



### Licensing and Regulatory Committee

**Time and Date**

9.30 am on Tuesday, 4th February, 2020

**Place**

Diamond Room 2 - Council House

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**Public Business****1. Apologies****2. Declarations of Interest****3. Minutes** (Pages 1 - 4)

To agree the minutes of the Committee meeting held on 7 January 2020

**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. Decision to Grant a Waiver to the requirement to hold a Sex Establishment Licence** (Pages 5 - 14)

Report of the Deputy Chief Executive (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. Applications for the Grant/Suitability to hold Hackney Carriage & Private Hire Drivers' Licences**

Reports of the Deputy Chief Executive (Place) on the following:  
(Listing Officer: Mick Coggins – tel: 024 7697 1997)

8.1 Review of Hackney Carriage Driver's Licence (Pages 15 - 58)

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

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

Monday, 27 January 2020

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**

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**Coventry City Council**  
**Minutes of the Meeting of Licensing and Regulatory Committee held at 9.30 am**  
**on Tuesday, 7 January 2020**

Present:

Members: Councillor C Thomas (Chair)  
Councillor J Birdi  
Councillor J Clifford  
Councillor B Gittins  
Councillor B Kaur  
Councillor R Lakha  
Councillor G Lloyd  
Councillor A Lucas  
Councillor G Ridley  
Councillor R Thay

Employees (by Directorate):

Place: D Blackburn, D Cahalin-Heath, R Hammond, A Harwood, C Sinclair

Apologies: Councillor F Abbott, J Innes, T Mayer and S Walsh

## Public Business

### 74. Declarations of Interest

There were no declarations of interest.

### 75. Minutes

The minutes of the meeting held on 10 December 2019 were signed as a true record.

### 76. 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
81	Food containing non-declared allergen	7

### 77. Outstanding Issues Report

There were no outstanding issues.

**78. Fee Setting for Sex Establishment Licence (Waiver) and Hypnotism Licence**

The Committee considered a report of the Deputy Chief Executive for Place which informed the Committee of legislative powers to enable fee setting for Sex Establishment Licence Waivers and inform the Committee of legislative powers to enable fee setting for an application to hold a performance of Hypnotism and the proposed fee.

In February and April 2019 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.

A recommendation was made by the Committee in February 2019 to investigate the possibility of charging a fee to cover the administration costs of dealing with an application for a waiver as the current practice was not to charge. Officers also raised the issue of no fee being charged for applications for Hypnotism performances.

Officers had subsequently conducted an investigation in respect of setting fees to grant a waiver from the requirement to hold a Sexual Establishment Licence and a licence under the Hypnotism Act 1952 and the report provided an overview of the legislative requirements to be considered alongside the proposed fees.

Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 made provision for the Council to grant a waiver from the requirement to hold a Sex Establishment Licence in any case where it considered that, to require a licence, would be unreasonable or inappropriate. A waiver may be for such a period as the Council thought fit. Such applications must be considered by the Licensing & Regulatory Committee.

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.

The overriding purpose of the licensing regime was to protect the public, and to protect and support business practices. The Council had 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.

**RESOLVED that the Committee:**

- 1. Approve the proposed fee for:**

- a. **An application to waive the requirement to hold a Sex Establishment Licence**
- b. **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.**

**79. Report of Recent Prosecutions: 8 August 2019 - 18 December 2019**

The Committee considered a report of the Deputy Chief Executive of Place which provided an update on prosecutions authorised by Licensing and Regulatory committee that have concluded at Court between 8 August 2019 and 18 December 2019.

