

# Public Document Pack

# Blackpool Council

14 May 2021

To: Councillors Mrs Callow JP, Collett, Critchley, Farrell, Hunter, Hutton, D Scott, R Scott and Wilshaw (subject to confirmation at Licensing Committee)

The above members are requested to attend the:

## **PUBLIC PROTECTION SUB-COMMITTEE**

Tuesday, 25 May 2021 at 6.05 pm  
(or at the conclusion of the Licensing Committee meeting, whichever is later)  
in the Council Chamber

## **A G E N D A**

### **ADMISSION OF THE PUBLIC TO COMMITTEE MEETINGS**

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The Head of Democratic Governance has marked with an asterisk (\*) those items where the Committee may need to consider whether the public should be excluded from the meeting as the items are likely to disclose exempt information.

The nature of the exempt information is shown in brackets after the item.

This information is provided for the purpose of this meeting only and must be securely destroyed immediately after the meeting.

### **1 DECLARATIONS OF INTEREST**

Members are asked to declare any interests in the items under consideration and in doing so state:

(1) the type of interest concerned either a

- (a) personal interest
- (b) prejudicial interest
- (c) disclosable pecuniary interest (DPI)

and

(2) the nature of the interest concerned

If any member requires advice on declarations of interests, they are advised to contact the Head of Democratic Governance in advance of the meeting.

**2 MINUTES OF THE LAST MEETING HELD ON 27 APRIL 2021** (Pages 1 - 4)

To agree the minutes of the last meeting held on 27 April 2021 as a true and correct record.

**3 ADOPTION OF BLACKPOOL COUNCIL'S POLICY ON THE USE OF THE NATIONAL REGISTER OF TAXI LICENCE REVOCATIONS AND REFUSALS (NR3)** (Pages 5 - 20)

To consider participating in the National Register of Taxi Licence Revocations and Refusals (NR3) initiative and to recommend the proposed Policy on the use of the NR3 to the Cabinet Member for Environment and Climate Change.

**4 APPLICATION TO TRANSFER A SEXUAL ENTERTAINMENT VENUE LICENCE** (Pages 21 - 66)

To consider an application by Pool Construction Ltd to transfer the Sexual Entertainment Venue licence for Eden, 15 – 17 Queen Street, Blackpool.

**\* 5 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES** (Pages 67 - 72)

To consider applicants and licence holders who have been convicted of offences or who have otherwise given reasons for concern.

(This item contains personal information regarding licence holders which is exempt from publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972).

**\* 6 USE OF DELEGATED POWERS SINCE THE LAST MEETING** (Pages 73 - 78)

To receive a verbal update on the use of Delegated Powers since the last meeting of the Public Protection Sub-Committee.

(This item contains personal information regarding applicants and licence holders which is exempt from publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972).

**7 DATE OF NEXT MEETING**

To note the date of the next meeting as 22 June 2021.

**Venue information:**

First floor meeting room (lift available), accessible toilets (ground floor), no-smoking building.

**Other information:**

For queries regarding this agenda please contact Sarah Chadwick, Democratic Governance Adviser, Tel: (01253) 477153, e-mail sarah.chadwick@blackpool.gov.uk

Copies of agendas and minutes of Council and committee meetings are available on the Council's website at [www.blackpool.gov.uk](http://www.blackpool.gov.uk).

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### **Present:**

Councillor Hutton (in the Chair)

Councillors

Mrs Callow JP  
Critchley

Farrell  
Hunter

D Scott  
R Scott

Wilshaw

### **In Attendance:**

Sarah Chadwick, Democratic Governance Advisor  
Sharon Davies, Senior Solicitor

### **1 DECLARATIONS OF INTEREST**

There were no declarations of interest on this occasion.

### **2 EXCLUSION OF PRESS AND PUBLIC**

The Public Protection Sub-Committee considered excluding the public and press from agenda items three and four as those items contained information which was exempt from publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

It considered that the public interest would not be served by allowing the information to be held in open session due to the sensitive information about individuals outlined.

**Resolved:** That under Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of Agenda Item Three, Horse Drawn Hackney Carriage Driver Licence and Agenda Item Four, Hackney Carriage and Private Hire Driver Licences.

### **3 MINUTES OF THE LAST MEETING HELD ON 23 MARCH 2021**

**Resolved:** That the minutes of the meeting held on 23 March 2021 be approved and signed by the Chair as a correct record.

### **4 HORSE DRAWN HACKNEY CARRIAGE DRIVER LICENCE**

The Public Protection Sub-Committee considered an application for a new Horse Drawn Hackney Carriage driver licence where the applicant had been convicted of offences or had otherwise given reasons for concern.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case and informed Members that the applicant, F.P.B., had previously appeared before the Sub-Committee in June 2020 due to a conviction for driving a motor vehicle with excess alcohol in 2018.

## MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 27 APRIL 2021

On that occasion the application was refused as the Sub-Committee had not wished to depart from Section 12.1 of the Council's Horse Drawn Hackney Carriage Convictions Policy which stated that applications should only be considered where at least three years had elapsed since the restoration of a driving licence following a drink drive conviction.

Appearing before the Sub-Committee, F.P.B. expressed remorse for the offence and stated that it was a youthful mistake which did not reflect their character, adding that they had learned from the incident. Members were informed that since the last application F.P.B. had returned to college to study animal science and had taken the advice of the Sub-Committee in allowing a year to lapse before re-applying, meaning that it was now more than three years since the offence occurred, although less than three years since the restoration of their driving licence.

The Sub-Committee considered the information submitted by both parties and noted the applicant's remorse together with the time elapsed since the offence. Although three years had not passed since the restoration of F.P.B.'s driving licence the Sub-Committee agreed to depart from the Horse Drawn Hackney Carriage Convictions Policy and grant the application with a strict warning that in the event of future issues the licence may be suspended or revoked.

**Resolved:** That the application in respect of F.P.B. be granted subject to the issuing of a severe warning letter that in the event of future issues the licence may be suspended or revoked.

### 5 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES

The Sub-Committee considered licence holders who had been convicted of offences or who had otherwise given reasons for concern.

i. A.D.M.

Mr Ryan Ratcliffe, Licensing Enforcement Officer, presented the case to the Sub-Committee. He informed Members that A.D.M. was an existing Hackney Carriage and Private Hire driver who had been licensed since October 2015. A recent check of A.D.M.'s DVLA driving licence had revealed a total of nine penalty points for use of a mobile device whilst driving in June 2018 and speeding in December 2020. Mr Ratcliffe further reported that A.D.M. had failed to notify the Licensing Service of the most recent offence for speeding in December 2020. He highlighted Section 14.5 of the Hackney Carriage and Private Hire Convictions Policy, which stated that licensed drivers who accumulated nine or more penalty points would be referred to the Sub-Committee for consideration, and recommended that as A.D.M.'s current driving record was poor the minimum of a warning letter should be issued.

In response, A.D.M. informed the Sub-Committee that they had not driven a taxi for approximately three to four years but had retained their Hackney Carriage and Private Hire driver licences as a fall-back option in uncertain economic times. It was explained that both offences occurred not whilst driving a taxi but when employed in their full time job which involved driving over 40,000 miles per year. A.D.M. advised Members that in

## MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 27 APRIL 2021

general they were very conscious of their driving behaviour as any offences could put their job at risk and stated that it had been an oversight not to inform the Licensing Service of the offence from December 2020.

The Sub-Committee carefully considered the information provided by both parties. Members expressed concerns over A.D.M.'s attitude to driving safely and the failure to notify the Licensing Service of their latest conviction and concluded that a severe warning letter be issued indicating that if A.D.M. was brought before the Sub-Committee again at any point in the future, then suspension or revocation of their licences would be the likely outcome.

**Resolved:** That a severe warning letter be issued that in the event of any future misconduct the licences may be suspended or revoked.

ii. A.L.D.

A.L.D. attempted to join the meeting via video link but was unable make an audio connection and further attempts to join the meeting by telephone instead were also unsuccessful.

The Sub-Committee therefore agreed to defer the case to its next meeting on 25 May 2021 but asked Mr Ryan Ratcliffe, Licensing Enforcement Officer, to advise A.L.D. that should they be unable to join that meeting then the case would be heard in their absence.

**Resolved:** That the case of A.L.D. be deferred to the next meeting of the Public Protection Sub-Committee on 25 May 2021.

### 6 DATE OF NEXT MEETING

The date of the next meeting was confirmed as 25 May 2021.

### Chairman

(The meeting ended 7.15 pm)

Any queries regarding these minutes, please contact:  
Sarah Chadwick Democratic Governance Adviser  
Tel: (01253) 477153  
E-mail: sarah.chadwick@blackpool.gov.uk

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<b>Report to:</b>	<b>PUBLIC PROTECTION SUB-COMMITTEE</b>
<b>Relevant Officer:</b>	Tim Coglan, Head of Public Protection
<b>Date of Meeting</b>	25 May 2021

## **Adoption of Blackpool Council’s Policy on the use of the National Register of Taxi Licence Revocations and Refusals (NR3)**

### **1.0 Purpose of the report:**

- 1.1 To consider the proposed Policy on the use of the National Register of Taxi Licence Revocations and Refusals (NR3) for Hackney Carriage and Private Hire Drivers.
- 1.2 To report to the Sub-Committee on the four week consultation undertaken with taxi trade representatives regarding the adoption of the NR3 Register.

