



Taxi and PHV Licensing Criminal Convictions' Policy

Introduction

The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire vehicle driver and/or operator licence.

The overriding consideration when having regard to this policy is to protect the safety of the public. The Licensing Authority is concerned to ensure:

- That a person is a fit and proper person.
- That the person does not pose a threat to the public.
- That the public are safeguarded from dishonest person.
- The safeguarding of children and young persons.

This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:

- Applicants for driver/operator licenses
- Existing licensed drivers/operators whose licenses are being reviewed
- Licensing Officers
- Members of the Licensing Committee/ Panel (or other relevant decision making body)
- Magistrates hearing appeals against local authority decisions

Where licensing officers have delegated powers to grant licenses, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the licensing committee. Whilst officers and the committee/panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

General Policy

Applicants for a Private Hire/Hackney Carriage Driver Licence must have held a full UK/EC/EEA driving licence for at least three years. Such period to be calculated from the date of issue of a full driving licence.

There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.

A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- a. Remain free of conviction for an appropriate period; and
- b. Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).
(Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).

Where an applicant has been convicted of a criminal offence, the council cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)]

Appeals

Any applicant refused a driver's license on the grounds that the council is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

Powers

Section 61 and Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to suspend, revoke or refuse to renew a driver licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

Consideration of Disclosed Criminal History

Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:

- How relevant the offence(s) are to the licence being applied for.
- How serious the offence(s) were.
- When the offence(s) were committed.
- The date of conviction.
- Circumstances of the individual concerned
- Sentence imposed by the court.
- Whether they form part of a pattern of offending.
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant.

In considering whether to revoke a hackney carriage or private hire driver or operator licence in accordance with s61 of the Local Government (Miscellaneous Provisions) Act 1976, the decision will be made by the Public Protection Team Leader following consultation with the Chair of the Council's Licensing Committee or the Public Protection Team Leader may choose to defer the decision to the Licensing Committee. Further in considering whether to suspend or revoke a Private Hire or Hackney Carriage Driver licence, if it appears that the interests of public safety require the suspension or revocation to have immediate effect, the decision will be made in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act, 1976 as amended by s52 of the the Road Safety Act 2006.

Applicants can discuss further what effect a caution/conviction may have on any application by contacting the Principal Licensing Officer in confidence for advice.

The licensing authority conducts enhanced disclosures from the Criminal Records Bureau (CRB) of any applicant for a driver licence. The licensing authority follows the CRB's Code of Practice on the fair use of disclosure information. A copy is available on request.

Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense. The licensing authority abides by the CRB's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

More information about the CRB can be found on their website at www.disclosure.gov.uk.

The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence.

Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence. The licence will normally be refused.

Outstanding Charges or Summonses

If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

If the outstanding charge or summons involves a serious offence and the individual's conviction history (including 'spent' convictions) indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the application may be refused.

Non-conviction Information

If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include violent offences and sex offences.

In assessing the action to take, the safety of the travelling public must be the paramount concern.

Cautions

Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

Licensing Offences

Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disable persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since.

Licences Issued By Other Licensing Authorities

Where an application for a taxi and/or private hire vehicle driver's licence/private hire operator's licence has been referred to the licensing committee for determination with regard to this policy, and the applicant already holds such a licence granted by another licensing authority, the guidance in this policy shall take precedence over any decision of another licensing authority.

Summary

To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licenced. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 5 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Overseas Residents

Where the Criminal Records Bureau is unlikely to have any information on a person, due to a short period of residence in the UK, applicants must obtain (at the cost of the applicant) a certificate of good conduct from their embassy or consulate. The certificate should be authenticated, translated and sealed by the embassy/consulate. The Criminal Records Bureau provides information on most relevant embassies/consulates. Means of obtaining a certificate can be found on the CRB website www.crb.gov.uk/overseas

The following examples afford a general guide on the action to be taken where convictions are admitted.

Minor Traffic Offences

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding, etc, should not prevent a person from proceeding with an application for a private hire/hackney carriage driver licence, however, the application may be referred to the Council's Licensing Committee for determination.

If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire driver's licence may be reviewed by the Council's Licensing Committee.

Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a *DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.*

Offences in this category include but are not limited to:-

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence
CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Using a mobile phone while driving a motor vehicle
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Playstreet offences
MS60	Offences not covered by other codes
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined Contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
PL10	Driving without 'L' plates
PL20	Not accompanied by a qualified person
PL30	Carrying a person not qualified
PL40	Drawing an unauthorised trailer
PL50	Undefined failure to comply with conditions of a Provisional Licence
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a 'Stop' sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign

Serious Road Traffic Offences

A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a private hire or hackney carriage driver licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.

At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

An isolated conviction for driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence within the last two years may be referred to Licensing Committee.

Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.

Offences in this category include but are not limited to :-

CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration for other road users
IN10	Using a vehicle uninsured against third party risks
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court

An application received which details one of the following offences on the DVLA driving licence (DD40; DD60; DD80; MS50) will automatically be referred to the Council's Licensing Committee for determination.

A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

DD40	Dangerous Driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DD90	Furious driving
MS50	Motor racing on the highway

Drink driving/driving under the influence of drugs

As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.

Offences in this category include but are not limited to :-

DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then refusing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink or drugs
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide a specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs

An application with details of a conviction for an offence in this category may be put before the Council's Licensing Committee for determination.

Drunkness

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However a number of convictions for drunkenness could indicate a medical problem necessitating critical examinations (see (1.) above). In some cases, a warning may be sufficient.

Drugs

A serious view shall be taken of convictions of this nature. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. An application with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained.

If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required

before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment. .

Offences in this category includes but is not limited to :-

1.	Possessing Controlled Drug
2.	Possessing Controlled Drug with Intent to Supply
3.	Producing Controlled Drug
4.	Import Drugs

An application with details of a conviction for an offence in this category may be put before the Council's Licensing Committee for determination.

Indecency Offences

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers including schoolchildren and vulnerable adults, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as rape, assault by penetration, offences involving children or vulnerable adults or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

Offences in this category include but are not limited to:-

1.	rape
2.	assault by penetration
3.	sexual assault
4.	causing a person to engage in sexual activity without consent
5.	rape of a child under 13
6.	assault of a child under 13 by penetration
7.	sexual assault of a child under 13
8.	causing or inciting a child under 13 to engage in sexual activity
9.	sexual activity with a child
10.	causing or inciting a child to engage in sexual activity
11.	engaging in sexual activity in the presence of a child
12.	causing a child to watch a sexual act
13.	arranging or facilitating commission of a child sex offence
14.	meeting a child for sexual grooming etc
15.	abuse of position of trust: sexual activity with a child
16.	abuse of position of trust: causing or inciting a child to engage in sexual activity