**RESOLVED that the report be noted.**

**80. 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.

**81. Food containing non-declared allergen**

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

1. **The Council Solicitor be authorised to institute legal proceedings under the Food Safety and Hygiene (England) Regulations 2013, the Food Safety Act 1990 and the Consumer Protection from Unfair Trading Regulations 2008 against appropriate persons in respect of the supply of food with an undeclared allergen supplied by Jam Jar, 159 Corporation Street, Coventry, CV1 1GU.**
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.**

**82. 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 10.10 am)

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Licensing & Regulatory Committee

4 February 2020

**Name of Cabinet Member:**

Not applicable

**Director Approving Submission of the report:  
Deputy Chief Executive (Place)**

**Ward(s) affected:**

Longford

**Title: Decision to grant a waiver to the requirement to hold a Sex Establishment Licence**

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**Is this a key decision?**

No

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**Executive Summary:**

The purpose of this report is for the Licensing & Regulatory Committee to consider whether to waive the requirement to hold a Sex Establishment licence, for a two-day Erotica Trade Only (ETO) Show, to be held at the Ricoh Arena in March 2020.

**Recommendations:**

The Committee is recommended to grant the waiver as requested.

**List of Appendices included:**

1. Event overview (provided by the event organiser); and
2. Section 7, Schedule 3, Local Government (Miscellaneous Provisions) Act 1982.

**Other useful background papers:**

None

**Other Useful documents**

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?**

Not applicable



**Report title:**

**Decision to grant a waiver to the requirement to hold a Sex Establishment Licence**

**1. Context (or background)**

- 1.1 Coventry City Council (“the Council”) is able to regulate sex establishments through Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”). A sex establishment means a Sexual Entertainment Venue (SEV), a Sex Shop or a Sex Cinema. For the purpose of this report the consideration is for a Sex Shop.
- 1.2 A Sex Shop for the purposes of the 1982 Act means any premises used for business where there is a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with sexual activity.
- 1.3 On the 12 December 2019, Jonathon Kirk, Director of ETO Show applied to the Council for a waiver to the requirement to hold a Sex Establishment Licence, for a 2 day ‘trade only’ event at the Ricoh Arena in March 2020. An event overview is at Appendix 1 to this report and the applicant will pay the prescribed fee.
- 1.4 Schedule 3 of the 1982 Act makes provision for the Council to grant a waiver from the requirement to hold a Sex Establishment Licence in any case where it considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit. A copy of the relevant section of the legislation is included at Appendix 2 to this report.
- 1.5 The event is a trade only event, whereby admission to the event is by invitation only. There is no general public access and there is no wider advertising of the event to the general public. The event is strictly over 18’s and controls will be in place to verify this at the event.
- 1.6 There will be no commercial transactions or sales made at the event, it is a ‘networking’ event whereby suppliers will be able to showcase and display their products to operators of licensed premises, who will then buy directly from the exhibitors after the event.
- 1.7 One type of sex article that can only be sold in licensed sex shops is videos that have been given an R18 classification by the British Board of Film Classification. The event organiser has confirmed there will be no R18 DVD’s on display at the event.
- 1.8 An important element in the definition of a sex shop (outlined in paragraph 1.2 of this report) is the words ‘significant degree’, and because of this, shops can sell a small proportion of sex articles without needing a licence (an example being Ann Summers in the city centre). The ETO Show event overview clearly states that there will be a smaller percentage of sex articles, such as adult toys, displayed at the exhibition (approximately 40%) in comparison to the other items such as lingerie and sexual health products (approximately 60%).
- 1.9 Aspects of the licensing of sex shops by local authorities have been a matter for much review by the courts, either through the formal appeal mechanisms in the 1982 Act, or through action for Judicial Review. There is some assistance with the term ‘significant degree’ in case law, which indicates that no single factor is decisive and that the ratio of sex articles to the other aspects of the business, the absolute quantity of sales, the character of the remainder of the business and the nature of the display may all be material factors.

