redacted Application Form)

SEX ENT 1.5

Fair Processing Statement – Any personal data held by Birmingham City Council in relation to your application for a Licence to use a premises, vehicle, vessel or stall as a Sexual Entertainment Venue, will be held in full compliance with the legal obligations as set out in the Data Protection Act 1998. This is in accordance with the Council's Privacy Policy; a copy is available on the Council's website: www.birmingham.gov.uk/privacy. To protect the public fund we may also use the information you have provided on this form to prevent and detect fraud. We may share this information for the same purposes with other Council Departments and organisations for example, other councils and the police.

BIRMINGHAM CITY COUNCIL

SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Application for a Licence to use any Premises, Vehicle, Vessel or Stall as a Sexual Entertainment Venue

All questions must be answered, save where otherwise stated. If relevant questions are not answered, the application will be deemed incomplete and will be returned to the applicant.

Section 1

Application details:

Is this licence for the: Grant ☐ Renewal ☒ Transfer ☐

Is the application made by: an individual ☐ a partnership or other unincorporated body ☐
a company or other corporate body ☒

Section 2

Answer only if Applicant is an individual

What is the full name of the individual?.....

Permanent Residential Address.....

Any former names

Date of Birth Place of Birth.....

Date Became Resident in the UK.....or E.U Member State

National Insurance Number or E.U Member State Equivalent

Telephone Number (during normal office hours)

Email Address:.....

Name and address to which correspondence to be sent (if different from above)

Has the applicant a financial interest in the business which is the subject of this application?

Yes ☐ No ☐ If "yes" to what extent

Is the whole business owned by the applicant? Yes ☐ No ☐

BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED	
22 JUL 2019	
REF NO	CHD-100009-12367-00
INITIALS	kw

Section 3***Answer only if the Applicant is an unincorporated body or a partnership***Full Name of Applicant
.....

What are the names of the applicant's partners? Please complete the table below:

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence Throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member state

Are there persons responsible for the management of the Applicant other than the partners? If so state their names.
.....
.....
.....Please confirm if the whole of the business is owned by the applicant? Yes ☐ No ☐

Section 4.**Answer only where the applicant is a company or other corporate body**What is the name of the Applicant? COVENTRY ROAD LINGERIE LTD

Has the Applicant previously been known by any other name and if so what name?

NO

If the Applicant is a company, what type of company is it (e.g., public or private, limited by share or guarantee, etc.)?

PRIVATE LIMITED COMPANYWhat is the registered number of the Applicant? 08473998What is the registered office address? 8 ASTHILL CROFT, STYVECHALE, COVENTRY,CV3 6HLIn which country is the company incorporated? ENGLANDWhat is the date of incorporation of the company? 4/4/2013

Please complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body.

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member State
RYAN MCNULTY			

SEX ENT 1.5

Does the Applicant use any other trading names? If so, please state the trading name(s).

ADULT WORLD

What is the Applicant's trading address? 1 HINCKLEY STREET, BIRMINGHAM

BS 4EB

Please confirm if the whole of the business is owned by the applicant? Yes ☒ No ☐

Section 5

All Applicants

Please give details of the person (if any) who is to be responsible for the management of the premises in the absence of the licence holder:

First Name PAUL Surname HYLAND

Former Name (if any)

National Insurance Number or E.U Member State Equivalent

Permanent Address:

Date of Birth: Place of Birth

Has any person named at any place in this application been associated in any way with any other application for a licence for a sex establishment? Yes ☒ No ☐

If "yes" give full details ADULTWORLD.CO.UK, 1014 COVENTRY ROAD, BIRMINGHAM,

B25 8DP

Section 6**Premises details:**

Is this application in respect of: Premises ☒ Vehicle ☐ Vessel ☐ Stall ☐

Is the premises, vehicle, vessel or stall in use for sexual entertainment at the date of this application? Yes ☒ No ☐

If the answer is yes, state the name and address of the person or body currently operating the business.....

COVENTRY ROAD LINGERIE LTD

What is full address of the premises for which a licence is sought?

1 HINCKLEY STREET, BIRMINGHAM, B25 8DP

If the application is in respect of a vehicle, vessel or stall, please state where it is to be used as a sexual entertainment venue.....

N/A

Under what name is, or will the premises be known? ADULT WORLD

Is the whole of the premises to be used under the licence? Yes ☒ No ☐

If no, please state:

a) which part of the premises is to be used for the purposes of the licence

b) the use to which the remainder of the premises are to be put

c) the names of those responsible for the management of the remainder of the premises

If the Applicant's interest in the premises is a leasehold one, please state:

a) Head-lease ☒ Sub-lease ☐

b) the name and address of the landlord and of the superior landlord where applicable

DTZ, 1 COLMORE SQUARE, BIRMINGHAM, B4 6AJ.

AGENTS FOR THE HOWARDS VYSE TRUST

c) the length of the unexpired term 4.5 YEARS

Section 7.**Proposed operation times and activities**

Give the times it is proposed to operate the Premises for the purpose of this Licence;

<u>Day</u>	<u>Start</u>	<u>Finish</u>	<u>State any seasonal variations or non standard timings where you intend to use the Premises, which are different to those listed in the column on the left.</u>
Monday	9.30 AM	10 PM	
Tuesday	9.30 AM	10 PM	
Wednesday	9.30 AM	10 PM	
Thursday	9.30 AM	10 PM	
Friday	9.30 AM	10 PM	
Saturday	9.30 AM	10 PM	
Sunday			

Please give full details of the nature of the relevant entertainment e.g. lap-dancing, pole-dancing, stage strip show etc

.....
 STAGE STRIP SHOW EVERY 2 HOURS

 LAP DANCING

Please confirm if the relevant entertainment involves full nudity ☒ Yes ☐ No

Section 8.**If the application is for the Transfer of a Premises Licence**

Name of current Premises Licence Holder

.....

Please give the reason/s for the transfer application

.....

Section 9.

Has the Applicant or any persons named in this form been convicted of a criminal offence whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details of unspent convictions below:

Convictions:

Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

Has the Applicant or any persons named in this form been cautioned whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details below:

Cautions:

Forenames	Surname	Former Name (if any)	Offence	Date of Caution	Where caution administered

SEX ENT 1.5

Has any person or the corporate or unincorporated body referred to in this application: -

Been disqualified from holding a licence for a sex establishment?	NO
Been refused the grant / renewal / transfer of a licence for a sex establishment?	NO
Been the holder of a sex establishment licence when that licence has been revoked?	NO
Been associated in any way with any other application for a sex establishment licence?	YES
If 'Yes' to any of the above please provide details:	
SEX SHOP & SEX CINEMA	

Is there any information in this application which you would **not** wish to be seen by members of the public?

Yes ☒ No ☐

If yes, state which information and the reasons why you would **not** wish it to be seen

HOME ADDRESS PLEASE KEEP PRIVATE

Is there any further information which the Applicant would wish the Council to take into account when considering this application?

.....

.....

.....

.....

(If necessary, please continue on a separate sheet)

SEX ENT 1.5

Please read the checklist below and tick to confirm you have enclosed all of the required information/documents;

I have made or enclosed payment of the fee ☒

Please check the following link for details of the cost of your application:-

<http://www.birmingham.gov.uk/licensingfeesandcharges>

I have enclosed a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority ☒

I have enclosed a copy of the "club rules". Such club rules must contain the required conduct of performers which shall include for example, no sex acts, no giving or taking phone numbers (including exchange of business cards). ☒

I have enclosed a scheme showing the exterior design for consideration by the Licensing Authority ☒

I understand and agree that I must send a copy of my completed application to the Chief Officer of Police no later than seven days after the date of the application. I also understand that I must produce evidence of due service of the Notice of Application upon the Chief Officer of Police as required by paragraph 10(14) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒

I understand that I must now advertise my application on or near the Premises for 21 days starting with the date of the application. ☒

I understand that I must advertise the application in a local newspaper within seven days after the date of the application and that a copy of the notice of application which has been published must be given to the Licensing Authority in accordance with paragraph 10 (8) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒

DECLARATION: I declare that the details in this application are true to the best of my knowledge and belief and acknowledge that if there are any omissions or incorrect statements of a serious nature this may result in the application being refused. I further declare that I have read and agree to abide by the conditions of Licence for a Sexual Entertainment Venue made by Birmingham City Council in accordance with Section 2 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should my application be granted.

APPLICANTS ARE INFORMED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE, MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE, ON SUMMARY CONVICTION, TO A FINE NOT EXCEEDING £20,000.

Signature

Name of Signatory RYAN MCNULTY

Designation of Signatory DIRECTOR

Date 22/7/2019



1

ADULT WORLD

Agency Agreement and House Rules for Performers

1. Performer/Agent Agreement
2. GDPR
3. Performer and Customer Rules
4. Disclaimer

Each section requires a signature

Coventry Road Lingerie Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 08473998

ADULT WORLD*Agency Agreement and House Rules for Performers***THIS PERFORMER / AGENT AGREEMENT** is made and executed on this the

_____ (Date) Day of _____ (Month), _____ (Year) by and between:

PARTIES:1. _____
hereinafter referred to as the Performer.**AND**2. Coventry Road Lingerie Ltd T/A Adult World, 1 Hinckley Street Birmingham B5 4EB
hereinafter referred to as the Agent.