### **2.0 Recommendation(s):**

- 2.1 To agree to participate in the National Register of Taxi Licence Revocations and Refusals (NR3) initiative.
- 2.2 To recommend the proposed Policy on the use of the NR3 to the Cabinet Member for Environment and Climate Change.
- 2.3 To agree to review the Policy on the use of the NR3 after 5 years.

### **3.0 Reasons for recommendation(s):**

- 3.1 In February 2020 the Public Protection Sub-Committee approved a four week period of consultation with the taxi trade on a proposed Policy on the use of the National Register of Taxi Licence Revocations and Refusals (NR3) for Hackney Carriage and Private Hire Drivers. The consultation, initially delayed due to the COVID 19 pandemic, is now complete and the results are before the Sub-Committee for their consideration.
- 3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No
- 3.3 Is the recommendation in accordance with the Council’s approved budget? Yes

### **4.0 Other alternative options to be considered:**

4.1 (1) Make the Policy subject to amendments before its approval.

(2) The Sub-Committee could determine that there is no requirement for a policy, however this would be contrary to the recommendations published in the Statutory Taxi and Private Hire Vehicle Standards in July 2020.

## 5.0 Council priority:

5.1 The relevant Council priority is:

- “The economy: Maximising growth and opportunity across Blackpool”

## 6.0 Background information

6.1 The Local Government Association commissioned the development of the National Register of Taxi Licence Revocations and Refusals (NR3) to allow licensing authorities to record details of the refusal or revocation of a Hackney Carriage or Private Hire driver’s licence and to allow other licensing authorities to check new applicants against that register. The purpose was to prevent people found to be not fit and proper in one area from securing a licence elsewhere through deception and non-disclosure. For the avoidance of doubt, the NR3 does not extend to vehicle or operator licensing decisions.

6.2 Authorities wishing to use the register are required to have in place a Policy indicating how the register will be used and how the data will be handled.

6.3 At its meeting on 25 February 2020 the Public Protection Sub-Committee approved a four week period of consultation with taxi trade representatives on the adoption of the NR3 register and Blackpool Council’s proposed Policy on the use of that register.

6.4 The period of consultation was initially delayed due to the COVID 19 pandemic but has now taken place. Comments were invited until 12 March 2021 with the Policy available to view on the Council’s website and letters were sent to every Hackney Carriage and Private Hire driver giving details about the NR3 initiative and the draft Policy.

6.5 No responses were received from the taxi trade during the consultation period.

6.6 The Public Protection Sub-Committee is invited to approve the adoption of the NR3 initiative and Blackpool Council’s proposed Policy on the use of that register and recommend them to the Cabinet Member for Environment and Climate Change.

6.7 Does the information submitted include any exempt information? No

**7.0 List of Appendices:**

7.1 Appendix 3A - Proposed Policy on the use of the National Register of Taxi Licence Revocations and Refusals (NR3).

**8.0 Financial considerations:**

8.1 The Council is already a member of National Anti-Fraud Network (NAFN), therefore there will be no additional costs associated with the adoption of the NR3 Register.

8.2 The small additional costs incurred by the administration of the register can be recovered in the Hackney Carriage and Private Hire driver's licence fee. The use of the register does not require any additional resource for the Licensing Service.

**9.0 Legal considerations:**

9.1 None.

**10.0 Risk management considerations:**

10.1 None.

**11.0 Equalities considerations:**

11.1 None.

**12.0 Sustainability, climate change and environmental considerations:**

12.1 None.

**13.0 Internal/external consultation undertaken:**

13.1 Four week consultation undertaken with the taxi trade.

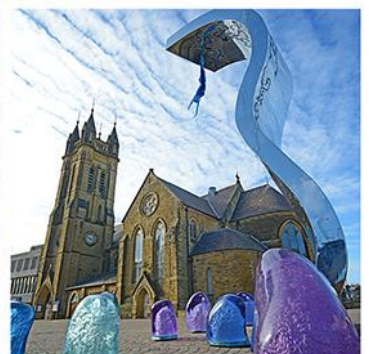
**14.0 Background papers:**

14.1 None.

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# Policy on the use of the National Register of Taxi Licence Revocation & Refusals (NR3)

Blackpool Council



# Policy on the use of the National Register of Taxi Licence Revocation & Refusals (NR3)

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# Policy on the use of the National Register of Taxi Licence Revocation & Refusals (NR3)

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## 1. Introduction

The Local Government Association has commissioned the development of a national register of hackney carriage and private hire vehicle driver licence refusals and revocations, the 'National Register of Refusals and Revocations' or NR3. The NR3 contains information relating to any refusal to grant, or revocation of, a taxi or private hire driver's licence. This information is important in the context of a subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past. Blackpool Council has signed up to use NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi or private hire driver's licence is revoked, that information will be placed upon the register.

## 2. Scope

2.1 This policy covers how Blackpool Council will use NR3 and how the Council will comply with data protection requirements.

2.2 In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

# Policy on the use of the National Register of Taxi Licence Revocation & Refusals (NR3)

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## 3. Overarching Principles

3.1 When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, Blackpool Council will search the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

3.2 Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any such data that is received (referred to below as "relevant data") will only be kept for as long as is necessary in relation to the final determination of that application. This will include the period of time processing that application, making a decision, notifying the applicant of the outcome of that decision, and any appeal processes. Subject to paragraph 3.3 below, relevant data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application.

3.3 In the event of an appeal in respect of the determination of an application being made to the Courts within the requisite period, the relevant data will be retained for 35 days following the final disposal of all appeal proceedings

3.4 The data will be held securely in accordance with Blackpool Council's general policy on the secure retention of personal data. At the end of the retention period, the data will be erased and/or destroyed in accordance with Blackpool Council's Data Protection policy at: [https://](https://www.blackpool.gov.uk/Your-Council/Transparency-and-open-data/Documents/Blackpool-Council-Data-Protection-Act-Policy.pdf)

4 [www.blackpool.gov.uk/Your-Council/Transparency-and-open-data/Documents/Blackpool-Council-Data-Protection-Act-Policy.pdf](https://www.blackpool.gov.uk/Your-Council/Transparency-and-open-data/Documents/Blackpool-Council-Data-Protection-Act-Policy.pdf)

## Adding Details of a refusal or revocation

4.1 NR3 is a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or private hire vehicle driver's licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – Blackpool Council – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or private hire vehicle driver's licence.



# Policy on the use of the National Register of Taxi Licence Revocation & Refusals (NR3)

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**4.2** Where an application for a licence is refused, or an existing licence is revoked, Blackpool Council will record this decision on NR3. The information recorded on NR3 will be limited to an individual's:

- name;
- date of birth;
- address and contact details;
- national insurance details;
- driving licence number;
- decision taken;
- date of decision; and
- date decision effective.

**4.3** Data is held on the NR3 register for a period of 25 years, in line with the national NR3 guidance.

## **5.0** Checking the NR3 register as part of the application and renewal process

**5.1** When an application is made to Blackpool Council for the grant of a new, or renewal of, a taxi driver's licence, Blackpool Council will carry out a search on the NR3 register.

**5.2** Blackpool Council will then retain a clear written record of every search that is made of the register. This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

**5.3** This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

**5.4** If Blackpool Council discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of Blackpool Council's data protection policy in relation to the use of any data that is obtained as a result of this process.

**5.5** This request will be made in writing in accordance with the form at Appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

# Policy on the use of the National Register of Taxi Licence Revocation & Refusals (NR3)

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## **6.0 Responding to a request made for further information regarding an entry on NR3**

**6.1** When Blackpool Council receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

**6.2** Blackpool Council will then determine how to respond to the request. The Council will not simply provide information as an automatic response to every request.

**6.3** Blackpool Council will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

**6.4** If Blackpool Council is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed. This will be determined by an officer who has been trained to discharge this function. Any disclosure must be considered and proportionate, taking into account the data subject's rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but Blackpool Council will not disclose information relating to every entry. Each application will be considered on its own merits.

**6.5** Blackpool Council will disclose information relating to a revocation or refusal to grant a driver's licence in accordance with the timescales contained within Blackpool Council's Data Protection policy. Where the reason for refusal to grant or revocation relates to a conviction which is within the timescales determined in the council's Suitability and Convictions Policy, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction which is outside the timescales determined in the Suitability and Convictions Policy, the information will not usually be disclosed. However, in every case, consideration will be given to the full circumstances of the decision, and there may be occasions where information is provided other than in accordance with this policy.