- 1.10 It should be noted that Licensing officers have sought the view of legal experts regarding this case, and it is the view of Counsel that in circumstances such as these, a waiver is the most appropriate and reasonable course of action.
- 1.11 In December 2018, Jonathon Kirk, Director of the ETO Show applied to Coventry City Council for an application to waive the requirement for a Sex Establishment Licence, and a decision was made by the Licensing and Regulatory Committee in February 2019 to grant a waiver. Licensing officers conducted a compliance check at the event in March 2019 and found all requirements and details in the event overview were being adhered to.
- 1.12 The Ricoh Arena holds a Premises Licence, is an established operator in the city, and is experienced at hosting and advertising trade exhibitions. The event overview clearly states that the Ricoh Arena will not be advertising the event on their website and marketing forums.
- 1.13 Licensing officers will liaise closely with both the Ricoh Arena and the event organiser to ensure that all details in the event overview are adhered to.

## **2. Options considered and recommended proposal**

- 2.1 There are two courses of action available to the Committee in relation to this application:
  - (i) Grant the waiver as requested; or
  - (ii) Refuse the waiver.
- 2.2 Your officer recommends option (i) and supports the grant of the waiver because based on the type of event and the circumstances detailed in section 1 in this report, it would be both unreasonable and inappropriate to refuse the waiver in this case. It must also be noted that the Committee previously granted a waiver in February 2019.
- 2.3 Members are advised that they may depart from the officer recommendation if, they believe it is appropriate to do so. Should Members decide to depart from the recommendation and choose an alternative option, they must provide full reasons for this decision. This application should be considered on its own merits and all the circumstances taken into account before a decision is made.

## **3. Results of consultation undertaken**

- 3.1 No consultation is required for making an application for a waiver to the requirement of having a Sex Establishment Licence.

## **4. Timetable for implementing this decision**

- 4.1 There is no right of appeal to this decision.

## **5. Comments from the Director of Finance and Corporate Services**

- 5.1 Financial implications

There are no financial implications arising directly from this report.

## 5.2 Legal implications

Although there is no right of appeal against the refusal of a waiver of the requirement to hold a sex establishment licence, the Council could still be challenged by means of Judicial Review if it was held to have acted unreasonably.

## 6. Other implications

### 6.1 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.

### 6.2 How is risk being managed?

If the application for a waiver is not handled in line with the Act, there is a risk of Judicial Review, and associated costs.

### 6.3 What is the impact on the organisation?

None

### 6.4 Equalities / EIA

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

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

None

### 6.6 Implications for partner organisations?

None

### 6.7 Human Rights Act Implications

None.

**Report author(s): Debbie Cahalin-Heath**

**Name and job title: Licensing Manager**

**Directorate: Place**

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Enquiries should be directed to the above person.

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Usha Patel	Governance Services Officer	Place	13.01.20	20.01.20
Davina Blackburn	Regulatory Services Manager	Place	02.01.20	02.01.20
Tracy Miller	Strategic Lead Planning and Regulation	Place	07.01.20	08.01.20
<b>Names of approvers for submission: (officers and members)</b>				
Cath Crosby	Lead Accountant	Place	17.12.19	06.01.20
Amy Wright	Solicitor	Place	17.12.19	18.12.19
Andrew Walster	Director	Place	13.01.20	14.01.20

## **Erotic Trade Only Show (ETO Show) Event Overview**

The Erotic Trade Only show (ETO Show) is a small trade only event designed for suppliers of erotic goods to come and meet with their current and potential trade customers. The show began in 2005 and ran until 2016 and was held at the NEC for that period. We decided not to run the show in 2017/18 mainly due to economic and commercial factors including the impact of Brexit. After much support from previous exhibitors we held the 2019 show on the 10<sup>th</sup>/11<sup>th</sup> March at the Ricoh Arena in Coventry. We were very happy with the Ricoh Arena as the Hall we booked was underneath the main atrium area with a separate entrance and the facilities are perfect for the size of show we run.

We would once again like to apply for the waiver to run the show in 2020 and the details are below, however, there are no changes to the format from the 2019 show.