A. Whereas, the Performer is a person who is has proven his / her talents in the field of ADULT ENTERTAINMENT, STAGE SHOWS including POLE DANCE and STRIPTEASE, and a PRIVATE DANCE in PRIVATE ROOM.

B. Whereas, the Performer desires to the services of an Agent in order to represent him / her for the purposes of marketing and the provision of facilities, amenities and security.

C. Whereas, the Agent is involved in the business providing licensed premises, facilities, amenities, security, marketing and promotion and is capable of representing the Performer adequately for Licensed Adult Entertainment.

D. Whereas, the Agent has offered its services to the Performer and Performer has expressed his/ her acceptance of this offer;

E. Whereas, based on the same this agreement is entered into between the Agent and the Performer.

Now therefor, in consideration of the mutual promises contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the reasons set forth and in consideration of the covenants and promises of the parties hereto, parties agree as follows:

3. AGENCY

3.1 The Performer appoints the Agent as his / her representative by virtue of this Agreement;

4. AGENT COVENANTS

4.1 The Agent understands that, the Agent shall be entrusted to provide and maintain the premises, facilities, amenities, and Licenses for the Performer to work.

4.2 The Agent further agrees and understands that the promotional expenses related to the promotion of Performers' work shall be borne by the Agent.

4.3 The Agent shall take all reasonable steps to ensure that the Birmingham City Council Licence conditions are maintained and complied with by both parties at all times.

Coventry Road Lingerie Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 08473998

ADULT WORLD

Agency Agreement and House Rules for Performers

5. COMMISSION

5.1 Agent understands and agrees that he/she shall be entitled to Commission with regard to all the work secured for the Performer at the premises.

5.2 The Agent's Commission would be 50% of the total revenue so secured for each shift worked by the Performer during the term of this Agreement.

6. INVOICE AND PAYMENT OF THE INVOICE

6.1 The Agent is responsible for an invoice to the Performer which would state in detail the amounts related to the work done and the commission amount so due.

6.2 All payments so made to the Agent shall be invoiced.

6.3 All payments which are covered under this Agreement shall be made on the day at completion of work.

7. TERMINATION

8.1 The Agreement can be terminated by the Performer for Breach of any of the terms specified herein with a notice of seven days prior to such termination.

8.2 On such termination the Agent shall cease to represent the Performer and the Performer's work.

9. ASSIGNMENT

This Agreement shall not be assigned by either of the parties hereto. It shall be binding on and inure to the benefit of the successors, administrators, executors, or heirs of the Agent and Performer. Any purported or attempted assignment or other transfer or delegation in violation of this Section shall be null and void.

10. RELATIONSHIP BETWEEN PARTIES

Each party is an independent contractor of the other party. Nothing herein will constitute a Partnership between or joint venture by the parties, or constitute either party the Agent of the other.

11. NOTICE

Any notice to be given by one party to the other under, or in connection with this Agreement shall be in writing, signed by or on behalf of the party giving it, and addressed to the recipient at their address.

12. AMENDMENTS OR MODIFICATION

ADULT WORLD*Agency Agreement and House Rules for Performers*

No modification of or amendment to this Agreement will be effective unless in writing signed by authorized representatives of both parties.

17. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement both parties hereto represent that they have read this Agreement, understand it, agree to be bound by all terms and conditions stated herein, and acknowledge receipt of a signed, true and exact copy of this Agreement.

PERFORMER

Name _____ Date _____

Sign _____

AGENT

Name _____ Date _____

Sign _____

ADULT WORLD*Agency Agreement and House Rules for Performers***GDPR**

I hereby give consent to Adult World to process my 'Personal Data' under the terms of General Data Protection Regulation (GDPR) 25th May 2018. The 'Personal Data' required is any information relating to the identity and whereabouts of the natural person. The 'Personal Data' processing is necessary for compliance with the legal obligations to which Adult World is subject. Personal data shall not be kept any longer than is necessary. Personal data is held securely by Adult World can be viewed by the individual on request. Consent can be withdrawn at any time. For further information see handout or go to www.gov.uk/government/publications/guide-to-the-general-data-protection-regulation

PERFORMER

Stage Name.....

Real Name.....

Address.....

.....

.....

Phone.....

Mobile.....

Emergency contact.....

Name.....

Relationship.....

Reference.....

Signed.....

Photo ID attach here

Coventry Road Lingerie Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 08473998

ADULT WORLD

Agency Agreement and House Rules for Performers

PERFORMER RULES

1. No striptease or nude dancer may perform on the premises until such time as photographic proof of ID, showing their date of birth, is provided confirming that the dancer is over the age of 18 years.
2. Striptease and nudity shall only be performed in those areas of the premises which are advised by the Management
3. Striptease entertainment shall be given only by performers and customers shall not be encouraged or permitted to participate.
4. Customers must remain fully clothed at all times. Performers shall not remove customer clothing at any time.
5. Striptease and nude performers are to re-dress at the conclusion of each performance and are to remain fully clothed whilst walking around the premises or when acting in the capacity of hostess.
6. Striptease and nude performances are provided on stage approximately in two hourly intervals or in between film schedules.
7. Private striptease and nude performances are provided in the designated private dance room located on the ground floor of the premises and shall be to customers seated on fixed seating within this area only. No fastening or blocking of the private dance room door is allowed.
8. The only areas proposed for striptease/ full nudity shall be on the stage and in the private dance room where the performance is not visible from the retail area.
9. There shall be no dances or strip teases performances off stage to customers seated in the cinema or stage show seating area, or to standing customers in the retail area.
10. There shall be no striptease performances to customers in the DVD preview booths.
11. There shall be no physical contact between performers and customers except of the placing of monies or tokens in the hands of the performer at the beginning or conclusion of the performance.
12. The changing room located on the first floor of the premises shall only be accessed by performers during trading hours. Customers, friends or family are strictly prohibited at all times.
13. When tableside, striptease or nude performances are taking place, no performer shall dance with or towards another performer, and shall make no physical contact with another performer.
14. The management operates a zero tolerance policy to the supply or use of drugs and to the consumption of alcohol by performers during trading hours.
15. Performers shall not encourage customers to throw money at or otherwise to give gratuities to performers.

Coventry Road Lingerie Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 08473998

ADULT WORLD

Agency Agreement and House Rules for Performers

16. The Code of Conduct for striptease or nude performers shall be lodged with the Authority responsible for licensing. All performers shall sign the Code of conduct as agreed by the Police in their proper name acknowledging that they have read and understood, and are prepared to abide by the said Code of Conduct, and copy so signed be retained by the licensee and shall be readily available for inspection by the Police and all authorised persons upon reasonable request.

17. There shall be no simulated sexual acts between performers of striptease.

18. Striptease performances shall only be given by hired performers and no member of the public or staff shall be permitted to participate in the performances in any way or at any time.

19. Performers are expected to clean, fresh, presentable and change outfits throughout the shift, the licensee shall provide a suitable area where the performers may change and shall provide within the room/area a shower and wash hand basin with a hot and cold water supply. All staff are responsible for keeping the changing area tidy.

20. Staff are not allowed to bring their own alcohol onto the premises.

21. Dancers may never give out or accept personal information, including telephone numbers, email addresses, addresses business cards or other contact details or any other information from any customers.

22. Cash must never change hands in the private dance rooms this must be done via the counter

23. The private lap dancing room will have adequate lighting to ensure the safety of dancers and to ensure that members/guests and performers are adhering to the Club rules at all times.

24. Do not have friends or partners in the premises whilst you're working.

25. Do not date other members of staff.

26. Behaviour such as swearing and fighting will not be tolerated.

27. Anybody found to be possessing or taking drugs will be instantly dismissed.

28. Performers are not allowed to use their mobile phones while working.

29. Smoking is not permitted inside or outside within three meters of the entrance. You must be appropriately clothed down to the knee if you must smoke outside the premises.

30. All performers are self-employed this means you are responsible for any Tax and National Insurance contributions you may have to pay. It is also your responsibility to register for VAT if your earnings from all sources are in excess of the vat registration threshold limit.

ADULT WORLD

Agency Agreement and House Rules for Performers

MINIMUM CODE OF CONDUCT FOR PERFORMERS

No striptease or nude dancer may perform on the premises until such time as photographic proof of ID, showing their date of birth, is provided confirming that the dancer is over the age of 18 years.

All performers and staff (including Door Supervisors and management) are provided with a copy of the Code of Conduct for Performers and that they must sign to confirm they have read and understood its content, and the requirement to comply.

