



## CITY OF GLOUCESTER

# LICENSING AND ENFORCEMENT COMMITTEE

**Meeting: Tuesday, 19th July 2011 at 18:30  
North Warehouse, The Docks, Gloucester**

**Membership:** Cllrs. Noakes (Chair), Porter (Vice-Chair), Tracey, Durrant, C. Witts, Ravenhill, Wilson, Field, Dallimore, Hansdot, Mozol, Patel and Toleman

## AGENDA

### 1. APOLOGIES

To receive any apologies for absence.

### 2. DECLARATIONS OF INTEREST

To receive from Members, declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any agenda item. Please see Notes 1 and 2 overleaf.

### 3. MINUTES (Pages 1 - 6)

To approve as a correct record the minutes of the meeting held on 14<sup>th</sup> June, 2011.

### 4. PUBLIC QUESTION TIME (15 MINUTES)

To receive any questions from members of the public provided that a question does not relate to:

- Matters which are the subject of current or pending legal proceedings, or
- Matters relating to employees or former employees of the Council or comments in respect of individual Council Officers

### 5. PETITIONS AND DEPUTATIONS (10 MINUTES, MAXIMUM 3 MINUTES PER PERSON)

To receive any petitions and deputations provided that no such petition is in relation to:

- Matters relating to individual Council Officers, or
- Matters relating to current or pending legal proceedings

**6. APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE BY MR MOHAMMED SANNEH (Pages 7 - 20)**

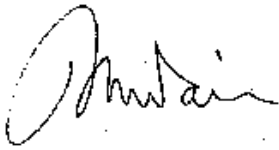
Report of the Group Manager, Environmental Health and Regulatory Services.

**7. DRAFT SEX ESTABLISHMENTS POLICY STATEMENT (Pages 21 - 68)**

To consider the report of the Group Manager of Environmental Health and Regulatory Services.

**8. DATE OF NEXT MEETING**

Tuesday, 16<sup>th</sup> August 2011, at 6.30 p.m.



**Julian Wain**  
**Chief Executive**

**Notes**

1. A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District:-
  - (a) the well being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;
  - (b) a body employing those persons, any firm in which they are a partner and any company of which they are directors;
  - (c) any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) the Councillor's registrable financial and other interests.
2. A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Please contact Adam Chalmers, Democratic and Electoral Services Manager, Tel. No. 01452 396125/e-mail: [committeesection@gloucester.gov.uk](mailto:committeesection@gloucester.gov.uk) if you have a general query on any agenda item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Council.

Agenda and enclosures can be viewed on the District Council's Website - [www.gloucester.gov.uk](http://www.gloucester.gov.uk)

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**LICENSING AND ENFORCEMENT COMMITTEE**

**MEETING** : Tuesday, 14th June 2011

**PRESENT** : Cllrs. Noakes (Chair), Porter (Vice-Chair), Tracey, Durrant, C. Witts, Ravenhill, Wilson, Dallimore, Hansdot, Mozol, Patel and Toleman

**Officers in Attendance**

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Steve Isaac, Solicitor

Sonia Tucker (Secretary)

**APOLOGIES** : Cllrs. Field

**1. APPOINTMENT OF CHAIR AND VICE CHAIR**

Members noted that Councillors Noakes and Porter had been appointed Chair and Vice-Chair respectively at the Annual Meeting of the Council.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MINUTES**

The minutes of the meeting held on 15th March 2011 were confirmed as a correct record and signed by the Chair.

**4. MINUTES OF LICENSING SUB-COMMITTEES**

There were no minutes to be considered.

**5. PUBLIC QUESTION TIME (15 MINUTES)**

There were no questions from the public.

**6. PETITIONS AND DEPUTATIONS (15 MINUTES)**

The Chair welcomed Zeyeh Ahmed, the Chair of the Gloucester Hackney Carriage Association (referred to hereafter as the 'Association').

The Association had specific comments relating to agenda item 8, 'Review of the Functions and Structure of the Licensing and Enforcement Committee':-

- Recommendation 2.1 – The Association agreed that smaller committees would be easier and faster to organise.
- Recommendation 2.3 – The Association welcomed the recommendation. They were keen for hearings to be held in a public session and felt that

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**14.06.11**

announcing decisions publicly and on the internet would inhibit rumours and speculation

- Recommendation 2.5 – The Association was willing to be flexible if day time meetings were required.
- Paragraph 7.2 – In general, the Association welcomed the proposals. It was their view that the use of fixed penalties in Worcester and Bristol should be adopted in Gloucester. The Association asked to see proposed fees before they were set and would bring any objections back to this Committee.

**7. REVIEW OF THE FUNCTIONS AND STRUCTURE OF THE LICENSING AND ENFORCEMENT COMMITTEE**

The Group Manager, Environmental Health and Regulatory Services introduced the report and advised the Committee that Recommendation 2.1 should refer to paragraph 4.4 and not paragraph 4.5 as listed. It was noted that at paragraph 4.1 the first bullet point should include '*Regeneration Services, Facilities and Support*' after the words '*Environmental Health and Regulatory Services*'.

Further context was given relating to paragraph 7.2. Licensing enforcement decisions were currently non-executive, made by Licensing and Enforcement Committee or by full Council. A further option was for matters to be dealt with by a Group Manager in consultation with the Chair, Vice-Chair and Spokespersons.

The following issues and points were discussed:-

- How street trading applications would be dealt with under the proposed arrangements.
- Any breaches of the Data Protection Act and whether the Council had been acting discriminately. There was no evidence of this in either case.
- Urgent matters would continue to be acted upon, provided this was in line with the Council's constitution.
- It was noted that concerns over the level of fees set could be referred back to the Committee.
- It was sensible to have the Solicitor and Committee Clerk present during the decision making process of disciplinary hearings. The Committee Clerk would not minute the decision making process, only the decision.
- Concern was expressed that day-time meetings might result in some members being unable to attend meetings. However, it was also felt that occasional day-time meetings should be permitted to allow flexibility.
- The Committee considered that it was appropriate that disciplinary matters should continue to be held in private session as this was the most suitable way for a meeting of this nature to be conducted.

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- There was a need for member involvement in Delegated Powers so the option to consult with the Chair, Vice-Chair and Spokesperson was supported.
- The Committee discussed the benefits of smaller and larger sub-committee memberships. It was noted that both had strengths and perhaps the best solution would be a hybrid approach.

**RESOLVED**

Recommended:-

- 1 That Council agrees that the Licensing and Enforcement Committee is restructured as outlined in paragraph 4.5 to include additional sub-committees made up of a minimum of 3 and maximum of 7 members for enforcement matters.
2. That Council agrees that where deliberations of sub-committees are held in private that the Committee Clerk and Solicitor remain with Members to record the proceedings and advise on the law and legality of decisions.
- 3 That Council agrees that all future Licensing and Enforcement meetings considering sensitive matters such as hackney carriage and private hire enforcement matters should be held in private i.e. with the exclusion of press and public but that the decisions will be announced in public and published on the Council's website.
- 4 That Council agrees that the powers delegated to officers in respect of licensing functions are revised in accordance with the table in paragraph 7.2, in consultation with the Chair, Vice-Chair and Spokesperson.
5. That the timings of meetings should, at times, be flexible to ensure that no group is disadvantaged by all meetings being held at 6.30pm.

**8. CONSIDERATION FOR GRANTING A DESIGNATED PUBLIC PLACES ORDER (AREA 2) GREENWAYS PUBLIC OPEN SPACE AND CHERSTON COURT, BARNWOOD**

The Vice-Chair took the Chair for this item. The Vice-Chair welcomed PC Andy Plant on behalf of the Barnwood Community Partnership.

The Committee considered a report to make a Designated Public Places Order (DPPO) in respect of Cherston Court and the Greenways public open space in Barnwood Gloucester in order to reduce anti-social behaviour and violent crime. This initiative was supported by the Barnwood Community Partnership and the Anti-Social Behaviour Group.

The Committee considered the background to the request and the steps which had been taken in advance of this matter being referred to the Committee. Clarification was given on appendix D. The representations had been sent by a

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member on behalf of residents. Confirmation was also given that the proposed DPPO would only apply to persons over 18 years of age.

The Committee noted that the following options were available:-

- (a) If members found that there was sufficient evidence of anti-social alcohol drinking in the area, they should approve the making of the order.
- (b) If members found that they consider that by implementing the order that would act as a preventative measure to reduce anti-social behaviour and violent crime then they should approve the making of the order.
- (c) If members found that neither (a) or (b) above apply they should not approve the making of the order.

The following matters were discussed:-

- The reason why Cherston Court needed to be included in the DPPO.
- That residents would continue to be able to hold fetes and parties if a DPPO was granted.
- Powers that the Police had in non DPPO areas in the event of drunk/disorderly activity.
- Evidence of the removal of alcohol in DPPO areas in Barnwood, arrests and criminal damage to the DPPO sign itself.
- Problems in the Barton and Tredworth area of the City where a DPPO had not overcome adults congregating outside off-licences. There was concern that the DPPO was not as effective as it could be.
- The DPPO was agreed to be effective in Barnwood and it was felt that if it was extended to the area being requested that it would be equally effective.
- There was a query on whether there would be adequate manpower to enforce the DPPO. PC Andy Plant outlined the policing arrangements for the area and advised that there was adequate manpower to enforce the DPPO.

**RESOLVED**

That the DPPO be granted in the area as outlined in the plan at Appendix C to the report.

**9. EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED -**



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That the press and public be excluded during the following items of business on the grounds that it was likely, in view of the nature of business to be transacted or the nature of the proceedings, that if members of the press and public were present during consideration of these items there would be disclosure to them of exempt information as defined in paragraph 1 of section 1001 of the Local Government Act, 1972 as amended.

**10. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DISCIPLINARY MATTER - HACKNEY CARRIAGE DRIVER - LICENCE NO.038 MR W.W (REF ES21112)**

The Chair welcomed the licence holder and his representatives and outlined the procedure for the hearing.

The Licensing Officer presented the report to the Committee and advised of the circumstances of the offence. The Committee was advised that the purpose of the hearing was to determine whether, in view of the offence, the licence holder was a fit and proper person to continue to hold a Hackney Carriage Drivers Licence. The Committee was referred to the paragraphs of the adopted guidelines relating to the relevance of convictions and outlined the courses of the action available to the Committee:

- To take no action
- To issue a written warning
- To suspend the Hackney Carriage Licence for a period of time to be determined by the Committee but not for a period exceeding the expiry date of the current licence.
- To revoke the licence and if the committee so determine to consider whether to give an indication of a suitable time period to elapse before a fresh application would be considered.

