



Licensing and Regulatory Committee

Time and Date

10.00 am on Tuesday, 28th February, 2017

Place

Diamond Room 2 - Council House

Public Business**1. Apologies****2. Declarations of Interest****3. Minutes** (Pages 1 - 8)

To agree the minutes of the Committee meeting held on 24 January 2017 and the Sub-Committee (Hearing) held on 16 January 2017.

4. Exclusion of Press and Public

To consider whether to exclude the press and public for the items of private business for the reasons shown in the reports.

5. Report of Recent Prosecutions: 1 November 2016 - 27 February 2017
(Pages 9 - 14)

Report of the Executive Director of Place

6. Outstanding Issues Report

There are no outstanding issues to report.

7. Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**Private Business****8. Reports of the Executive Director of Place**

8.1 Roofing work carried out for vulnerable customer (Pages 15 - 28)

8.2 Non-compliance with Improvement Notice - Section 12 of the Housing Act 2004 (Pages 29 - 36)

PLEASE NOTE: The taxi applicant has been requested to attend Committee at 10.30 am

9. **Applications for the Grant/Suitability to hold Hackney Carriage & Private Hire Drivers' Licences**

Reports of the Executive Director, Place on the following:
(Listing Officer: Mick Coggins – tel: 024 7683 2183)

9.1 Application for Grant of a Hackney Carriage Driver's Licence (Pages 37 - 46)

10. **Any other items of private business which the Chair decides to take as matters of urgency because of the special circumstances involved**

Chris West, Executive Director, Resources, Council House Coventry

Monday, 20 February 2017

Note: The person to contact about the agenda and documents for this meeting is Usha Patel

Membership: Councillors R Auluck, J Clifford, G Crookes, D Gannon, B Kaur, D Kershaw, T Khan (Chair), A Lucas, T Mayer, G Ridley, T Sawdon, R Thay (Deputy Chair), C Thomas and S Walsh

By invitation Councillors

Please note: a hearing loop is available in the committee rooms

If you require a British Sign Language interpreter for this meeting
OR if you would like this information in another format or
language please contact us.

Usha Patel/Carolyn Sinclair

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Carolyn.sinclair@coventry.gov.uk**

Agenda Item 3

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Committee held at 10.00 am
on Tuesday, 24 January 2017

Present:

Members: Councillor T Khan (Chair)
Councillor R Auluck
Councillor J Clifford
Councillor G Crookes
Councillor B Kaur
Councillor A Lucas
Councillor T Mayer
Councillor G Ridley
Councillor T Sawdon
Councillor R Thay (Deputy Chair)
Councillor C Thomas

Employees (by Directorate):

Place: S Beechey, M Coggins, A Harwood, M McHugh

Resources: U Patel, A Wright

In Attendance: E Miller (Work Experience, for items 55 to 62 only)

Apologies: Councillor D Gannon and Councillor Kershaw (retrospective)

Public Business

55. Declarations of Interest

There were no declarations of interest.

56. Minutes

The minutes of the Committee meeting held on 20 December 2016 were signed as a true record.

57. Exclusion of Press and Public

RESOLVED that, under Section 1004(A) of the Local Government Act 1972, the public be excluded from the meeting for the items of business indicated below, on the grounds that those items involve the likely disclosure of exempt information, as defined in Schedule 12A of that Act, in particular those paragraphs of Part 1 of the Schedule as indicated:

Minute No.	Subject	Relevant Paragraph of Part 1 of Schedule 12A
60	Non-compliance with a formal Notice under the	7

	Prevention of Damage by Pests Act 1949 (216021839)	
61	Illegal Tobacco Products (1)	7
62	Illegal Tobacco Products (2)	7
63	Applications for the Grant/Suitability to hold Hackney Carriage & Private Hire Drivers' Licences	1 and 3

58. Outstanding Issues Report

There were no outstanding issues.

59. Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved

There were no other items of urgent public business.

60. Non-Compliance with a formal Notice under the Prevention of Damage by Pest Act 1949 (216021839)

RESOLVED that, having considered a report of the Executive Director of Place, the Council Solicitor be authorised to institute legal proceedings under the Prevention of Damage by Pests Act 1949 against appropriate persons in respect of the alleged non-compliance with the a formal Notice Served on the owner of 38 Allesley Old Road, Coventry.