The original signed acknowledgements are to be retained within the Operating Manual.

a. Full nudity is only permitted in the approved designated areas, as stipulated or shown on the approved plan attached to the licence. In all other public areas within the premises the performers and employees must at all times wear at least a G string (female) and or pouch (male) covering the genitalia

b. During all performances (including performances usually termed 'private dances') there must not be any deliberate contact, by the performer, with any patron or person within the audience except:

- 1). Leading a patron by the hand to and from a chair or private room or designated dance area.
- 2). Simple handshake greeting at the beginning and/or end of the performance.
- 3). the placing of monetary notes or dance vouchers into the hand or garter worn by the performer.

c. If a customer attempts to touch or speak to a performer inappropriately, the performer shall stop the performance and advise the customer of the rules of the Code of Conduct. If the customer persists in inappropriate behaviour, the performer shall stop the performance and inform premises management immediately.

d. If a customer engages in acts of masturbation or other sexual behaviour, the performer shall cease the performance immediately and inform the premises management.

e. Performers may not intentionally touch the genitals, anus or breasts of another performer, nor knowingly permit another performer to touch their genitals, anus or breasts.

f. Performers may not perform any act which simulates masturbation, oral sex or sexual intercourse, including the insertion of any object, including their own finger, in to the anus or vagina.

Coventry Road Lingerie Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 08473998

ADULT WORLD*Agency Agreement and House Rules for Performers*

- g. Performers shall not perform if under the influence of alcohol or drugs.
- h. Performers shall use the dressing room facilities provided for their exclusive use to change for their performance.
- i. Performers shall only use the smoking area provided specifically for their use.
- j. Performers shall only use the sanitary facilities specifically provided for their use.
- k. Performers shall not leave the premises or otherwise be visible outside the premises, including for smoking breaks, unless dressed in suitable attire, e.g. outerwear consisting of coat or top and skirt or trousers so lingerie or other performance costume is not visible.
- l. All performers shall comply with this Code of Conduct. Any failure to adhere to the Code of Conduct shall render the performer subject to the house Disciplinary Rules, a copy of which has been provided to each performer.

ADULT WORLD

Agency Agreement and House Rules for Performers

MINIMUM CODE OF CONDUCT FOR CUSTOMERS

All performers and staff (including Door Supervisors and management) are provided with a copy of the Code of Conduct for Customers and that they must sign to confirm they have read and understood its content, and the requirement to comply.

The original signed acknowledgements are to be retained within the Operating Manual.

The Code of Conduct for Customers must be displayed in prominent locations throughout the premises, including at the entrance.

a. Patrons or members of the audience shall not take photographs or record digital images of performers within the premises via a camera or mobile phones.

b. Customers may not touch performers during a performance.

c. Customers will remain respectful and will not make lewd or offensive remarks to performers.

d. Customers may not harass or intimidate performers.

e. Customers may not ask performers to perform any sexual favour.

f. Customers may not perform acts of masturbation or indulge in other sexual behaviour.

g. Any customer failing to adhere to the Customers Code of Conduct will be ejected from the premises.

ADULT WORLD*Agency Agreement and House Rules for Performers*

Any staff or performers found to be breaking or ignoring these house rules could be cautioned, suspended or instantly dismissed.

I have read pages 1-10 and fully understand the House Rules and terms and conditions. It is my responsibility to follow these rules and I understand any consequences that may occur if they are broken.

Signed.....

Print real name.....

Print stage name.....

Date.....

ADULT WORLD*Agency Agreement and House Rules for Performers***DISCLAIMER**

I am the person detailed below and I have signed this disclaimer to say that I am working at Adult World on a self-employed basis.

I agree to pay the house fees set at 50% of Private Dance revenue by Adult World for the provision of the premises, facilities, amenities and security.

I take full responsibility for Tax and Insurance contributions owed on any money I will earn whilst working on these premises. Help can be found at;
www.gov.uk/guidance/help-and-support-if-youre-self-employed
www.gov.uk/working-for-yourself

I am also aware that there are CCTV cameras fitted in the premises including the staff amenity area for the deterrent of drug abuse and theft.

I agree to perform my work under these and the Adult World House Rules and Conditions.

Real name.....

Stage name.....

Address.....

.....

.....

Date of birth.....

Contact Number.....

Tax reference code.....

National insurance number.....

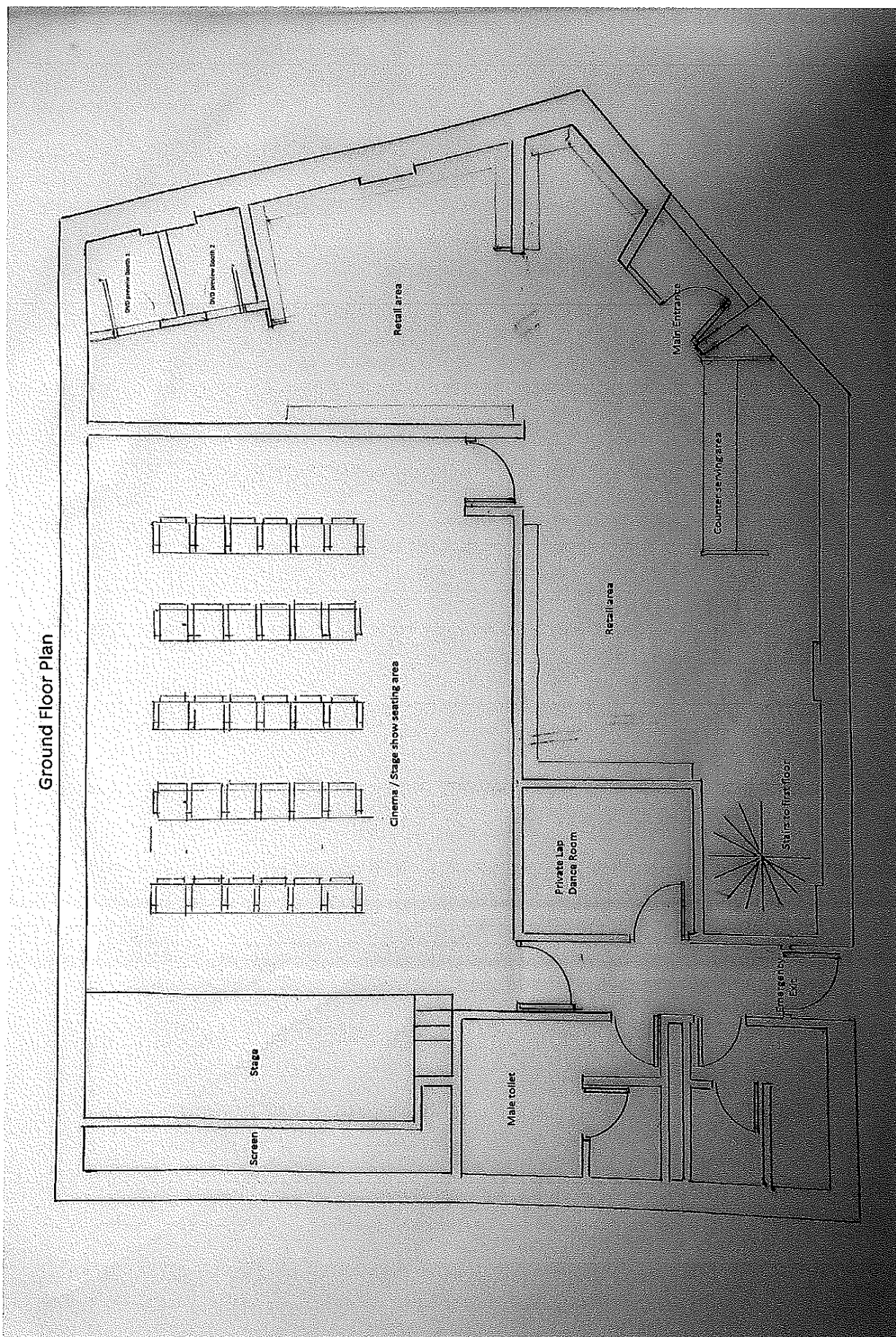
Company Name.....

Accountant.....

