



Licensing and Regulatory Committee

Time and Date

9.30 am on Tuesday, 7th January, 2020

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 10 December, 2019.
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. **Outstanding Issues Report**
There are no outstanding issues to report.
6. **Fee Setting for Sex Establishment Licence (Waiver) and Hypnotism Licence** (Pages 9 - 14)
Report of the Deputy Chief Executive (Place)
7. **Report of Recent Prosecutions: 8 August 2019 - 18 December 2019**
(Pages 15 - 22)
Report of the Deputy Chief Executive (Place)
8. **Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**

Private Business

9. **Reports of the Deputy Chief Executive (Place)**
 - 9.1 Food containing non-declared allergen (Pages 23 - 30)
(Listing Officer: Paul Bird, Tel: 024 7939524)

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

Martin Yardley, Deputy Chief Executive (Place), Council House Coventry

Friday, 20 December 2019

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

Membership: Councillors F Abbott, J Birdi, J Clifford, B Gittins, J Innes, B Kaur (Deputy Chair), R Lakha, G Lloyd, A Lucas, T Mayer, G Ridley, R Thay, C Thomas (Chair) and S Walsh

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

Tel: 024 7683 3198/3166

**Email: usha.patel@coventry.gov.uk or
Carolyn.sinclair@coventry.gov.uk**

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Committee held at 9.30 am
on Tuesday, 10 December 2019

Present:

Members: Councillor C Thomas (Chair)
Councillor F Abbott
Councillor J Birdi
Councillor J Clifford
Councillor B Gittins
Councillor R Lakha
Councillor G Lloyd
Councillor A Lucas
Councillor R Thay
Councillor S Walsh

Employees (by Directorate):

Place: N Castledine, M Coggins, R Hammond, A Harwood, C Hickin,
U Patel, R Vaughan

Apologies: Councillor J Innes, B Kaur, T Mayer and G Ridley

Public Business

62. Chair

In the absence of the Chair and Deputy Chair at the commencement of the meeting, Councillor A Lucas, chaired the meeting for items 7.1 to 7.4, Minutes 67-70 below.

63. Declarations of Interest

There were no declarations of interest.

64. Minutes

The minutes of the meeting held on 5 November, 2019 were signed as a true record.

65. Exclusion of Press and Public

RESOLVED that, under Section 100A(4) 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 paragraphs of Part 1 of Schedule
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		12A
68	Serious Fall from Height in City Welding Workshop	7
69	Cockroach Infestation at Takeaway Food Business	7
70	Non Compliance with a Formal Notice Under the Prevention of Damage by Pests Act 1949	7
71	Counterfeit Understrength Vodka	7
72	Application for the Grant/Suitability to hold Hackney Carriage & Private Hire Driver's Licences	1 & 3

66. Outstanding Issues Report

There were no outstanding issues.

67. 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 public business.

68. Serious Fall from Height in City Welding Workshop

RESOLVED that, having considered a report of the Deputy Chief Executive (Place):

- 1. The Council Solicitor be authorised to institute legal proceedings under the Health and Safety at Work etc. Act 1974, The Management of Health and Safety at Work Regulations 1999 and The Working at Height Regulations 2005 against appropriate persons in respect of the alleged serious fall from height in city welding workshop Wanzl UK Ltd, Unit B, Colonnade Point, Central Boulevard, Prologis Park, Coventry CV6 4BU.**
- 2. That authority be delegated to the Director (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.**

69. Cockroach Infestation at Takeaway Food Business

RESOLVED that, having considered a report of the Deputy Chief Executive (Place):

1. That the Council Solicitor be authorised to institute legal proceedings under the Food Safety and Hygiene (England) Regulations 2013 and (EC) No 852/2004 of the Hygiene of Foodstuffs and associated regulations against appropriate persons in respect of the alleged cockroach infestation at Fried Chicken Express, 180 Lythalls Lane, Coventry CV6 6FT.
2. That authority be delegated to the Director (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.

70. Non Compliance with a Formal Notice Under the Prevention of Damage by Pests Act 1949

RESOLVED that, having considered a report of the Deputy Chief Executive (Place):

1. That 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 a formal Notice served under the above Act on the owners of 30 Broad Street, Coventry, CV6 5AZ.
2. That authority be delegated to the Director (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.