**6.6** Any information about convictions will be shared in accordance with this policy under schedule 1, part 2, paragraphs 11 and 12 of the Data Protection Act (DPA) 2018; that is:

# Policy on the use of the National Register of Taxi Licence Revocation & Refusals (NR3)

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**“Protecting the public against dishonesty etc.**

**11 (1) This condition is met if the processing—**

- (a) is necessary for the exercise of a protective function,**
- (b) must be carried out without the consent of the data subject so as not to prejudice the exercise of that function, and**
- (c) is necessary for reasons of substantial public interest.**

**(2) In this paragraph, “protective function” means a function which is intended to protect members of the public against—**

- (a) dishonesty, malpractice or other seriously improper conduct,**
- (b) unfitness or incompetence,**
- (c) mismanagement in the administration of a body or association, or**
- (d) failures in services provided by a body or association.**

**Regulatory requirements relating to unlawful acts and dishonesty etc.**

**12 (1) This condition is met if—**

- (a) the processing is necessary for the purposes of complying with, or assisting other persons to comply with, a regulatory requirement which involves a person taking steps to establish whether another person has—**
  - (i) committed an unlawful act, or**
  - (ii) been involved in dishonesty, malpractice or other seriously improper conduct,**
- (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing, and**
- (c) the processing is necessary for reasons of substantial public interest.**

**(2) In this paragraph—**

**“act” includes a failure to act;**

**“regulatory requirement” means—**

- (a) a requirement imposed by legislation or by a person in exercise of a function conferred by legislation, or**
- (b) a requirement forming part of generally accepted principles of good practice relating to a type of body or an activity.”**

**6.7 The officer will record what action was taken and why Blackpool Council will make and then retain a clear written record of every decision that is made as a result of a request from another authority. This will detail:**

- the date the request was received;**
- how the data protection impact assessment was conducted and its conclusions;**
- the name or names searched;**
- whether any information was provided;**
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made);**

# Policy on the use of the National Register of Taxi Licence Revocation & Refusals (NR3)

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- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made); and
- how and when the decision (and any information) was communicated to the requesting authority.

This record will not be combined with any other records and will be retained for the retention period of 25 years

## 7.0 Using any information obtained as a result of a request to another authority

7.1 When Blackpool Council receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications.

7.2 Blackpool Council will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above). Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that Blackpool Council will make in relation to the application

## Appendix 1 - Information Disclosure Form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

This information is requested under schedule 1, part 2, paragraphs 11&12 of the Data Protection Act (DPA) 2018.

***(For completion by requestor authority)***

Name of licensing authority requesting information	
Requestor authority reference number	
Name of licensing authority from which information is sought	
Name of individual in respect of whom the request is made	
Decision in respect of which the request is made	

Other Details for this record	
Address	
Driving licence number	
NI Number	
Reference number	

## Declaration by requesting authority:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request is attached to this document.

Signed	
Print Name	
Position	
Date	

Further information to support the decision recorded on NR3 in respect of the above named individual

## Declaration by providing authority

The authority hereby confirms that it has conducted a data protection impact assessment.

It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements

Name	
Print Name	
Position	
Date	

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<b>Report to:</b>	<b>PUBLIC PROTECTION SUB-COMMITTEE</b>
<b>Relevant Officer:</b>	Tim Coglan, Head of Public Protection
<b>Date of Meeting</b>	25 May 2021

## **TRANSFER OF SEXUAL ENTERTAINMENT VENUE – EDEN, 15–17 QUEEN STREET, BLACKPOOL**

### **1.0 Purpose of the report:**

1.1 To consider an application by Pool Construction Ltd to transfer the Sexual Entertainment Venue (SEV) licence for Eden, 15 – 17 Queen Street, Blackpool.

### **2.0 Recommendation(s):**

2.1 The Sub-Committee will be requested to determine whether to transfer the SEV licence for Eden, 15-17 Queen Street to Pool Construction Ltd.

### **3.0 Reasons for recommendation(s):**

3.1 An objection has been received therefore the application to transfer the licence needs to be determined.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council’s approved budget? Yes

### **4.0 Other alternative options to be considered:**

4.1 None, once an application is submitted and representations received it must be determined by the Sub-Committee.

### **5.0 Council priority:**

5.1 The relevant Council priority is “The economy: Maximising growth and opportunity across Blackpool.”

### **6.0 Background information**

- 6.1 Eden, 15-17 Queen Street, Blackpool has been licensed as a Sexual Entertainment Venue (SEV) since September 2013. The licence has been held by AA Recreation 1 Ltd since 15 January 2021. The Licensing Service received an application on 8 April 2021 from Pool Construction Ltd to transfer the licence (copy attached at appendix 4a).
- 6.2 Following advertisement of the transfer application, the Licensing Service received a public objection via email on 5 May 2021 from the Directors and Shareholders for AA Recreation 1 Ltd (copy attached at appendix 4b). The objection looks at the suitability of the applicant, criteria for which is detailed in Blackpool Council’s Sex Establishment Policy 2016 (copy attached at appendix 4c).
- 6.3 Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 governs the issue of SEV licences.

The Act provides a number of grounds on which an application may be refused –

- (a) that 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 he made the application himself;
- (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 authority consider is appropriate for that locality;
- (d) that the grant or renewal of the licence would be inappropriate, having regard
  - to the character of the relevant locality; or
  - to the use to which any premises in the vicinity are put; or
  - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

6.4 Does the information submitted include any exempt information? No

**7.0 List of Appendices:**

- 7.1 Appendix 4(a) - Transfer application (Pool Construction Ltd)  
 Appendix 4(b) - Objection (Directors and Shareholders - AA Recreation 1 Ltd)  
 Appendix 4(c) – Sex Establishment Policy 2016

**8.0 Financial considerations:**

8.1 None.

**9.0 Legal considerations:**

9.1 Renewal of this licence may only be refused on one of the grounds listed in Schedule 3 Local Government (Miscellaneous Provisions) Act 1982.

There is the right of appeal to the Magistrates' Court.

**10.0 Risk management considerations:**

10.1 None.

**11.0 Equalities considerations:**

11.1 None.

**12.0 Sustainability, climate change and environmental considerations:**

12.1 None.

**13.0 Internal/external consultation undertaken:**

13.1 None.

**14.0 Background papers:**

14.1 Local Government (Miscellaneous Provisions) Act 1982.

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Lalpac Number

Name of Premises

New  Renewal  Transfer  Variation

		Required	Received	Approved
Received Council	<input type="text"/>	Application form <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Received Licensing	<input type="text"/>	Payment correct <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Application starts	<input type="text"/>	Premises Inspection <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Last date for representations	<input type="text"/>	Proof of advertising	Press <input type="checkbox"/>	<input type="checkbox"/>
			Site <input type="checkbox"/>	<input type="checkbox"/>
Determination Date	<input type="text"/>			

Cheque  Cash  Card  Postal order  BACS

Amount  T/S

**Representations received from**

Police

Public

**Notes**

Granted  Refused  Date

Licence Number

Checked by  LaIPac  Authorised by Officer for Issue  Date

\* required information

### Section 1 of 5

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference  This is the unique reference for this application generated by the system.

Your reference  You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes  No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

### Applicant Details

\* First name

\* Family name

\* E-mail

Main telephone number  Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

Applying as a business or organisation, including as a sole trader  
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

### Applicant Business

\* Is the applicant's business registered in the UK with Companies House?  Yes  No

\* Registration number

\* Business name  If the applicant's business is registered, use its registered name.

\* VAT number   Put "none" if the applicant is not registered for VAT.

Continued from previous page...

\* Legal status

\* Applicant's position in the business

Home country

The country where the applicant's headquarters are.

**Registered Address**

Address registered with Companies House.

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

**Agent Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent Business**

\* Is your business registered in the UK with Companies House?  Yes  No

\* Registration number

\* Business name

If your business is registered, use its registered name.

\* VAT number

Put "none" if you are not registered for VAT.

\* Legal status

Continued from previous page...

\* Your position in the business

Home country

The country where the headquarters of your business is located.

**Agent Registered Address**

Address registered with Companies House.

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

**Section 2 of 5**

**DETAILS OF THE LICENCE, PERMIT OR REGISTRATION**

**Identifying The Licence**

\* Type of licence, permit or registration held

The activity the licence covers.

\* Licence, permit or registration number

**Name Of The Licence Or Permit Holder**

Put the name of the individual or business that is the current licence holder. If there are joint licence holders, just name one.

\* Name

**Address Of The Premises**

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes  No

\* Building number or name

\* Street

District

\* City or town

County or administrative area

Postcode

\* Country



Continued from previous page...

### Contact Details

Are the contact details the same as (or similar to) those given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

- Yes  No

E-mail

\* Telephone number

Other telephone number

### Section 3 of 5

#### ABOUT THE CHANGE

##### Type Of Change

\* What do you want to do with the licence, permit or registration?

Subsequent questions will only refer to "licence", but that also includes permits and registrations.

- Surrender it  
 Transfer it  
 Report a change

The licence or permit is no longer needed.  
The licence or permit should be transferred to another person or organisation.

##### \* Transferring A Licence

- Are you the current licence holder (or representing them)?  
 Are you intending to be the new licence holder (or representing them)?

\* Is the transfer to be with immediate effect if permission is granted?

- Yes  No

You must allow time for the authority to make its decision.

##### Request To Transfer

If it is intended to have joint licence holders, describe the **additional** licence holders.

