



### Licensing and Regulatory Committee

**Time and Date**

9.30 am on Tuesday, 20th December, 2022

**Place**

Diamond Rooms 1 and 2 - Council House

**Public Business****1. Apologies****2. Declarations of Interest****3. Minutes** (Pages 1 - 24)

To agree the minutes of the Committee meeting held on 25 October, 2022 and the Sub-Committee hearings held on 10 October and 8 and 15 November 2022

**4. Skin Piercing Registration - Review of Fees** (Pages 25 - 34)

Report of the Director of Streetscene and Regulatory Services

**5. Outstanding Issues Report**

There are no outstanding issues to report.

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

Nil

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Julie Newman, Chief Legal Officer, Council House, Coventry

Monday, 12 December 2022

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

Usha Patel/Carolyn Sinclair

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Membership: Councillors F Abbott, L Bigham (Acting Deputy Chair), J Birdi, J Clifford (Acting Chair), B Gittins, G Hayre, A Hopkins, J Innes, T Jandu, S Keough, R Lakha, A Masih, R Thay and CE Thomas

**Public Access**

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**Usha Patel/Carolyn Sinclair****[usha.patel@coventry.gov.uk](mailto:usha.patel@coventry.gov.uk)/[carolyn.sinclair@coventry.gov.uk](mailto:carolyn.sinclair@coventry.gov.uk)**

**Coventry City Council**  
**Minutes of the Meeting of Licensing and Regulatory Committee held at 9.30 am**  
**on Tuesday, 25 October 2022**

Present:

Members: Councillor J Clifford (Chair)  
Councillor J Birdi  
Councillor G Hayre  
Councillor J Innes  
Councillor S Keough  
Councillor R Lakha  
Councillor CE Thomas

Employees (by Directorate):

S Ahmed, Law and Governance  
S Beechey, Taxi Licensing & Enforcement Officer  
C Sinclair, Law and Governance

Apologies: Councillor F Abbott, L Bigham, B Gittins, A Hopkins, T Jandu  
and A Masih

## Public Business

### 35. Guidelines

In welcoming all to the meeting, the Chair reminded Members of the Committee that they must be cognisant of the adopted City Council guidelines in respect of decision making.

### 36. Minutes

The minutes of the Committee meeting held on 20 September 2022 were agreed and signed as a true record.

### 37. Declarations of Interest

Councillor G Hayre declared an interest in the item referred to in minute 41 below. He withdrew from the meeting during the consideration and voting on that item.

### 38. 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:

<b>Minute No.</b>	<b>Subject</b>	<b>Relevant paragraphs of Part 1 of Schedule 12A</b>
41	Application for Grant of a Private Hire Driver's Licence	1 & 3
42	Application for Grant of a Hackney Carriage Driver's Licence	1 & 3

**39. 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.

**40. Outstanding Issues Report**

There were no outstanding issues.

**41. Application for Grant of a Private Hire Driver's Licence**

**RESOLVED** that, having considered the circumstances set out in the report of the Director of Street Scene and Regulatory Services now submitted, the application for the grant of a Private Hire Driver's Licence be refused.

Note: The applicant and his representative attended the meeting in support of the application.

**42. Application for Grant of a Hackney Carriage Driver's Licence**

**RESOLVED** that, having considered the circumstances set out in the report of the Director of Street Scene and Regulatory Services now submitted, the application for the grant of a Hackney Carriage Driver's Licence be refused.

Note: The applicant and his legal representative attended the meeting in support of the application.

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

Recommendations to Cabinet Members

The Committee considered a number of matters and arising from their discussion agreed the following:

- The Cabinet Member for City Services be requested to consider their concerns regarding the Committee's refusal of licenses and the ability of those drivers to become licenced elsewhere.

- The Cabinet Member for Education and Skills be requested to ensure that those drivers employed to transport children and young people with SEND, for and on behalf of the City Council, were competent and fit to do so.

(Meeting closed at 11.25 am)

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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, 10 October 2022**

Present:

Members:                           Councillor R Thay (Chair)  
  Councillor L Bigham  
  Councillor S Keough

Employees Present:

Law and Governance            S Ahmed, U Patel, C Taylor

Streetscene and                 R Masih, C Simms  
Regulatory Services

In Attendance                    Counsel and Witnesses (on behalf of Applicant)  
  Interested Party

**Public Business**

1.       **Appointment of Chair**

**RESOLVED that Councillor R Thay be appointed Chair for this meeting.**

2.       **Apologies**

There were no apologies for absence.