The show opening times are 10.30pm until 5pm on the 15<sup>th</sup> March and 11am until 4pm on the 16<sup>th</sup> March 2020. We have 45 committed and enthusiastic exhibitors who are looking forward to networking and meeting with new trade customers. We have requested that the Ricoh Arena do not mention this event on their website as we wish to avoid any consumer being attracted to the event. As the organisers it is in our own interest to make sure we have a bona fide trade audience to enable the show to be deemed successful by our exhibitors. Our exhibitors do not deal with members of the public, so we only publicise the event through ETO Magazine (owner of the ETO Show) in the UK, EAN and Sign Magazine in Europe. All three supporting trade magazines are strictly trade only business to business titles ensuring the only visitors we invite are ones that wish to do business with our exhibitors. Any visitor that comes to the registration point without pre registering must provide proof of trade status otherwise they will be refused entry which is made very clear on our outgoing marketing communications. We do not allow access to U-18's and this is also checked during the registration process. We also employ the Ricoh Arena door security staff whom are briefed to operate the challenge 21 policy similar to pubs and clubs, so no ID, no entry.

The visitors themselves will be owners of licensed adult premises, high st retail buyers, pharmacy buyers, online retailers, lingerie, clothing and footwear stockists, adult toy retailers, importers/exporters, party planners and business start-ups/other retail. The exhibitors are made up of manufacturers, distributors, niche suppliers and wholesalers of erotic goods (adult toys), lingerie, lifestyle and fashion garments, novelty goods, lubricants, condoms and sexual health products, well-being supplements, insurance providers, web designers, travel agents, jewellery and cosmetics. Many of the exhibitors have been in business for several decades and many supply well known high st retailers, pharmacies and superstore chains.

From the list above 40% of the exhibiting companies are involved in the manufacture and/or distribution of adult toys with 60% making up the rest of the exhibitor base that have products or services available in mainstream retail outlets such as lingerie stores, pharmacies and supermarkets.

We have also taken the decision not to allow ANY DVD or film companies whom distribute R-18 material. It's not an important part of the modern licensed adult shop as they tend to cater much more to couples so there will be no suppliers of that type attending the show.

As the show is strictly B2B and the purpose is to introduce buyers with suppliers – the products at the show are purely there for demonstration only. The exhibitors are not set up to sell product whilst at the show and no transactions are carried out in the venue whilst the show is open. The visitors are there so they can see products first hand to help them decide what they would like to stock in their stores.

Finally, I'd like to note that we are experienced, professional event organisers and have virtually the same team that organized the first show in 2005. We have never had any incidents with licensing, trading standards or the police and pride ourselves on running the smoothest events possible. We are very much looking forward to working again with the Ricoh Arena team and introducing both exhibitors and visitors to the Coventry area.

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Status:  Law In Force

## **Local Government (Miscellaneous Provisions) Act 1982 c. 30**

### **Schedule 3 CONTROL OF SEX ESTABLISHMENTS**

#### **Requirement for licences for sex establishments**

This version in force from: **July 13, 1982 to present**

(version 1 of 1)

#### **7.—**

(1) Any person who—

(a) uses any premises, vehicle, vessel or stall as a sex establishment; or

(b) proposes to do so,

may apply to the appropriate authority for them to waive the requirement of a licence.

(2) An application under this paragraph may be made either as part of an application for a licence under this Schedule or without any such application.

(3) An application under this paragraph shall be made in writing and shall contain the particulars specified in paragraph 10(2) to (5) below and such particulars as the appropriate authority may reasonably require in addition.

(4) The appropriate authority may waive the requirement of a licence in any case where they consider that to require a licence would be unreasonable or inappropriate.

(5) A waiver may be for such period as the appropriate authority think fit.

(6) Where the appropriate authority grant an application for a waiver, they shall give the applicant for the waiver notice that they have granted his application.

(7) The appropriate authority may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

## Modifications

Whole Document	Modified in relation to the transfer of functions to the National Assembly of Wales by <u>National Assembly for Wales (Transfer of Functions) Order 1999/672, Sch. 1 para. 1</u>
Sch. 3	Modified by <u>Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010/723, art. 2(1)(b)</u>

**Subject:** Local government

**Keywords:** Applications; Licensing; Local authorities' powers and duties; Sex establishments; Waiver

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