The licence holder indicated that he had no questions to ask of the Officer.

The licence holder presented his case. Supportive statements were made by his representatives.

**RESOLVED**

The Chair invited the Committee members to ask questions of the appellant:-

- In response to a query on the number of hours worked by the appellant, the Committee was advised that he was required to be available for 50-70 hours a week, although this did not mean that he would be driving for this number of hours.
- The appellant was questioned on the use of his mobile phone in his vehicle. It was explained that he did not have the use of his blue tooth equipment on the occasion in question.
- The appellant was asked why he had not brought any legal representative to the meeting. The appellant confirmed that his legal representative was not available and that he had not wanted to delay

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the hearing until a date when his legal representative could attend because of the anxiety he was suffering as a result of the hearing.

- The appellant was questioned as to whether the City Council had been notified of the charges made against him in 2008 and the subsequent outcome of these charges in 2010. The appellant explained that his solicitors had sent this information to the City Council but that the Council had not acted upon it and the matter had only come to light because of a lapse in his application for a Hackney Driver's Licence.

The Licensing Officer then summed up the case and confirmed receipt of a solicitor's letter which had been misinterpreted when originally submitted.

All parties then withdrew from the room whilst the Committee made its decision.

On re-entering the room, all parties were advised of the decision. In reaching this decision the Chair had comments to make on behalf of the Committee. Public safety was paramount and any offences involving substance abuse and driving convictions were viewed in a very serious light.

**RESOLVED -**

That Mr WW. holder of Hackney Carriage Drivers Licence (HCD 038) be issued with a final written warning to remain on the Licence Holder's record for a period 12 months.

**11. DATE OF NEXT MEETING**

The Committee considered the forthcoming meeting dates in July.

**RESOLVED**

That the next Licensing and Enforcement Committee would be held on the 19<sup>th</sup> July 2011 at 6.30 pm and that the 12<sup>th</sup> July 2011 would be retained as an option for a potential Licensing Sub-Committee.

**Time of commencement: 18:00 hours**

**Time of conclusion: 20:45 hours**

**Chair**

# Gloucester City Council

<b>Committee</b>	: LICENSING AND ENFORCEMENT COMMITTEE
<b>Date</b>	: 19 JULY 2011
<b>Subject</b>	: APPLICATION FOR A PRIVATE HIRE VEHICLE LICENCE BY MR MOHAMMED SANNEH UNDER SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
<b>Ward</b>	: ALL
<b>Report by</b>	: GROUP MANAGER, ENVIRONMENTAL HEALTH & REGULATORY SERVICES
<b>No. of Appendices</b>	: A: EXTRACT FROM PRIVATE HIRE RULE BOOK JUNE 2010 ENTITLED 'VEHICLE AGE AND TESTING' B: COPY OF V5 NEW KEEPERS SUPPLEMENT C: COPY OF APPLICATION FROM MR SANNEH D: COPY OF LETTER FROM MR SANNEH DATED 14 JUNE 2011 E: COPY OF LETTER FROM FOOD SAFETY AND LICENSING SERVICE MANAGER DATED 16 JUNE 2011 F: COPY OF LETTER FROM MR SANNEH DATED 27 JUNE 2011
<b>Reference No.</b>	: ES21116

## 1.0 Purpose of Report

- 1.1 To outline to Members an appeal by Mr Mohammed Sanneh against an Officer decision to refuse to issue a private hire vehicle licence to vehicle BMW 525 registration number SB06 BKD on the grounds that it does not meet the age specification required by the Council's vehicle licensing conditions.

## 2.0 Recommendations

- 2.1 Having considered the application, the Council's licensing conditions and Mr Sanneh's submissions, Members have the following options:
- (a) To refuse the application on the grounds that the vehicle does not meet the criteria for licensing due to it's age.
  - (b) To accept the application on the grounds that the vehicle is of such a high standard for its age that the relevant condition should be waived in this particular case.

### 3.0 Background

3.1 The City Council has statutory power under the Local Government (Miscellaneous Provisions) Act 1976 to licence private hire vehicles and may apply conditions to the issue of such licences.

3.2 The current conditions now contained in the 'Private Hire Rule Book' were approved by Members at their meeting on 19 January 2010 and came into force on 01 June 2010.

3.3 One condition concerns the age of private hire vehicles at the first time of licensing (Appendix A Extract from Private Hire Rule Book) and states :-

- **Vehicles must comply with the following conditions in relation to age and service:**
  - a. **vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration regardless of whether it was previously licensed anywhere else in the UK, or re-licensed after 10 years from the date of first registration.**

3.4 An earlier edition (May 2003) of the Council's General Conditions for Hackney Carriage and Private Hire Licensing contained the wording '**will not normally be accepted**' in place of the above thus allowing for Officer and Member discretion when deciding the merits of a particular case.

### 4.0 Information

4.1 Mr Mohammed Sanneh has been a licensed Private Hire Driver since 06/12/2004 driving for Private Hire Operator 'Cloud Nine Limos'.

4.2 He had been driving Private Hire Vehicle PHV 259 a Mercedes C220 until it was involved in an accident in March 2011 and was subsequently written off by the insurance company.

4.3 To replace this vehicle Mr Sanneh has acquired a BMW 525D M Sport Auto registration number SB06 BKD on 27/05/2011. The vehicle was purchased privately and the current mileage is 69,000.

4.4 The vehicle was first registered with the DVLA on 19/05/2006. (Appendix B V5 New Keepers Supplement)

4.5 Mr Sanneh's application to licence the above vehicle was signed and received by the Licensing Team on 10/06/2011 (Appendix C Vehicle Licence Application). The vehicle therefore failed to meet, by 24 days, the specific condition relating to age and a vehicles acceptance for licensing on the first occasion and Mr Sanneh was advised accordingly.

- 4.6 Mr Sanneh wrote to Lisa Wilkes, Food Safety and Licensing Service Manager on 14/06/2011 (Appendix D Letter from Mr Sanneh) where he explains his misunderstanding of the condition relating to the '5 year rule' in that he thought the year ran from January to January. He also goes on to give examples of additional work he has undertaken to the vehicle to make it fit for the purpose of carrying fare paying passengers.
- 4.7 Lisa Wilkes wrote to Mr Sanneh on 16/06/2011 (Appendix E Letter from Lisa Wilkes) further explaining how the age policy works in practice and giving Mr Sanneh the option of either purchasing a vehicle which meets our conditions or appealing directly to the Licensing and Enforcement Committee.
- 4.8 Mr Sanneh's letter dated 27/06/2011 (Appendix F Letter from Mr Sanneh) confirmed that he wanted the matter considered by this Committee.
- 4.9 The vehicle was inspected by a Licensing Officer at the Council's Offices on 06/07/2011 and found to meet all other licensing requirements.
- 4.10 It is intended to make the vehicle available for inspection by Members during the Committee Meeting in order that they may make a first-hand appraisal of its suitability for licensing or otherwise.

## **5.0 Conclusions**

- 5.1 I would refer Members to the options at 2.1(a) and (b) of this report.
- 5.2 As Members made the decision to adopt the age policy in the first place they have the power to depart from this policy if they think that this is an exceptional case and that the vehicle is perfectly suitable for licensing at this time.
- 5.3 It should be borne in mind that the only sensible reason for this age policy is in order to maintain the standards of the licensed vehicle fleet and that furthermore, once licensed, a vehicle may continue to be licensed up to the age of 10 years old (Appendix A Extract from Private Hire Rule Book).
- 5.4 One further point to consider is that the existing wording of the age condition does not allow for any leeway and the Council could be seen to be inflexible (fettering its discretion) in this respect and as such could be leaving itself open to a legal challenge. Members may wish to consider changing the wording of this condition now or at sometime in the future. This may go some way in preventing the allegation that the Council is being inflexible and ensure that the Council's Policy guides but does not bind the Council so that each case may always be judged 'on its own merits'.

Members might like to note that in the case of R. V. Hyndburn Borough Council ex parte Rauf and Kasim in the High Court in 1992, it was held that provided the policy is just that, and not an immutable rule, it is possible to have strict age limits. The opportunity to depart from a policy must still be afforded if circumstances warrant it and each application must still be treated on its merits.

## **6.0 Financial Implications**

6.1 There are no financial implications relating to this report.

## **7.0 Legal Implications**

7.1 There have been a number of legal cases regarding the appropriateness of conditions that purport to restrict the age of vehicles for licensing.

7.2 The majority of the legal implications are covered in the body of the report.

7.3 It is lawful for the Council to impose a condition that no licence would be issued to a vehicle over a certain age, but on any application the Council must consider it on merit, to see if the vehicle meets the Council objectives behind the age restriction. The objectives should include such matters as safety, reliability and comfort.

7.4 In making its decision, the Committee needs to give full reasons that are linked to the reasoning behind the age restriction.

7.5 There is a right of appeal against a refusal to grant a Private Hire Vehicle Licence to the Magistrates' Court.

## **8.0 Risk Management Implications**

8.1 The risk of an appeal to Magistrates should an inappropriate or unreasonable decision be made *and the potential for a financial penalty to be incurred*.

## **9.1 People Impact Assessment (PIA)**

9.1 PIA is not required for such Private Hire cases as there are no adverse impacts or any risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion.

### **Any Further Relevant Information**

None

## **10.0 Other Corporate Implications**

10.1 None

**Background Papers** : Gloucester City Council Licensing Hearing Procedure

**Published Papers** : The Local Government (Miscellaneous Provisions) Act 1976  
Gloucester City Council's Private Hire Rule Book

**Person to Contact** : Anthony D Moseley, Licensing Enforcement Officer  
Tel: 396322  
E-mail: [Anthony.david.moseley@gloucester.gov.uk](mailto:Anthony.david.moseley@gloucester.gov.uk)

**EXTRACT FROM PRIVATE HIRE RULE BOOK JUNE 2010**

**Vehicle Age and Testing**

3.22 Vehicles must comply with the following conditions in relation to age and length of service:

- a vehicles will not be accepted for licensing on the first occasion after 5 years from the date of the first registration regardless of whether it was previously licensed anywhere else in the UK, or re-licensed after 10 years from the date of the first registration.
- b the vehicle shall be removed from service on the 10th anniversary from the date of the first registration, any outstanding licence shall be transferred onto a new vehicle free of charge for the remainder of that current licence.
- c all vehicles must be tested annually to the current Licensing Authority standards. Once the vehicle has reached the age of 8 years since manufacture, the vehicle shall be tested at 6 monthly intervals until it has reached its service limit of 10 years since manufacture.
- d if the condition of the vehicle deteriorates below the acceptable standard set in the Licensing Authority vehicle test at anytime during the working life of the vehicle, the Licensing Officer reserves the right to withdraw the licence.