3.       **Declarations of Interest**

There were no declarations of interest.

4.       **Application for a Premises Licence under the Gambling Act 2005**

The Sub-Committee considered an application for a Premises Licence under the Gambling Act 2005 in respect of Merkur Slots, 241 Walsgrave Road, Coventry. The application requested a Bingo Licence to operate the default hours of Monday to Sunday 09:00 – 00:00 midnight for bingo and unrestricted for the provision of machines.

Three representations had been received from local residents objecting to the application. None of the Responsible Authorities had objected to the application. All application formalities had been complied with.

Counsel for the Applicant presented the Applicant's case. He referred to the additional evidence they had provided by way of a 2-part bundle and confirmed its contents. Counsel addressed the Committee on points relating to the licensing objectives. He explained that there were no objections to the application from Responsible Authorities with each of those authorities being the main source of

advice. He stated that there was uncontested evidence from witnesses for the Applicant in support of the application.

The Applicant holds licences in every authority they have applied to (nationwide) and holds 3 existing licences in different parts of Coventry. Counsel further explained in respect of the licensing objective relating to crime and disorder that the Applicant enforces rules in all his premises, including maintaining good management both inside and outside of the premises, is aware of the demographic of its customer base, has taken measures relating to layout and lighting and ambience; all of which help to prevent any problems inside the premises and loitering outside the Applicant's premises.

Counsel further stated that although children are allowed by law to enter such premises, the Applicant does not allow children to any of his premises. The Applicant's premises are designed to prevent children being able to see inside and there will be no advertisement displayed to lure children to the premises. The Applicant's style of premises and level of supervision would not attract children.

In respect of vulnerable adults, the Sub-Committee were informed that the Applicant currently safeguards its customers through compliance with all regulations and works with leading gambling charities to improve its current safeguarding systems. Counsel added that should the licence be granted; the Applicant would have a legal obligation to uphold all of the licensing objectives that arise from the mandatory and default conditions prescribed by law.

Addressing the representations made by local residents, Counsel explained that that the default hours are set by Parliament that being 9am to midnight for bingo and 24 hours for other gaming machines. The Responsibility Authorities did not object to the hours of operation. Counsel stated that there were similar premises that had operated in the area without any problems.

Counsel highlighted that the Applicant's premises would trade with a small number of customers, there would be no alcohol, no loud music and no entertainment with people wandering in ones and twos and wandering out again. As such, there should be no nuisance caused. Counsel further stated it was important to note, that public nuisance is not a relevant consideration as it does not form part of the licensing objectives for applications made under the Gambling Act 2005.

With regard to other issues raised within the objections, Counsel stated that the demand for facilities and parking issues were irrelevant factors. Counsel dismissed one objection which stated that, 'there should not be a bingo facility' as inadmissible and concluded that there was no evidence, before the Committee, of objections that were relevant to the gambling regulations and as such the Applicant respectfully requested that the licence be granted.

The Sub-Committee discussed, asked questions and received responses on a number of matters including:

- Although noting that this was not a relevant factor in determining the application, in light of the pandemic, what measures were in place to deal with the rising levels of infection. It was noted that all premises had



a cleaning procedure in place which was enhanced during the pandemic and has been maintained since to safeguard customers.

- In terms of membership, Counsel explained that there is a loyalty scheme that customers could use but under current gambling regulations there is no longer a membership requirement.
- With regard to the cost per game and how many games could be played per hour, it was explained that the smallest amount a person can stake on a Merkur machine is 10p and the largest amount being £2 with a £500 prize. The average stake is between 30p and 40p. As regards, national bingo games, the largest stake amount is £40 if a person plays all the cards alternatively it works out to be £2 for 5 cards. The Applicants were unable to provide a figure about how many games could be played per hour as it would be difficult to count how many bingo games people can play as there are a variety of ways they can play such as paper, electronic, on mobile.
- When asked whether there was an automatic stop time, Counsel responded that there is an opportunity for players to set aside a time out – if the player chose to set this, but otherwise there was a default time out message after 20 minutes asking the player if they wished to continue.
- In response to whether staff could exclude customers, the Sub-Committee noted that staff were trained to be vigilant and to look out for obvious signs of stress, frustration etc and would know how to deal with it. Following observations and should the need arise, any customer interaction would be recorded on the system managed by internal compliance which allows for it to be tracked. Therefore, staff could exclude a customer if there were concerns about a customer not being able to manage their play or spend time. There was information for customers about national gambling charities and other organisations should they need it. It was noted that customers could also self-exclude by signing an agreement lasting anything from 6 months up to 12 months. When a customer signs the agreement, they would automatically be self-excluded from all other gambling premises due to the way the scheme works.
- Counsel further stated that staff were also trained to consider factors such as affordability and where the customer was getting the money from and whether they could afford to gamble. Any suspicious activity would be reported to the National Crime Agency. However, in premises such as this, the customers were generally regular and the staff would soon learn to know different gambling traits, spends, etc.
- The Sub-Committee noted that gambling premises are not allowed to accept credit cards as per the regulations, but customers could use their debit card on the centre console for tickets which are then entered into the machines.