In addition, it was agreed to delegate powers to the Assistant Director of Streetscene and Regulatory Services to authorise legal proceedings for any further offences which may come to light before the case under consideration has been resolved in court.

61. Illegal Tobacco Products (1)

RESOLVED that, having considered a report of the Executive Director of Place, the Council Solicitor be authorised to institute legal proceedings under the Trade Marks Act 1994, the Tobacco and Related Products Regulations 2016 and the Consumer Protection from Unfair Trading Regulations 2008 against appropriate persons in respect of the alleged illegal tobacco products sold at 117 Radford Road, Coventry.

In addition, it was agreed to delegate powers to the Assistant Director of Streetscene and Regulatory Services to authorise legal proceedings for any further offences which may come to light before the case under consideration has been resolved in court.

62. **Illegal Tobacco Products (2)**

RESOLVED that, having considered a report of the Executive Director of Place, the Council Solicitor be authorised to institute legal proceedings under the Trade Marks Act 1994, the Consumer Rights Act 2015, the Tobacco and Related Products Regulations 2016 and the Consumer Protection from Unfair Trading Regulations 2008 against appropriate persons in respect of the alleged illegal tobacco products sold at Morris, 108 Caludon Road, Coventry. Alleged Offender C be further prosecuted for obstructing officers during their investigations.

In addition, it was agreed to delegate powers to the Assistant Director for Streetscene and Regulatory Services to authorise legal proceedings for any further offences which may come to light before the case under consideration has been resolved in court.

63. **Applications for the Grant/Suitability to hold Hackney Carriage & Private Hire Drivers' Licences**

RESOLVED that having considered the circumstances set out in the reports of the Executive Director of Place now submitted:

(a) The Hackney Carriage Driver's Licence held by Mr Keshavarz Riyazati be suspended for a period of three months.

(Notes: 1. Mr K Riyazati attended the meeting in support of his case
2. Councillor Crookes did not vote on this item as he was not present for the entire discussion).

(b) The application for the grant of a Private Hire Driver's by Mr Gurcharan Singh be refused.

(Note: Mr G Singh attended the meeting in support of his application).

64. **Any other items of private business which the Chair decides to take as matters of urgency because of the special circumstances involved**

There were no other items of urgent private business.

(Meeting closed at 12.55 pm)

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Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)
held at 10.00 am on Monday, 16 January 2017

Present:

Members: Councillor J Clifford (Chair)
 Councillor G Crookes
 Councillor C Thomas

Employees (by Directorate):

Place A Harwood, R Masih, P Thompson

Resources M Salmon, A Wright

In attendance Mr R Sharif (Premises Owner)

Apologies: There were no apologies

Public Business

1. **Appointment of Chair**

RESOLVED that Councillor Clifford be appointed as Chair for the meeting.

2. **Declarations of Interest**

There were no disclosable pecuniary interests declared.

3. **Licensing Act 2003 - Application to Review a Premises Licence**

The Sub-Committee considered an application to review a premises licence in respect of Easy Shop, 74b Walsgrave Road, Coventry.

The review application sought to either revoke the premises licence, suspend the premises licence for a period of three months and/or terminate the role of Mr Hardi Hussain Amin as Designated Premises Supervisor (DPS).

The grounds for the review were that the Licensing Objective of Prevention of Crime and Disorder had not been promoted, and a condition of the licence had been breached. This followed a visit to the premises, during which illegal tobacco products were discovered and seized.

The Sub-Committee heard that the premises applied for a licence to sell alcohol off the premises in August 2016. The licence was granted on 1st September 2016 with the following condition attached to it:-

'All alcohol and tobacco products must be purchased from legitimate traceable sources that provide receipts to confirm purchased items. Goods sold should not evade any duty or taxes and should be authentic goods, which comply with UK legislation. All receipts and records will be made available to officers at Coventry City Council for inspection when requested by that officer.'

The Sub-Committee heard that this condition was added to the licence with the agreement of the Licensee due to the previous history of the nominated DPS, namely Mr Amin, as well as the history of the Licensee.

The Review Applicant explained that following a complaint received that illicit cigarettes were being sold from the premises, a visit was made by Trading Standards on 5th October 2016. During this visit, a box was found in the rear store room amongst other stock, containing 94 packets of foreign labelled cigarettes and 9 packets of counterfeit cigarettes.