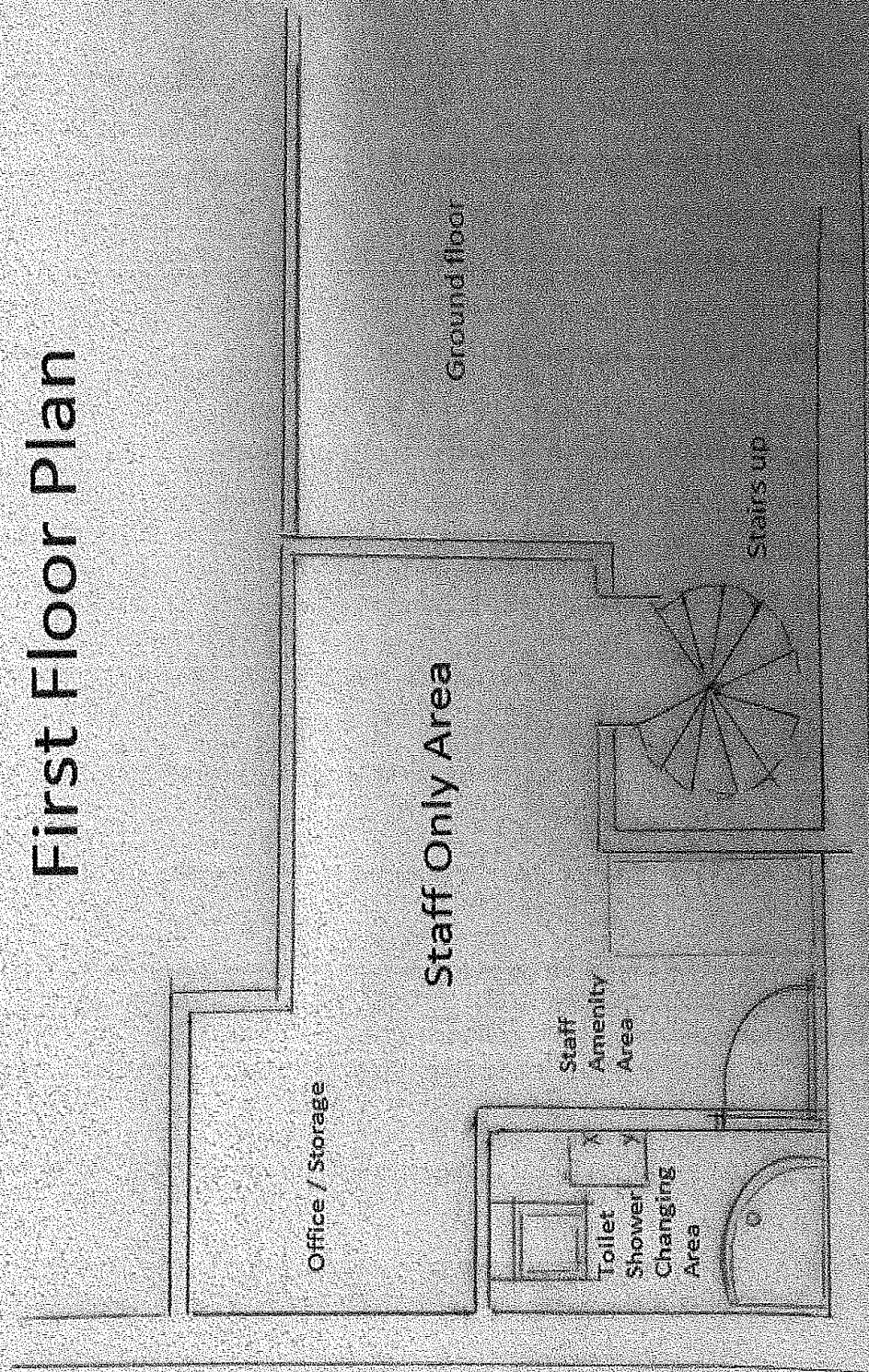
I confirm this information is correct.

Signed..... Date.....

Coventry Road Lingerie Ltd T/A Adult World 1 Hinckley Street Birmingham B4 5EB Company No 08473998



First Floor Plan



SEXUAL ENTERTAINMENT VENUES INSPECTION SHEET
Local Government (Miscellaneous Provisions) Act 1982

DATE AND TIME OF INSPECTION	07/08/2019 16:45 hours
OFFICERS INSPECTING	Doug Wright
TRADING NAME OF PREMISES	Coventry Road Lingerie Limited T/A Adult World
ADDRESS AND POSTCODE OF PREMISES	1 Hinckley Street Birmingham B5 4EB

REASON FOR INSPECTION	GRANT	RENEWAL	VARIATION
OTHER (PLEASE SPECIFY)	-		
JOB NUMBER	WK/009449330		

TYPES OF PREMISES NEARBY	PROVIDE DETAILS
RESIDENTIAL PREMISES	None in the immediate area
COMMERCIAL SHOPS USED BY FAMILIES & CHILDREN	None in the immediate area
FACILITIES USED BY FAMILIES EDUCATIONAL, LEISURE	The Old Rep Theatre and Comfort Inn are located in Station Street and the Holiday Inn is located nearby on Hill Street
COMMUNITY BUILDINGS USED BY BY FAMILIES & CHILDREN	None in the immediate area
PLACES OR BUILDINGS OF HISTORICAL/CULTURAL INTEREST OR TOURIST ATTRACTIONS	In the vicinity of New Street Station, Grand Central Shopping John Lewis and the Indoor Market area. (See Attached Map)
PREMISES USED FOR RELIGIOUS GATHERING	None in the immediate area
OTHER (PLEASE SPECIFY)	

SEXUAL ENTERTAINMENT VENUES INSPECTION SHEET
Local Government (Miscellaneous Provisions) Act 1982

DOES THE PREMISES YOU ARE INSPECTING HOLD AN EXISTING LA2003 PREMISES LICENCE	NO
WAS NOTICE DISPLAYED DATE CHECKED	YES/NO (delete as applicable) 07/08/2019 16:45 hours
OTHER (PLEASE SPECIFY)	-

ANY RELEVANT INFORMATION WHICH MAY ASSIST THE LICENSING COMMITTEE

I can advise that Adult World has been trading a number of years in Hinckley Street and has held a sex shop and sex cinema licence for all of those. The premises has now applied to renew the Sexual Entertainment Venues Licence (SEV).

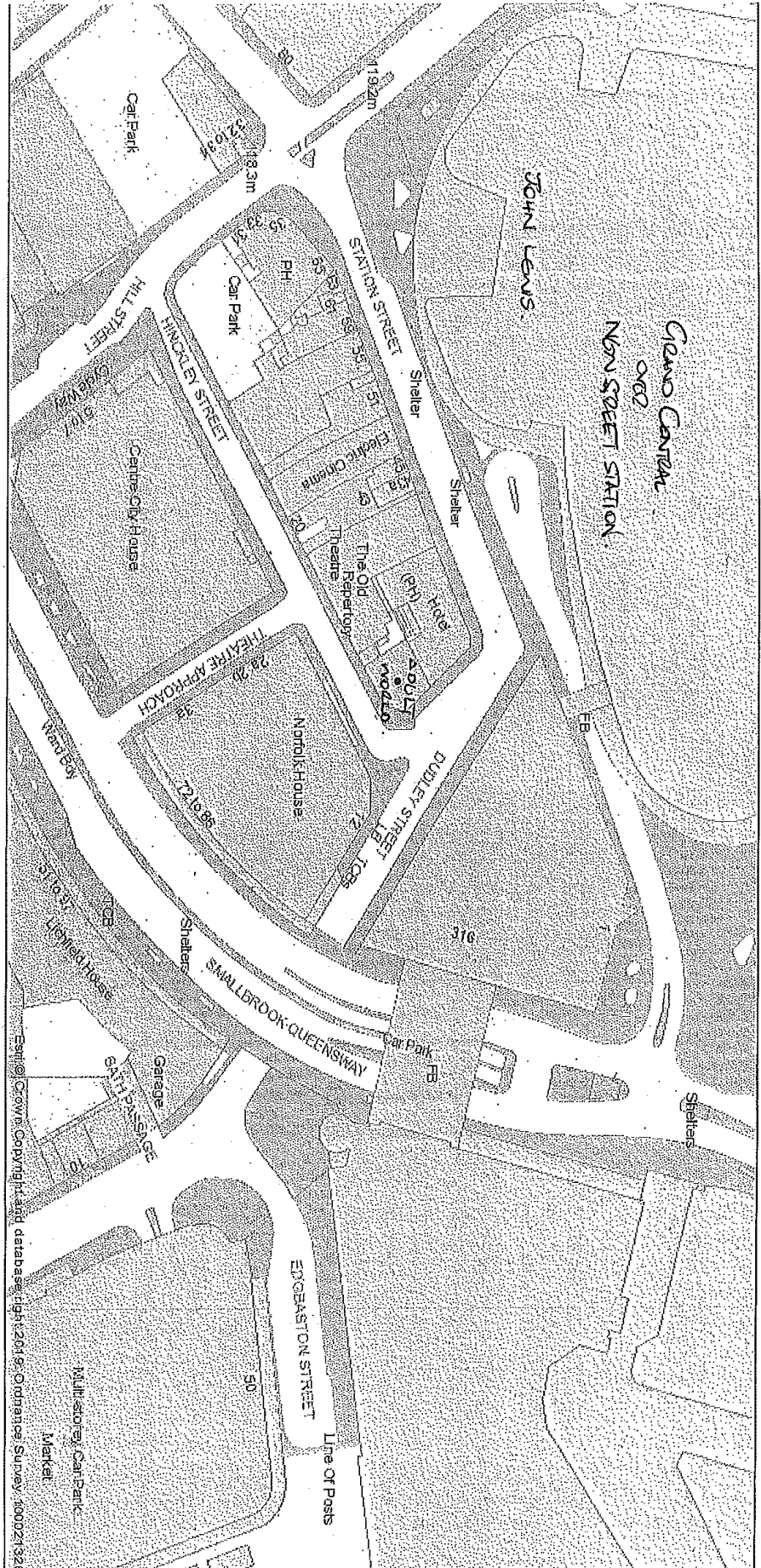
I have visited the premises and carried out an inspection and I have no objections in principle to the renewal of the Licence.