**9** Selling or transferring your vehicle to a motor trader, insurer or dismantler – Please fill in and return to DVLA (see notes over the page) **V5C/3**

V5C3-0710

981  
Date of sale or transfer  
02  
SBO6 BKD  
R  
Present mileage

You are not required by law to provide mileage information

Name and address of motor trader

Business name:  
Address:  
Post town:  
Postcode: VAT number:

**Declaration** Please read the notes over the page before signing.

**Registered keeper:**  
I declare that I sold or transferred this vehicle to the motor trader, insurer or dismantler named in this section on the date shown.  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
**Motor trader, insurer or dismantler:**  
I declare that this vehicle was sold or transferred to me on the date shown in this section.  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
**The Law:** If the vehicle is sold or transferred both the registered keeper and the motor trader, insurer or dismantler must sign this section. The registered keeper must then return it to DVLA.

Document Ref. No. 1139 504 0728 19 05 11  
Despatch Codes 1094678670 / 1732 27

**10** New keeper's details – To be kept by the new keeper. Do not return to DVLA (see notes over the page) **V5C/2**

Registration number SBO6 BKD Validation character R  
Please write new keeper's name and address in black ink: MOHAMMED L SANNEH  
Write date of sale/transfer here: 27/05/11 Postcode:  
Doc. Ref. No. 51139 504 0728 19 05 11  
Despatch Codes 1094678670 / 1732 27

Make BMW  
Model 525D M SPORT AUTO  
Suspension Type  
Date of first registration 19 05 2006  
Wheelplan 2-AXLE-RIGID BODY  
Revenue weight  
Taxation class DIESEL CAR  
Type of fuel HEAVY OIL  
Cylinder capacity 2497 CC  
CO2 208 G/KM  
No. of seats inc. driver 5



V5C2-0710

This will not produce a Registration Certificate.

The tax class shown can only be changed when taxing. Please apply at your nearest DVLA local office.

**11** Notification of permanent export – Please fill in and return to DVLA (see notes over the page) **V5C/4**

V5C4-0710

Registration number SBO6 BKD Validation character R  
Date of export 10/06/2011 TRAB  
Document Ref. No. 1139 504 0728 19 05 11  
Despatch Codes 1094678670 / 1732 27

I have seen the original of this document

This section will not produce an export certificate. The V5C replaces the need for a separate export certificate.

**Declaration** Please read the notes over the page before signing.

I declare that the vehicle will be exported on the date shown.  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

**12. What you need to know about the V5C**

**Selling or transferring your vehicle privately**

What you, the person selling the vehicle as current registered keeper, must do. Failure to tell DVLA may result in a fine or prosecution.

- Fill in section 6. (Give the name and Great Britain (GB) address of the new keeper (buyer). If they do not have a GB address see "Your Registration Certificate (V5C) and you" (INS160) for advice).
- Fill in section 10 (V5C/2) and give it to the new keeper.
- Sign and date the declaration in section 8 along with the new keeper.
- Keep a record of the new keeper's name and address.
- Tear off and return section 1 – 8 to DVLA, Swansea SA99 1BA.

**What the person buying the vehicle must do**

- Sign and date the declaration in section 8 along with the seller.
- Keep section 10 (V5C/2) until you get your Registration Certificate. You can use the V5C/2 to get tax for the vehicle.

**What we will do**

- Update our vehicle record with the new registered keeper details.

- Send you, the current registered keeper (the seller), an acknowledgement letter to confirm you are no longer liable for the vehicle. We will do this within 4 weeks. If you do not get an acknowledgement letter from us phone DVLA Customer Enquiries on 0300 790 6802, as you could be liable for the vehicle and may get a penalty and/or be prosecuted. If you are deaf or hard of hearing and have a textphone, phone 0300 123 1279.

**Your name and/or address details**

- If the registered keeper details in section 1 are wrong or you want to change your name or address fill in section 6, sign the declaration and return the whole certificate to DVLA, Swansea, SA99 1BA. (You should also make sure you tell us about these changes on your driving licence by sending it to DVLA, Swansea, SA99 1BA).

There is more information on the website at [www.direct.gov.uk/vehiclercg](http://www.direct.gov.uk/vehiclercg)

**Data Protection Act – Release of Information**

Your information may be disclosed in a number of lawful circumstances. Please go to [www.direct.gov.uk/dvla/data/protection](http://www.direct.gov.uk/dvla/data/protection) for more information.





**HACKNEY CARRIAGE AND PRIVATE HIRE  
VEHICLE LICENCE APPLICATION**

TYPE OF LICENCE APPLIED FOR: Hackney Carriage  Private Hire   
New Application  Vehicle Transfer

1. APPLICANT

Surname: SAMINEH ..... Mohammed Lamin  
Address: .....  
Postcode: .....

2. VEHICLE DETAILS

a) Make: Bmw  
b) Model: 5 Series c) Colour: BLACK  
d) Registration No.: SBO6 BKD e) Date of first registration: 19/05/2006  
f) Plate number (if previously issued): 275 g) No. of passengers: 5  
h) Date of purchase: 27/05/11 i) Is it wheelchair accessible: NO  
j) Is any other person/company concerned in the proprietorship, keeping, employing or letting for hire of the vehicle? Yes / (No) N/A  
If yes give their name and address and exact nature of involvement: .....

DECLARATION:

- I / We declare that the information given by me in this application is correct to the best of my knowledge and belief and enclose:-
  - i) The Fee - Cash, Credit/Debit Card
  - ii) Proof of ownership, for example bill of sale i.e. receipt for the money paid for the vehicle, invoice for the vehicle stating that the amount due has been paid in full, hire purchase agreement in applicants name.
  - iii) V5 Registration document (or new keepers supplement)
  - iv) M.O.T. & Vehicle Inspection Certificate
  - v) I will produce proof of Hackney Carriage / Private Hire Insurance Cover prior to the issue of the vehicle licence
  - vi) New Applications – Meter Inspection Certificate
- I consent to the Council retaining my application and details on its database(s). I understand that the Council is obliged to pass on information to other statutory bodies if requested.
- I have received a copy of the Council's conditions, rules and policies relating to Private Hire and Hackney Carriage Licensing and have read the guidance notes overleaf. I have read and understand the conditions and undertake to comply with them if a Vehicle Licence is granted.

Applicants are advised that to make knowingly or recklessly a false statement or omit any information from this application is a criminal offence

Applicants Signature: ..... Date: 10/06/11

Receipt No.: ..... Receipt Date: ..... Insurance Expiry Date: .....

ENVIRONMENTAL HEALTH & REGULATORY SERVICES

HC/PH VLICAPP/09/05/11

Gloucester City Council Tel 01452 396396 Fax 01452 396207  
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Gloucester GL1 2EQ [www.gloucester.gov.uk](http://www.gloucester.gov.uk)



**GLOUCESTER**

City Council

GUIDANCE NOTES

**Application for a Hackney Carriage / Private Hire Vehicle Licence**

1. The vehicle must be suitable in type, size and design for use as a hackney carriage or private hire vehicle and in a suitable mechanical condition. See the Council's conditions, rules and policies relating to Private Hire and Hackney Carriages vehicles for details.
2. Vehicles will not be accepted for licensing on first occasion after 5 years from the date of registration regardless of whether it was previously licensed anywhere else in the UK.
3. Vehicle ownership details must state whether the owner is a company or partnership and if so either give details of the company or each partner as applicable.
4. The current insurance must be a policy issued in accordance with, and comply with Part VI of the Road Traffic Act 1972. If not yet arranged, a valid insurance policy must be produced before the vehicle licence will be issued.
5. Licences will be valid for ONE year.
6. Applications will not be completed unless accompanied by:
  - (a) Certificate of Insurance
  - (b) Current M.O.T. & Vehicle Inspection Certificate
  - (c) The Appropriate Fee
  - (d) Vehicle Registration Document.
  - (e) Proof of purchase.
7. If you part with, transfer or otherwise dispose of a licensed vehicle you must notify the Council in writing, within 14 days of the change of ownership and of the name and address of the new owner.

Miss L. Wilkes

Food Safety and Licensing Manager

Cc: Mr. Moseley

Dear Miss Wilkes,

I am writing to you to ask you to please reconsider my request to use my new car (BMW 525) as a taxi in Gloucester City. I can now see (following a discussion with Mr. Moseley – who was very kind and helpful) that my vehicle falls short of your age limit requirements, but I can assure you that I genuinely did not correctly understand the five year rule. I had thought that the year would go from January to January in which case my car does fall within the 5 year rule.

Since I purchased this car on 27<sup>th</sup> May 2011 I have spent so much money on her to make her as smart as she currently is. If I had not been absolutely sure that my vehicle would meet all Gloucester City Council's requirements I would not have done this. I have installed a new mirror meter and radio (£600+); installed new leather seats; had the bodywork done (£350) + polish and shine work; all new taxi MOT requirements (£60+); paid all insurance fees; all Gloucester council transfer fees (£65)(the person I saw at the council did not say anything about my taxi age. She had a good look at all my documents, scanned them, and then asked me to pay the fee). My vehicle now looks so very smart – I am so proud of her. Please can I bring her for you to see.

I am absolutely devastated by this blow. I genuinely truly did not mean to cause this problem. I thought I had done everything correctly. I have spent all my money on her. I just don't know what to do now.

I have been a taxi driver in Gloucester since 2004 (I have already extended my taxi badge to a three year period) and I have always followed your rules to the letter. Please can I appeal for clemency on this occasion as I have made a genuine mistake. I have no other job to fall back on (as I am a full time university Student) and I need my taxiing job to make ends meet (including my tuition fees for the next two years).

I would be pleased to come and speak to you in person if you would be willing to meet with me.