17.	abuse of position of trust: sexual activity in the presence of a child
18.	abuse of a position of trust: causing a child to watch a sexual act
19.	sexual activity with a child family member
20.	inciting a child family member to engage in sexual activity
21.	sexual activity with a person with a mental disorder impeding choice
22.	causing or inciting a person with a mental disorder impeding choice, to engage in sexual activity
23.	engaging in sexual activity in the presence of a person with a mental disorder impeding choice
24.	causing a person with a mental disorder impeding choice, to watch a sexual act
25.	inducement, threat or deception to procure sexual activity with a person with a mental disorder.
26.	causing a person with a mental disorder to engage or agree to engage in sexual activity by inducement, threat or deception
27.	engaging in the sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder
28.	causing a person with a mental disorder to watch a sexual act by inducement, threat or deception
29.	care workers: sexual activity with a person with a mental disorder
30.	care workers: causing or inciting sexual activity
31.	care workers: sexual activity in the presence of a person with a mental disorder
32.	care workers: causing a person with a mental disorder to watch a sexual act
33.	indecent photographs of persons aged 16 or 17
34.	paying for sexual services of a child
35.	causing or inciting child prostitution or pornography
36.	controlling a child prostitute or a child involved in pornography
37.	arranging or facilitating child prostitution or pornography
38.	causing or inciting prostitution for gain
39.	controlling prostitution for gain
40.	Living off immoral earnings
41.	Prostitution
42.	Possessing or distributing obscene material
43.	Indecent or nuisance telephone calls
44.	trafficking into the UK for sexual exploitation
45.	trafficking within the UK for sexual exploitation
46.	trafficking out of the UK for sexual exploitation
47.	administering a substance with intent
48.	committing an offence with intent to commit a sexual offence
49.	trespass with intent to commit a sexual offence
50.	sex with an adult relative: penetration
51.	sex with an adult relative: consenting penetration
52.	exposure
53.	voyeurism
54.	intercourse with an animal
55.	sexual penetration of a corpse

Any application with a conviction within this category will automatically be put before the Council's Licensing Committee for determination.

Violence

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

Offences in this category include but are not limited to :-

1.	Battery/Common Assault
2.	Aggravated Common Assault
3.	Assault - Section 47
4.	Wounding - Section 20
5.	Grievous Bodily Harm - Section 18
6.	Resist Arrest/Obstruct/Assault Police
7.	Riot
8.	Violent Disorder
9.	Affray
10.	Using Threatening, Abusive Words or Behaviour
11.	Intentional harassment alarm or distress
12.	Harassment alarm or distress
13.	Drunk and Disorderly
14.	Robbery
15.	Possession of bladed article or point in a public place or on school premises
16.	Possess Offensive Weapon
17.	Possession offensive weapon on school premises
18.	Possess Firearm
19.	Possess Firearm with Intent
20.	Criminal Damage
21.	Arson
22.	Kidnapping
23.	False Imprisonment
24.	Manslaughter
25.	Murder

An application with a conviction within this category may be put before the Council's Licensing Committee for determination.

Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as murder, manslaughter or culpable homicide while driving, terrorism offences, or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Dishonesty

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

Offences in this category include but are not limited to :-

1.	Theft
2.	Theft - Shoplifting
3.	Theft - Employee
4.	Theft - From Vehicle
5.	Bilking
6.	Burglary & Theft - Dwelling

7.	Burglary & Theft - Non Dwelling
8.	Burglary - Aggravated
9.	Fraudulent Use
10.	Handling
11.	Receiving
12.	Forgery
13.	Conspiracy to Defraud
14.	Obtain Money by Deception
15.	Obtain Money by Forged Instrument
16.	Obtain Goods or Services by Deception
17.	False Accounting
18.	False Statement to Obtain Benefit
19.	Going Equipped
20..	Taking/Driving or attempt to Steal Vehicle
21.	Allow to be Carried in Stolen Vehicle
22.	Perverting the Course of Justice
23.	Aggravated taking of a vehicle

An application with a conviction within this category may be put before the Council's Licensing Committee for determination.

Nothing in this criteria will remove an applicant's right to appeal to a Magistrates Court against the Council's refusal to grant or renew a licence, or decision to suspend or revoke a licence, or against any conditions which may have been imposed on any such licence by the local authority. Such appeal to be made within 21 days of the refusal or decision.

Policy for Determining the Grant, Renewal, Suspension, or Revocation of a Private Hire Operator Licence, a Private Hire, Dual or Hackney Carriage Driver/Vehicle Licence with Relevance to Convictions

This policy is based on the guidelines relating to the relevance of convictions, contained in the publication:

Disclosure of Criminal Records: Applicants for Hackney Carriage and Private Hire Vehicle Driver's Licences.

Department of Transport Circular 2/92

Home Office Circular 13/92.

The Council will also give due regard to Section 17 of the Crime and Disorder Act 1998, which states:-

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area."

Simply, the Section requires that all local authorities consider crime and disorder reduction while exercising their duties.

In the various sections of the policy the paragraphs in *italics* are Home Office guidance and the paragraphs in **bold** are Telford & Wrekin Council policy based on that guidance.

GENERAL POLICY

Applicants must be have held a full driving licence for at least three years. Such period to be calculated from the date of issue of a full driving licence.

Each case will be judged on its merits. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.

In considering whether to revoke a hackney carriage or private hire driver or vehicle licence in accordance with s61 of the Local Government (Miscellaneous Provisions) Act 1976, the decision will be made by the Licensing Operations Manager following consultation with the Chair of the Council's Licensing Committee or the Licensing Operations Manager may choose to defer the decision to the Licensing Committee. Further in considering whether to suspend or revoke a licence, if it appears that the interests of public safety require the suspension or revocation to have immediate effect, the decision will be made in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act, 1976 as amended by s52 of the the Road Safety Act 2006.

The Head of Prevention & Protection has delegated powers to revoke the Private Hire or Hackney Carriage Driver's Licence where the holder has been disqualified by a Magistrates Court or Crown Court from holding or obtaining a driving licence.

The following examples afford a general guide on the action to be taken where convictions are admitted.

MINOR TRAFFIC OFFENCES

Convictions for minor traffic offences, eg obstruction, waiting in a restricted street, speeding, etc, should not prevent a person from proceeding with an application, however, the application may be referred to the Council's Licensing Committee for determination.

If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire driver's licence may be reviewed by the Council's Licensing Committee.

Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a *DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.*

Offences in this category include but are not limited to:-

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence
CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Using a mobile phone while driving a motor vehicle
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Playstreet offences
MS60	Offences not covered by other codes
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver etc
MW10	Contravention of Special Road Regulations (excluding speed limits)
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SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a 'Stop' sign
TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

MAJOR TRAFFIC OFFENCES

An isolated conviction for driving without due care and attention etc, should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence within the last two years may be referred to Licensing Committee.

Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.

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CD30	Driving without due care and attention or without reasonable consideration for other road users
IN10	Using a vehicle uninsured against third party risks
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court

An application received which details one of the following offences on the DVLA driving licence (DD40; DD60; DD80; MS50) will automatically be referred to the Council's Licensing Committee for determination.

DD40	Dangerous Driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DD90	Furious driving
MS50	Motor racing on the highway

DRUNKENNESS

1. WITH MOTOR VEHICLE

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of 5 years should elapse after treatment is complete before a further licence application is considered.

Further, in determination of the renewal of a Private Hire Driver Licence, condition 7.2 of the Council's Private Hire Driver Licence states that a DSA Driving Test shall be taken by Private Hire Drivers where the driver has been disqualified from driving by the DVLA or with endorsements on their driving licences or for serious driving offences.

Offences in this category include but are not limited to :-

DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then refusing to supply a specimen for analysis
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink or drugs
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR70	Failing to provide a specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs

An application with details of a conviction for an offence in this category may be put before the Council's Licensing Committee before determination.

2. NOT IN MOTOR VEHICLE

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However a number of convictions for drunkenness could indicate a medical problem necessitating critical examinations (see (1.) above). In some cases, a warning may be sufficient.

DRUGS

A serious view shall be taken of convictions of this nature. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. An application with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.

Offences in this category includes but is not limited to :-

1.	Possessing Controlled Drug
2.	Possessing Controlled Drug with Intent to Supply
3.	Producing Controlled Drug
4.	Import Drugs

An application with details of a conviction for an offence in this category may be put before the Council's Licensing Committee for determination.