A man who appeared to be working in the shop walked out of the premises during the inspection, and another man advised officers that he was 'Mr Sharif', the owner of the premises. However, the Review Applicant confirmed that the Licensee in attendance at the Hearing was not the male in the shop. The Licensee produced his driving licence at the Hearing to confirm his identity. The identity of the male working in the shop on the day of the inspection is therefore unknown.

The Review Applicant advised the Sub-Committee that on 19th October 2016, a letter was hand delivered to the premises inviting the Licensee to an interview under caution, which he failed to attend.

The Sub-Committee heard that in February 2015, Police witnessed a van unloading boxes into a Vauxhall Insignia car. They stopped the car to check the boxes and discovered thousands of illicit cigarettes. The details of the van were checked and the registered keeper was the Licensee.

In addition, the Sub-Committee heard that the DPS is known to Trading Standards for being involved in the sale and supply of illicit cigarettes. In November 2012, whilst he was DPS and licence holder at a different retail outlet, multiple seizures of illicit cigarettes took place at the premises culminating in the premises licence being suspended for three months.

In 2014, Mr Amin was stopped at Birmingham Airport for trying to leave the country with a significant quantity of cash (£34,550). During POCA proceedings before the Crown Court, the Judge found that on the balance of probabilities the money was associated with Mr Amin's sale of illicit cigarettes, and the money was seized.

The Review Applicant confirmed in response to a question from the Sub-Committee that CCTV exists at the premises but this was not checked as the Licensee had not attended the interview under caution.

The Sub-Committee then heard representations from the Licensee, who stated that he knew nothing about what was being sold from the shop. He advised the Sub-Committee that he did not sell alcohol and only got a premises licence to make his business more saleable.

The Licensee said that he had spoken to his employees regarding the seizure in September 2016, who told him that a girl had entered the shop, whom they did not know, and asked if she could leave her rucksack there whilst she went into town. The box of cigarettes was in the rucksack and had nothing to do with the business.

The Sub-Committee asked to see the box and it was held up by the Review Applicant. It was evident that a box of its size would be unlikely to fit into a rucksack. The Review Applicant also advised the Sub Committee that the value of the illicit cigarettes was around £500 so it is unlikely that somebody would have left it in the shop with people she does not know.

With regard to the incident in February 2015, the Licensee confirmed that he was the driver of the van but disputed the account given by Police. He does not accept that he was moving boxes into a Vauxhall Insignia, or that any boxes of cigarettes were in his van.

In response to questions from the Sub-Committee, the Licensee confirmed that he lives in London but comes to Coventry 2 – 3 times a week. He had not met Mr Amin before asking him to be DPS and made no checks regarding his history as a DPS, instead relying on a personal recommendation from somebody he knew.

He has now met Mr Amin on one occasion, when he came to sign the premises licence application, but has not seen him since the licence was granted. The Licensee confirmed that Mr Amin has no managerial role or responsibility within the business.

The Licensee further confirmed that he does not make formal checks for his employees and relies on personal recommendations from people he trusts.

In reaching its decision, the Sub-Committee had regard to both national guidance and the Council's own policy.

In particular, the Sub-Committee noted that whilst the Police were to be regarded as the primary source of advice on the Prevention of Crime and Disorder (paragraph 9.12), Trading Standards were the main source of information in respect of the trade in illicit cigarettes.

The Sub-Committee noted paragraph 11.27 of the statutory guidance which notes, in the context of review applications, that certain criminal activity should be treated as being particularly serious, including smuggled tobacco.

The Sub-Committee also had regard for paragraph 11.28, which noted that where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the Licence – even in the first instance – should be seriously considered.

The Sub-Committee accepted the evidence presented by Trading Standards as being true on the balance of probabilities, and considered that the explanations given by the licensee were both evasive and implausible, and unsupported by any

evidence. The Sub-Committee was concerned that the Licensee had only met the DPS on one occasion and had no checks or controls in place to determine whether an employee of the business is suitable for the role. It considered that this showed the Licensee to have a disregard for his responsibilities as a business owner, and premises licence holder.