Is the intended licence holder:

- Applying as a business or organisation, including as a sole trader  
 Applying as an individual

##### Their Business

Is the applicant's business registered in the UK with Companies House?  Yes  No

Registration number

\* Business name

VAT number

Put "none" if the applicant is not registered for VAT.

\* Legal status

Continued from previous page...

**Business Address**

\* Building number or name

\* Street

District

\* City or town

County or administrative area

Postcode

\* Country

Home country

The country where the applicant's headquarters are.

\* Have the existing licence holder(s) given their consent?

Yes  No

\* I give permission for the existing licence holder(s) to be contacted in connection with the determination of this transfer

**Section 4 of 5**

**OTHER RELATED LICENCES**

\* Are there other current licences, permits or registrations for these premises with this authority?

Yes  No

Will any change in the same way as this application?

Yes  No

In some cases there may be additional fees associated with changes to these other licences. List each one affected in the same way. Ensure that you only include licences, permits and registrations regulated by this authority.

Type of licence, permit or registration  The activity the licence covers.

Licence, permit or registration number

**Section 5 of 5**

**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £370

**DECLARATION**

**Continued from previous page...**

- \* I am aware of the provisions of The Local Government (Miscellaneous Provisions) Act 1982. The details contained in the application form and any attached documentation are correct to the best of my knowledge and belief.
- I understand that the information I have provided, will be held by the Council on both computerised and manual files.
- \* This data may be made available on a public register if so required by relevant legislation. The data may also be disclosed to other departments within the Council and other organisations, but only in order to ensure compliance with relevant legislation, for identification purposes or to prevent or detect fraud or a crime.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name	<input type="text" value="Kuit Steinart Levy LLP"/>
* Capacity	<input type="text" value="Solicitors and Authorised Agents"/>
* Date	<input type="text" value="07"/> / <input type="text" value="04"/> / <input type="text" value="2021"/>
	dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/sex-shop-and-cinema-licence/blackpool/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

**OFFICE USE ONLY**

Applicant reference number	<input type="text" value="DAV645/1"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

[1](#) [2](#) [3](#) [4](#) [5](#) [Next >](#)

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## Companies House

Companies House does not verify the accuracy of the information filed  
(<http://resources.companieshouse.gov.uk/serviceInformation.shtml#compInfo>),

POOL CONSTRUCTION LTD

Company number **10915522**

- [Officers](#)
- [Persons with significant control \(https://beta.companieshouse.gov.uk/company/10915522/persons-with-significant-control\)](https://beta.companieshouse.gov.uk/company/10915522/persons-with-significant-control)

### Filter officers

<input type="checkbox"/> Current officers
Apply filter

**1 officer / 0 resignations**

---

### MOSELEY, David

Correspondence address **580-582 Lytham Road, Blackpool, Lancashire, England, FY4 1RB**

Role Active **Director**

Date of birth **December 1949**

Appointed on **15 August 2017**

Nationality **British**

Country of residence **England**

Occupation **Director**

---

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Details for application - Blackpool x +

https://licensify-admin.publishing.service.gov.uk/blackpool/application/606dced8c441793bbaef4d01

Licensing Applications Help

kelly.guy@blackpool.gov.uk

### Submission Summary

[Start Processing](#) [Collect](#)

<b>Application ref:</b>	blackpool-1059874
<b>Licence:</b>	Application to change a sex shop and cinema licence
<b>Applicant name:</b>	Kuit Steinart Levy LLP N/a
<b>Applicant email:</b>	rebeccaingram@kuits.com
<b>Submitted on:</b>	07/04/2021 16:25

**Tacit consent does not apply**

Process by: 06/06/2021

Status: **Not collected**

---

**Recent History**

Notification to rebeccaingram@kuits.com:  
Sent on 07/04/2021 16:47

Notification to licensing@blackpool.gov.uk:  
Sent on 07/04/2021 16:47

Notification to :  
Failed on 07/04/2021 16:47

Notification to :  
Failed on 07/04/2021 16:47

---

<b>Total fee:</b>	£370.00
<b>Payment status:</b>	Paid
<b>Civica ref:</b>	SELMS00000348
<b>Amount paid:</b>	<b>£370.00</b>
<b>Fee outstanding:</b>	£0.00

**Application**

Kuit Steinart Levy LLP N/a application form [Start processing to download the application](#)

Type here to search

15:21 08/04/2021

## **SEX ESTABLISHMENT LICENCE APPLICATION**

Notice of application for transfer of a sex establishment licence pursuant to Schedule 3 Local Government (Miscellaneous Provisions) Act 1982.

Take notice that on 7 April 2021, Mr David Moseley applied to Blackpool Council for the transfer of a sex establishment licence for:

Eden One, First and Second Floors, 15-17 Queen Street, Blackpool

If granted the application will allow the premises to operate as a /sexual encounter venue at the following times

20:00 – 04:00 daily

Any person wishing to make objections on the application may do so in writing to:

Licensing Service, Blackpool Council, Municipal Buildings,  
PO Box 4, Blackpool, FY1 1NA  
Tel: 01253 478397, Fax: 01253 478372  
Email: [licensing@blackpool.gov.uk](mailto:licensing@blackpool.gov.uk)

The grounds of the objection must be stated in general terms.

A copy of the application for this licence is kept by the Licensing Authority at the above address. This application can be viewed by appointment from Monday to Friday between 10.00a.m. and 4.00p.m.

The objection must be received by the Council no later than 5<sup>th</sup> May 2021

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- ◆ Including your full name,
- ◆ Full business address including post code,
- ◆ A contact telephone number
- ◆ Full wording for the notice you require
- ◆ Newspaper title and date required.

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**SEX ESTABLISHMENT LICENCE  
APPLICATION NOTICE OF  
APPLICATION FOR TRANSFER OF  
A SEX ESTABLISHMENT LICENCE  
PURNANT TO SCHEDULE 3 LOCAL  
GOVERNMENT (MISCELLANEOUS  
PROVISIONS) ACT 1982**

Take notice that on 7 April 2021, Mr David Moseley applied to Blackpool Council for the transfer of a sex establishment licence for Eden One, First and Second Floors, 15-17 Queen Street, Blackpool. If granted the application will allow the premises to operate as a sexual encounter venue at the following times 20:00 – 04:00 daily. Any person wishing to make objections on the application may do so in writing to: Licensing Service, Blackpool Council, Municipal Buildings, PO Box 4, Blackpool FY1 1NA. Tel: 01253 478977, Fax: 01253 478972. Email: [licensing@blackpool.gov.uk](mailto:licensing@blackpool.gov.uk). The grounds of the objection must be stated in general terms. A copy of the application for this licence is kept by the Licensing Authority at the above address. This application can be viewed by appointment from Monday to Friday between 10.00am and 4.00pm. The objection must be received by the Council no later than 5th May 2021.

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## OBJECTION TO THE TRANSFER OF SEV LICENSE 15-17 QUEEN STREET

**APPLICANT DETAILS** – David Moseley on behalf of Pool Construction Ltd

**DATE OF OBJECTION** – 4<sup>th</sup> May 2021

**OBJECTOR DETAILS** - Directors and Shareholders of ‘AA Leisure1 Ltd’, ‘AAEntertainment1 Ltd’, ‘AA Recreation 1 Ltd’.

### INTRODUCTION

This objection is based upon concerns we have that the Transfer of licence will be contrary to Blackpool Councils Policy relating to Sex Entertainment Licences, if granted:

1. The applicant is someone without the relevant experience.
2. The applicant has a poor track record relating to compliance of licensed and commercial premises.
3. The applicant would also like it placed on record that he feels that Mr Moseley has used his position as the landlord to make the lease untenable to engineer a position whereby he can make this application to the Council. This was frankly engineered through deception and has caused the applicant much distress as the unreasonable behaviour gradually came to light. In retrospect this was to create a situation that would enable Mr Moseley to make this application.
4. The final observation is that if this is granted to Mr Moseley, and he subsequently breaches regulations this would bring the other license holders into disrepute by association when in reality they wish to comply with all regulations and continue to run venues that are an asset to the prosperity of the area of Blackpool in which they operate.

### REASONS FOR OBJECTION

The relevant legislation *Schedule 3 Local Government (Miscellaneous Provisions) Act 1982* states the following.

*Section 12 (3) a) The applicant is unsuitable to hold a licence by reason of having been convicted of offence or for any other reason.*

The Councils own policy provides more detail on what it considers to be a suitable applicant and conversely an unsuitable applicant, the paragraphs highlighted in bold type are the points we intend to cover in this submission.