Yours sincerely,

Mohammed Sanneh



This matter is being dealt with by Lisa Wilkes

Tel 01452 396047

Fax 01452 396340

Email [lisa.wilkes@gloucester.gov.uk](mailto:lisa.wilkes@gloucester.gov.uk)

Our ref 1100800PHV

Date 16<sup>th</sup> June 2011

Dear Mr Sanneh,

Town Police Clauses Act 1847

Local Government (Miscellaneous Provisions) Act 1976

I write in response to your letter dated 14<sup>th</sup> June, regarding your request to licence your newly bought vehicle BMW 525 Reg: SB06 BKD.

Our policy was introduced in January 2010, it clearly states in point 3.22 of the Private Hire Rule Book: Vehicles must comply with the following conditions in relation to age and length of service:

- a) Vehicles will not be accepted for licensing on the first occasion after 5 years from the date of first registration regardless of whether it was previously licensed anywhere else in the UK, or re-licensed after 10 years from the date of first registration.

Our policy is determined by Members of the Licensing and Enforcement Committee and it is the Committee Members that hold the delegated authority to depart from the policy and conditions.

The BMW 525 was first registered on 19/05/2006 and you bought this vehicle on 27/05/2011. You later approached the Council offices to licence this vehicle as a Private Hire Vehicle on 10/06/2011. It is the date of application that we take into account to calculate the age of a vehicle following the date it was first registered. However, you will also notice that on the date of purchase, the BMW had already exceeded the five year rule by 8 days.

I am disappointed that you have not familiarised yourself with the Council's Policy and Conditions, having been a Licensed driver since 2004, and I would advise you to do this to ensure you understand our rules. This matter is an oversight on your part and I understand your frustration having spent money on a vehicle that does not meet our age restrictions.

At this point in time, I cannot licence this vehicle because it would breach the Council's policy, however I can offer you two options:

1. Purchase a vehicle that does meet our policy guidelines. **OR**



# Gloucester City Council

2. If you wish to pursue this matter further, you may request to our Members of the Licensing and Enforcement Committee that they depart from our policy on this occasion to make an exception to licence your vehicle.

If you wish to refer this matter to the L&E Committee, I will need you to request this in writing, providing details of why Members should consider making an exception on your vehicle and provide photo's of the vehicle (it may also be beneficial to bring this vehicle to the offices on the night of Committee, in case members wish to take a closer look). There must be good reasons to depart from policy, and it is for you to demonstrate this to Members.

The next L&E Committee meeting will be held on 19<sup>th</sup> July 2011 at 18:30. If you do wish to be referred to this Committee, I will need to have your submission before the 1<sup>st</sup> July 2011 to enable a report to be put forward.

I hope I explained our position clearly, should you wish to discuss this any further, please do not hesitate to contact me on 01452 396047.

Yours Sincerely,

**Lisa Wilkes**  
**Food Safety and Licensing Service Manger**



Lisa Wilkes

Food Safety and Licensing Service Manager

GLOUCESTER CITY COUNCIL

Herbert Warehouse, The Docks

Gloucester GL1 2E

Dear Lisa,

Thank you for your letter of 16<sup>th</sup> June 2011. I am writing to appeal to you and your Licensing Committee to ask for clemency and understanding of the situation I find myself in. Firstly I want to apologise for all the inconvenience I have caused you by making, what I freely concede, is a mistake. I fully understand the explanation you have laid out in your letter so I am hoping to show you that my new car is of such a high standard that you may find it possible to show clemency, on this occasion.

I would like to describe the car in full. It is a 525D M Sport Executive BMW – full BMW specification (fully computerised) – Cobalt Black. It now has black leather interior (I replaced the original with full leather seating, as this wears and looks better), air conditioned, automatic gear-box and cruise control. I have fitted it with a new Digitax Mirror Meter from a specialist in Bristol (which took three hours to fit as all the wires are completely hidden, to make it look tidy inside). I have had the paintwork professionally polished and finished; added expensive rubber mats. Another reason for purchasing this vehicle is that she has a massive boot which is good for shoppers and can easily take a wheel chair which is essential for my disabled passengers. She also has an electrically adjustable passenger seat which is handy for my elderly and disabled passengers (she is also low to the ground – making her easy to get into). She sailed through your Taxi MOT and Inspection (at Whaddon Garage). I have taken photographs of every angle of the vehicle in order to show you that it is immaculate. I have spent a lot of extra money to make the vehicle as smart as she is. I truly think she is one of the smartest taxis' in Gloucester City.

I made all the above effort because I intend to continue taxiing while I am completing my studies at The University of Gloucestershire and it is important that my vehicle is pleasant to be in (as I do a lot of revising in my taxi while waiting for fares) – she is basically ‘my second home’. My plan, although the above problem has rather halted progress, is to finance my further education by my taxiing (where else could I find a job that enabled me to do this?). It fits in perfectly with my University expectations.

Sometimes the taxi company I work for has special requests for executive vehicles for airport runs/executive transport and my car will be ideal for this.

I would have loved to bring my taxi for your committee to view (up close and personal!!) but unfortunately I will be on a family holiday in Cyprus at that time. This holiday was booked last year. I hope the photographs give you a sense of the exceptional condition of the car.

If your committee requires any further assistance please do not hesitate to text me on [redacted] and I will be happy to phone you back immediately (I know I can receive texts' in Cyprus).

I am pleading with you and the Licensing Committee to PLEASE make an exception on this occasion and license my vehicle. I promise you that this was a genuine (if stupid) mistake on my behalf.

Yours sincerely

Mohammed Sanneh

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**FOR DECISION BY COUNCIL****Gloucester City Council**

<b>COMMITTEE</b>	<b>: LICENSING AND ENFORCEMENT COMMITTEE FULL COUNCIL (TO APPROVE POLICY)</b>
<b>DATE</b>	<b>: 19 JULY 2011 21 JULY 2011</b>
<b>SUBJECT</b>	<b>: DRAFT SEX ESTABLISHMENTS POLICY STATEMENT INCLUDING AMENDED SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 FOR REGULATION OF LAP DANCING AND OTHER SEXUAL ENTERTAINMENT VENUES</b>
<b>DECISION TYPE</b>	<b>: BUDGET AND POLICY FRAMEWORK</b>
<b>WARD</b>	<b>: ALL</b>
<b>REPORT BY</b>	<b>: GILL RAGON - GROUP MANAGER OF ENVIRONMENTAL HEALTH AND REGULATORY SERVICES</b>
<b>NO. OF APPENDICES</b>	<b>: A: DRAFT SEX ESTABLISHMENT POLICY STATEMENT B: CONSULTEES C: FORMAL WRITTEN RESPONSES</b>
<b>REFERENCE NO.</b>	<b>: ES21006A</b>

**1.0 PURPOSE OF REPORT**

- 1.1 To present to Members the result of the consultation on the draft Sex Establishment Policy Statement.
- 1.2 To agree the final version of the Sex Establishments Policy Statement for approval by Full Council.

**2.0 RECOMMENDATIONS**

- 2.1 That the draft Sex Establishments Policy Statement and consultation feedback be noted by Members and that the draft Policy Statement is recommended for approval and adoption by Full Council on 21<sup>st</sup> July 2011, to take immediate effect.
- 2.2 That the proposed amendments as detailed in paragraphs 4.8, 4.10 and 4.11 are noted and recommended for inclusion in the final Sex Establishment Policy Statement to take forward to Full Council.

**3.0 BACKGROUND**

- 3.1 On 1<sup>st</sup> November 1982 this Council resolved to adopt the provisions of Part II Section 2 (1) of Schedule 3 of the Local Government Miscellaneous Provisions Act 1982. This came into force on 11<sup>th</sup> January 1983 and introduced a licensing regime for sex shops and sex cinemas.

- 3.2 On 24<sup>th</sup> February 2011 this Council resolved to adopt that part of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended Section 27 of the Policing and Crime Act 2009. This introduces a licensing regime for 'sexual entertainment venues' and came into force on 1<sup>st</sup> April 2011.
- 3.3 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to allow the licensing of "sexual entertainment venues", where 'relevant entertainment' is provided before a live audience for the financial gain of the entertainer or organiser. For these purposes 'relevant entertainment' means 'any live performance or any live display of nudity' i.e. striptease, lap dancing etc. which is of such nature, 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). There are also a number of activities, which are specifically referred to as not being "relevant entertainment".

#### **4.0 PROGRESS**

- 4.1 Once the Council agreed to adopt the amended Schedule 3, a Sex Establishment Policy Statement was required to incorporate these new provisions. A draft Policy Statement was presented to Members at the Licensing and Enforcement Committee on 18<sup>th</sup> January 2011 and approved for consultation.
- 4.2 The draft Sex Establishment Policy Statement in Appendix 1 incorporates the existing Sex Establishment (sex shop/sex cinema) Policy and includes a Policy for "sexual entertainment venues". This supersedes all previous Policies adopted by Gloucester City Council.
- 4.3 This draft Policy Statement was consulted upon over a 12 week period starting 14<sup>th</sup> March 2011 and ending 6<sup>th</sup> June 2011.
- 4.4 A list of consultees can be found in Appendix B.
- 4.5 The consultation was also published on the Council's website, a press release was published in the Citizen and the draft Policy consultation was presented to the local Licensed Victuallers Association in Gloucester.
- 4.6 One formal response was received from Environmental Protection. The response can be found in Appendix C.

#### *Environmental Protection Response*

- 4.7 With reference to point 1, infrequent activity refers to any sexual entertainment carried out at a premise less than 11 occasions within a 12 month period. This is explained within 3.1.5 of the draft Policy Statement, it does not differentiate between types of entertainment.
- 4.8 A 'cover all' circumstance as referred to in Point 2 could be included in 3.1.5 as:  
(Additional wording is highlighted in grey)  
*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 Committee shall consider the following circumstances in*

*deciding whether the grant of the application would be inappropriate for that proposed location:*

- *The general character of the relevant locality*
- *The proximity of residential premises*
- *The proximity of places of public religious worship*
- *The proximity of any schools or other educational establishments*
- *The proximity of any playing fields and play areas*
- *The proximity of any leisure centres or swimming pools*
- *The proximity of any libraries or other public buildings*
- *The proximity of any youth clubs*
- *The proximity of any other licensed sex establishments*
- *The proximity of shops or markets directed for use by families or children*
- *The proximity of any other premises that is or has the potential to be frequently visited by children*

4.9 Fees will be set under delegated powers in accordance with the Council's Constitution. Details of any fee calculation breakdowns would, once available, be available on request to the Food Safety and Licensing Service Manager. Fees will be reviewed annually.