Hinckley Street falls within the "City Core" region of the Big City Plan which programmes the redevelopment of Birmingham City Centre. However, Hinckley Street and Dudley Street it appears are not specifically mentioned. The redevelopment of New Street Station and the shopping areas are well underway with most already completed.

Full details of the Big City Plan can be viewed via the Birmingham City Council website using the following link: <http://www.birmingham.gov.uk/bigcityplan>,

Doug Wright
Licensing Enforcement Officer

Adult World, Hinxley Street



Date of Map Creation: 20/08/2019

Map Created By:

Scale: 1:1,250

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From: @oldreptheatre.co.uk>
Sent: 25 July 2019 14:42
To: Licensing;
Cc:
Subject: Objections To Renewal Of The Sexual Entertainment Licence Adult World Birmingham

Dear Licensing,

We are writing with regards to the renewal of the existing Sexual Entertainment Venue Licence posted for Adult World, Hinckley Street, Birmingham B5 4EB and therefore wish to raise our objection on the following basis;

- The Old Rep Theatre has developed a robust educational complex in which Birmingham Ormiston Academy consisting of students aged 14-19 use the facility for performances and lessons from 9am through to shows in the evening. Adult World is not exactly the ideal place to be operating next to where children have to be stationed as it attracts undesirables into what is already a troubled Street.
- The high buildings and quiet thoroughfare of the street allows for misdemeanours to take place and go unnoticed and such an adult establishment of this nature heightens that sleazy look.
- People have been known to visit the establishment then bait female students entering the stage door area of the Old Rep Theatre, it makes it extremely difficult for us to offer robust safeguarding measures when such activities are within yards of the buildings.
- Families and new visitors to The Old Rep Theatre unfamiliar with the area, often remark how degrading it feels passing such an establishment and promotes a sub culture in this day of age.

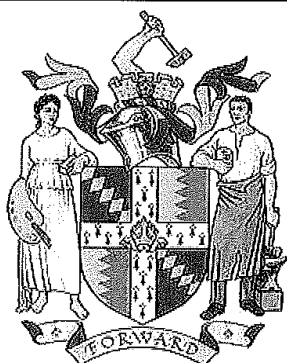
We trust you will give our objections your careful consideration.

With regards,



oldreptheatre.co.uk
 Station Street, Birmingham, B5 4DY

@TheOldRep TheOldRepTheatre TheOldRepTheatre



BIRMINGHAM CITY COUNCIL SEXUAL ENTERTAINMENT VENUE POLICY

EFFECTIVE FROM 1st November 2014

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1. **Introduction**

- 1.1 Birmingham City Council ("the Council") is able to regulate sex establishments through Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act"), in particular sex shops and sex cinemas.
- 1.2 On 6 April 2010 the Policing and Crime Act 2009 ("the 2009 Act") came into force and amended Schedule 3 of the 1982 Act. Sexual Entertainment Venues ("SEVs") were added as a category of sex establishments to enable local authorities to regulate those premises which provide lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows and other similar entertainment.
- 1.3 The Council resolved on 12 October 2010 to adopt the new amendments to gain regulatory control of SEVs with effect from 3 January 2011. Consequently, this SEV policy applies to the whole of Birmingham.
- 1.4 The adoption of Schedule 3 allows the Council to prescribe standard conditions and fees for the grant, variation, renewal and transfer of SEV licences and the appropriate number of premises to be licensed in a relevant locality, which may be nil.
- 1.5 The aim of this policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and members of the Licensing and Public Protection Committee when making a determination on an application. This policy will be reviewed regularly and revised where necessary.
- 1.6 Each application will be dealt with on its own merits
- 1.7 Consideration will be given to the provisions of the Human Rights Act 1998, the Provision of Services Regulations 2009 and the Home Office guidance issued in March 2010 entitled "Sexual Entertainment Venues – Guidance for England and Wales" when considering applications for SEVs.
- 1.8 The Council does not take a moral stance in adopting this policy. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries. It is the Council's role as a Licensing Authority to regulate such premises in accordance with the law.

2. **Sexual Entertainment Venues**

- 2.1 An SEV is defined in the 2009 Act as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer".
- 2.2 The meaning of 'relevant entertainment' is "any live performance or live display of nudity which is of such a nature that, ignoring financial gain it must

reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)". An audience can consist of just one person.

- 2.3 This definitions would apply to the following forms of entertainment [as they are commonly known]: lap dancing; pole dancing; table dancing; strip shows; peep shows and live sex shows. This list is not exhaustive and should only be treated as indicative. The decision to licence premises as sexual entertainment venues shall depend on the content of the relevant entertainment rather than the name given to it.
- 2.4 The 2009 Act provides exemptions from the definition of SEVs as follows:
- Sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act).
 - Premises which provide relevant entertainment on an infrequent basis. These are detailed as premises where:
 - (a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - (b) no such occasion has begun within a period of one month beginning with the end of the previous occasion; and
 - (c) no such occasion has lasted longer than 24 hours.
 - Other premises or types of performances or displays exempted by an order of the Secretary of State.
 - Private dwellings to which the public are not admitted
- 2.5 Premises which provide regulated entertainment on an infrequent basis will continue to be regulated under the 2003 Act insofar as they are providing regulated entertainment under that Act either by virtue of a premises licence or club premises certificate or a temporary events notice issued under that Act.
- 2.6 In practice this means that the vast majority of lap dancing clubs and similar venues will require both a SEV licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provisions of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 2.7 Live music or the playing of recorded music which is integral to the provision of relevant entertainment such as lap dancing for which a SEV licence is required is specifically excluded from the definition of regulated entertainment in the 2003 Act. Therefore, a SEV will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to.

3. **Waivers**

- 3.1 Schedule 3 of the 1982 Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it

considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit. Applications for waivers will be considered in exceptional circumstances.

- 3.2 The Council may at any time give a person who would require a licence but for a waiver, notice that the waiver is to terminate on a date not less than 28 days from the date the notice is given.

4. Making an Application

- 4.1 The 1982 Act provides a maximum licence period of one year. The authority may grant a shorter licence if it thinks fit. A shorter period may be granted for example where a licensee wants a licence for a limited period for a trade exhibition or a show.
- 4.2 An application for the **grant, variation, renewal or transfer** of a licence must be made in writing to the Licensing Authority together with the application fee in accordance with the requirements set out below.
- 4.3 There are three separate notice requirements:
1. The applicant must, within seven days after the date of the application, publish an advertisement in a local newspaper circulating in the local authority's area. A suggested form of advertisement is available on request from the Licensing Section.
 2. Where the application is in respect of premises the applicant must display a notice of the application on or near the premises where it can be conveniently read by the public. The notice must be displayed for 21 days starting with the date of application. Again a suggested form of notice is available on request.
 3. The applicant must send a copy of the application to the Chief Officer of Police no later than seven days after the date of the application. Where the application is made electronically it is for the Local Authority itself to send the copy within seven days of receipt of the application.
- 4.4 The application form can be used for grant, variation, transfer and renewal applications. Applicants must provide their name, address, age (where the applicant is an individual), the premises address and the proposed licensed name of the premises.
- 4.5 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises complies with the Standard Conditions of Licence.

- 4.6 In addition applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority.
- 4.7 Applicants for SEVs must also submit a copy of their "club rules" and customer code of conduct. Such club rules must contain the required conduct of performers.
- 4.8 Such club rules will form part of the conditions of licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.
- 4.9 Applicants must provide evidence to the satisfaction of the Licensing Service of the registration for, and payment of business rates for the premises in question at the time of application.
- 4.9 Officers of the Licensing Service may, as part of the application process, visit the relevant locality of the premises to establish and report on whether there are any characteristics of the locality which may require consideration by the Licensing and Public Protection Committee.
- 4.10 Officers of the Licensing Service may also consult with colleagues from other Departments such as Planning
- 4.11 With regards to online application tacit authorisation does not apply to applications for SEV licences. This means the applicant must wait for the Licensing Authority to determine the application before they can operate a SEV.

5. **Fees**

- 5.1 The 1982 Act permits the authority to set a reasonable fee. Fees for Sex Establishments are reviewed annually by the Licensing and Public Protection Committee and set at a level appropriate to recover the costs of carrying out the licensing function under that Act namely: administration (including any hearings or appeals), inspection and compliance.
- 5.2 The above process is also applicable to the function of licensing SEVs and the appropriate fees for applications can be found on the Council's website at: www.birmingham.gov.uk/licensingfeesandcharges.
- 5.3 Application fees must be paid in full at the time of submission of the application.