INDECENCY OFFENCES

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers including schoolchildren and adults with learning disabilities, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

Offences in this category include but are not limited to:-

1.	rape
2.	assault by penetration
3.	sexual assault
4.	causing a person to engage in sexual activity without consent
5.	rape of a child under 13
6.	assault of a child under 13 by penetration
7.	sexual assault of a child under 13
8.	causing or inciting a child under 13 to engage in sexual activity
9.	sexual activity with a child
10.	causing or inciting a child to engage in sexual activity
11.	engaging in sexual activity in the presence of a child
12.	causing a child to watch a sexual act
13.	arranging or facilitating commission of a child sex offence
14.	meeting a child for sexual grooming etc
15.	abuse of position of trust: sexual activity with a child
16.	abuse of position of trust: causing or inciting a child to engage in sexual activity
17.	abuse of position of trust: sexual activity in the presence of a child
18.	abuse of a position of trust: causing a child to watch a sexual act
19.	sexual activity with a child family member
20.	inciting a child family member to engage in sexual activity
21.	sexual activity with a person with a mental disorder impeding choice
22.	causing or inciting a person with a mental disorder impeding choice, to engage in sexual activity
23.	engaging in sexual activity in the presence of a person with a mental disorder impeding choice
24.	causing a person with a mental disorder impeding choice, to watch a sexual act
25.	inducement, threat or deception to procure sexual activity with a person with a mental disorder.
26.	causing a person with a mental disorder to engage or agree to engage in sexual activity by inducement, threat or deception
27.	engaging in the sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder
28.	causing a person with a mental disorder to watch a sexual act by inducement, threat or deception
29.	care workers: sexual activity with a person with a mental disorder
30.	care workers: causing or inciting sexual activity
31.	care workers: sexual activity in the presence of a person with a mental disorder
32.	care workers: causing a person with a mental disorder to watch a sexual act
33.	indecent photographs of persons aged 16 or 17
34.	paying for sexual services of a child
35.	causing or inciting child prostitution or pornography
36.	controlling a child prostitute or a child involved in pornography
37.	arranging or facilitating child prostitution or pornography
38.	causing or inciting prostitution for gain
39.	controlling prostitution for gain
40.	Living off immoral earnings
41.	Prostitution
42.	Possessing or distributing obscene material
43.	Indecent or nuisance telephone calls
44.	trafficking into the UK for sexual exploitation
45.	trafficking within the UK for sexual exploitation
46.	trafficking out of the UK for sexual exploitation
47.	administering a substance with intent
48.	committing an offence with intent to commit a sexual offence
49.	trespass with intent to commit a sexual offence
50.	sex with an adult relative: penetration

51.	sex with an adult relative: consenting penetration
52.	exposure
53.	voyeurism
54.	intercourse with an animal
55.	sexual penetration of a corpse

Any application with a conviction within this category will automatically be put before the Council's Licensing Committee for determination.

VIOLENCE

As hackney carriage and private hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

Offences in this category includes but is not limited to :-

1.	Battery/Common Assault
2.	Aggravated Common Assault
3.	Assault - Section 47
4.	Wounding - Section 20
5.	Grievous Bodily Harm - Section 18
6.	Resist Arrest/Obstruct/Assault Police
7.	Riot
8.	Violent Disorder
9.	Affray
10.	Using Threatening, Abusive Words or Behaviour
11.	Intentional harassment alarm or distress
12.	Harassment alarm or distress
13.	Drunk and Disorderly
14.	Robbery
15.	Possession of bladed article or point in a public place or on school premises
16.	Possess Offensive Weapon
17.	Possession offensive weapon on school premises
18.	Possess Firearm
19.	Possess Firearm with Intent
20.	Criminal Damage
21.	Arson
22.	Kidnapping
23.	False Imprisonment
24.	Manslaughter
25.	Murder

An application with a conviction within this category will automatically be put before the Council's Licensing Committee for determination.

DISHONESTY

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

Offences in this category includes but is not limited to :-

1.	Theft
2.	Theft - Shoplifting
3.	Theft - Employee
4.	Theft - From Vehicle
5.	Bilking
6.	Burglary & Theft - Dwelling
7.	Burglary & Theft - Non Dwelling
8.	Burglary - Aggravated
9.	Fraudulent Use
10.	Handling
11.	Receiving
12.	Forgery
13.	Conspiracy to Defraud
14.	Obtain Money by Deception
15.	Obtain Money by Forged Instrument
16.	Obtain Goods or Services by Deception
17.	False Accounting
18.	False Statement to Obtain Benefit
19.	Going Equipped
20..	Taking/Driving or attempt to Steal Vehicle
21.	Allow to be Carried in Stolen Vehicle
22.	Perverting the Course of Justice
23.	Aggravated taking of a vehicle

An application with a conviction within this category may be put before the Council's Licensing Committee for determination.

Nothing in this criteria will remove an applicant's right to appeal to a Magistrates Court against the Council's refusal to grant or renew a licence, or decision to suspend or revoke a licence, or against any conditions which may have been imposed on any such licence by the local authority. Such appeal to be made within 21 days of the refusal or decision.



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Ms Suzanne Fisher
Service Delivery Manager
Public Protection
Telford & Wrekin Council
Darby House
PO Box 212
Telford
TF3 4LB

Our Ref: DBW / TPHOA
Your Ref:
Date: 8 September 2010
Please ask for: David Wilson

**By email only to
suzanne.fisher@telford.gov.uk**

Dear Ms Fisher,

**Licensing Committee – Wednesday, 8 September 2010
Item 5 – Policy for determining . . . licences . . . with relevance to convictions**

I have been instructed by Telford Private Hire Operators' Association in connection with the above and should be obliged if you would kindly ensure that a copy of this letter is circulated to all Members of the Licensing Committee at this evening's meeting.

As I am sure you appreciate, responses to agenda items are inevitably "last minute", because of the short period of time between the date of publication of the agenda and a meeting date and, in this case, was compounded by the fact the association had to formulate its own view on matters and then instructed me to respond on their behalf. In any event, the association and I apologise for any inconvenience that may be caused to officers or Members by the lateness of this representation.

The association should wish for Licensing Committee to know that they wholly support the existence and regular review of, in common parlance, a "convictions policy". The association agrees with the Council that a policy of this nature provides guidance to those in, or wishing to join the trade; officers; Members; and others who are involved, or have an interest in such matters.

Whilst it is not the association's wish to go through each and every apparent error in the policy, the fact that the word "licence" adopts the American spelling of the word with an 's' is unfortunate when the document is produced by the Council's licensing team. Other minor errors relate to the incomplete citing of the reference to the "disclosure of criminal convictions" guidance, which was a joint circular issued by the Department of Transport and the Home Office in 1992. The Home Office's circular reference number for this document is 13/92. There is an inconsistent use of words, for example "major traffic offences" are seemingly referred to both as "major" and "serious", if the association's assumption is correct that these words are referring to

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Licensing Consultant, Mediator & Trainer

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the same categorisation of offence. Finally, there is reference to The Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002, which ought properly to be a reference to The Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (as amended), because the 1975 order was amended by the 2002 Order and not replaced by it.