4.10 In accordance with the Indecent Displays (Control) Act 1981, condition 10 on page 25 of the draft Policy Statement needs amending to say the following: (additional wording is in grey).

*A clear notice shall be displayed at each entrance to the premises or to the licensed area in a prominent position stating:*

**“WARNING**

*Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age”.*

4.11 A site visit was carried out on 1<sup>st</sup> July 2011, and the proposed policy and conditions were discussed with the licence holder of the only gentlemen's club in Gloucester. Condition 22 on page 26 of the draft Policy Statement states:

*“Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.”*

Having carried out a site visit and taken into account the small size of the tables and the potential for rules to be easily destroyed by patrons, the following replacement wording is suggested:

*“Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at appropriate locations within the club, where they are clearly visible by patrons”*

## **5.0 FUTURE WORK**

5.1 Further reports will be submitted to the Licensing and Enforcement Committee in relation to the adoption of the provisions under the 1982 Act, standard terms and conditions, application forms and procedures and amendments to the Policy.

## **6.0 CONCLUSIONS**

6.1 The draft Sex Establishment Policy Statement has been widely consulted upon and the feedback is contained within this report. Apart from minor typing amendments

already made to the draft document, Members must decide whether they wish for any other amendments to be made before the final version is approved by Full Council.

- 6.2 Members are referred to the recommendations at paragraph 2.0 in the report.
- 6.3 Once the Council approve and publish the Sex Establishment Policy Statement it will need to take immediate effect, to ensure the Policy can be considered in line with any applications from existing Licensed premises that may be conducting activities that will be considered to be 'sexual entertainment'.

**7.0 FINANCIAL IMPLICATIONS**

- 7.1 The Fees need to be set in line with the European Services Directive: Guidance for Local Authorities and LACORS Guidance on the impact of the Services Directive on Councils setting and administering local licence fees within the service sector.
- 7.2 Any consultation work required would be met through the current licensing budgets. The cost of issuing any licenses would be met through the allocated fees.

**8.0 LEGAL IMPLICATIONS**

- 8.1 Section 27 of the Policing and Crime Act 2009 makes amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 8.2 The Council has not delegated to the Licensing and Enforcement Committee the responsibility or function in relation to the adoption of policy guidelines for Sex Establishments.
- 8.3 Local Authorities must take into account any rights the existing operator may have under Article 1, Protocol 1 of the European Convention of Human Rights, (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

**9.0 RISK MANAGEMENT IMPLICATIONS**

- 9.1 The risk management implications for this report and the Sex Establishment Policy Statement include conducting an inadequate consultation and approving a policy that is unfair or too prescriptive.

**10.0 PREDICTIVE IMPACT ASSESSMENTS (EQUALITIES) AND COMMUNITY COHESION**

- 10.1 Please ensure you complete this section even if a PIA is not required.

Is a PIA required?	Yes	No	Explanation:
		X	
Has an initial PIA screening been completed?	Yes	No	Explanation: No negative impacts found and no negative responses received during consultation
	X		

Has a full PIA been completed?	Yes	No	Explanation: Not necessary
		X	
Is the PIA available?	Yes	No	Explanation: Screening PIA available
	X		
Has the PIA identified any negative impacts on any protected characteristic or community cohesion?	Yes*	No	*Please ensure PIA is available
		X	

**Any Further Relevant Information:**

None

**11.0 Other Corporate Implications (this may include Community Safety, Environmental, Staffing, Trade Union)**

None

**Background Papers :** Standard regulations – Sex Establishment licences  
Sex Shop Licensing Policy

**Published Papers :** Local Government (Miscellaneous Provisions) Act 1982  
Policing and Crime Act 2009  
Licensing Act 2003

**Person to Contact :** Lisa Wilkes  
Tel: (01452) 396047  
Fax: (01452) 396340  
E-mail: lisa.wilkes@gloucester.gov.uk

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# SEX ESTABLISHMENTS POLICY STATEMENT

Schedule 3 Local Government (Miscellaneous Provisions) Act 1982,  
as amended by Section 27 Policing and Crime Act 2009

**APRIL 2011**

**DRAFT FOR CONSULTATION**

**MARCH - JUNE 2011**

## ENVIRONMENTAL HEALTH & REGULATORY SERVICES

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Gloucester GL1 2EQ        www.gloucester.gov.uk



## **PREFACE**

This Sex Establishment Policy Statement sets out the Council's requirements for premises to be licensed as Sex Establishments within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009.

The Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) can be viewed at [www.opsi.gov.uk](http://www.opsi.gov.uk).

Gloucester City Council resolved to adopt the original provisions of Part II Section 2(2) of Schedule 3 of the 1982 Act for Sex Cinemas and Sex Shops on 1<sup>st</sup> November 1982. This came into force on 11<sup>th</sup> January 1983. The new provisions for Sexual Entertainment Venues under the amendments of Section 27 of the Policing and Crime Act 2009 were adopted on 24<sup>th</sup> February 2011 and took effect from 1<sup>st</sup> April 2011.

Adoption of Schedule 3 allows the Council to set terms and conditions and fees for the grant, variation, renewal and transfer of such licenses and the number of premises to be licensed in a given area, which may be Nil.

The previous sex shop licensing policy guidelines and standard regulations for sex establishment licenses were approved by Council on 10<sup>th</sup> July 2002. Following this further guidelines relating to Pole/Lap/Striptease Dancing were approved by the Licensing and Enforcement Committee on 26<sup>th</sup> July 2005.

In this policy statement we refer to all sex cinemas, sex shops and sexual entertainment venues as 'Sex Establishments'. This document is the first version of a Sex Establishment Policy Statement which controls all three types of Sex Establishments.

This new Sex Establishment Policy Statement was consulted on between 14<sup>th</sup> March 2011 and 6<sup>th</sup> June 2011, and was approved by the Licensing and Enforcement Committee on .....

Gloucester City Council will review its Sex Establishment Policy at least once every three years and if necessary it will be revised.

Consultation was conducted with local residents, existing and potential holders of Sex Establishment Licences in the City, the statutory Responsible Authorities under the Licensing Act 2003, and holders of Premises Licenses and Club Premises Certificates under the Licensing Act 2003 in the City.

**Comments and queries should be directed to:**

**Lisa Wilkes**  
**Food Safety and Licensing Service Manager**  
**Environmental Health**  
**Gloucester City Council**  
**Herbert Warehouse**  
**The Docks**  
**GL1 2EQ**  
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**Email: [heretohelp@gloucester.gov.uk](mailto:heretohelp@gloucester.gov.uk)**

**Further copies may be obtained from the above address or from the Council's website [www.gloucester.gov.uk](http://www.gloucester.gov.uk)**



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## **1. Profile of the City of Gloucester**

Gloucester City Council comprises principally the City of Gloucester, which is the County City and one of the six district councils within Gloucestershire. The City is located on the River Severn and is close to both the M5 and the M4. The City has a population of 114,500 of which 9.9% are from ethnic groupings. The total area of the authority is 15.64 square miles. The historic city of Gloucester is heavily urbanised with commercial and residential areas covering the City with the associated tourism, hospitality and food and drink activities.

Gloucester has a very strong cultural identity and socialising here has traditionally been based around pubs and social clubs, reflecting the rich ethnic, political and manufacturing mix of the city. At weekends the streets around the Cross are full of groups of young people moving between pubs and nightclubs. But it also has one of the best arts centres in the region, a growing community of artists and four museums full of two million years of history.

At the time of adopting this Policy Statement the Council licenses two Sex Shops under the 1982 Act. One premise is authorised under the Licensing Act 2003 to provide entertainment which would require licensing as a Sexual Entertainment Venue.

## **2. Purpose and Aim of Policy**

- 2.1 This Policy Statement sets out Gloucester City Council's guidance, application procedure, terms and conditions and fees regarding the regulation of Sex Establishments.
- 2.2 This document supersedes all previous policies adopted by Gloucester City Council and will guide current licence holders, potential licence holders and the Council when considering applications for Sex Establishments.
- 2.3 The Council does not take any moral stand 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 this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.
- 2.4 In developing this Policy Statement, we took into account the legal requirements of the 1982 Act and our duties under:
- a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the City;
  - b) The Regulators Compliance Code (set out under the legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out to particularly consider the impact of regulations on smaller businesses; and
  - c) The Provisions of Services Regulations 2009 to ensure requirements are:
    - i) Non-discriminatory
    - ii) Justified by an overriding reason relating to the public interest
    - iii) Proportionate to that public interest objective
    - iv) Clear and unambiguous
    - v) Objective
    - vi) Made public in advance, and
    - vii) Transparent and accessible
- 2.5 This document relates to applications for Sex Establishment Licences covering:
- Sex Cinemas
  - Sex Shops
  - Sexual Entertainment Venues
- 2.6 Each application will be determined on its own merits.

### **3. Sex Establishment Licensing Applications**

**Any person wishing to operate a Sex Establishment as defined by Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended requires a Sex Establishment Licence.**

#### **3.1 Right to Waiver**

- 3.1.1 Applications can be made to waive the requirement for a sex establishment licence. This can be made either as part of the licence application or made separately.
- 3.1.2 Gloucester City Council can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. Each application for waiver will be considered on its own merits and will only be granted in exceptional circumstances. Where a waiver is granted, the Council will inform the applicant that they have granted the waiver application.
- 3.1.3 The waiver may last for such a period that the City Council think fit, however the Council may at any time terminate the waiver on such date not less than 28 days from the date the applicant is given notice.
- 3.1.4 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sex Shops and Sex Cinemas, except in exceptional circumstances considered by the Licensing Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).
- 3.1.5 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sexual Entertainment Venues, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12 month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

#### **3.2 Application for grant of a Licence**

- 3.2.1 To apply for the grant of a new sex establishment licence an applicant must submit to the Council:-
  - a) A completed application form;
  - b) A plan to scale of 1:100 of the premises to which the application relates showing (amongst other things) all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street;
  - c) A site plan scale 1:1250;
  - d) Drawings showing the front elevation as existing and as proposed to a scale of 1:50, and
  - e) The appropriate fee
- 3.2.2 In addition to the list above, the applicant must:
  - a) Display a notice on or near the premises in a conspicuous location, for 21 days beginning with the date of the application;
  - b) Advertise the application in a local newspaper within 7 days after the date of application;
  - c) Send a copy of the application and plan to the Chief Officer of Police for the area within 7 days of making the application to the Council.