6. **Making Objections to Applications**

- 6.1 The 1982 Act permits a wide range of persons to raise objections about the **grant, renewal, variation or transfer** of a SEV licence. Objectors can include residents, resident associations, trade associations, businesses, Councillors (providing they do not sit on the Licensing and Public Protection Committee),

regulatory agencies such as Planning and Environmental Health, or MPs. The Police are a statutory consultee for all applications.

- 6.2 Objections must be made in writing (email is acceptable) no later than 28 days after the date of the application to the Licensing Authority and should include the following:
- the name and address of the person or organisation making the objection;
 - the premises to which the objection relates;
 - the proximity of the premises to the person making the objection, a sketch map or plan may be helpful to show this.
- 6.3 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The relevant grounds for objection are:
- That the applicant is unsuitable to hold an SEV Licence;
 - That the SEV, if granted would be carried on for the benefit of person/s who would be refused an SEV licence if they had applied themselves;
 - That the layout, character or condition of the premises are inappropriate for the proposed SEV;
 - That the use of the premises as an SEV would be inappropriate due to the use of premises in the vicinity;
 - That the use of the premises as an SEV would be inappropriate due to the character of the relevant locality; and/or
 - That the number of sex establishments or sex establishments of a particular type is inappropriate in the relevant locality.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the 1982 Act will be rejected by the Licensing Service.

- 6.4 The courts have consistently stated that moral objections are inadmissible in such applications and will therefore be rejected.
- 6.5 Objections will be considered by the Licensing and Public Protection Committee determining the application. The applicant will be informed of any objections received in respect of their application and the objection(s) will become public documents. (However, objector's personal details such as name, address and telephone number will be removed.) A copy of the hearing procedure will be sent to the applicant and any objectors prior to the hearing.

7. **Determination of an Application**

- 7.1 **All applications for the grant of a SEV licence will be determined by the Licensing and Public Protection Committee.** Valid objections to any application will be considered by the Licensing Committee or delegated to a Licensing Sub Committee at the hearing to consider the application.

Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing and Public Protection Committee's procedure for hearings, which is available from the Licensing Service.

- 7.2 The 1982 Act provides five mandatory grounds and four discretionary grounds for refusal of a SEV licence. Each application for a SEV will be decided upon its own merits and the Licensing Authority will give clear reasons for its decisions. Any decision to refuse a licence **MUST** be relevant to one or more of the following grounds:

7.3 Mandatory grounds for refusal

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

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

7.4 Discretionary grounds for refusal

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

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

8. Suitability of an Applicant

8.1 In respect of 7.4(a) and (b) above with regard to the suitability of an applicant to hold a licence, the criteria for Members to consider include, but are not limited to:

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

9. Suitability of Premises

9.1 The Council would expect that when an application for an SEV licence at permanent commercial property is made, that the applicant will be able to demonstrate that the layout, character and/or condition of the premises is appropriate to the relevant entertainment proposed at the premises.

9.2 The Council would expect that when an application for an SEV licence at permanent commercial property is made, that property should have the appropriate planning consent.

10. Use of Premises in the Vicinity

10.1 In considering the grant, renewal or variation of the licence would be inappropriate to the use which any premises in the vicinity are put, the Licensing Authority shall consider, among other considerations:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or no frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities

- such as parks, libraries or swimming pools, markets and covered markets;
- (e) the premises are sited near places and or buildings of historical/cultural interest, tourist attractions.
- (f) the premises are sited near civic buildings

11. Character of the Relevant Locality

11.1 With reference to paragraph 8.4(d) 'relevant locality' for the purposes of paragraph 12 of Schedule 3 of the Act means:

- (i) in relation to the premises, the locality where they are situated, and
- (ii) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a Sexual Entertainment Venue.

11.2 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Licensing Authority shall consider, among other considerations, whether the grant of the application would be inappropriate, having regard to:

- (a) the fact that the premises are sited in a residential area;
- (b) the premises are sited near shops used by or directed to families or children, or no frontages frequently passed by the same;
- (c) the premises are sited near properties which are sensitive for religious purposes e.g. synagogues, churches, mosques, temples;
- (d) the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets;
- (e) the premises are sited near places and or buildings of historical/cultural interest, tourist attractions.
- (f) the premises are sited near civic buildings

11.3 The Council will consider relevant locality on a case by case basis taking into account the particular circumstances of each case. However, the Council will not seek to define locality as the whole of the Council's administrative area or an entire town.

12. Appropriate Number of Sexual Entertainment Venues

12.1 As set out within paragraph 7.4(c) above, paragraph 12 of Schedule 3 provides that a Local Authority may refuse an application if it is satisfied that the number of sex establishments or sex establishments of a particular kind in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.

12.2 The Council may choose to set an upper limit guide on the number of SEVs which it considers appropriate in any area within the Council's administrative control. Each application MUST in any event be considered on its merits at the time the application is determined by the local authority.

12.3 The Council considers that the City Centre, being that part of the City which falls within the ring road (A4540) is an area in which it is appropriate to have an upper limit guide on the number of SEVs within it. The Council considers the appropriate upper limit for this area is eight.

13. **Conditions**

13.1 When issuing an SEV licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued either in the form of conditions specific to the individual or standard conditions applicable to all SEVs.

13.2 The Council has decided to produce regulations prescribing standard conditions and these shall apply to every licence granted, varied, renewed or transferred by the authority unless they have been expressly excluded or varied. These regulations are attached to this policy at Annex A.

13.3 It is an offence to operate an SEV without a licence or contravene a condition of the licence. The maximum penalty upon conviction is £20,000

14. **Renewal Applications**

14.1 Provided an application for renewal has been accepted by the Licensing Service prior to the date of expiry, the licence shall be deemed to remain in force until such time as the renewal is determined by the Council, or the application is withdrawn.

14.2 The statutory requirements for advertising and giving notice, are the same as those applying to initial grants, which are dealt with at paragraphs 5-13. Renewal applications will be dealt with by way of delegated authority to officers, unless there are any objections or other matters of concern, in which case, the application will be heard by the Committee.

15. **Revocation of a Sexual Entertainment Venue Licence**

15.1 A licence can be revoked by the Council at any time on any one of the grounds set out in 7.3(a - e) or any one of the grounds set out in 7.4(a and b) of the policy.

15.2 The Council will not revoke a licence without the licence holder being given an opportunity to appear before the Licensing and Public Protection Committee and be heard.

15.3 Where a licence is revoked, the Council shall give the licensee a statement in writing of reasons for its decision within seven days of the request being

made. Where a licence is revoked its holder will be disqualified from holding or obtaining a licence in the area of the Local Authority for a period of 12 months from the date of revocation.

- 15.4 When the authority revokes a licence, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

16. Cancellation of a Sexual Entertainment Venue Licence

- 16.1 The Council may at the written request of the licence holder cancel the licence.

- 16.2 If a licence holder dies then the licence will be deemed to have been granted to the licence holder's personal representatives and will remain in force for three months from the date of the licence holder's death and will then expire.

- 16.3 The Council can, however, on the application of the licence holder's personal representatives extend the three month period if the Council is satisfied that an extension is necessary for the purpose of winding up the late licence holder's estate. The Council will only do so where there are no circumstances that make such an extension undesirable.

17. Variation of a Sexual Entertainment Venue Licence

- 17.1 A licence holder may at any time apply to vary a term, condition or restriction of a licence or apply to change the location of a licensed vessel. The statutory requirements for advertising, giving notice, consideration by the Council, hearings and the giving of the reasons are the same as those applying to initial grants, which are dealt with at paragraphs 5-12. On receiving such an application, the Council can either:

- (a) make the variation as requested;
- (b) make such variations as it thinks fit;
- (c) refuse the application.

- 17.2 The applicant will be given an opportunity to attend a Licensing and Public Protection Committee before a decision is made to make a variation other than that being applied for or to refuse the application.

- 17.3 Where the Council imposes some other term, condition or restriction other than one sought in the variation application, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

18. Right to Appeal a Decision

- 18.1 The decisions against which a right of appeal lies are refusals for the grants, renewals, variations or transfers, the imposition of conditions and also revocation.
- 18.2 Appeals must be made to the Magistrates Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.
- 18.3 It is important to note that appeals only lie against the mandatory refusals on the basis that the mandatory ground does not apply to the applicant/licence holder. Further, no appeal lies against the Licensing Authority's decision made on the discretionary grounds set out at paragraphs 7.4(c and d), namely:
- that it is inappropriate to grant or renew a licence on the grounds of the character of the locality or the number of premises in it; or
 - the use of premises in the vicinity or the layout, character or condition of the premises.
- 18.4 The only discretionary grounds against which an appeal lies are those in paragraph 7.4(a and b) relating to the suitability of the applicant, the manager and/or the beneficiary of the operation.