The Sub-Committee heard from the Objector who stated that he lived walking distance away from the proposed premises and that he has seen lots of businesses come and go. He expressed his concerns about the current economic crisis and that people may use the establishment in a way that may cause them financial hardship further down the line. The objector provided by an example by stating that people may be using their income/benefits and then fall into debt consequently they would not be able pay their bills or buy food for their families. The Objector said he would rather have a food bank than a bingo facility.

In his summing up, the Objector stated that the proposed bingo facility was not the right establishment for the area as those who cannot afford fuel in the winter may go into keep warm and as a result spend money. He also said that there had been a rise in levels of shoplifting in the area and that at this point in time with the economic climate that the proposed bingo facility was not a right fit for the area.

In the Applicant's summing up, Counsel referred the Sub-Committee to their submission. Counsel explained that the Sub-Committee must have regard to the law relating to the determination of applications in that the Gambling Act places a legal duty on both the Commission and licensing authorities to aim to permit gambling, in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives.

Counsel further stated that the Applicant could understand the Objectors concerns, however, the Applicant has satisfied the legal test and has performed its functions under the law with the local area in mind. Counsel stated that the hearing was an evidence-based hearing and there was nothing in the history of this Applicant, locally or nationally, in what it offers or its premises layout, its core demographic, or in the training and supervision of its staff or its system of audit which suggests that to permit this application would harm children or vulnerable adults. If such issues did arise, the client would deal with them appropriately and expediently.

In reaching its decision, the Sub-Committee had regard to both national guidance and the Council's own policy. The Sub-Committee considered the application on its own merits and gave due consideration to the evidence available before them including the objections raised.

The Sub Committee considered that the Applicant had demonstrated a willingness to take steps to prevent, so far as possible, problems arising at, or from, the premises that may undermine the licensing objectives.

The Sub-Committee understood and appreciated the Objector's comments, however those concerns did not fall under the remit of the law and guidance that the Committee could apply to determine an application of this type.

The Applicant, via Counsel would be aware that if the premises prove to operate in any way that did not promote the Licensing Objectives, then the appropriate way for this to be addressed would be via a review of the licence.

**RESOLVED that, the application for a Premises License under the Gambling Act 2005, in respect of Merkur Slots, 241 Walsgrave Road, Coventry be granted subject to mandatory conditions.**

5. **Any Other Business**

There were no other items of business.

(Meeting closed at 11.30 am)

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**Coventry City Council**

**Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)  
held at 10.00 am on Tuesday, 8 November 2022**

Present:

Members: Councillor J Clifford (Chair)  
Councillor L Bigham  
Councillor S Keough

Employees Present:

Law and Governance S Ahmed, U Patel, C Sinclair

Streetscene & Regulatory Services J Glover, R Masih

In attendance: A Mono, Environmental Protection (on behalf of Review Applicant)  
F Taylor, Environmental Protection (Review Applicant)  
Respondents (Licensee)  
Noise Consultant (on behalf of Licensee)

**Public Business**

1. **Appointment of Chair**

**RESOLVED that Councillor J Clifford be elected as Chair for the meeting.**

2. **Apologies**

There were no apologies for absence.

3. **Declarations of Interest**

There were no declarations of interest.

4. **Licensing Act 2003 - Application to Review Premises Licence**

The Sub-Committee considered an application to review the Premises Licence in respect of Rialto Reborn, 85 Moseley Avenue, Coventry. The application, submitted by Environmental Protection, requested the removal of the provision of live music and recorded music from the licence.

Environmental Protection submitted that the Licensing Objective of the Prevention of Public Nuisance had been undermined on a number of occasions. One representation was received during the review application process from an interested party in support of the review application on the grounds that the Licensing Objectives of the Prevention of Public Nuisance had been undermined.

None of the other Responsible Authorities had made representations.