### SUITABILITY OF APPLICANTS.

*The Council will need to be satisfied that the applicants for a sex establishment licence are suitable to operate the business by ensuring:*

*a) that the operator is honest*

***b) That the operator is qualified by experience and/or knowledge to run the type of sex establishment That the operator understands the general conditions and will comply with them***

***c) That the operator is proposing a management structure which will deliver compliance with operating conditions, for example through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and in the case of a sexual entertainment venue, policies for the welfare of performers***

*d) If the application is for a sexual entertainment venue, that the operator can be relied upon to act in the best interests of the performers e.g., in how they are remunerated, the facilities provided, how they are protected and how and by whom their physical and psychological welfare is monitored*

*e) That the applicant can be relied upon to protect the public e.g., transparent charging and freedom from solicitation*

***f) That the operator can show either a track record of management of compliant premises, or that he/she has an understanding of the rules governing the type of licence applied for will employ individuals who have such a track record.***

*All applications will be considered but they are unlikely to be granted if any of the following apply:*

a) The applicant has a criminal record. Offences that will be considered particularly relevant include convictions for:

- Dishonesty
- Violence
- Sexual offences
  - Drugs
- People trafficking

b) The applicant has previously been involved in running an unlicensed sex establishment.

c) If the licence were to be granted, the business to which it relates would be managed by or run for the benefit of a person other than the applicant who would be refused the grant of such a licence if they made it themselves

-----

Mr Moseley has no experience of running a Sex Entertainment Venue and therefore cannot satisfy point b) above in either of the criteria listed. We would point out that one of the objector Directors and a Manager spent a complete season with an existing well respected license holder prior to them acquiring a SEV.

Considering points c) and f) together we feel Mr Moseley has a track record demonstrating serious non-compliance relating to 2 separate properties and businesses namely 15-17 Queen Street, Blackpool, and a Rest Home in South Shore. We believe these demonstrate both a lack of understanding, respect for the law and compliance with the necessary rules and regulations along with a lack of credible management structure and training protocols.

The Licensing Authority had cause to hear evidence from the Police and other Responsible Authorities on several occasions where concerns relating to Crime and Disorder and Protection of Children from Harm were raised.

**The Council possess all the historic information regarding these proven breaches but for your convenience they are summarised in the attached appendix**

## **CONCLUSION**

Mr Mosely cannot demonstrate that he has a good track record that would satisfy the requirements of the policy, Premises Licence Reviews are not undertaken lightly and there has usually been a series of problems that have led to such a decision being made.

To have a licence suspended again is a rare occurrence usually only given to Licence Holders who leave the Committees with little other option.

The press article relating to the rest home drives home the seriousness of the breaches Mr Mosley was convicted of when it highlights the Judges' comments:

*"It must surely stand as a powerful deterrent for anyone who might suppose ensuring fire safety in premises they are responsible for is an option and not an obligation in law"*

The Directors of the objectors Companies have spent much time and money developing processes and procedures that comply with and often exceed the stipulations in the SEV. All officers, staff and contractors to the businesses have been fully trained in the relevant processes and this training is regularly reinforced in team training meetings, one-to-ones and appraisals.

**The fact is the Licence was issued to 'AA Recreation 1 Ltd' and expires in January 2022. Mr Mosley's attempt to transfer a licence without the current holder's consent is akin to applying to DVLA to have your neighbour's car registered in your name without have the decency to make an offer to buy it first.**

**His intentions are nothing short of disingenuous and in any other walk of life seeking to obtain property that belongs to another with the intention to deprive, would be unacceptable.**

**European Court Human Rights have established for some years that a Licence is a possession as such I have qualified rights to remain the holder of that possession.**

## APPENDIX TO OBJECTION – Previous Breaches

### FIRST INCIDENT AND OUTCOME

The Blackpool Council being the licensing authority on the 24<sup>th</sup> December 2009 received an application from Lancashire Constabulary to review the premises licence issued in respect of Septembers, 15-17 Queen Street, Blackpool.

*" The panel has listened to statements from responsible authorities which have indicated a lack of due process in the admissions policy for underage and intoxicated people. The panel are very concerned that Septembers have failed 4 test purchases in the last twelve months."*

*" The panel acknowledge the fact that all Health & Safety issues have been addressed although we note it was completed reactively rather than proactively."*

*" We are very concerned about the poor training of staff and ongoing training issues that have resulted in this licence being reviewed today. We appreciate that the premises licence holder accepts that the original aims of the bar were not but were disappointed more vigorous discussions regarding the varying of conditions were not discussed with the authorities. We accept that the issues discussed today do not impinge on the good name the restaurant has."*

The committee resolved to do the following:

- Conditions numbers 3, 4, 27, 31, 32 and 41 in Annex 2 are to be removed
- The following conditions will be imposed:
  - The capacity of the ground floor will be limited to 100 (one hundred) people.
  - Seating must be available for at least 50 people on the ground floor at all times
  - All staff must attain BIIAB Level 1 training (or equivalent) within 4 weeks of commencement of employment at the premises.
- The following Annex 2 conditions will be amended:
  - 14: Remove word 'suitable' insert word 'monthly'
  - 20: All door supervisors must wear High Visibility jackets at all times whilst working on the premises.
  - 29: All drinking vessels on the ground floor must be polycarbonate or plastic
  - 42: Insert the word 'monthly' between 'receive' and 'training'
  - 43: reference to '21' to be substituted with '25'
  - 44: reference to 'challenge 21' to be substituted with 'challenge 25'
- Reduce the hours of operation: Licensable activities to cease at 03:00 every day and the premises to close at 03:30 every day.

*In accordance with Section 52(6) of the Licensing Act 2003, the panel has decided to impose a condition that no licensable activity will take place on the ground floor of the premises for a period of 4 weeks from the date this decision takes effect.*

*We consider this to be necessary and proportionate to promote the four licensing objectives.*

*This decision will come into effect in 21 days unless notice of appeal is served within that time.*

*Date: 19<sup>th</sup> February 2010*

.....

The salient points we wish to draw to the Committees attention are;

- **A lack of due process in the admissions policy for underage and intoxicated persons**
- **4 failed test purchases in 12 months**
- **Poor training of staff and on-going training issues**

## **SECOND INCIDENT AND OUTCOME**

In July of 2010 a second Review was considered for the same premises where Mr Mosley was still the Premises Licence holder, the decision notice is found below;

*The Blackpool Council being the licensing authority on the 23<sup>rd</sup> April 2010 received an application from Weights and Measures to review the premises licence issued in respect of Septembers, Queen Street, Blackpool.*

*The Panel considered carefully all the submissions presented in writing prior to the meeting and verbally at the hearing and noted the Police assessment of improvement in the premises. Members also noted that following the failed test purchase on 27th March, a further test purchase on 1st April had been passed in part. Members noted Mr Moseley's consent to the revised CCTV conditions suggested by the Police. However, they were of the opinion that it was necessary and proportionate in this instance to add further conditions to the licence to ensure the promotion of the four licensing objectives: the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm and it was agreed additionally to effectively suspend the licence relating to the ground floor by not allowing licensable activities on the ground floor for a period of 8 weeks*

*The Panel agreed that the following amendments be made to the conditions:*

- *Conditions numbers 20, 21 and 22 in Annex 2 are to be removed*
  
  - *The following conditions will be imposed:*
1. *CCTV will be installed internally and externally at the premises and will comply with the following: -*
    - *The CCTV shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. All public areas of the premises, with the exception of the toilets, are to be covered by the system, including any outside seating area.*
    - *The system will display on any recording the correct time and date of the recording.*
    - *The system will make recordings during all hours the premises are open to the public.*
    - *VCR tapes or digital recording shall be held for a minimum 31 days and 28 days respectively, after the recording is made and will be made available to the Police or any authorised persons acting for a Responsible Authority for inspection upon request.*
    - *The system will, as a minimum, record images of the head and shoulders of all persons entering the premises.*
  
  2. *A staff member who is conversant with the operation of the CCTV system will be on the premises at all times when the premises are open to the public. This staff member will be able to show police recent data or footage with the absolute minimum or delay when requested.*
  
  3. *The Licence holder or Designated Premises Supervisor shall notify the Police Licensing Unit on any occasion when the CCTV or radio system is to be inoperative for a period in excess of one working day and shall provide a certificate from a competent person stating the reason for the system being inoperative and the measures which have been taken to satisfy the licence conditions.*
  
  4. *That two SIA trained door staff will be on duty from 9pm on Thursday, Friday and Saturday nights.*
  
  5. *That from 9pm every evening no persons under the age of 21, excluding staff on duty, shall be on the premises.*

*In accordance with Section 52(6) of the Licensing Act 2003, the panel has decided to impose a condition that no licensable activity will take place on the ground floor of the premises for a period of 8 weeks from the date this decision takes effect.*

*We consider this to be necessary and proportionate to promote the four licensing objectives.*

*This decision will come into effect in 21 days unless notice of appeal is served within that time.*  
Date: 16<sup>th</sup> July 2010

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The salient points we wish to draw to the Committees attention are;  
Members noted a further failed test purchase on the 27<sup>th</sup> of March 2010 which occurred approximately 6 weeks after the hearing in February 2010 where underage sales seemed to be a recurring theme.  
Members felt that it was necessary and proportionate to suspend the licence in order to promote the Licensing Objectives for a period of 8 weeks.

### **THIRD INCIDENT AND OUTCOME**

The 3<sup>rd</sup> example of poor management we wish to highlight is the Rest Home that was operated by Mr Mosley, we have taken an article from the media which summarises the issues.

The owner of a care home in the Lancashire town of Blackpool has been given a landmark fine for fire safety breaches after a court ruled that he put the lives of his residents at serious risk.