ANNEX A

BIRMINGHAM CITY COUNCIL

STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES (SEV)

These regulations are made under paragraph 13(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the "1982 Act") as amended by the Policing and Crime Act 2009 (the "2009 Act") to prescribe conditions. In these Regulations, except when the context otherwise requires, the following expressions shall have the following meanings:

- (i) "The Council" shall mean the Birmingham City Council and all enquiries concerning these Regulations and its conditions shall be directed to Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ. 0121 303 9896. licensing@birmingham.gov.uk
- (ii) These conditions apply to all premises licensed as a "sexual entertainment venue" as defined by the said 1982 Act that is to say terms, conditions and restrictions on or subject to which licences under Schedule 3 of the 1982 Act are in general to be granted, renewed, varied or transferred.
- (iii) "Sexual Entertainment Venue" ('SEV') means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser or the entertainer.
- (iv) "Premises" includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
- (v) 'Relevant Entertainment' means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of

sexually stimulating any member of the audience (whether by verbal or other means).

- (vi) The Council may at any time waive, modify or vary these conditions or impose additional special conditions in any particular case.
- (vii) If the Licensee wishes any of the terms of the licence to be varied an application must be made to the Council.
- (viii) In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

OPENING HOURS

- 1. The licensed premises shall not be open or used for the purposes for which the licence is granted except between the hours prescribed within the licence or those hours of operation determined by the Licensing and Public Protection Committee.

WINDOW, FASCIA BOARD ADVERTISEMENT AND DISPLAYS

- 2. Save for the entrance lobby, the interior of the premises shall not be visible to passers-by and to that intent the licensee shall ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.
- 3. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (a) The address of the premises.
 - (b) The licensed name of the premises.
 - (c) A notice stating the opening hours of the establishment.
 - (d) In the case of a licence granted to a body corporate:

- (i) If the premises name is not the same as the full name of the body corporate then such corporate name and;
 - (ii) If the premises are also the body's registered office for the purposes of the Companies Acts then an indication in a form acceptable to the company that such is the case.
- 4. The lettering used in respect of such permitted items shall be of such colour and style as may be approved by the Council.
- 5. The licensee shall not permit the display outside of the premises of photographs or other images, which indicate or suggest that relevant entertainment takes place in the premises.

LICENSED NAME

- 6. At the time of granting the licence in respect of the premises the Council will authorise a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licensee shall ensure that the premises are known solely by that name and by no other, save as provided for by the paragraph below.
- 7. To change the licensed name, an application shall be made to the Council not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

EXHIBITION OF LICENCE

- 8.
 - a) A copy of the licence (two pages) shall be suitably framed and exhibited in a position that can easily be read by all persons entering the premises.
 - b) The conditions of licence and all such documents listed as Appendices to said licence shall be retained in a clean and legible condition and immediately available for inspection by anyone who so requests.

9. The licensee shall retain a copy of a form signed by each employee and performer confirming that they have read and understood the licence and conditions. The copy shall be retained for a period of six months after they cease work at the premises. A copy of the licence and conditions shall be given to each performer.

RESPONSIBILITY OF THE LICENSEE

10. The licensee or a responsible person over 18 years of age nominated by them in writing for the purpose of managing the SEV in their absence shall be in charge of and upon the premises during the whole time they are open to the public.
11. The written nomination referred to in condition 10 above shall be maintained in a daily register, kept on the premises and made continuously available for inspection by an officer authorised by the Council or police officer.
12. The person in charge shall not be engaged in any duties that will prevent them from exercising general supervision and they shall be assisted as necessary by suitable adult persons to ensure adequate supervision.
13. The licensee must ensure that there is a current insurance policy in force to cover the performers whilst the premises are open and that a copy is displayed in areas where all staff have access.

EMPLOYEES AND MANAGEMENT STAFF

14. The licensee shall keep and maintain at the licensed premises a written record of the names, addresses, and copies of photographic proof of age documents of all persons employed or performers permitted to operate within the licensed premises whether upon a full or part time basis and shall, upon request by an authorised officer of the Council or police officer, make such

records available for inspection to them. (see Conditions regarding Door Supervisors)

15. Condition 14 does not relate to persons engaged to carry out repairs or provide services from external companies to the premises, however, such persons must be aged 18 years and over if the premises are open for the purpose of providing sexual entertainment.
16. The licensee shall ensure that all persons employed or permitted to work within the licensed premises hold the appropriate rights to work and shall keep copies of any documentation used to verify the details of these rights where necessary.
17. The licensee shall maintain a register of the names, addresses and dates of birth of such person or persons (whether employees or otherwise connected with the business) who have authority to manage the premises in the licensee's absence.
18. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified to the Licensing Authority

CHANGE OF LOCATION AND ALTERATIONS TO PREMISES

19. Where the licensed premises is a vessel or stall, the licensee shall not move the licensed vessel or stall from the location specified in the licence unless a variation application is submitted for the Council's determination giving not less than 28 days notice. n.b. this requirement shall not apply to a vessel or stall which habitually operates from a fixed location but which is regularly moved (whether under its own propulsion or otherwise) from another place such location as is specified in the licence.
20. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises as shown on

the plan, including any change in the permitted signs on display shall not be made except with the prior approval of the Council.

CLUB RULES

21. Any club rules imposed on the performers shall be displayed in a prominent position within the premises for all employees to have easy access whilst at work.
22. A copy of the club rules shall be provided to performers engaged by the premises by means of a written contract signed by the recipient. Copies of the same must be retained on the premises and produced to an authorised officer of the Council or police officer on request.

FEES

23. Receipts or records of payments received should be provided to performers where "house fees" are charged or when any fines are issued.

PERFORMANCES

24. No person under the age of 18 shall be permitted to be on the licensed premises when sexual entertainment is provided. A notice shall be clearly displayed at the entrance to the premises in a prominent position stating that "No person under 18 will be admitted when sexual entertainment is being provided" so that it can be easily read by persons entering the premises.
25. Each area where relevant entertainment is conducted shall be supervised and/or contain a panic alarm for the safety of performers.
26. A customer code of conduct shall be prominently displayed in each area to which the public are admitted.
27. Performers shall be aged not less than 18 years.

28. Full nudity is only permitted in the approved designated areas, as stipulated or shown on the approved plan attached to the licence. In all other public areas within the premises the performers and employees must at all times wear at least a G string (female) and or pouch (male) covering the genitalia
29. During all performances (including performances usually termed 'private dances') there must not be any deliberate contact, by the performer, with any patron or person within the audience except:
 - a). Leading a patron by the hand to and from a chair or private room or designated dance area.
 - b). Simple handshake greeting at the beginning and/or end of the performance.
 - c). A customary ("peck on the cheek") kiss at the end of the performance.
 - d). the placing of monetary notes or dance vouchers into the hand or garter worn by the performer.
30. No performances shall include any sex act involving any other persons or objects (or involve any form of auto-erotic stimulation).
31. A price list shall be displayed in a prominent position giving the price and the duration of any 'private dances'.
32. Any person employed to supervise or attend to the exterior or entrance area of the premises must, at all times be suitably and sensibly dressed so as not to indicate or suggest the nature of the relevant entertainment taking place at the premises.
33. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except as shown on the plan; within the toilets, within the performers' dressing rooms and/or staff areas.

- 34. At all times during a performance, performers shall have unrestricted access to a dressing room.
- 35. Patrons or members of the audience shall not take photographs or record digital images of performers within the premises via a camera or mobile phones

DOOR SUPERVISORS

- 36. The licensee shall ensure all door supervisors employed or contracted to work on the premises are suitably licensed by The Security Industry Authority or appropriate agency.
- 37. Where door staff are used, the licensee shall maintain profiles for all door staff that are, or have been, working at the premises in the last six months. The profile is to contain proof of identity (copy of passport /photo driving licence) and proof of address dated within the last six months (bank statement /utility bill). Separate proof of address is not necessary when the proof of identity is a photo driving licence. All profiles are to be made immediately available to Authorised Officers upon request.
- 38. An adequate number of licensed door supervisors, based on a risk assessment undertaken by the licensee, shall be on duty on the premises whilst relevant entertainment takes place.
- 39. At least one door supervisor shall be on duty at the premises at all times when the relevant entertainment takes place.

CCTV

- 40. CCTV shall be installed in each room within the premises where the public has access save for the toilet and staff only areas. All cameras shall continuously record whilst the premises are open to the public and recordings shall be kept available for a minimum of twenty-eight days.

- 41. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers.
- 42. The premises will provide copies of any recordings upon request by a police officer or an authorised officer of the Council within 24 hours of the request.

TOUTING FOR BUSINESS AWAY FROM THE PREMISES.

- 43. The licensee shall not allow the use of vehicles including limousines for the promotion of the relevant entertainment.
- 44. The collection of patrons and or potential clients is not permitted unless the vehicle is licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.
- 45. The licensee shall not permit any person whilst on a public thoroughfare to encourage any other person to visit the SEV premises by any means.
- 46. The licensee shall endeavour to ensure any marketing communications associated with the SEV or relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.

ADMISSION OF AUTHORISED OFFICERS

- 47. Officers of the Council, Police, and other authorised agencies who are furnished with authorities (which will be produced on request) shall be admitted immediately to all parts of the premises at all reasonable times and at any time the premises are open for business.