3.2.3 The Council will also notify all applications for grant, renewal, transfer or variation of a licence to the following bodies who may comment on or object to the application within 28 days of the date of the application:-

- Chief Officer of Police
- Local Safeguarding Children Board
- Fire Safety Officer
- Trading Standards
- Planning Authority
- Relevant Town / Parish Council

### **3.3 Public Notices**

3.3.1 A Notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the Council, in a position where it can be conveniently read from the exterior of the premises.

3.3.2 Where the premises cover an area of more than 50 metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting the highway.

3.3.3 The Notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in a font size equal to or larger than 16.

3.3.4 The Notice must state:

- a) Details of the application and activities that it is proposed will be carried on or from the premises;
- b) The full name of the applicant;
- c) The postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified;
- d) The date, being 28 days after that on which the application is given to the Council, by which objections should be made to the Council and that the objections should be made in writing.
- e) That there is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£20,000) for which a person is liable on summary conviction of the offence.
- f) A similar notice must be published in a local newspaper or similar document within 7 days of giving the application to the Council.

### **3.4 Variation of a Licence**

3.4.1 The holder of a Sex Establishment Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

3.4.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of a premises is not required unless the application involves structural alterations to the premises

### **3.5 Renewal of a Licence**

3.5.1 The holder of a Sex Establishment Licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.

3.5.2 The process of applying for the renewal of the licence is the same as that for applying for an initial grant except that the plan of the premises is not required.

**3.6 Transfer of a Licence**

3.6.1 A person may apply for the transfer of a licence at any time.

3.6.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

## 4. Determination of Applications

**In determining an application for the grant, renewal, transfer or variation of a licence, the Council will have regard to any representations received that are relevant to the grounds set out in 4.1 and 4.2.**

### 4.1 Mandatory grounds for refusal (Paragraph 12 of Schedule 3)

#### 4.1.1 Specific Mandatory grounds for refusal of a licence are set out in the 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 persons having had a previous licence revoked in the Gloucester City area within the last 12 months;
- c) To any person, other than a body corporate, who is not resident in an European Economic Area 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 European Economic Area 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 the 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.

#### 4.1.2 **Please note there is no right of appeal against refusal on these mandatory grounds.**

4.1.3 If none of the above applies to the applicant and no objections have been received and there are no other statutory grounds for refusal, including that the application does not exceed any permitted numbers, the application will be granted by way of delegated authority.

4.1.4 However, if any objections have been received, or if there are concerns regarding the characteristics of the locality, the application will be referred to the Council's Licensing and Enforcement Committee for a hearing of the application.

### 4.2 Discretionary grounds for refusal

#### 4.2.1 The Council may refuse an application for grant or renewal of a licence on one or more of the grounds specified below:-

- a) The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for 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, renewal or transfer of such a licence if they made the application themselves;
- c) That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the Council consider is appropriate for that locality (nil may be an appropriate number).
- 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.

4.2.2 Any decision to refuse a licence **MUST** be relevant to one or more of the grounds stated in 4.1 and/or 4.2.

#### **4.3 Suitability of Applicant**

4.3.1 In determining applicant suitability for the grant of a new licence, renewal of a licence, or the transfer of an existing licence, the Council will take the following into account:

- Previous relevant knowledge and experience of the applicant;
- Any evidence of the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other District or Borough;
- Any report about the applicant and management of the Premises received from objectors.

4.3.2 In particular the Council will liaise closely with the Police and any other relevant appropriate agencies in determining the fitness of the applicant.

4.3.3 Whilst every application will be considered on its merits, the Council will be unlikely to grant an application from any person, or for the benefit of any person, with unspent relevant criminal convictions.

#### **4.4 Location of Premises (Paragraph 12 of Schedule 3)**

4.4.1 The Council shall decide on the suitability of a particular locality for a sex establishment as a matter of fact to determine the particular circumstances of each case and not by the prescription of boundaries as stated on a map.

4.4.2 The Council is mindful of its power to determine that no sex establishment should be located in a particular locality. In deciding the appropriate number of premises to be licensed, the Committee must consider the character of the relevant locality and what is the appropriate number of sex establishments for the relevant locality. The number can be nil.

4.4.3 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 Committee shall consider the following circumstances in deciding whether the grant of the application would be inappropriate for that proposed location:

- The general character of the relevant locality
- The proximity of residential premises
- The proximity of places of public religious worship
- The proximity of any schools or other educational establishments
- The proximity of any playing fields and play areas
- The proximity of any leisure centres or swimming pools
- The proximity of any libraries or other public buildings
- The proximity of any youth clubs
- The proximity of any other licensed sex establishments
- The proximity of shops or markets directed for use by families or children

4.4.4 When hearing an application for the grant of a sex establishment licence, the Committee shall have regard to this Policy Statement's provisions as set out above but subject to the overriding principle that each application will be determined on its merits.

4.4.5 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a sex establishment.

4.4.6 The council would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.



#### **4.5 Objections**

- 4.5.1 When considering an application for the grant, renewal, variation or transfer of a Sex Establishment Licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.
- 4.5.2 Any person can object to an application but the objection should be relevant either to the **mandatory grounds** for refusal set in **Section 4.1** or to the **discretionary grounds for refusal** set out in **section 4.2** below.
- 4.5.3 Objections should not be made on moral grounds or values. Any decision to refuse a licence will be relevant to one or more of the grounds in **4.1 and 4.2** above.
- 4.5.4 Objectors must give notice of their objection in writing, stating the general terms of the objections.
- 4.5.5 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.

#### **4.6 Granting of a Licence**

- 4.6.1 In determining an application relating to a sex establishment licence the Council will assess the application on its merits having regard to the content of this policy, the relevant legislation and any relevant guidance that may be issued from time to time.
- 4.6.2 Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons for doing so will be given. Only a Licensing Committee may authorise a departure from this policy if it feels it is appropriate for a specific application.
- 4.6.3 All applications for the Grant of a new sex establishment Licence will be referred to the Licensing and Enforcement Committee for determination to take into account the criteria set out as in 4.1 and 4.2 with regards to the character, relevant locality and the appropriate number of sex establishments for the relevant locality.

#### **4.7 Duration of a Licence**

- 4.7.1 The Council will consider granting licences of 12 months duration or for a shorter term if deemed appropriate.

**5. Hearings**

- 5.1 Where applications are referred to a Licensing Sub-Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.
- 5.2 The hearing provides all parties to the application including those making objections, the opportunity to air their views openly and will be considered by the Sub-Committee.

**6. Appeals**

- 6.1 There is no right of appeal:
  - a) Against the grounds of refusal as detailed in **Section 4.1.1 (a), (b), (c), (d) and (e)** above, unless the applicant can prove that the ground of refusal does not apply to them, and
  - b) Against the grounds as detailed under **Section 4.2.1 (c) and (d)**.
- 6.2 The grounds of refusal under Section 4.2.1 (c) and (d) above can only be challenged by the applicant by way of judicial review.
- 6.3 All relevant grounds for appeal, other than these detailed in 6.1 (a) and (b) above and can be made to the Magistrates Court within 21 days from the date on which the person is notified in writing of the decision.

**7. Fees**

- 7.1 The appropriate fees for applications can be found on the Council's website. Application fees must be paid in full at the time of submission of the application.
- 7.2 The current fees for all Sex Establishments (Sex Shops and Sex Cinema) is £10,700.
- 7.3 It is intended to review the current fees for sex establishments; this will include consideration of the introduction of a fee for sex entertainment venues (both transitional and standard) and a reduced variation fee in relation to the change of name and premises only.
- 7.4 Unsuccessful applications would qualify for a partial refund of the total application fee.
- 7.5 Where permission is granted to carry out a service within the city the amount charged and the process of charging fees must comply with the requirements of the EC Services Directives. Fees must be Non-discriminatory, justified, proportionate, clear, and objective and made in public in advance, transparent and accessible.
- 7.6 Article 13(12) of EC Directive 123/2006 means that any fees charged for establishing a service that falls within a scope of the Directive can only be based on cost recovery and cannot be set at an artificially high level to deter specific service sectors from an area.

**8. Standard Conditions**

- 8.1 Section 13 of Schedule 3 allows the Council to make regulations prescribing Standard Conditions applicable to Sex Establishments and the Standard Conditions applicable to Sex Shops and Sex Cinemas as approved the Council in July 2002 are attached in Appendix C.
- 8.2 The Standard Conditions for Sexual Entertainment Venues are attached at Appendix D, these conditions incorporate and supersede the guidelines for pole/lap/striptease dancing.

**9. Specific Conditions**

- 9.1 Under paragraph 8 Schedule 3 the Council may grant to an applicant, and from time to time renew, a licence for Sex Establishment on such terms and conditions and subject to any restrictions as may be specified. These specific terms and conditions will be tailored for each individual premises and each type of Sex Establishment Licence.

## **10. Enforcement**

10.0.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.

10.0.2 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Council's Corporate Enforcement Policy. This has been drafted with reference to the Statutory Regulator's Compliance Code.

10.0.3 The responsibility for the overall supervision of sex establishment licensing lies with the relevant Corporate Director.

### **10.1 Offences**

10.1.1 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that schedule and include:

- Knowingly causing or permitting the use of any premises as Sex Establishment without a licence;
- Being the holder of a licence, knowingly employing a person in a Sex Establishment who is disqualified from holding a licence;
- Being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
- Being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence
- Being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 years to enter the establishment;
- Being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.

10.1.2 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.

10.1.3 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale.

### **10.2 Revocation of Licences**

10.2.1 The Council may, after giving the holder of a licence an opportunity of appearing before and being heard by them, at any time revoke the licence on any of the following grounds:-

- a) that one of the mandatory grounds for refusing to grant a licence exists and has come to light since the grant of the licence.
- b) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- c) 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, renewal or transfer of such a licence if they made the application themselves.

10.2.2 The Council will consider whether or not to revoke a licence upon a request to do so from the Police or at the recommendation of the relevant Corporate Director following representations from any other person or body.

**11. European Convention on Human Rights**

- 11.1 As far as existing operators are concerned the Government has decided having listened to views from previous consultations that 'Grandfather Rights' will not apply.
- 11.2 The Transitional Order allows local authorities to refuse applications whether they are from existing operators or new applicants, one or more grounds as under paragraph 12 Schedule3 as detailed in Sections 4.1 and 4.2 above.
- 11.3 When making such decisions, local authorities must take into account any rights the existing operators have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression).
- 11.4 The Council will have regard to the fact that it will be prudent to assume that the freedom of expression includes the right to use particular premises as Sexual Entertainment Venues and that a person who is denied the right to use his premises as a Sexual Entertainment Venue where he already has a licence to do so under the Licensing Act 2003 (or in future under the 1982 Act) has been deprived of possessions.