The association is primarily concerned about the following substantive matters:

- There is a lack of clarity as to which types of licence the policy relates, the levels of CRB (Criminal Records Bureau) checks to be undertaken for different types of licence, and the relevance of convictions for the different types of licence. The 1992 Department of Transport and Home Office circular was solely concerned with driver licensing, whereas the Council has (and is) attempting to apply the same (or very similar) requirements to some (or all) other types of taxi licence.
- The attached email from the CRB clearly states and explains that the position of hackney carriage or private hire vehicle driver is one that, by virtue of the aforementioned exemption orders to The Rehabilitation Act, are exempt employments that entitle a licensing authority to obtain a Standard CRB Disclosure. The Council's current and draft policy wrongfully (and possibly unlawfully or illegally) requires every applicant for a driver's licence to submit themselves to an Enhanced CRB Disclosure. As the positions of hackney carriage and private hire vehicle drivers are not contained in Part V of the Police Act 1997, a licensing authority can only obtain an Enhanced CRB Disclosure if an individual driver has contact with children or vulnerable adults of such a nature and frequency that their contact is also regulated by the Safeguarding Vulnerable Groups Act 2006.
- Whilst it is accepted that the Council is prohibited from granting a private hire operator's licence to a person (or company) unless satisfied they (or it and / or its directors, etc) are "fit and proper", a licensing authority has no legal right to seek anything more than a Basic CRB Disclosure, because the "occupation" of private hire operator is not one contained in any exemption order to The Rehabilitation of Offenders Act 1974. Currently, the Council wrongfully (and possibly unlawfully or illegally) requires every applicant for a private hire operator's licence to submit themselves to an Enhanced CRB Disclosure. Whatever the view of the association and Members of the Licensing Committee, the Council cannot act contrary to law. However, the policy fails to make clear how relevant a particular conviction might be to a person who applies to be a private hire operator as opposed to a hackney carriage or private hire vehicle driver. For example, I rhetorically ask whether motoring convictions are relevant to an applicant for a private hire operator's licence, because the sole activity for which a licence is granted is "in the course of business, to make provision for the invitation and acceptance of bookings for a private hire vehicle". If such convictions are not relevant to an applicant for a private hire operator's licence, the policy should make that clear.
- It is particularly unclear as to what the Council's proposed position might be in relation to applicants for either hackney carriage proprietor or private hire vehicle licences. Currently, the Council wrongfully (and possibly unlawfully or illegally) requires every applicant for a vehicle licence to submit themselves to an Enhanced CRB Disclosure. Again, the position (and it would be difficult to describe it as an "occupation") is not one contained in any exemption order to The Rehabilitation of

Offenders Act 1974 and accordingly only a Basic CRB Disclosure could be required by a licensing authority. What relevance any convictions might have to the appropriateness of any person holding a vehicle licence (as distinct to being a driver or a private hire operator) is not alluded to in the policy.

- The current draft policy seems to erroneously suggest that the Council may, using the powers for immediate suspension or revocation introduced into the Local Government (Miscellaneous Provisions) Act 1976 by amendment pursuant to the Road Safety Act 2006, immediately suspend or revoke a private hire operator's licence. The immediacy powers only apply to the suspension or revocation of a driver's licence and do not even extend to a refusal to renew a driver's licence. The policy ought to be revised to make this legislative distinction clear.
- The association questions whether some offences are correctly classified and / or whether the period required for what might (confusing be called) rehabilitation is appropriate. For example, the policy currently suggests that a person with a conviction for rape should not be licensed for a period of "at least 3 to 5 years". The association respectfully suggests that anyone with such a conviction ought not to be licensed for a very significant period of time, if ever. Coincidentally, in this regard the policy refers to "adults with learning disabilities", which seems to wholly overlook and exclude persons with physical disabilities. Might I suggest the appropriate wording ought to be adopted from the Safeguarding Vulnerable Groups Act 2006, namely "vulnerable adults"?
- The introduction to the policy makes it clear that it is intended that the policy will also apply to existing licence holders, as well as applicants. Such an approach certainly has the appearance of consistency and fairness, but that is not necessarily the case in relation to many (but not all) of the motoring offences. The current wording of the policy fails to expressly make provision for the taking into account the amount of driving undertaken in any particular period by an applicant or a licensed driver. The inequality and injustice will, I hope, become clear by way of an example. If an applicant who drives only 10,000 miles a year is convicted of speeding approximately every five years, any conviction may no longer be "live" and may not even appear on their driving licence / record as at the date of application for a driver's licence. On the other hand, a licensed driver who drives 50,000 miles a year and who is convicted of speeding on average every two years appears to be the less safe driver, because they attract a conviction every two years. However, the licensed driver is being convicted at intervals of 100,000 miles, whereas the applicant is being convicted at every 50,000 miles. On that basis, it might be suggested the licensed driver is twice as safe as the applicant, although that is clearly not the reality. In essence, the point I make on behalf of the association is that the policy ought to recognise that the amount of driving undertaken is an equally relevant consideration as to the amount of time that passes between convictions.

In view of the repeated allegations herein of illegal activity by or on behalf of the Council in accessing highly confidential information to which it is not entitled, I trust Licensing Committee will defer the determination of this matter until such time as the Council's lawyers and / or other agencies have unequivocally stated what entitlement, if any, the Council has to obtain CRB Disclosures for certain applicants.

Finally, I would be most obliged if, following this evening's meeting, you or one of your officers would kindly write to me to advise of the decision of Licensing Committee.

Yours sincerely,

A handwritten signature in black ink that reads "David B. Wilson". The signature is written in a cursive, slightly slanted style.

David B Wilson

Cert HELL, MIoL, MBII.tp

Licensing Consultant, Mediator and Trainer

From: Customer Services [mailto:CustomerServices@crb.gsi.gov.uk]
Sent: 06 August 2010 14:43
To: [REDACTED]
Subject: RE: 58326 CRB ABUSE COMPLAINT [Scanned by Freecom.net]

Dear Mr. [REDACTED],

Thank you for your email regarding the eligibility of various employees for Telford and Wrekin council for Enhanced CRB checks.

[REDACTED]. However, I can provide you with guidance that you may wish to bring to the attention of Telford and Wrekin Council;

1. the code of practice for Umbrella / Registered Bodies which sets out their responsibilities to submitting valid checks is found here:
<http://www.crb.homeoffice.gov.uk/PDF/Code%20of%20practice%20Apr%2009.pdf> ;
2. information about criteria – specified role in a specified place over a specified frequency - required which can be found at various points on our website :

Children are defined as up to the age of 18 and still in full time education.

A vulnerable adult is a person who is aged 18 years or older and:

- is living in residential accommodation, such as a care home or a residential special school;
- is living in sheltered housing;
- is receiving domiciliary care in his or her own home;
- is receiving any form of health care;
- is detained in a prison, remand centre, young offender institution, secure training centre or attendance centre or under the powers of the Immigration and Asylum Act 1999;
- is in contact with probation services;
- is receiving a welfare service of a description to be prescribed in regulations;
- is receiving a service or participating in an activity which is specifically targeted at people with age-related needs, disabilities or prescribed physical or mental health conditions or expectant or nursing mothers living in residential care (age-related needs includes needs associated with frailty, illness, disability or mental capacity);
- is receiving direct payments from a local authority/HSS body in lieu of social care services;
- requires assistance in the conduct of his or her own affairs.

What is regulated activity?

Regulated activity is defined as:

- Activity involving contact with children or vulnerable adults and is of a specified nature (e.g. teaching, training, care, supervision, advice, medical treatment or in certain circumstances transport) on a frequent, intensive and/or overnight basis;
- Activity involving contact with children or vulnerable adults in a specified place (e.g. schools, care homes etc), frequently or intensively;
- Fostering and childcare;

- Certain specified positions of responsibility (e.g. school governor, director of children's services, director of adult social services, trustees of certain charities)

These positions are set out in the Safeguarding Vulnerable Groups Act 2006.