David Moseley, the owner of the firm DM Care and the Ambassador Care Home in South Shore, was prosecuted after a fire broke out at the property in January 2012. This is when a large number of fire safety breaches were discovered at the 40-resident care home, suggesting that Mr Moseley and his management team had not undergone proper fire safety training. The breaches included the following:

- A fire exit route blocked by a Santa's Grotto
- Failure to have approved fire detection equipment
- Lack of working fire alarms

After admitting a total of seven breaches of fire safety regulations, Mr Moseley was fined £35,000 and ordered to pay more than £5,000 in court costs. This is the largest fine for such an offence ever handed out in Lancashire, as well as being the largest that Fleetwood Magistrates' Court could impose. Lancashire Fire and Rescue Service's Paul Ratcliffe said of the landmark fine:

*"It must surely stand as a powerful deterrent for anyone who might suppose ensuring fire safety in premises they are responsible for is an option and not an obligation in law."*

## **FOURTH INCIDENT**

<https://www.lancs.live/news/lancashire-news/blackpool-care-home-shut-down-19065580>

### **Blackpool care home shut down after inspectors find poo-stained mattress and dirty fridge**

A Blackpool care home has been shut down a number of shocking discoveries including poo stains on a mattress, a dirty medicine fridge, and residents being given the wrong doses of medicine.

Inspectors from England's health watchdog, the Care Quality Commission, visited Highbury House Care Home over five days in August 2019 after a person sustained serious injuries leading to a criminal investigation.

While they didn't assess the incident due to ongoing criminal proceedings, they found huge concerns at the Lytham Road care home, with people at risk from 'avoidable harm'.

In their report, published last Friday (October 2), they noted how the home had no up-to-date audits to ensure it was clean.

One mattress that was checked was 'ingrained with stains from faecal matter', they said.

The fridge that was used to store medicines was also unclean, with a box holding prescribed medicine stuck to the floor of the fridge.

Two residents had also been given the wrong doses of medicine because of 'poor record keeping' at the care home.

Inspectors came across a prescribed cream in one resident's room that was dated 2017, with the label on the cream indicating it did not belong to anyone currently living at the home.

"The provider representative and two staff members did not recognise the name on the cream bottle," inspectors said.

They added: "We found people were at risk of being given doses of some of their medicines too close together or at the wrong times because the provider representative's systems did not include checks to make sure this did not happen."

The care home was rated as Inadequate overall; the worst rating the CQC can issue.

It was rated Inadequate in the two categories concerning safety and good leadership, with Requires Improvement ratings issues for the three categories of effectiveness, care, and responsiveness.

Inspectors found that residents were not protected from the risk of abuse and unsafe care. Not all staff had received appropriate training, with one staff member working there for five months without any training relating to safeguarding audits.

One agency staff member even told inspectors that they were "just winging it" when it came to understanding residents' needs.

Ultimately, the CQC banned the care home provider, D M Care Limited, from running Highbury House, leading to the shutdown of the site.

# Sex Establishment Policy 2016

Blackpool Council



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# Sex Establishment Policy 2016

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## 1. Introduction

This policy statement sets out Blackpool Council's approach to the regulation of sex establishments in the Borough.

Nothing in this policy undermines the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act

The policy covers the operation of the following:

### 1.1 Sex Shops

A sex shop is defined as 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 is associated with sexual activity.

### 1.2 Sex Cinemas

A sex cinema is defined as 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.

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## 1.3 Sexual Entertainment Venues

A sexual entertainment venue is defined as any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

“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)

The following premises are not sexual entertainment venues:

- a) Sex shops and sex cinemas
- b) Premises which provide relevant entertainment on an infrequent basis i.e. premises where –
  - i) No relevant entertainment has been provided on more than 11 occasions within a 12month period;
  - ii) No such occasion has begun within a period of one month beginning with the end of the previous occasions; and
  - iii) No such occasion has lasted longer than 24 hours
- c) Other premises or types of performance or displays exempted by an order made by the Secretary of State

## 1.4 Waivers

Schedule 3 of the 1982 Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit.

The Council does not consider it would be appropriate to permit waivers from the requirement 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 11 occasions within a 12month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

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

Whilst each application will be considered on its own merits by the Public Protection Sub-Committee in light of the exemption in relation to the provision of relevant entertainment on an infrequent basis the Council takes the view that waivers are unlikely to be appropriate in relation to relevant entertainment and would only be covered in exceptional circumstances.

## 2. Making an Application

Applications for the grant, renewal, variation or transfer of a licence must be made on the prescribed form which is available upon request from the Licensing Service or at [www.blackpool.gov.uk](http://www.blackpool.gov.uk). Applications can be submitted on paper or electronically.

New applications or variations which involve a change of layout must be accompanied by a plan of the premises to which the application relates. The plan must show:

- a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- b) The location of points of access to and egress from the premises;
- c) the location of escape routes from the premises;
- d) In a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- e) Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- f) In a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- g) In a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- h) In the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- i) The location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and

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j) The location of a kitchen, if any, on the premises

## 2.1 Advertising of applications

Applications for must be advertised on/near the premises to which the application relates and in a newspaper circulating in the Borough.

### On the premises

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 the application was given to the Council. The notice must be in such a position that it can be conveniently read by members of the public.

The notice must be on paper sized A4 or larger containing the information detailed below printed legibly in black ink.

### In the newspaper

Applicants must give public notice of the application by publishing an advertisement in a local newspaper that circulates in the Blackpool Borough no later than 7 days after the date the application is made.

The notice must state:

- a) Details of the application and activities proposed to be carried on,
- b) The full name of the applicant,
- c) The postal address of the premises, or 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 the day on which the application was given to the Council, by which representations may be made to the Council in writing.

A specimen notice is available upon request from the Licensing Service or on our website [www.blackpool.gov.uk](http://www.blackpool.gov.uk).

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## 2.2 Objections

Objections must be made in writing (email is acceptable) within the period of 28 days from the date on which the application is given to the Council and should include the following:

- The name and address of the person or organisation making the objection
- The premises to which the objection relates
- An indication whether the objector consents to their name and address being disclosed to the applicant.

No weight will be given to any objection that does not contain the name and address of the person making it.

An objection must state the grounds on which the objection is made. Persons making an objection are encouraged to provide full reasons for their objection and, where possible, demonstrate how their reasons are relevant to the mandatory and discretionary grounds for refusal (if any) as set out in this policy.

No weight will be given by the Council to objections made on moral grounds or those that are in the opinion of the Council, frivolous or vexatious.

Where an objection is received, the applicant will be notified of the general grounds of the objection. The name and address of the objector will not be disclosed to the applicant unless the objector has consented to this

## 3 Determination of applications

When considering applications, the Council will have regard to:

- (a) the Local Government (Miscellaneous Provisions) Act 1982
- (b) any supporting regulations;
- (c) this Statement of Licensing Policy.

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This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.

All applications for new sex establishments and variations of existing licences will be determined by the Public Protection Sub-Committee irrespective of whether objections have been received. The Sub-Committee will also consider renewal applications where the Lancashire Constabulary have made comments or objections have been received. At the hearing the applicant and any objectors **who made objections within the statutory period** will be given the opportunity to address the Sub-Committee.

Uncontested applications for renewal will be determined by the Head of Licensing.

When determining an application the Council will take account of any comments made by the Police and any objections made. Each application will be considered on its own merits.

Where a hearing has taken place before the Public Protection Sub-Committee, unless otherwise advised, its decision will be given at the end of the hearing and ~~all parties~~ **the applicant and the objectors** will receive written confirmation of the decision together with reasons within seven days

## 3.1 Refusal of Licences

The Local Government (Miscellaneous Provisions) Act 1982 provides mandatory and discretionary grounds for refusal of a licence.

### 3.1.1 Mandatory Grounds

A licence **must not** be granted to:

- a) A person under the age of 18;
- b) A person who has had a similar licence revoked within the previous 12 months;
- c) A person, other than a body corporate who is not resident in the United Kingdom, or was not so resident throughout the period of six months immediately preceding the date when the application was made;

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- d) To a body corporate who is not incorporated in the United Kingdom;
- e) To a person who has, within a period of 12 months immediately preceding the 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.