**12. Amendments to this Policy**

12.1 Any significant amendment to this policy will only be implemented after further consultation with the trade and the public. All such amendments to this Policy will be undertaken in accordance with the Council's Constitution.

12.2 For the purpose of this section, any significant amendment is defined as one that:

- a) is likely to have a significant financial effect on licence holders, or
- b) is likely to have a significant procedural effect on licence holders, or
- c) is likely to have a significant effect on the community.

### 13. Further Information

The following can be viewed at [www.opsi.gov.uk](http://www.opsi.gov.uk):

- The Local Government (Miscellaneous Provisions) Act 1982
- The Policing and Crime Act 2009
- Crime and Disorder Act 1998
- Provision of Services Regulations 2009
- Legislative and Regulatory Reform Act 2006
- Human Rights Act 1998

**APPENDIX A – Glossary of Terms (Legal Definitions)**

<b>TERM</b>	<b>DEFINITION</b>
the Act	Local Government (Miscellaneous Provisions) Act 1982
Authorised Officer	any Officer of the Council authorised under the Council's Scheme of Delegation as contained within the Constitution
the Council	Gloucester City Council
he, his	all references to 'he' or 'his' also include 'she' or 'hers'
Relevant Corporate Director	the current post-holder with responsibility for the relevant Service Area (or any nominated Deputy) as set out in the Council's Constitution and Scheme of Delegation
Licence Holder	a person who holds a Sex Establishment Licence under the Act
this Policy	Gloucester City Council's Sex Establishment Licensing Policy
Premises	A building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a Sex Establishment Licence granted under the Act
Sex Establishment	As defined in Schedule 3 of the Act (as amended)  A sex establishment means a sex shop, sex cinema or sexual entertainment venue as defined below in extracts from the Act.
Sex Cinema	As defined in Schedule 3 of the Act (as amended)  3. — (1) In this Schedule, "sex cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which— (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage— (i) sexual activity; or (ii) acts of force or restraint which are associated with sexual activity; or (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.  (2) No premises shall be treated as a sex cinema by reason only— (a) if they may be used for an exhibition of a film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (which the meaning of section 136 of that Act), of their use in accordance with that authorisation; or (b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

**TERM**

**DEFINITION**

Sex Shop

As defined in Schedule 3 of the Act, as amended

4. —

(1) In this Schedule “sex shop” means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating—

(a) sex articles; or

(b) other things intended for use in connection with, or for the purpose of stimulating or encouraging—

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity.

(2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.

(3) In this Schedule “sex article” means—

(a) anything made for use in connection with, or for the purpose of stimulating or encouraging—

(i) sexual activity; or

(ii) acts of force or restraint which are associated with sexual activity; and

(b) anything to which sub-paragraph (4) below applies.

(4) This sub-paragraph applies—

(a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and

(b) to any recording of vision or sound, which—

(i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or

(ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sexual Entertainment Venue

As defined in Schedule 3 of the Act (as amended)

2A -

(1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

(2) In this paragraph “relevant entertainment” means —

(a) any live performance; or

(b) 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).

(3) The following are not sexual entertainment venues for the purposes of this Schedule—

(a) sex cinemas and sex shops;

(b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time—

(i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;

(ii) no such occasion has lasted for more than 24 hours; and

(iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

“audience” includes an audience of one;

“display of nudity” means—

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organisation or management of —

(a) the relevant entertainment; or

(b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

**APPENDIX B – Delegation of Functions**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Officers</b>
Application for a new sex establishment licence	In all cases	
Application for variation of a sex establishment licence	In all cases	
Application for transfer of a sex establishment licence	Where objections are received	In all other cases
Application for renewal of a sex establishment licence	Where objections are received	In all other cases
Application for waiver from the requirement for a licence	In all cases	
Setting of all fees in relation to sex establishment licences		All cases (Ratified by Full Council)
Consideration of the revocation of a sex establishment licence	In all cases	

## **APPENDIX C – Standard Conditions for sex shops and sex cinemas**

### **General**

1. In the event of a conflict between these regulations and any special conditions contained in a licence relating to a sex establishment, the special conditions shall prevail.
2. The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law, order or regulation other than the third schedule of the Local Government (Miscellaneous Provisions) Act 1982.

### **Use**

3. The premises shall only be open for business during the days and times that are specified in the licence.
4. A Sex Shop shall be conducted primarily for the purposes of the sale of goods by retail.
5. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
6. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.
7. Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

### **Conduct and Management**

5. A copy of the licence must be displayed within the premises so as to be clearly visible to customers in the premises.
6. The licensee shall retain control over all portions of the premises and shall not let, licence, or part with possession of any part of the premises.
7. The licensee shall maintain good order in the premises.
8. No person under the age of 18 shall be admitted to the premises or employed in the business of the premises, and the persons specified in regulation 6 shall make all necessary enquiries to this end.
9. The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the council.
10. Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside the vicinity of the premises.
11. The Licensee shall comply with all statutory provisions and any regulations made there under.
12. The licence shall not be assigned or transferred without the prior written consent of the council.
13. Any application to vary the conditions of the licence shall be advertised by the licensee in the same manner as an application for the issue, renewal or transfer of the licence.

**External appearance**

14. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except:-
  - i) A notice fixed to the entrance to the premises clearly stating "WARNING - persons passing beyond this notice will find material on display which they may consider indecent. No admittance under 18 years of age".
  - ii) A notice stating the opening hours of the premises.
  - iii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing shall have been approved by the local planning authority. The words "INSERT NAME OF BUSINESS" however granted by the council.
  - iv) Any notice of a size and in a form approved by the council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence granted by the council.
15. The entrance(s) to the premises and all windows and openings other than entrances shall be made of a material(s) or covered with a material(s) which will render the interior of the premises invisible to passers by.
16. The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order. The external door shall only be opened at such time or times as person(s) require access and egress to the interior of the premises.
17. There shall be provided within the entrance of the premises a partition, screen or design feature so that the interior of the premises cannot be seen by passers by at all times whilst the entrance doors may be opened.
18. All external parts of the premises shall be kept in a well maintained condition and in good decorative order.

**Goods**

19. All purchases shall be discreetly wrapped in an unmarked bag or plain paper before customers leave the premises.
20. No film or video shall be exhibited sold or supplied unless it has been passed by the British Film Board or Film Classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

**Interior**

21. All parts of the interior of the premises shall be kept in a clean and wholesome condition to the satisfaction of the council.
22. Alterations or additions either external or internal and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.
23. The licensee shall take all reasonable precautions for the safety of the public and employees and in particular shall comply with any fire precautions and safety measures that may be required by the Chief Fire Officer.



24. The licensee shall seek and comply with crime prevention advice and security measures that are recommended by the Chief Officer of Police.

**APPENDIX D – Standard Conditions for sexual entertainment venues**

**Conditions applicable to entertainments involving nudity, semi-nudity or transparent clothing**

1. The premises shall only be open for business during the days and times that are specified in the licence.
2. Only activities which have previously been agreed in writing by the Licensing Authority shall take place.
3. The agreed activities shall take place only in designated areas approved by the Licensing Authority.
4. The entertainment shall be provided by the professional performers only. The audience must at all times remain fully clothed.
5. No handbills (flyers) shall be distributed within the City.
6. No change of use of any portion of the Premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
7. The performance must not be visible from the street and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.
8. Entertainers or performers not performing must not be in a licensed area in a state of undress.
9. When the premises are open for sexual entertainment no person under the age of 18 shall be allowed on the premise and a proof of age scheme will be operated on the premises.
10. A clear notice shall be displayed at each entrance to the premises or to the licensed area in a prominent position stating "No persons under the age of 18 years will be admitted".
11. Performers shall be aged not less than 18 years. An adequate record must be maintained of the names, addresses and dates of birth of all performers including adequate identity checks.
12. There shall not be displayed outside the premises any photographs or images that indicate or suggest that striptease dancing takes place on the premises.
13. During any performance there must be no physical contact between the performer and any member of the viewing public. A safe distance of 30cms (12 inches) should be maintained between performers and customers immediately before, during or immediately after the performance of striptease except:
  - a) The leading of a patron hand in hand to and from a chair or to and from a designated dance area
  - b) The simple handshake greeting
  - c) The placing of monetary notes or dance vouchers into the hand or garter worn by the performer
  - d) The customary kiss on the cheek of the patron by the dancer at the conclusion of the performance

- e) If the contact is accidental
14. At the completion of the dance the performers shall dress themselves immediately and leave the performance area.
  15. Performers are not to solicit, exchange addresses or telephone numbers with customers or liaise with customers of the premises.
  16. An appropriate room shall be set aside to provide changing and rest area for performers and restricted access to the room be maintained at all times whilst the performers are on the premises
  17. Patrolling Security Industry Authority licensed door supervisors shall continually monitor all areas that the public have access to. SIA registered door supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst sexual entertainment activities are taking place.
  18. When performers leave the premises they are to be escorted to their cars or taxi by a member of staff.
  19. A CCTV system shall cover all areas where dancing will take place including any dancing booths provided. All cameras shall continually record whilst the premises are open to the public and the video/DVD recordings shall be kept for a minimum of 28 days with time and date stamping.
  20. Tape recordings shall be made available to an Authorised Officer of the Council or the Police together with facilities for viewing.
  21. A code of conduct for dancers shall be produced by the licensee together with a disciplinary procedure for breaches of the code which shall be implemented if approved in writing by the Council. The code of conduct for dancers shall prohibit activities that might be thought to lead to prostitution or other unlawful activities. No amendments shall be made to the code or disciplinary procedure without the prior consent of the Council.
  22. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.
  23. In relation to points 12 and 22 above, these procedures and rules must be produced for inspection by the licensing Authority and the Police within 14 days of issue of the licence.
  24. The licensee or nominated manager shall be present on the premises at all times whilst the entertainment is taking place. A nominated person shall be present to oversee the activities of the performers.
  25. A register shall be maintained and kept on the premises and be available for inspection at any time by Police or Officer of the Licensing Authority at all times, to clearly record the identity of the licensee(s) on duty, and the record shall be retained for a period of not less than 12 months after the last entry in the register.
  26. A copy of the licence conditions must be on display for performers and all members of staff to view at any time.
  27. The licensee shall maintain good order in the premises.