71. Counterfeit Understrength Vodka

RESOLVED that, having considered a report of the Deputy Chief Executive (Place):

1. The Council Solicitor be authorised to institute legal proceedings under the Trade Marks Act 1994, the Food Safety Act 1990 and the Consumer Protection from Unfair Trading Regulations 2008 against appropriate persons in respect of the alleged counterfeit understrength vodka found at The New Albany Limited, 24 Albany Road, Coventry, CV5 6JU.
2. That authority be delegated to the Director (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.
3. In light of the above, the Premises Licence issued under the Licensing Act 2003 be reviewed.

72. 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 Deputy Chief Executive (Place), now submitted:

(a) The Hackney Carriage Driver's Licence held by Mr Mohammed Asif Sahily be suspended for a period on 3 months.

(Note: Mr M A Sahily and his legal representative attended the meeting in support of his case)

73. 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 private business.

(Meeting closed at 12.15 pm)

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Committee held at 9.30 am
on Tuesday, 10 December 2019

Present:

Members: Councillor C Thomas (Chair)
Councillor F Abbott
Councillor J Birdi
Councillor J Clifford
Councillor B Gittins
Councillor R Lakha
Councillor G Lloyd
Councillor A Lucas
Councillor R Thay
Councillor S Walsh

Employees (by Directorate):

Place: N Castledine, M Coggins, C Dunne, R Hammond, A Harwood,
C Hickin, U Patel, R Vaughan

Apologies: Councillor J Innes, B Kaur, T Mayer and G Ridley

Public Business

62. **Chair**

In the absence of the Chair and the Deputy Chair at the commencement of the meeting, Councillor A Lucas, chaired the meeting for items 7.1 to 7.4 (Minutes 67-70 below).

63. **Declarations of Interest**

There were no declarations of interest.

64. **Minutes**

The minutes of the meeting held on 5 November, 2019 were signed as a true record.

65. **Exclusion of Press and Public**

RESOLVED that, under Section 100A(4) 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 paragraphs of Part 1 of Schedule 12A
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There were no outstanding issues.

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There were no other items of public business.

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- (a) The Hackney Carriage Driver's Licence held by Mr Mohammed Asif Sahily be suspended for a period on 3 months.**

(Note: Mr M A Sahily and his legal representative attended the meeting in support of his case)

73. 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 private business.

(Meeting closed at 12.15 pm)



Public report

Licensing & Regulatory Committee

7 January 2020

Name of Cabinet Member:

Not Applicable

Director Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

Not applicable

Title:

Fee Setting for: -

Sex Establishment Licence (Waiver)

Hypnotism Licence

Is this a key decision?

No

Executive Summary:

This report seeks to:

1. Inform the Committee of legislative powers to enable fee setting for Sex Establishment Licence Waivers and the proposed fee; and
2. Inform the Committee of legislative powers to enable fee setting for an application to hold a performance of Hypnotism and the proposed fee.

Recommendations:

The Licensing & Regulatory Committee is recommended to:

1. Consider and approve the proposed fee for: -
 - I. An application to waive the requirement to hold a Sex Establishment Licence, and
 - II. An application for the Performance of Hypnotism within the Local Authority area
2. Authorise the Head of Planning and Regulation to conduct an annual review of the fees and, where appropriate, amend if necessary.

List of Appendices included:

None

Other useful background papers:

1. Local Government (Miscellaneous Provisions) Act 1982
- 2 Hypnotism Act 1952
3. European Union Services Directive
4. Regulation 18 of the Provision of Services Regulations 2009

Other Useful documents

None

Has it been or will it be considered by Scrutiny?

Not applicable

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

Not applicable

Will this report go to Council?

Not applicable

Page 3 onwards

Report title:

**Fee Setting for: -
Sex Establishment Licence (Waiver)
Hypnotism Licence**

1. Context (or background)

- 1.1 In February 2019 and April 2019 respectively, two reports were presented to the Licensing and Regulatory Committee; one to approve the grant of an application to waive the requirement for a Sex Establishment Licence, and the other to grant an application for a performance of hypnotism in the Local Authority area. Both applications were approved.
- 1.2 A recommendation was made by the Committee in February to investigate the possibility of charging a fee to cover the administration costs of dealing with an application for a waiver as currently there is no fee payable for this. Officers also noted that there was no fee for an application for a performance of Hypnotism.
- 1.3 Officers have now conducted a thorough investigation into setting fees to grant a waiver from the requirement to hold a Sexual Establishment Licence and a licence under the Hypnotism Act 1952 and this report provides an overview of the legislative requirements which will be considered alongside the proposed fees.
- 1.4 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, makes provision for the Council to grant a waiver from the requirement to hold a Sex Establishment Licence in any case where it considers that, to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit. Such applications must be considered by the Licensing & Regulatory Committee.
- 1.5 Section 2(1) of the Hypnotism Act 1952, states that no person shall give an exhibition, demonstration or performance of hypnotism on any living person, or in connection with an entertainment to which the public are admitted, whether on payment or otherwise at any place, unless the Licensing Authority has authorised that exhibition, demonstration or performance.
- 1.6 The overriding purpose of the licensing regime is to protect the public, and to protect and support business practices. The Council has the power to set fees for certain licensing regimes and the Local Government (Miscellaneous Provisions) Act 1982, and the Hypnotism Act 1952, gives Councils the power to set their own local fees that will enable it to recover its reasonable costs.
- 1.7 Furthermore, the European Services Directive (2016/123/EC) came into force in December 2009 and states that charges incurred by applicants under an authorisation scheme “must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities (effectively the costs to administer the process).

2. Fee Methodology

- 2.1 For both types of applications, the Council may require an accompanied fee. When fixing fees, the Council may consider all costs incurred by the authority in carrying out their licensing function. The proposed fees have been calculated by assessing the time it takes for each step in the process from the receipt to the determination of the application, and any site visits that take place thereafter. The calculation also takes account of any time

taken by consultees, such as the Responsible Authorities to consider an application, and other internal departments such as Governance Services and Legal. The time taken is assigned to different roles and the costs based on hourly rates. There is also a proportion attributed to the fees, which takes account of management time. This time will include the costs of running the department and services involved with delivering a function associated with the relevant licensing regimes.

- 2.2 Based on Officer time and the procedural requirements necessary, the proposed charge for an application to waive the requirement for a Sex Establishment Licence is £800. This fee is irrespective of the time period the waiver is required for. This fee will cover the time it takes for Officers to consider the application, produce reports, attend the Licensing & Regulatory Committee meeting and to cover all other costs involved with delivering this function. This fee is proportionate and is calculated on a cost recovery basis. The fee will be reviewed on an annual basis.
- 2.3 Based on Officer time and the procedural requirements necessary, the proposed fee for an application for a performance of hypnotism is £120. This would cover all administration costs associated with processing and determining the application, plus site visit(s) on the performance date. This fee is proportionate and is calculated on a cost recovery basis. The fee will be reviewed on an annual basis.
- 2.4 It should be noted that a benchmarking exercise has been undertaken of fees set by other local authorities for applications of these types.

3. Options considered and recommended proposal

- 3.1 There are two options available for the Licensing and Regulatory Committee to consider:
 - 3.1.1 Option 1 is to authorise the proposal contained within this report to charge the applicant(s) a fee to recover the reasonable costs of the service(s) provided;
 - 3.1.2 Option 2 is to continue to process these applications free of charge.
- 3.2 Your Officer recommends Option 1 in order to enable the Council to recover its reasonable costs in processing and determining applications of these types.

4. Results of consultation undertaken

- 4.1 No consultation is required to be undertaken however, it is recommended that whenever fees are set, an explanation is provided to potential applicants as to how the fees are calculated in order to promote transparency and reasonableness.

5. Timetable for implementing this decision

- 5.1 If approved, the decision to charge a fee for both applications will take immediate effect.

6. Comments from Executive Director of Finance and Corporate Services

- 6.1 Financial implications

The proposed fees have been calculated on a full cost basis, which considers both the direct and indirect costs associated with processing and determining the applications. When setting fees there is a statutory requirement to consider the income received for a licensing scheme compared to the overall cost of delivering the scheme. The fee level

must be set so that it does not generate income in excess of the cost of associated delivery.

6.2 Legal implications

The Council can set its own fees for licensing functions. The fee must be reasonable and cover the Council's costs in the administration of those types of applications.

Both regimes are covered by the European Union Services Directive. Regulation 18 of the Provision of Services Regulations 2009, which implements the EU Services Directive into UK law requires that fees charged in relation to authorisations must be proportionate to the effective cost of the process. The proposed fees must recover the Council's costs in relation to the licensing process and cannot be used as an economic deterrent or to raise revenue. The proposed fees will enable the Council to recover its reasonable costs. The fees will be reviewed annually, and an appropriate reduction or increase applied for the following financial year should a loss or surplus occur.