What is controlled activity?

Controlled activity, which is much more limited in scope, affecting around 500,000 people, is defined as covering the work of:

- ancillary support workers in FE, NHS and adult social care (e.g. cleaner, caretaker, catering staff, receptionist) which is done frequently and gives the opportunity for contact with children or vulnerable adults
 - people working frequently for specified organisations (e.g. local authorities in the exercise of its education or social services functions) in roles which give them the opportunity for access to sensitive records about children or vulnerable adults
 - barred people can sometimes be employed in controlled activity, providing tough safeguards are in place, such as stringent supervision
 - a person barred as a result of a relevant auto bar caution or conviction will not be able to work or volunteer in controlled activity in Wales
-

What is frequently and intensively?

Frequently is currently defined as 'once a week' except for health and social care services which involves personal care when it is 'once a month'

Intensively as '4 or more days over any 30 day period'

- if an individual is undertaking '**regulated activity**', then they are eligible for an **Enhanced** level check;
- individuals undertaking '**controlled activity**' are eligible for a **Standard** check.

A list can also be found at

http://www.crb.homeoffice.gov.uk/guidance/rb_guidance/eligible_posts.aspx

3. Details received from our Policy team regarding Taxi Drivers, which basically states that unless a Taxi Driver has a contract to chauffeur children or vulnerable adults to a specified place on a specified regular basis:

The framework which all organisations should consider prior to submitting an application to the CRB is set out below:

The Rehabilitation of Offenders Act 1974 (ROA), (Exceptions) Order 1975 acts as the gateway for access to the Disclosure Service and lists those occupations, professions & positions considered to be exempt from the ROA provisions designed to protect individuals from unnecessary disclosure of their spent conviction history. Consideration of this Order must be given before an organisation submits any Disclosure request in order to determine whether a relevant exempted question is being asked. The Order allows for Disclosures to be submitted to a

Standard level.

Schedule 2 sec 4 of that Act lists Taxi driver licenses as an excepted position exempt from the ROA provisions

<http://www.opsi.gov.uk/si/si2003/20030965.htm>

To qualify for the higher level of Disclosure, Enhanced, the employment or position must be prescribed in legislation and listed in Part V of the Police Act 1997 as prescribed by Police Act 1997 (Criminal Records) (Amendment) Regulations.

Currently the issuing of a licence in respect of either a Taxi Driver or Private Hire Vehicle driver is not prescribed in regulations therefore does not meet the criteria to be submitted as an Enhanced Disclosure application.

However Safeguarding Vulnerable Groups Act (SVGA) 2006 sets out the criteria which individuals must meet to be deemed to be in Regulated Activity which is a prescribed position and therefore an Enhanced CRB check can legally be requested.

In relation to taxi drivers this means that an individual who is a taxi or PHV driver may also be a person who is contracted by a Local Authority or Care Home to regularly transport children or Vulnerable Adults. Where this occurs an Enhanced application with suitability statements may be submitted to CRB with the position applied for as E.G – DRIVER WORKING WITH CHILDREN /VULNERABLE ADULTS.

Regulated Activity in relation to children is defined in schedule 4 part 1 sections 1 and 2. Regulated Activity can also be met if the individual meets the criteria by working in an Establishment listed in section 3 of schedule 4 or by holding a position listed in section 4 of that section.

Regulated Activity also requires that the individual must be carrying out those duties Frequently or Intensively. Frequently is currently defined as once a week or more and Intensively is defined as where an activity takes place on more than 3 days in a 30 day period; or overnight (between 2am and 6am).

Regulated Activity in relation to Vulnerable Adults is defined in schedule 4 part 2 sections 7 and 8.

The definition of a child for SVGA purposes is an individual under 18. The definition of a Vulnerable Adult for SVGA purposes is an individual over 18 who meets the conditions listed in section 59 of the Act.

Taxi and PHV licensing applications are not a specified position in SVGA, however in certain circumstances individuals who provided transport will be regulated activity only when it is solely for children or vulnerable adults to and from regulated activity AND it is organised by the providers of the regulated activity or an organisation working on their behalf e.g Local Authority school contract or NHS or Care Home contract

It is not regulated activity if a child/Vulnerable Adult hires a taxi in the street.

Link to the Act below;

http://www.opsi.gov.uk/acts/acts2006/ukpga_20060047_en_1

[REDACTED]

I hope this information is of help to you and thank you for your diligence in this matter.

Yours sincerely,

Carol Flynn.

CRB Customer Services

☎ 0870 90 90 811 | ✉ customerservices@crb.gsi.gov.uk | 🌐 www.crb.gov.uk

Criminal Records Bureau, PO Box 110, Liverpool, L69 3EF

For more information about CRB please visit our website or contact our Call Centre which is open 6 days a week, 8am to 8pm weekdays and 10am to 5pm on Saturday.

Did you know you can track your CRB application(s) online at www.crb.gov.uk/tracking

Am fwy o wybodaeth am y Swyddfa Cofnodion Troseddol (CRB) ymwelwch â'n wefan neu cysylltwch â'n canolfan alwadau sy'n agored 6 diwrnod yr wythnos 8 y.b. hyd at 8 y.h. ar ddyddiadau gwaith ac 10 y.b. hyd at 5 y.h. ar Ddydd Sadwrn. Os hoffwch siarad yn Gymraeg ffoniwch ein llinell Cymraeg neilltuol ar 0870 90 90 223 sy'n agored Dydd Llun i Ddydd Gwener 9 y.b. hyd at 5 y.p. A ydych yn gwybod y gellir olrhain eich cais ar lein ar www.crb.gov.uk/tracking

REGULATIONS PRESCRIBING STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEX SHOPS

Definition

- 1 In these Regulations save when *the* context otherwise requires the following expressions shall have the following meanings:
 - (i) "Sex Shop" and "Sex Article" shall have the meanings prescribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
 - (ii) "Premises" means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a Sex Establishment granted under the said Third Schedule.
 - (iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
 - (iv) "Approved" means approved by the Council in writing.
 - (v) "The Council" means the Borough of Telford & Wrekin.

General

- 2 In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
- 3 The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
- 4 The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof.
- 5 Except with the previous consent of the Council and irrespective of the hours of Opening of any other retail establishment in the District a Sex Establishment shall not be open to the public before 09.30am and shall not be kept open after 6.00pm except Thursday's when it may remain open until 8.00pm.
- 6 Except with the previous approval of the Council a Sex Establishment shall not be open on Sundays, on Christmas Day or on Good Friday.

Conduct and Management Sex Establishments

- 7 Where the Licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such change and such written details as the Council may require in respect of any new director, secretary, or manager are to be furnished within 14 days of a request in writing from the Council.
- 8 The name of the person immediately responsible for the management of a Sex Establishment shall be prominently displayed within the Sex Establishment throughout the period during which he is so responsible.
- 9 The Licensee shall retain control over all portions of the Premises and shall not let licence or part with possession of any part of the Premises.
- 10 The Licensee shall maintain good order in the Premises
- 11 The Licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been approved by the Council.

- 12 No part of the Premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.
- 13 Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the Premises.
- 14 The Licensee shall comply with all relevant statutory provisions and any regulations made thereunder.
- 15 The copy of the Licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be retained in a clean and legible condition.
- 16 The premises hereby licensed shall be used only for the purposes of a sex shop as defined by paragraph 4 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and shall not be used either wholly or in part for any other purpose or purposes whatsoever during the period in respect of which this licence is granted.
- 17 No refreshments of any kind shall be consumed on the premises other than by staff in a part of the premises not open to the public.
- 18 Save as otherwise hereinafter provided no music of any kind shall be played at any time upon the premises hereby licensed.
- 19 No amusement or gaming machines of any kind whether for prizes or otherwise shall be kept or used upon the premises herein licensed at any time.
- 20 No person under the age of 18 shall be admitted to the premises or employed in the business of a Sex Establishment.