The Sub-Committee noted that the Licensee has breached his licence conditions by virtue of the discovery of illicit cigarettes on the premises.

The Sub-Committee considered that the Licensee had failed to provide any assurances or details of any controls that he could put in place to prevent a recurrence of the reported incident.

The Sub-Committee considered that a suspension of the licence would not be appropriate owing to the fact that the cigarettes were found only one month after the licence was granted. Further, the Licensee's contradictory and implausible remarks gave the Sub-Committee concerns that he has no real control over his business or his employees that would reassure them that the licensing objective of Prevention of Crime and Disorder would not be undermined in the future.

The Sub-Committee decided that as the DPS has no managerial role at the premises, it would be inappropriate for the purposes of upholding the licensing objective to simply terminate his position.

As such, the Sub-Committee concluded that only revocation of the premises licence would be appropriate and proportionate in the circumstances.

RESOLVED that Premises Licence is revoked.

4. **Any Other Business**

There were no other items of business.

(Meeting closed at 11.55 am)



28 February 2017

Name of Cabinet Member:

Not applicable

Director Approving Submission of the report:

Executive Director, Place

Ward(s) affected:

Not applicable

Title:

Report of Recent Prosecutions: 1 November 2016 – 27 February 2017

Is this a key decision?

No

Executive Summary:

The purpose of this report is to update Members on any prosecutions authorised by Licensing and Regulatory committee that have concluded at Court between 1 November 2016 and 27 February 2017.

Recommendations:

That the report is noted.

List of Appendices included:

Schedule of Prosecutions concluded between 1st November 2016 and 27th February 2017

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

1. Context (or background)

1.1 At a Licensing and Regulatory Committee meeting on 24th January 2017, Members indicated that they would like to receive feedback of the results of any prosecutions that were authorised by the Committee once they had concluded at Court. It was subsequently decided that the most appropriate way of achieving this would be a Public Report to the Licensing and Regulatory Committee on a quarterly basis.

2. Options considered and recommended proposal

2.1 *Not applicable*

3. Results of consultation undertaken

3.1 *Not applicable*

4. Timetable for implementing this decision

4.1 *Not applicable*

5. Comments from Executive Director, Resources

5.1 Financial implications

Upon conviction before the Court, an application is made to recover investigation and legal costs in full. A Court will consider the application in conjunction with the defendant's financial means, if known, and make an Order for costs. There is no guarantee that full costs, or indeed any costs, will be awarded at the conclusion of a Prosecution case.

5.2 Legal implications

Each defendant convicted of an offence has an automatic right of appeal to the Crown Court against conviction or sentence within 21 days. As some of the cases contained within this report are still subject to this 21 day period, it is possible that appeals may be lodged subsequent to this Committee meeting. Members will be updated on future reports if this is the case.

6. Other implications

None

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Not applicable

6.2 How is risk being managed?

Not applicable

6.3 What is the impact on the organisation?

Not applicable

6.4 Equalities / EIA

Not applicable

6.5 Implications for (or impact on) the environment

Not applicable

6.6 Implications for partner organisations?

Not applicable

Report author(s): Amy Wright

Name and job title: Criminal & Licensing Solicitor

Directorate: Resources

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Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Names of approvers for submission: (officers and members)				
Legal: Gill Carter	Senior Solicitor	Resources	09.02.17	09.02.17

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Appendices

Schedule of Prosecutions concluded between 1st November 2016 and 27th February 2017

Name(s)	Offence	Plea	Date Case Concluded	Sentence	Costs Awarded
Zaheer Novsarka	Non-compliance with s4 PDPA Notice	Proven in absence	16.11.16	Fine £220 Victim surcharge £30	£510 (Full)
Kochar Kochar, Mohammed Sardar, Sardar Zade	Possession with intent to supply illicit tobacco products	Guilty	12.12.16	Kochar: 12 months imprisonment suspended for 18 months with 300 hours unpaid work Sardar: 6 months imprisonment suspended for 12 months with 200 hours unpaid work and 25 day rehabilitation activity requirement Zade: 12 month community order with 140 hours unpaid work	£1,800 (Contribution) £500 (Contribution) £0
Lynne Burnham	Illegal eviction	Guilty	10.01.17	18 month Conditional Discharge Victim surcharge £15	£135 (Contribution)

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