The Sub-Committee's statutory duty was to consider the application and any representations and to take such steps as contained in the Licensing Act 2003 as it considered appropriate for the promotion of the Licensing Objectives.

The Licensing Officer confirmed that the application was for a Premises Licence Review submitted by Environmental Protection and that one representation in support of the review had been received from a local resident. It was confirmed that all other licensing formalities had been complied with.

The Sub-Committee heard from Environmental Protection (the Applicant) that the reason behind their application was that they had received several complaints about noise nuisance from the premises. They stated that they had made attempts to work with the Licensee (the Respondent) to ameliorate the issues by conducting advice visits, providing verbal warnings, issuing warning letters, serving a noise abatement notice, issuing a final warning letter, and corresponding via numerous emails with the Respondent. The Applicant felt that the Respondent had not taken the matter seriously and had not adequately offered to manage the noise levels. The Applicant stated that a Noise Limiting Device was only fitted at the premises after notices had been issued. The Applicant further stated that the resident who had submitted the representation, regularly leaves her house on weekends to get away from the noise and therefore did not report any complaints to the Council during these periods. The Applicant was of the view that the noise levels from the premises was highly likely to be affecting other residents in the area. The Applicant commented that the Respondents had managed noise levels in the last few months only because a review of the premises licence had been called.

The Sub-Committee questioned whether there was a pre-set level agreed with Environmental Protection as per the condition of the licence. The Applicant stated that there are no pre-set levels and noise nuisance is measured subjectively. The Applicant further explained that the condition pertaining to a pre-set level of noise was no longer a licence condition for all premises licences of this type. The reason being that noise levels would differ from one event to another as such one pre-set level could not be appropriately applied to all types of events.

When questioned whether any further complaints had been made since June 2022, the Applicant stated that there had been no further complaints, however, the resident leaves her house most weekends and was therefore not available to experience noise nuisance to make a complaint. The Applicant accepted that the works undertaken by the Respondent thus far appeared to be successful in reducing noise levels but that the period of compliance could also be a result of the matter being called for a review.

The Respondent presented their case and began by outlining a brief history of the premises. They explained that their only source of income is through revenue from paid events such as Bongo Bingo but unfortunately, they had cancelled their contract at the premises due to the uncertainty with the review.

The Respondent explained that they have always taken their public responsibility extremely seriously. As such, they had responded to complaints and had liaised with both the Applicant and the resident to overcome issues. The Respondents reiterated that every effort was being made to resolve the issues and that if the

Sub-Committee were minded to remove the provisions for live and recorded music, the business would have to be closed down.

The Respondent confirmed the recent change of Premises Licence Holder to be Coventry Hospitality Ltd.

The Respondent addressed matters relevant to the concerns of the resident as outlined in their representation. They explained that there had only been one incident of police involvement since 2017. The Respondents conducted litter collection at and around the premises, in relation to noise complaints, the Respondents stated that they have a noise management plan in place and had taken steps to mitigate against issues of noise levels, such as installation of equipment, noise insulation to the walls and installation of permanent noise monitoring device placed in the bedroom of the local resident. The Respondent believed that they had demonstrated a genuine respect and concern for their neighbour. The Respondents submitted that the timeline of complaints and the works undertaken demonstrated that works undertaken thus far had been effective in reducing issues relating to noise.

The Respondent further explained that during the Covid pandemic there was no noise due to the premises being closed. However, with the reopening this attracted the attention of the resident with obvious changes in ambient sound levels.

The Respondent provided a further example of measures they had taken to address noise issues. In late July of this year, a Queen tribute act was permanently excluded from the premises as they did not comply with the noise impact levels. As an additional measure, the Respondent had offered the resident double glazing for her property which they believed would provide a further solution to reducing the impact of noise levels within the resident's property.

The Respondent clarified that they had not received a copy of the premises licence without the condition pertaining to a pre-set level agreed by Environmental Protection.

The Respondents invited the Sub-Committee to allow the licence to continue in the same way and to allow the further works to be undertaken.

The Sub-Committee questioned the further works proposed by the Respondent in their written representations. The Respondent explained that they were undertaking phase 4 of the proposed works which included acoustic insulation of the ceiling with the works due to start on 9 November 2022 for a period of 6 weeks. The Respondents assured the Sub-Committee that improvements would be continual even after the completion of the proposed phase 4 works and were willing to take further steps if required.