External

- 21 Except as provided for in sub-paragraphs (a) - (d) below no advertising material, sign word, graphic or pictorial or other display or representation whatsoever referring to the premises hereby licensed or to the goods, articles or services provided therein shall be displayed outside near to or within the premises hereby licensed in such a position or manner as to be visible to any person lawfully using any street highway close yard court footpath or place to which the public has access for the time being.
 - a The name or trading name, style or title of the holder of the premises provided always that no name style or title other than that of person or company granted this licence shall be so exhibited unless and until approved by the Council in writing.
 - b Any notice showing the hours the premises may remain open for business purposes.
 - c Any notice required by any statute or any instrument or regulation made thereunder.
 - d Any notice required by condition 23 herein.
- 22 All items sold or hired from the premises shall be wrapped or contained in such a way that the contents and source of purchase is not identifiable.
- 23 There shall be displayed above the entrance or main entrance to the premises hereby licensed a notice in permanent form in letters not less than 2" high nor more than 3" high stating the name of the licensee of the

said premises and that the said premises are licensed under Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as a Sex Shop.

- 24 All windows doors or other means by which the interior of the premises would otherwise be visible to any person lawfully using any street highway close yard court footpath or place to which the public has access for the time being shall be obscured or screened in such a way as to prevent the interior of the said premises or any article internal or display of any kind therein from being visible to any such said persons.

State Condition and Layout of the Premises

- 25 The Premises shall be maintained in good repair and condition and all parts thereof shall be kept in a clean and wholesome condition to the satisfaction of the Council.
- 26 The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements,:-
- i All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit".
 - ii Doors and openings which lead to parts of the Premises to which the public are not permitted to have access shall have notices placed over them marked "Private".
 - iii Save in the case of emergency no access shall be permitted through the Premises to any unlicensed premises adjoining or adjacent.
- 27 The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 28 Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made except with the prior approval of the Council.
- 29 The Licensee shall take all reasonable precautions for the safety of the public and employees.
- 30 The licensee shall comply with any fire prevention and safety measures that may be required of him by the Council.

Appendix B

Sex Establishment Policy

January 2011

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Telford & Wrekin
C O U N C I L

If you would like this information in alternative formats, such as large print, Braille or audio tape, please contact 01952 382122

If you would like free help to understand this document in your own language, please phone Telford & Wrekin Council on 01952 382122

Chinese

如果你想利用我們的免費中文協助來幫助你明白這份資訊，請打電話 01952 382121 與泰爾福&瑞慶區政府聯絡。

Punjabi

ਜੇ ਤੁਸੀਂ ਇਸ ਜਾਣਕਾਰੀ ਜਾਂ ਪਰਚੇ ਨੂੰ ਆਪਣੀ ਬੋਲੀ ਵਿਚ ਸਮਝਣ ਵਾਸਤੇ, ਟੈਲਫੋਰਡ ਐਂਡ ਰੀਕਿਨ ਕਾਊਂਸਿਲ ਦੀ ਮੁਫਤ ਸੇਵਾ ਲੈਣੀ ਚਾਹੁੰਦੇ ਹੋ ਤਾਂ ਉਹਨਾਂ ਨੂੰ 01952 382121 ਉੱਤੇ ਫੋਨ ਕਰੋ।

Urdu

اگر آپ کو اس دستاویز میں دی گئی معلومات کو اپنی زبان میں سمجھنے کیلئے کسی بھی قسم کی مدد کی ضرورت ہے تو برائے مہربانی ٹیلیفون ڈائریکٹریکٹ کو 01952 382121 پر فون کریں۔

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1. Preface

2. Introduction

3. The Policy

4. Commenting on Applications

5. Application Process

Appendix A – Standard Conditions

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1. Preface

- 1.1 Telford & Wrekin Council has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009) (otherwise referred to in this document as the Act) so that it can licence sex shops, sex cinemas and sexual entertainment venues in the Borough. In this policy, we refer to these as sex establishments unless specified otherwise.
- 1.2 The role of the Council in its position as Licensing Authority is to administer the licensing regime in accordance with the law and not in accordance with any moral standing. The Council recognises that Parliament has made it lawful to operate a sex establishment and such businesses are a legitimate part of the retail and leisure industries.
- 1.3 The Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') and the Policing and Crime Act 2009 ('the 2009 Act') can be viewed in full at www.opsi.gov.uk
- 1.4 A consultation on this policy was undertaken between *{insert dates}* and was formally adopted by the Licensing Committee on *{insert date}*

2.Introduction

- 2.1 The aim of this policy is to provide guidance for prospective applicants, existing licence holders, those who may wish to object to an application and Members of the Licensing Committee when making a determination on an application.
- 2.2 While each application will be dealt with on its own merits, this policy gives prospective applicants an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them should an application be made.
- 2.3 There is a wide range of sports and leisure facilities in Telford & Wrekin including an ice rink, exhibition centre, museums and the Ironbridge Gorge World Heritage Site (WHS).
- 2.5 The night-time economy encompasses a range of activities for inhabitants of and visitors to the Borough. It comprises pubs and clubs, cinemas, theatres, cafés and restaurants etc. It is supported by public transport, taxis and many public services such as the police, council services such as cleaning, refuse collection, planning and licensing, and impacts upon the health service.
- 2.6 The growth of the night time economy as a whole has been taken into account in formulating this policy, and in particular the continuing expansion of various areas of the Telford & Wrekin area, such as the Southwater Development.
- 2.7 The promotion and advancement of the night time economy will be actively pursued by partnership working, responsible retailing and management, increased training and the promotion of good practice.
- 2.8 This policy recognises that the diversity of the local community enriches the Borough, contributes to its social and economic prosperity, and that all members of the community have a right to equality of opportunity, fairness and access.
- 2.9 Applicants and licensees must have due regard to the requirements of the **Equality Act 2010**
- 2.10 The Equality Act 2010 section 20 requires applicants and licensees to take such steps as it is reasonable to avoid putting disabled people at a sustainable disadvantage caused by a physical feature, e.g. design or construction of a building, exist or access to a building and fixtures and fittings etc.
- 2.11 The Council expects applicants to be aware of and comply with all legislation relating to unlawful discrimination.
- 2.12 The Council is under a duty to protect the rights of residents to privacy and family life under **Article 8 of the European Convention on Human Rights.**

At the same time, the Council must recognise the right of legitimate businesses to operate their premises without unnecessary restraint.

- 2.13 The Council is duty bound to consider the rights that applicants for licences may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.
- 2.14 This policy has taken into account the Telford & Wrekin Equality and Diversity Policy and the Equality Act 9 protected characteristics; Age, Disability, Gender reassignment, Marriage and civil partnership, Race, Religion or belief, Sex, Sexual orientation, in its formulation.

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3 The Policy

3.1 Definition of a Sex Establishment

A sex establishment is defined under the Act as a sex shop, a sex cinema or a sexual entertainment venue.

It includes any premises, vehicle, vessel or stall used as a sex establishment but does not apply to the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

3.1.1 Sex Cinema

1) A sex cinema is 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

iii) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

But does not include a dwelling-house to which the public is not admitted.