## 3.1.2 Discretionary Grounds

A licence may be refused on the following grounds:

- a) The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason [see paragraph 3.2](#);
- b) If the licence were to be granted, renewed or transferred the business to which it relates would be managed by, or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such licence if he made the application himself;
- c) That the number of sex establishments in the relevant locality at the time of the application is made is equal to or exceeds the number which the authority considers appropriate for that locality [see paragraph 3.3](#);
- d) That the grant or renewal of the licence would be inappropriate having regard
  - o To the character of the relevant locality [see paragraph 3.4](#); or
  - o To the use to which any premises in the vicinity are put; or
  - o To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

## 3.2 **Suitability of applicants.**

The Council will need to be satisfied that the applicants for a sex establishment licence are suitable to operate the business by ensuring:

- a) that the operator is honest

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- b) That the operator is qualified by experience **and/or knowledge** to run the type of sex establishment

That the operator understands the general conditions and will comply with them

- c) That the operator is proposing a management structure which will deliver compliance with operating conditions, for example through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and **in the case of a sexual entertainment venue**, policies for the welfare of performers
- d) **If the application is for a sexual entertainment venue**, that the operator can be relied upon to act in the best interests of the performers e.g. in how they are remunerated, the facilities provided, how they are protected and how and by whom their physical and psychological welfare is monitored
- e) That the applicant can be relied upon to protect the public e.g. transparent charging and freedom from solicitation
- f) That the operator can show **either** a track record of management of compliant premises, or that he/she **has an understanding of the rules governing the type of licence applied for** ~~will employ individuals who have such a track record.~~

All applications will be considered but they are unlikely to be granted if any of the following apply:

- a) The applicant has a criminal record. Offences that will be considered particularly relevant include convictions for:
- Dishonesty
  - Violence
  - Sexual offences
  - Drugs
  - People trafficking
- b) The applicant has previously been involved in running an unlicensed sex establishment;



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- c) If the licence were to be granted, the business to which it relates would be managed by or run for the benefit of a person other than the applicant who would be refused the grant of such a licence if they made it themselves

### **3.3 Number of Sex Establishments**

The Local Authority may refuse an application if it is satisfied that the number of sex establishments of a particular kind in the relevant locality at the time the application is made, is equal to or exceeds the number which the authority considers is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.

Blackpool Council has determined that in the Bloomfield, Claremont, Foxhall and Talbot Wards:

- The number of sex shops shall be two.
- The number of sex cinemas shall be nil.
- The number of sexual entertainment venues shall be 4.

In all other wards the number shall be nil for all categories of sex establishments

## **3.4 Location of licensed premises**

In considering whether the grant or renewal of a licence would be inappropriate having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Licensing Authority will consider whether the grant of the application would be inappropriate having regard to its proximity to:

- Residential areas,
- Premises which are sensitive because they are frequented by children, young persons or families including, but not limited to educational establishments and leisure facilities such as parks, libraries or swimming pools.
- Shops used by or directed at families or children
- Premises sensitive for religious purposes for example, churches, mosques and temples.
- Places and/or buildings of historical/cultural interest and tourist attractions.
- The Promenade

## **3.5 Conditions**

The Council recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises.

The conditions that may be attached to a sex shop licence are shown in Appendix A and conditions that may be attached to a sexual entertainment venue are shown in Appendix B.

## **3.6 Duration of licence**

Licences will be granted for one year unless a shorter period is specifically stated.

## **3.7 Revocation of licences**

The Council may revoke a licence on any of the grounds contained within the Act which include (please note this list is not exhaustive):

- the licence holder no longer being fit and proper
- Poor operation of the premises

The Council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before the Public Protection Sub Committee.

## **3.8 Appeals**

There is a right of appeal against the refusal to grant, renew, vary or transfer a licence, the imposition of conditions on a licence and the revocation of a licence.

Appeals must be made to the Magistrates' Court within 21 days starting from the date the aggrieved party is notified of the decision.

It is important to note that appeals only lie against the mandatory refusals on the basis that the mandatory ground does not apply to the applicant/licence holder. Further no appeal lies against the Licensing Authority's decision made on the discretionary grounds namely:

- That it is inappropriate to grant or renew a licence on the grounds of the character of the locality or the number of premises in it; or
- The use of the premises in the vicinity or the layout, character or condition of the premises.

## **4. Complaints and Enforcement**

### **4.1 Complaints**

Where possible and appropriate the council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

### **4.2 Enforcement**

The Council is responsible for the administration and enforcement of the licensing regime and will have regard to the Quality Standards Enforcement Concordat. The Council will carry out its regulatory functions in a fair, open and consistent manner.

Specifically, the Council is committed to:

- (a) be proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed;

- (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
- (c) be consistent – to implement rules and standards fairly;
- (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
- (e) target its regulatory action at cases in which action is needed.

The Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence.

However, proportionate but firm action will be taken against those who commit offences or consistently break the law or breach the conditions of the licence.

The Council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the Council will undertake its role and how the principles of effective enforcement will be achieved.

This policy is freely available from the licensing section, as are details of the corporate complaints procedures, both of which can also be viewed on the Council's website: [www.blackpoolcouncil.gov.uk](http://www.blackpoolcouncil.gov.uk)

## **5. Cancellation of licences**

The licence-holder may surrender the licence at any time and may request the Council in writing to cancel the licence.

In the event of the death of a licence-holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.

Where the Council are satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, it may extend or further extend the period in which the licence remains in force.

## Appendix A

### Standard conditions for sex shops

#### Exhibition of licence

1. The licence or a clear copy shall be conspicuously exhibited at all times to the satisfaction of the Council in the premises, in such a position that it can be easily seen by all persons using the premises. The licence shall be adequately protected against theft, vandalism or defacement.

#### Times of opening

2. The premises shall not be open to the public before 9.00 am and shall not be kept open after 11.00 pm on any one day.
3. The premises shall not open on Christmas Day.

#### Conduct of premises

4. The licensee shall maintain good order in the premises
5. No person under the age of 18 shall be admitted to the premises or be employed in the business of the sex establishment
6. no poster, photograph, sketch or painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside, or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display such poster, photograph, sketch, painting, advertisement or display shall be removed or completely obscured from sight.
7. The whole of the exterior of the premises shall be of a material or covered by a material which will render the interior of the premises invisible to passers-by.

#### Change of use

8. No change of use of any portion of the premises from that approved by the Council shall be made until the Council's consent has been obtained thereto
9. No change of use of any portion of the premises 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
10. No part of the premises shall be used as a sex encounter establishment or be used in conjunction with any premises so used (whether licensed or not) without the consent of the Council

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## Goods available

11. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.
12. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be displayed prominently within the sex establishment
13. No film or video work shall without the consent of the Council be exhibited, sold or supplied on or from the premises unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licence holder by the Council and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video work so certified.

## Appendix B

### Standard conditions for sexual entertainment venues

#### External Appearance

1. There shall be no advertisement or promotional material used by the premises that is unsuitable to be viewed by children. Any exterior signage shall be discreet and shall not display any imagery that suggests or indicates relevant entertainment takes place at the premises. Any external displays or advertising may only be displayed with the prior approval of the Licensing Service, Blackpool Council.
2. Windows and openings to the licensed premises, other than entrances, shall not be obscured otherwise than with the consent of the Council but shall have suspended immediately behind them, plain light coloured screens or blinds of a type and design approved by the Council.
3. No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the Council's Delegated Officer and shall be subject to ratification by the Council's Licensing Committee or Public Protection Sub Committee.
4. No advertisements or other notices or items shall be displayed so as to be visible from the exterior of the premises, subject to conditions 1 and 3.
5. The Council shall approve the design of the front elevation of the premises which shall include reference to the name of the premises, its postal address, opening hours, website address and any security grilles/shutters.
6. As a general rule the name of the premises shall be of an un-contentious nature and light colours used throughout to the Council's approval
7. The exterior and entrance to the licensed premises shall be suitably screened so as to prevent any part of the interior being visible from outside the shop.
8. There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order.
9. On the external facing of the inner door, there shall be displayed a warning notice as supplied by the local authority.

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## Control of entry to the premises

10. No person under the age of 18 shall be on the licensed premises.
11. The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as driving licence or passport
12. The premises shall maintain a refusals log whereby on any occasion a person is refused entry details shall be recorded. The log must be made available on request by Lancashire Constabulary or an authorised officer of the Council.
13. The price for entrance and any compulsory purchases within the venue should be clearly displayed

## Performances of sexual entertainment

14. No person under the age of 18 shall be on licensed premises.
15. All areas within the premises shall display signs advising clients of the club rules and conditions of the licence regarding improper performances
16. There shall be no physical contact between performers and customers at any time, before, during or after the performance, with the exception of leading a customer by the hand to and from an area permitted for performances of sexual entertainment.
17. No performances shall include any sex act with any other performers, patrons, employees, contractors, or with the use of any objects.
18. Full nudity is not permitted. Performers and employees must at all times wear at least a G string or similar clothing covering the genitalia.
19. Customers must remain seated for the duration of the performance.
20. Any person connected with or employed by the business who can be observed from outside the premises must be fully dressed. Scantily clad individuals must not exhibit in the entrance way or in the area surrounding the premises. (Scantily clad means that there is partial nudity or underwear is visible)
21. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except within the toilets or within the performers dressing rooms and staff areas.



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22. At all times during a performance, performers shall have unrestricted access to a dressing room.
23. Patrons or members of the audience shall not take photographs or record digital images of performers by any means.
24. Exit routes for performers must be kept clear.

## Protection of performers

25. There shall be a written code of conduct for performers. All performers shall be required to certify their agreement to comply with the code and a record shall be kept on the premises and be made available upon request by the police or an authorised officer of the Council. The code shall include the following:
  - The licence conditions relating to performances of sexual entertainment.
  - House rules.
  - Internal disciplinary procedure and details of any financial penalties that may be imposed. This should include a system to ensure that performers suffering a genuine sickness or domestic emergency are not made subject to unfair punitive financial penalties.
  - Drugs monitoring.
  - No contact with customers outside the club.
  - The arrangements for breaks and smoking facilities provided.
  - Copies of approved forms of ID supplied by each performer i.e. passport, photo card driving licence or PASS card.
26. Performers shall be provided with secure and private changing facilities
27. Means to secure personal property shall be provided for the performers
28. Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area. If no smoking area is provided a maximum of 3 performers may be permitted to take a break at any one time.
29. The licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work
30. All fees and charges for performers shall be stated in writing and prominently displayed in the changing area.