In their summing up, the Respondent explained that the Rialto is an organisation that concentrates on providing live music, culture and entertainment and is a resource for the City. They were actively seeking to rectify issues and would continue to do so. The Respondent stated that they did not react simply due to the challenge of this review, rather the Sub-Committee should note from the timeline of events that a whole process of mitigation has been ongoing, where substantial amounts of money had been spent to make improvements and the works would

continue. The Respondent expressed hope that the Sub-Committee could have trust in the Licence Holder that the venue is worth supporting.

The Applicant, in their summing up stated that the issues with noise have been ongoing for the past 5 years. They stated that the venue was historically a dance hall and as such not suitable for modern day live music. The Applicant explained that there had been two occasions where the Respondent had exceeded their own set level. The Applicant stated that the onus was not on the resident to mitigate against the noise issues by double glazing her property. They also stated that just because there are no representations made by other residents that it did not mean they are not affected. The Applicant explained that it was not for Environmental Protection to set levels as the Respondent had repeatedly been told that their noise levels were too high as such the Applicant invited the Sub-Committee to consider removing the provisions for live and recorded music whereby the Respondent could re-apply once further works had been undertaken.

In reaching its decision, the Sub-Committee considered the application for a review of a premises licence on its own merits and gave due consideration to the evidence available before them, including the representation made by one resident. The Sub-Committee had regard to both national guidance and the Council's own policy.

The Sub-Committee considered the options available to them when determining review applications. The Sub-Committee are constrained under the Licensing Act 2003 to take such action to promote the Licensing Objectives. As such, any action the Sub-Committee take, must be a reasonable and proportionate measure to address any identifiable issues.

The guidance to the Licensing Act 2003 states 'Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstance the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.'

The Sub-Committee, in applying the common law definition of public nuisance, were not satisfied that the licensing objective of public nuisance was being undermined given that only one resident had made a representation.

Having heard the facts and in considering the options available to them, the Sub-Committee was not satisfied that the evidence was sufficient to justify the action proposed by the Applicant and did not deem it reasonable and proportionate to take any further steps appropriate to promoting the Licensing Objectives.

The Sub-Committee considered that the Respondent had demonstrated a willingness to take steps to prevent, so far as is possible, problems arising at, or from the premises, that may undermine the licensing objectives such as instructing an acoustic consultant, undertaking extensive improvements to the premises and having liaised with the resident on an ongoing basis.



The Sub-Committee noted that there had not been any further complaints since June 2022 which they believed to be indicative of the work undertaken so far to be successful in resolving issues relating to noise levels.

Furthermore, there were no representations from other Responsible Authorities. The Sub-Committee took all this into account and welcomed phase 4 of the works proposed by the Respondent and hoped that this would further improve the situation.

**RESOLVED that there be no action taken, the provision of live and recorded music is to remain in place in respect of the Premises Licence for Rialto Reborn, 85 Moseley Avenue, Coventry.**

5. **Any Other Business**

There were no other items of business.

(Meeting closed at 1.20 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 Tuesday, 15 November 2022**

Present:

Members: Councillor L Bigham (Chair)  
Councillor J Innes  
Councillor S Keough

Employees Present:

Law and Governance: S Ahmed, U Patel, C Sinclair

Streetscene & Regulatory Services: R Masih, B Rawlings

In Attendance: N Chaplin – Environmental Protection (on behalf of Review Applicant)  
F Taylor – Environmental Protection (Review Applicant)  
  
Resident – Interested Party  
  
Licence Holder  
Counsel – on behalf of Licence Holder  
Designated Premises Supervisor – on behalf of Licence Holder

## **Public Business**

1. **Appointment of Chair**

**RESOLVED that Councillor L Bigham be elected as Chair for the meeting.**

2. **Apologies**

There were no apologies for absence.

3. **Declarations of Interest**

There were no declarations of interest.

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

The Sub-Committee considered an application to review the Premises Licence in respect of The Pilot Hotel, Catesby Road, Coventry. The review application was submitted by Environmental Protection on the grounds that the licensing objective of the prevention of public nuisance had been undermined. The review application requested the removal of live and recorded music and the reinstatement of the previously removed licence condition: "The only consumption of alcohol to be permitted outside is in a designated area on Catesby Road at the front of the

premises. There is to be no consumption after 10pm". This condition was removed by way of a Premises Licence Variation application submitted by the applicant in November 2017.

One representation from a local resident had been received in support of the review application on the grounds that the licensing objective of the prevention of public nuisance had been undermined.

None of the other Responsible Authorities had made representations.