**APPENDIX E – Specimen Application Form**

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SCHEDULE 3  
(as amended by Section 27 Policing and Crime Act 2009)

**GLOUCESTER CITY COUNCIL**

Licensing Service, Environmental Health, Hebert Warehouse, The Docks, Gloucester, GL1 2EQ

**APPLICATION FOR A SEX ESTABLISHMENT LICENCE****PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**1. Type of Application**

<b>Grant</b>		<b>Renewal</b>		<b>Variation</b>		<b>Transfer</b>	
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**2. Applications by Individuals**

<b>Full Name</b>							
<b>Permanent Address</b>							
<b>Age</b>		<b>Date of Birth</b>		<b>Place of Birth</b>			

Are you eligible to work in the United Kingdom?

**YES / NO****3. Applications by corporate or unincorporated bodies**

<b>Full Name of Body</b>
<b>Address of Registered or Principle Office</b>
<b>Registered Body No. (where applicable)</b>

4. Details of Directors or other persons responsible for the management of the establishment (continue on separate sheet if necessary).

<b>Full Name</b>					
<b>Permanent Address</b>					
<b>Age</b>		<b>Date of Birth</b>		<b>Place of Birth</b>	

<b>Full Name</b>					
<b>Permanent Address</b>					
<b>Age</b>		<b>Date of Birth</b>		<b>Place of Birth</b>	

<b>Full Name</b>					
<b>Permanent Address</b>					
<b>Age</b>		<b>Date of Birth</b>		<b>Place of Birth</b>	

<b>Full Name</b>					
<b>Permanent Address</b>					
<b>Age</b>		<b>Date of Birth</b>		<b>Place of Birth</b>	

**5. Offences – (See Notes for Guidance at the end of this form)**

Have you any convictions recorded against you? Or if a body corporate or unincorporated body, that body or any of its directors or other persons responsible for its management? If so please state

Date of Conviction	Offence	Sentence Imposed

**6. Residency / Incorporation**

Have you been resident in the United Kingdom throughout a period of six months immediately preceding the date of this application? **YES / NO**

If the application is made on behalf of a body corporate is that body incorporated in the United Kingdom? **YES / NO**

**7. Premises / Vehicle / Vessel / Stall Details**

**Name & Postal address of Premises or, if none, ordnance survey map reference or description**

**If this application relates to a vehicle / vessel / stall give description and state where it is to be used as a sex establishment**

**8. Trading Hours**

During which hours do you wish to trade?

Monday		Tuesday	
Wednesday		Thursday	
Friday		Saturday	
Sunday			

**9. Type of Premises**

Are the premises to be used as a sex cinema, a sex shop or a sexual entertainment venue?  
Please state

\_\_\_\_\_

**10. Disqualification / Previous Applications**

Are you (or, if a corporate body or unincorporated body, that body) disqualified from holding a licence for a sex establishment? **YES / NO**

Have you ever been refused a licence for a sex establishment? **YES / NO**

If yes give details (continue on a separate sheet if necessary)

**11. Declaration (See Notes for Guidance at the end of this form)**

I declare that I have checked the information given on this application form and to the best of my knowledge and believe it is correct.

I understand that I must now give public notice of this application in accordance with the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

I understand that I must not later than 7 days after the date of the application, send a copy of the application to the chief officer of police.

I have enclosed the relevant fee.

I understand that if I fail to comply with the above, my application will be rejected.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_

**Notes for guidance****1. Disclosure of Convictions**

- a) All live convictions must be disclosed.
- b) Spent convictions, as defined below should not be included.

<b>Sentence</b>	<b>Becomes spent after</b>
Imprisonment of between 6 months and 30 months	10 years
Imprisonment of up to 6 months	7 years
Borstal training	7 years
A fine or other sentence not otherwise covered in this table	5 years
Absolute discharge	6 months
Probation order, conditional discharge or bind over	1 year (or until order expires, whichever is longer)
Detention Centre Order	3 years
Remand home, attendance centre or approved school order	The period of the order and a further year after the order expires
Cashiering, discharge with ignominy or dismissal with disgrace from the Armed Forces.	10 years.
Dismissal from Armed Forces.	7 years.
Detention.	5 years.

- c) A of sentence of more than 2½ years imprisonment can never become spent.
- d) If you were under 17 years of age on the date of conviction, please halve the period shown in the right hand column.

**2. Giving Public Notice of the Application**

- a) Notice of this application must be given by the publishing of an advertisement in a newspaper in circulation in this authority's area. This publication shall not be later than 7 days after the date of the application.
- b) Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.
- c) Every notice which relates to premises shall identify the premises and every such notice which relates to a vehicle, vessel or stall shall specify where it is to be used as a sex establishment.

**3. False Statements in Connection with Applications**

Any person who, in connection with an application for the grant, renewal or transfer of a licence under this Schedule, makes a false statement which he knows to be false in any material respect or which he does not believe to be true, shall be guilty of an offence. This offence carries a maximum penalty of £20,000.



**APPENDIX F – Specimen Public Notice**

**Local Government (Miscellaneous Provisions) Act 1982  
Schedule 3**

**NOTICE OF APPLICATION FOR GRANT / RENEWAL/ VARIATION / TRANSFER  
OF A SEX ESTABLISHMENT LICENCE**

Name/s of Applicant/s	
Postal address of premises including name of the premises and post code (where possible) or a description to enable the location to be identified.	
Summary of application (hours of trading, type of licence, etc):	
<p><b>NOTICE IS HEREBY GIVEN</b> that an application has been made to Gloucester City Council for a licence to use the above premises as a sex establishment.</p> <p>Copies of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a licence) and of the application may be inspected at Gloucester City Council, Herbert Warehouse, The Docks, Gloucester, GL1 2EQ between 9.00am and 5:00pm (Monday to Friday except public holidays).</p> <p>Any objections in respect of the above application must be made in writing to the Council at the above address by</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(28 days after the date of the application)</p> <p>It is an offence knowingly or recklessly to make a false statement in connection with an application punishable on summary conviction by a maximum fine of £5,000.</p>	



## Consultation Addresses

## APPENDIX B

Addresses
Chief Officer of Police c/o Chief Inspector Richard Burge Gloucester and Forest Division Gloucester Police Station Bearland Gloucester GL1 2JP
Gloucestershire Fire & Rescue Service Delivery Support Waterwells Quedgeley Gloucester GL2 2AX
Development Services Group Manager Gloucester City Council Herbert Warehouse The Docks Gloucester GL1 2EQ
Environmental Protection Environmental Health & Regulatory Services Gloucester City Council Herbert Warehouse The Docks Gloucester GL1 2EQ
Health & Safety Team Environmental Health & Regulatory Services Gloucester City Council Herbert Warehouse The Docks Gloucester GL1 2EQ
Health & Safety Executive 4th Floor, The Pithay All Saints Street Bristol BS1 1ND
Children & Young People's Directorate Safeguarding Manager Gloucestershire County Council Quayside Wing Shire Hall Gloucester GL1 2RH
Gloucestershire County Council Trading Standards Hillfield House Denmark Road Gloucester GL1 3LD

## Consultation Addresses

## APPENDIX B

<p>Leisure Development Manager  British Waterways  South West Office  Harbour House  The Docks  Gloucester  GL1 2GL</p>
<p>Association of Licensed Multiple Retailers  96 Walpole Court  Ealing Studios  LONDON  W5 5ED</p>
<p>British Beer and Pub Association  Market Towers  1 Nine Elms Lane  LONDON  SW8 5NQ</p>
<p>British Institute of Inn Keeping  Wessex House  80 Park Street  Camberley  Surrey  GU15 3PT</p>
<p>Federation of Licensed Victuallers Associations  126 Bradford Road  Brighouse  West Yorkshire  HD6 4AU</p>
<p>Cinema Exhibitors Association Limited  22 Golden Square  LONDON  W1F 9JW</p>
<p>Richard Graham MP  Gloucester Conservatives  Unit 1143, Regent Court  Gloucester Business Park  Hucclecote  Gloucester  GL3 4AD</p>
<p>Adult Services  Gloucestershire County Council  Shire Hall  Westgate Street  Gloucester  GL1 2TG</p>
<p>GMB – Adult Entertainment Branch  GMB National Office  22/24 Worple Road  London  SW19 4DD</p>
<p>Community Safety  David Sutton Group Manager for Housing Services  <a href="mailto:David.sutton@gloucester.gov.uk">David.sutton@gloucester.gov.uk</a></p>

Gordon Dwyer Economic Development and Community Regeneration Officer <a href="mailto:Gordon.dwyer@gloucester.gov.uk">Gordon.dwyer@gloucester.gov.uk</a>
Tourism Information
Noctis 5 Waterloo Road Stockport Cheshire SK1 3PT
The Fawcett Society 1-3 Berry Street London EC1V 0AA
Object PO BOX 50373 London W4 3ZP
Lap Dancing Association c/o Jeffrey Green Russell 56 New Bond Street London W1S 1RG
Adult Industry Trade Association Suite 14 77 Beak Street London W1F 9DB

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CONSULTATION FEEDBACK FORM

SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982,  
 AS AMENDED BY SECTION 27 POLICING AND CRIME ACT 2009

SEX ESTABLISHMENTS POLICY STATEMENT 2011/2014

NAME: Lloyd Griffiths  
 ADDRESS: Environmental Protection  
 Gloucester City Council  
 TEL. NO.: x 6315

YOUR COMMENTS OR IDEAS

- ① Page 3 pp 3.15 - Could clarification be provided on what is classed as infrequent activity. i.e. Strippers nights or Ann Summers parties etc
- ② Page 7 pp 4.4.3 - Would it be useful to include a 'cover all' circumstance such as • The proximity of any premises that is or has the potential to be frequently visited by children.
- ③ Page 11 pp 7.4 - Is it better to include details of what return procedure / calculation is??

*continue on a separate sheet if necessary*

Please return this form to the Licensing Team at the address given below or email your comments to [licence.team@gloucester.gov.uk](mailto:licence.team@gloucester.gov.uk) by no later than Monday 6<sup>th</sup> June 2011:-

THE LICENSING TEAM  
 ENVIRONMENTAL HEALTH & REGULATORY SERVICES  
 GLOUCESTER CITY COUNCIL  
 HERBERT WAREHOUSE  
 THE DOCKS  
 GLOUCESTER  
 GL1 2EQ



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