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## Management

31. All performers shall be required to provide valid photographic identification prior to first employment at the premises. Acceptable forms of identification are recognised photographic identification cards such as driving licence or passport. Records shall be kept detailing the identification produced and must be made available to an authorised officer on request
32. All performers and staff should be eligible to work in the UK and proof of eligibility records shall be kept on the premises.
33. All performers who engage in an evening of work at the premises shall sign a document to confirm the start and finish time of the shift. The document should be dated and contain the performer's true name as well as the stage name. These records shall be kept for a minimum period of six months and shall be produced on request by an authorised officer.
34. Employment records for performers and staff shall be kept for a minimum of six months following the cessation of their employment.
35. Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council.
36. Where the licence holder is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for in the management of the body is to be notified in writing to the council within fourteen days of such change and such written details as the council may require in respect of any new director secretary or manager are to be furnished within fourteen days of a request in writing from the council.
37. The name of the person who has been approved by the Council as being responsible for the day to day management of the licensed premises shall be prominently displayed within the licensed premises.
38. No person under the age of 18 shall be admitted to the licensed premises or employed by the licensee to work at the licensed premises.
39. The licensee shall ensure that no part of the licensed premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.
40. Neither the licence holder nor any employee or other person shall seek to obtain custom for the licensed premises by means of personal solicitation, by means of flyers, handouts or any like thing, outside or in the vicinity of the licensed premises.

## Exhibition of the licence

41. The copy of the licence and these conditions shall be displayed in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in a conspicuous position at the premises for the customers to see.

# Sex Establishment Policy 2016

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## CCTV

42. CCTV shall cover all public areas of the premises including all areas where performances of sexual entertainment are conducted.

## Maintenance and Repair

43. The licence holder shall maintain the licensed premises in good order, repair and state of cleanliness at all times.
44. Should an authorised officer take issue with the condition of any parts of the premises internal or external, notice will be given in writing and must be rectified within a period of 28days from the date of the notice. Any appeal against such notice must be made in writing to the licensing service within 14days of issue. The appeal will be determined by the Public Protection Sub Committee.
45. The licence holder shall take appropriate measures to ensure that refuse from the premises are kept secure from public accessibility pending removal from site.
46. The licence holder shall comply with any fire prevention and safety measures that may be required by the Fire Authority or suitably competent local authority officer.

## General

47. No part of the premises shall be let



## Sex Establishment Policy 2016

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**Report to:** PUBLIC PROTECTION SUB-COMMITTEE

**Relevant Officer:** Tim Coglan, Head of Public Protection

**Date of Meeting:** 25 May 2021

## HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES

### 1.0 Purpose of the report:

1.1 To consider applicants and licence holders who have been convicted of offences or who have otherwise given reasons for concern.

### 2.0 Recommendation(s):

2.1 The Sub-Committee will be requested to determine the applications and referrals as appropriate.

### 3.0 Reasons for recommendation(s):

3.1 Licensed drivers can be responsible for transporting vulnerable passengers. It is important for the protection of the public that only fit and proper persons are licensed.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

### 4.0 Other alternative options to be considered:

4.1 None, as the Sub-Committee is required to determine the application and referrals.

### 5.0 Council priority:

5.1 The relevant Council priority is:

- "The economy: Maximising growth and opportunity across Blackpool"

### 6.0 Background information

6.1 The Sub-Committee is asked to determine whether or not the applicants and licence holders are fit and proper persons to hold Hackney Carriage and Private Hire driver's licences in respect of the following cases:

A.L.D (Existing)

6.2 Details of offences or matters causing concern and any supporting documents are attached at Appendices 5(a) and 5(b).

6.3 Does the information submitted include any exempt information? Yes

**7.0 List of Appendices:**

7.1 Appendix 5(a) A.L.D. Details of case (not for publication)  
Appendix 5(b) A.L.D. DVLA check (not for publication)

**8.0 Financial considerations:**

8.1 None.

**9.0 Legal considerations:**

9.1 The Sub-Committee must be satisfied that applicants and licence holders are fit and proper persons to be licensed.

9.2 There is the right of appeal to the Magistrates' Court.

**10.0 Risk management considerations:**

10.1 None.

**11.0 Equalities considerations:**

11.1 None.

**12.0 Sustainability, climate change and environmental considerations:**

12.1 None.

**13.0 Internal/external consultation undertaken:**

13.1 None.

**14.0 Background papers:**

14.1 None.



<b>Report to:</b>	<b>PUBLIC PROTECTION SUB-COMMITTEE</b>
<b>Relevant Officer:</b>	Tim Coglan, Head of Public Protection
<b>Date of Meeting:</b>	25 May 2021

## USE OF DELEGATION OF POWERS - REVOCATION OF PRIVATE HIRE DRIVER'S LICENCE

### 1.0 Purpose of the report:

1.1 To highlight to the Sub-Committee the use of delegated powers to revoke a Private Hire Driver's Licence following consultation with the Chairman.

### 2.0 Recommendation(s):

2.1 To note the use of delegated powers on behalf of the Trading Standards and Licensing Manager in the period since the last Sub-Committee meeting on 27 April 2021 contained at section 6.8.

### 3.0 Reasons for recommendation(s):

3.1 Licensed drivers can be responsible for transporting vulnerable passengers. It is important for the protection of the public that only fit and proper persons are licensed.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

### 4.0 Other alternative options to be considered:

4.1 None, for information only.

### 5.0 Council priority:

5.1 The relevant Council priority is

- "The economy: Maximising growth and opportunity across Blackpool"

### 6.0 Background information

6.1 The Local Government (Miscellaneous Provisions ) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private

hire vehicle on any of the following grounds:

(a) That he has since the grant of the licence:

(i) Been convicted of an offence involving dishonesty, indecency or violence; or

(ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this Act; or

(b) Any other reasonable cause.

- 6.2 In August 2017, the Sub-Committee agreed changes to the delegation of powers as recent case law had confirmed that a Council cannot use the suspension of a Hackney Carriage or Private Hire driver's licence as holding operation pending further investigation. The Court held that if a Council were to suspend a licence "it must do so by way of a substantive decision on the fitness of the driver to hold the licence, after giving the driver a proper opportunity to state his case, not merely as a means by which to maintain a position pending the final outcome of the criminal proceedings."
- 6.3 It was agreed that due to changes in the officer structure that the power be allocated to the Trading Standards and Licensing Manager. Due to the absence on sickness of the postholder, he has appointed his immediate superior the Head of Public Protection to undertake this role on a pro-tem basis.
- 6.4 It was agreed therefore that the procedure work as follows:
- 6.5 That in the event of a serious concern being raised regarding the fitness of a driver to hold a Hackney Carriage or Private Hire Drivers' Licence the Trading Standards and Licensing Manager or his representative be tasked in the first instance with investigating the issue. The concern could take the form of convictions, police information or complaints from the public.
- 6.6 The driver be invited to a formal interview to discuss the area of concern with the Trading Standards and Licensing Manager (in this case the driver was interviewed by the Licensing Enforcement Officer due to the absence of the Trading Standards and Licensing Manager) and either the Chairman or Vice-Chairman of the Public Protection Sub-Committee (in this case the Chairman). Consideration will then be given as to which of the following three courses of action is necessary and proportionate:
- i) That the issue is serious enough to require the revocation of the licence with immediate effect.
  - ii) That while there is a case to answer the issue is not urgent and can therefore be referred for consideration by the next meeting of the Public Protection Sub-Committee or a special meeting of that Sub-Committee.
  - iii) That no action be taken at present, this does not preclude further investigation of the issue.
- 6.7 Where the Trading Standards and Licensing Manager or his representative acts to revoke a licence, they will bring a report to the next Public Protection Sub-Committee.

6.8 On 2 May 2021, a Private Hire driver had been involved in conduct that was deemed to fall well short of the standards expected of a licensed driver.

The Sub-Committee is asked to note the decision taken using delegated powers on 14 May 2021 to revoke with immediate effect, the Private Hire driver's licence, in respect of the following case:

D.W.S (existing Private Hire driver).

6.9 Details of offences or matters causing concern and any supporting documents are attached at Appendix 6(a).

A verbal update on this case will be provided at the meeting and action taken.

6.10 Does the information submitted include any exempt information? Yes

**7.0 List of Appendices:**

7.1 Appendix 6(a): Notice of Revocation (not for publication)

**8.0 Financial considerations:**

8.1 None.

**9.0 Legal considerations:**

9.1 There is the right of appeal to the Magistrates' Court.

**10.0 Risk management considerations:**

10.1 None.

**11.0 Equalities considerations:**

11.1 None.

**12.0 Sustainability, climate change and environmental considerations:**

12.1 None.

**13.0 Internal/external consultation undertaken:**

13.1 None.

**14.0 Background papers:**

14.1 None.