2) No premises shall be treated a sex cinema by reason only—

a) If they may be used for an exhibition of a film (within the meaning of paragraph 15 of schedule 1 of the Licensing Act 2003) by virtue of an authorisation (within the meaning of section 136 of that Act), of their use in accordance with that authorisation; or

b) Of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6 (6) of the Cinemas Act 1985.

3.1.2 Sex Shop

1.1 A sex shop means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating—

a) sex articles; or

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

- i) sexual activity; or
- ii) acts of force or restraint which are associated with sexual activity.

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

3.1.3 Sex Article

3) A sex article means—

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

- i) sexual activity; or
- ii) acts of force or restraint which are associated with sexual activity;
- b) anything to which sub-paragraph 4 below applies.

4) This sub-paragraph applies to —

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

b) any recording of vision or sound which—

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

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

3.1.4 Sexual Entertainment Venue

A Sexual Entertainment Venue is any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

1) In this paragraph relevant entertainment means-

a) any live performance; or

b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

2) The following are not sex encounter venues: -

- a) sex cinemas and sex shops;
- b) premises at which relevant entertainment is provided as mentioned in sub-paragraph (1) no more than eleven times within 12 months, not longer than 24 hours on each occasion and more than one month between each event; or
- c) premises specified or described in an order made by the relevant national authority

3) The relevant national authority may by order amend or repeal paragraph 3(b) above

4) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organiser.

5) Other definitions:

'audience' includes an audience of one;

"relevant entertainment" means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

"display of nudity" means—

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

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

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

(a) the relevant entertainment; or

(b) the premises;

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

"relevant national authority" means— in relation to England, the Secretary of State;

and for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity."

3.2 Suitability and Locality

- 3.2.1 Paragraph 12 of Schedule 3 to the 1892 Act provides specific grounds for refusing a licence some of these reasons include:-
- 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) at the time the application is determined, the number of sex establishments, or sex establishments of a particular kind in the relevant locality is equal to or exceeds the number which the authority consider appropriate for that locality.
 - c) The grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality, or the use to which any premises in the vicinity are put, or to the layout, character or condition of the premises.
- 3.2.2. The Premises must be situated within the mixed use zones of District Centres with the Borough of Telford & Wrekin.
- 3.23 The Council may decide, with reference to a particular locality, notwithstanding the application fulfilling the above criteria, that the appropriate number of Sex Establishments in that locality should be nil.

3.3 Length of Licence

Unless there are exceptional circumstances a licence will be granted for a maximum of 12 months.

3.4 Granting a Waiver

The 1982 Act contains provisions that permit the Licensing Authority to grant a waiver from the requirement to hold a sexual entertainment licence. However we do not consider that it would be appropriate to grant such waivers, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12 month period.

3.5 Application Form

We have a standard application form, including public notices, which are available on request from the Licensing Service, telephone 01952 383264, or email Licensing@telford.gov.uk or off the Council's website www.telford.gov.uk.

3.6 Fees

Our fees are set each year and details are available from the Licensing Service.

3.7 Conditions

If Members of the Council's Licensing Committee are minded to grant an application they may prescribe conditions relating to:

- The Hours of opening and closing.
- Display or advertisements on or in such an establishment.
- The visibility of the interior of the establishment to passers by.
- Such other terms and conditions and restrictions that are to be standard on all Licences.
- Any other condition that it is felt necessary for a particular application. Standard conditions which may be attached to licences are attached at Appendix A.

4. Commenting on Applications

- 4.1 The 1982 Act permits a wide range of persons to raise objections about sexual entertainment licences. Objectors can include residents, resident associations, trade associations, businesses, Councillors (providing they do not sit on the Licensing Committee) or MP's. The Police are a statutory consultee for all applications.
- 4.2 The Licensing Authority will not consider objections that are frivolous or vexatious or which relate to moral grounds (as these are outside the scope of the 1982 Act). When deciding whether an objection is frivolous or vexatious officers will do so in an objective manner and not on the basis of any political judgement.
- 4.3 Where objections are rejected the person(s) making the objection will be given written notification of why their objection was rejected. A report will be presented to the Licensing Committee determining the application, indicating the general grounds of the representations and the reason it was rejected.
- 4.4 As a general rule an objection will be considered vexatious where it is repetitive, without foundation or is made with malice. An objection will be considered frivolous if it lacks seriousness.
- 4.5 Unless being submitted electronically objections should be in writing. All objections should indicate the name, and address of the person or organisation making the objection and clearly set out the reasons for making the objections. (Objector's names and address are not revealed to the applicant without the specific consent from the person(s) or organisation making the objection.)
- 4.6 Objections will be considered by Members of the Licensing Committee determining the application. The applicant will be informed in general terms of any objections received in respect of his application. A copy of the order of proceedings for the hearing will be sent to the applicant and any objectors prior to the hearing.

5 Application Procedure

- 5.1 All applications will follow the following procedure:-

- 5.1.1 Application received by the Licensing Service . Application is checked to ensure that it complies with the requirements laid down in the Act.
- 5.1.2 Arrangements made for applicant and officers to attend the site to view premises and its locality.
- 5.1.3 Formal Hearing – A report detailing the application and any objections to be presented to the Licensing Committee at a Public Hearing in accordance with established procedures.
- 5.1.4 Decision by Members of the Licensing Committee taken in private session.
- 5.1.5 The decision of the Licensing Committee will be given to the Public Hearing.

Contact Details

For information, advice and guidance relating to licensing and the application process please contact;



Licensing Service
Telford & Wrekin Council,
Darby House,
Lawn Central,
Telford,
TF3 4LB

Telephone: 01952 383262/383264
Fax: 01952 381993
Email: licensing@telford.gov.uk
www.telford.gov.uk

Appendix A

Standard Conditions

Notes : Nothing in these conditions shall be construed as interfering with (i) the discretion of the licensee or his representative regarding the admission of any person or (ii) the need to strictly comply with all relevant statutory requirements.

Definition

In these Regulations save when the context otherwise requires the following expressions shall have the following meaning:

“Sex Shop”, Sex Cinema and “Sex Article” shall have the meanings prescribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

“Premises” means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a Sex Establishment granted under the said Third Schedule.

“Approval of the Council” or “Consent of the Council” means the approval or consent of the Council in writing.

“Approved” means approved by the Council in writing.

“The Council means the Borough of Telford & Wrekin.

Sex Shops

1. Access to premises

1.1 Access must be afforded at all reasonable times to authorised officers of the council and the police and fire services.

2. Management and Staffing of the Licensed Premises

2.1 Where the licensee 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 Licensing Authority within fourteen days of such change and such written details as the Licensing Authority 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.

2.2 A person shall only be approved for the purposes of the foregoing condition if the Licensing Authority considers him or her to be a suitable person to have control of the premises.

- 2.3 At all times during which the premises are open to the public, one or more approved persons shall be present on the premises and shall be responsible for their management.
- 2.4 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.
- 2.5 The licensee shall operate a Challenge 21 Policy and persons under the age of 21 shall be required to show proof of ID.
- 2.6 Neither the licensee 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.
- 2.7 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.

3 External Appearance

- 3.1 No advertisements or other notices or items shall be displayed so as to be visible from the exterior of the premises, subject to conditions in 3 above.
- 3.2 The council shall approve the design of the front elevation of the establishment.
- 3.3 No external signage or displays should be made without prior approval of the Council
- 3.4 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 premises.
- 3.5 On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 namely:
- “WARNING
Persons passing beyond this notice will find material or activities on display which they may consider indecent. No admittance to persons under 18 years of age”***
- 3.6 All items sold or hired from the premises shall be wrapped or contained in such a way that the contents and source of purchase is not identifiable.
- 3.7 There shall be displayed above the entrance or main entrance to the premises hereby licensed a notice in permanent form in letters not less than 2” high nor more than 3” high stating the name of the licensee of the said

premises and that the said premises are licensed under Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as a Sex Shop.