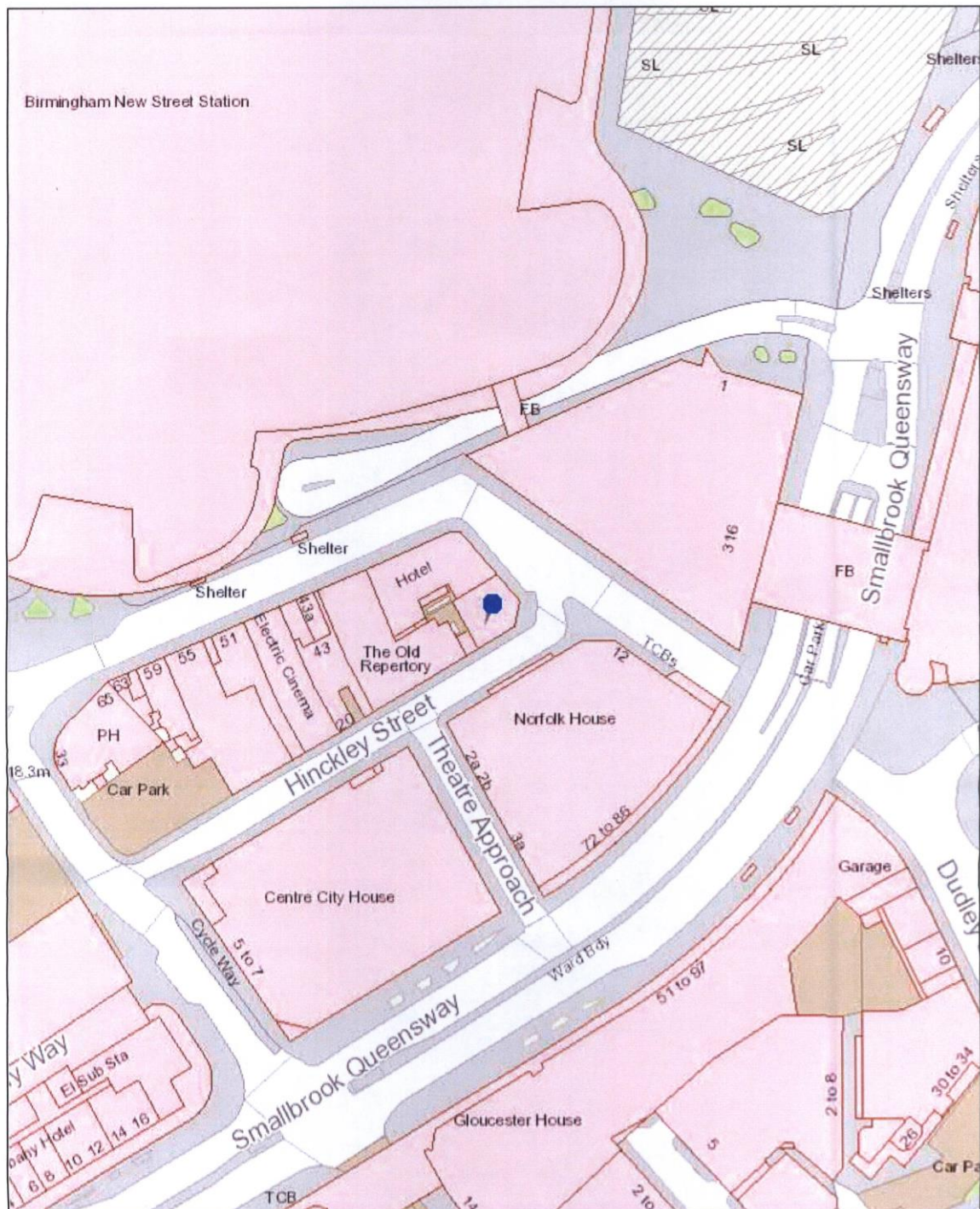
ANNEX B

SCHEME OF DELEGATION OF DECISION-MAKING AND FUNCTIONS

The Licensing and Public Protection Committee is responsible for making licensing decisions with Sub-Committees and officers having delegated powers to make some decisions. The table below describes how licensing decisions will be made. This scheme of delegations will be subject to regular review

Nothing within this scheme of delegations shall prevent matters being referred to a higher level where appropriate. E.g. officers may refer matters to a sub committee, or a sub-committee may refer a matter to full committee.

Matter to be dealt with:	Decision to be made by:		
	Full Committee	Sub-Committee	Officers (Senior Licensing Officer or above)
Application for grant or transfer	All cases		
Application for renewal or variation	If relevant objection made		If no relevant objection made
Minor variation application	If relevant objection made		If no relevant objection made
Revocation of Licence	All cases		
Cancellation of Licence			All cases
Make/amend regulations prescribing standard conditions, terms and restrictions	All cases		
Setting of fees	All cases		
Waiver	All cases		
To make and amend policy relating to the licensing of sex establishments	All cases		
To enforce the provisions of Part II and Schedule 3 of the Local Government Miscellaneous Provisions Ac 1982			All cases



Birmingham City Council

Map Created By:

Notes

Date of Map Creation: 22/05/2018



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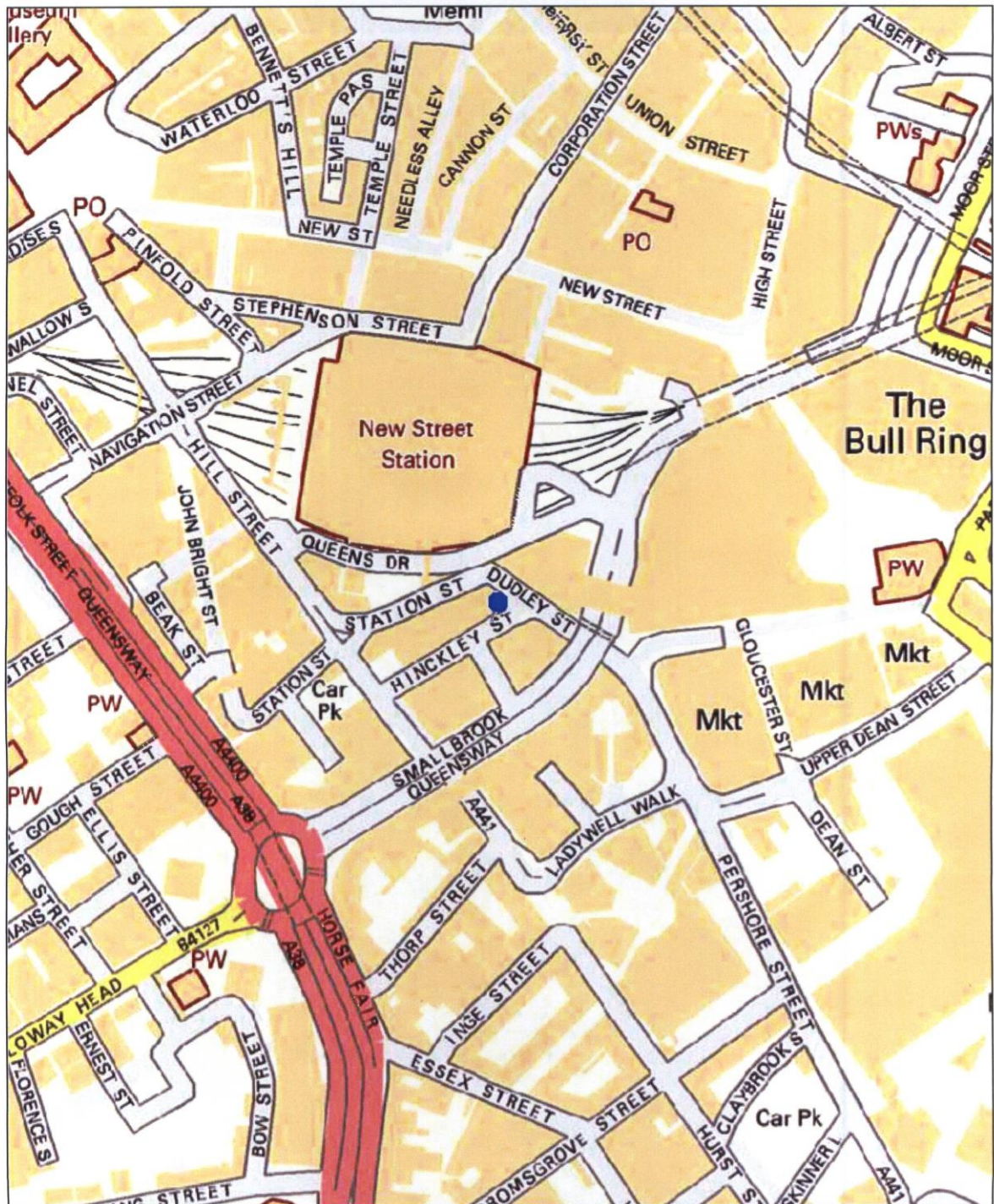
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