7. Other implications

None

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

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. Cost recovery of such applications will mean that costs are not taken from existing budgets.

7.2 How is risk being managed?

Decisions of Regulatory Services are open to challenge by way of Judicial Review. The fees and charges are designed to ensure our compliance with legislation minimising the risk of legal challenge.

7.3 What is the impact on the organisation?

None

7.4 Equalities / EIA

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

7.5 Implications for (or impact on) climate change and the environment

None

7.6 Implications for partner organisations?

None.

7.7 Human Rights Act Implications

None.

Report author(s): Debbie Cahalin-Heath

Name and job title: Licensing Manager

Directorate: Place

Tel and email contact: 024 7697 2220 debbie.cahalin-heath@coventry.gov.uk

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:				
Usha Patel	Governance Services Officer	Place	13.12.19	16.12.19
Davina Blackburn	Regulatory Services Manager	Place	26.11.19	27.11.19
Tracy Miller	Strategic Lead Planning and Regulation	Place	02.12.19	13.12.19
Names of approvers for submission: (officers and members)				
Finance: Cath Crosby	Lead Accountant	Place	26.11.19	02.12.19
Legal: Amy Wright	Solicitor	Place	25.11.19	26.11.19
Andrew Walster	Director	Place	13.12.19	16.12.19

Appendices

None



7 January 2020

Name of Cabinet Member:

Not applicable

Director Approving Submission of the report:

Deputy Chief Executive, Place

Ward(s) affected:

Not applicable

Title:

Report of Recent Prosecutions: 8 August 2019 – 18 December 2019

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 8 August 2019 and 18 December 2019.

Recommendations:

That the report is noted.

List of Appendices included:

Schedule of Prosecutions concluded between 8 August 2019 and 18 December 2019.

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 in the Magistrates Court 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: Place

Tel and email contact: 02476977660 amy.wright@coventry.gov.uk

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	Place	18.12.19	18.12.19

This report is published on the council's website:

www.coventry.gov.uk/councilmeetings

Appendices

Schedule of Prosecutions concluded between 8 August 2019 and 18 December 2019

Name(s)	Offence(s)	Date of L&R Authorisation	Plea	Date Case Concluded	Sentence	Costs Awarded
Rebuar Sharif	Possession of illegal laser pens and food beyond its use by date	25.06.19	Guilty	25.09.19	Fine £1,466 Victim Surcharge £88 Total £1,554	£853 (Full)
Adewale Adebisi	Selling an unroadworthy vehicle	25.06.19	Guilty	25.09.19	Fine £276 Victim Surcharge £30 Total £306	£1370.10 (Full)
DHL Services Ltd	Breach of Health and Safety Act 1974	02.10.18	Guilty	21.10.19	Fine: £2.6 million	£190,000 (Agreed Costs)
PGR Restaurant Ltd	Supply of food containing non-disclosed allergen	25.06.19	Guilty	23.10.19	Fine £16,667 Victim Surcharge £120 Total £16,787	£598 (Full)
Habibeh Pourali	Supply of food containing non-disclosed allergen	25.06.19	Guilty	23.10.19	Fine £1,661 Victim Surcharge £120 Total £1,781	£598 (Full)
Majed Bahgozin	Supply of food containing non-disclosed allergen	25.06.19	Guilty	23.10.19	Fine £2,169 Victim Surcharge £120 Total £2,289	£598 (Full)
Masoud Behgozin	Supply of food containing non-disclosed allergen	25.09.19	Guilty	23.10.19	Fine £2,169 Victim Surcharge £120 Total £2,289	£598 (Full)
Musleh Abdula Ismael	Possession of Illicit Cigarettes	25.06.19	Not Guilty	06.11.19	Acquitted after trial	N/A

Aziz Fatah	Possession of Illicit Cigarettes	25.06.19	Not Guilty	04.12.19	Convicted after trial Fine £375 Victim Surcharge £37 Total £412	£1490.41 (Full)
Muhammed Yaser Hanif	Private hire vehicle failing to carry a disabled passenger with an assistance dog	17.09.19	Proven in absence	11.12.19	Fine £346 Victim Surcharge £34 Compensation £300 Total £680	£500 (Partial)

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By virtue of paragraph(s) 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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