- 3.8 All windows doors or other means by which the interior of the premises would otherwise be visible to any person lawfully using any street highway close yard court footpath or place to which the public has access for the time being shall be obscured or screened in such a way as to prevent the interior of the said premises being visible to any such said persons.

4 Maintenance and Repair

- 4.1 The licensee shall take appropriate measures to ensure that refuse and discarded sex articles or waste stock from the premises are kept secure from public accessibility pending removal from site.
- 4.2 Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
- 4.3 The external doors to the Premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

Sex Cinemas

1. Access to premises

1.1 Access must be afforded at all reasonable times to authorised officers of the council and the police and fire services.

2. Management and Staffing of the Licensed Premises

2.1 Where the licensee 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 Licensing Authority within fourteen days of such change and such written details as the Licensing Authority 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.

2.2 A person shall only be approved for the purposes of the foregoing condition if the Licensing Authority considers him or her to be a suitable person to have control of the premises.

2.3 At all times during which the premises are open to the public, one or more approved persons shall be present on the premises and shall be responsible for their management.

2.4 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.

2.5 The licensee shall operate a Challenge 21 Policy and persons under the age of 21 shall be required to show proof of ID.

2.6 No video film shall be exhibited, unless it has been passed by the British Board of Film Classification or it has been classified by Telford & Wrekin Council and bears a certificate to that effect.

2.7 Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be sold, hired, exchanged, or loaned in a Sex Cinema.

2.8 No fastenings of any description shall be fitted upon any booths or cubicles set aside for the display of films.

2.9 Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of the time that the premises are open to the public.

2.10 The licensee shall ensure that during the hours the premises are open for business every employee wears a badge of a type to be approved by the Council indicating his name and that he is an employee.

- 2.11 Neither the licensee 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.
- 2.12 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.

3. External Appearance

- 3.1 There shall be displayed above the entrance or main entrance to the premises hereby licensed a notice in permanent form in letters not less than 2" high nor more than 3" high stating the name of the licensee of the said premises and that the said premises are licensed under Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as a Sex Cinema.
- 3.2 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 premises.
- 3.3 On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 namely:
- "WARNING
Persons passing beyond this notice will find material or activities on display which they may consider indecent. No admittance to persons under 18 years of age"***
- 3.4 No external signage or displays should be made without prior approval of the Local Authority.
- 3.5 All windows doors or other means by which the interior of the premises would otherwise be visible to any person lawfully using any street highway close yard court footpath or place to which the public has access for the time being shall be obscured or screened in such a way as to prevent the interior of the said premises being visible to any such said persons.
- 3.6 No such signs or notices shall be illuminated in any other way than to provide illumination during hours of darkness to the satisfaction of the local authority.

Sex Entertainment Venues

1. Access to premises

- 1.1 Access must be afforded at all reasonable times to authorised officers of the council and the police and fire services.

2. Management and Staffing

- 2.1 Where the licensee 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 Licensing Authority within fourteen days of such change and such written details as the Licensing Authority 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.
- 2.2 A person shall only be approved for the purposes of the foregoing condition if the Licensing Authority considers him or her to be a suitable person to have control of the premises.
- 2.3 Neither the licensee 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
- 2.4 The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Local Authority. Doors and openings which lead to areas of the premises to which the public are not permitted to have access shall have notices placed over them marked "Private".
- 2.5 The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.
- 2.6 A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.
- 2.7 All members of staff shall be easily identifiable as such. If required by the Licensing Service in writing, the licensee shall ensure that during the hours the premises are open for business every employee or person (apart from, where employed, hostesses or other companions) working in the licensed premises wears a badge of a type approved by the Council indicating his name and that he is an employee or person working in the premises.
- 2.8 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.

- 2.9 The licensee shall operate a Challenge 21 Policy and persons under the age of 21 shall be required to show proof of ID.
- 2.10 An appropriate room, to be agreed in writing with the Local Authority, shall be set aside to provide a changing and rest area for entertainers. Arrangements shall be made to ensure that there is restricted access to this room which shall be maintained at all times whilst the licensable activities are taking place and until such time as all performers using the dressing room have finished.
- 2.11 Only the performers shall provide the entertainment, no audience participation shall be permitted.
- 2.12 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.

3.External Appearance

- 3.1 On the external facing of the inner door, there shall be displayed a notice in accordance with the requirements of the Indecent Displays (Control) Act 1981 namely:

“WARNING

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

- 3.2 No external signage or displays should be made without prior approval of the Local Authority.

4.Tariffs

- 4.1 There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.
- 4.2 No order shall be accepted unless the customer has been provided with a copy of the said tariff and has been given sufficient time and opportunity to read it.
- 4.3 No charge shall be made to the customer for any drink provided for the hostess or companion unless that customer has specifically ordered it having first been made aware of the cost.

5..Special Risks and Special Effects

- 5.1 Any activity which involves special risks, and special effects, (e.g. lasers, dry ice and smoke machines, strobe lighting, real flame, pyrotechnics), or the bringing onto the premises of any explosive or flammable substance may only be permitted or used with the Licensing Authority's prior consent in writing. At least seven days' notice shall be given for an application for consent under this rule. Full details of what is proposed shall be given in writing to the Licensing Authority.

6.CCTV

- 6.1 The licensee shall install a CCTV system covering all of the licensed area. This system shall be linked to a date and time recording facility. This CCTV system shall be maintained in good working order and shall operate at all time when the premises are open.

7.Door Supervisors

- 7.1 A minimum of 2 SIA door supervisors shall be on duty when the premises are open to the public.
- 7.2 The door supervisors should be positioned so that a door supervisor is present at all times on the entrance to the premises. At least 1 door supervisor should patrol the public areas and should monitor the interaction between any performer and their customer.
- 7.3 Where the premises has more that one entrance then there must be at least one door supervisor per entrance.
- 7.4 A written record should be kept of all door supervisors employed and this record should have, at the minimum, the following amount of information. Name, SIA badge number, time shift started, time shift finished, signature, date.

Appendix A

SEX ESTABLISHMENT POLICY

5.1.8 A licence for a Sex Establishment within the Borough may be granted subject to the application satisfying the Council upon the character of the locality, use of neighbouring premises and the proposed shop layout.

The Premises must be situated within the mixed use zones of District Centres.

The Council may decide, with reference to a particular locality, notwithstanding the application fulfilling the above criteria, that the appropriate number of Sex Establishments in that locality should be nil.

5.1.9 If members are minded to grant an application they may prescribe conditions relating to:

- The Hours of opening and closing.
- Display or advertisements on or in such an establishment.
- The visibility of the interior of the shop to passers by.
- Such other terms and conditions and restrictions that are to be standard on all Licences.
- Any other condition that it is felt necessary for a particular application.

5.1.10 Provided that the application satisfies the requirement of the Act, Members may refuse to grant the licence on one or more of the following grounds:

- That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
- That if the licence were to be granted the business to which it relates would be managed by or be carried on for the benefit of a person other than the applicant, who would be refused the grant of such a licence if he made the application himself.
- 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 considers, is appropriate for that locality
- That the grant of the licence would be appropriate having regard:
 - a) To the character of the relevant locality or
 - b) To the use of which any premises in the vicinity are put or
 - c) To the layout, character or condition of the premises in respect of which the application is made.