The Sub-Committee's statutory duty was to consider the application and any representations and to take such steps as contained in the Licensing Act 2003 as it considered appropriate for the promotion of the licensing objectives.

At the start of the hearing, the Sub-Committee confirmed that they had received all the relevant documentation and had viewed all of the video footage provided by the resident. All relevant parties also confirmed that they had received all the relevant documentation and had viewed the video footage submitted by the resident.

When asked by the Chair of the Sub-Committee whether any parties wished to submit any further documents, Counsel for the Licence Holder, with the agreement of all parties, submitted photographs of the works undertaken in relation to the front doors of the premises.

The Licensing Officer presented her report confirming that the application was for a Premises Licence Review submitted by Environmental Protection and that one representation in support of the review had been received from a local resident. It was confirmed that all other licensing formalities had been complied with during the application process.

The Sub-Committee heard from Environmental Protection (the Review Applicant) that the reason behind their application was that they received several complaints about noise nuisance from the premises since February 2022 and directed the Sub-Committee to the noise monitoring reports contained within the agenda pack. The complaints were about noise arising from loud music and loud voices from customers at the pub. They explained that the current conditions stipulated that the doors and windows are to be kept closed during live music events however, there had been occasions where the doors had been left open leading to noise nuisance complaints from residents about noise levels.

On one occasion, rock music and noise emanating from the premises were almost a replica of club noise levels. Such incidents had led to the Review Applicant serving a Noise Abatement Notice in June 2022. Following the receipt of further complaints, the Licence Holder was written to in respect of these. A further complaint was received on 30 July 2022 and Officer's monitoring reports showed that there had been a statutory nuisance on that occasion which was a breach of the Noise Abatement Notice. This was caused by the outer doors being left open. The Review Applicant had advised the new Designated Premises Supervisor about reducing noise levels and of the need to comply with the licence condition to keep door and windows closed. However, the Review Applicant stated that a further complaint was received on 22 October 2022, this despite numerous

warnings issued to the Licence Holder, the management at the premises had failed to conform to the conditions of the Premises Licence.

The Review Applicant acknowledged that the Covid pandemic had brought challenges to the Licence Holder and the business, however they were of the view that the Licence Holder could not run events at the expense of local residents. The Review Applicant submitted that they had no confidence that further conditions would be adhered to by the Licence Holder regarding live and recorded music. As such, the Review Applicant invited the Sub-Committee to remove the provisions of live and recorded music from the Premises Licence.

The Review Applicant further invited the Sub-Committee to reinstate a previous condition regarding the beer garden such that the only consumption of alcohol was to be permitted outside in a designated area on Catesby Road, at the front of the premises and that there was to be no consumption of alcohol after 10.00pm. The Review Applicant submitted that this appeared to be the only recourse to address the issues faced by the residents on Burnaby Road.

The Sub-Committee noted that complaints regarding noise levels started in February 2022 and asked whether it was because music events had begun at the premises around that time. The Review Applicant explained that they began to receive complaints about noise levels in February 2022, however they could not ascertain whether it was because music events had begun at that time or what the situation was like prior to the complaints starting.

The Sub-Committee questioned whether the provision of live and recorded music had always been attached to the Premises Licence. The Licensing Officer confirmed that the provision of live and recorded music had been attached to the licence since it was granted in 2005.

The Resident then presented his case. He began by stating that he was not happy that the initial hearing had been adjourned and although he understood the lengthy process, his experience in relation to the noise issues meant that his quality of life had been severely impacted. The Resident had intended to provide a narrative over the video footage he had submitted, however due to technical issues, the showing of the video footage had to be abandoned. The Resident was content to continue without the video footage being shown given that the Sub-committee and the other parties had confirmed that they had sight of the footage ahead of the hearing.

The Resident explained the issues that he had been facing as a result of the noise nuisance emanating from the pub. The Resident stated that there are usually groups of people in the beer garden, causing a nuisance by talking loudly, shouting and swearing and that such noise could be heard clearly by the Resident from the inside of his property. He explained that there were 4 occasions where Environmental Protection Officers had visited his premises after he had made complaints of noise nuisance. On these occasions, the Officers witnessed that the noise emanating from the pub was loud enough to hear both upstairs and downstairs and with the TV on from within the resident's property. The Resident explained that this issue could be overcome if the beer garden was moved back to Catesby Road.

The Resident explained that on 14 November 2022, he had gone to bed at 10.00pm and at 11.05pm, he heard people in the beer garden and had observed people jumping over the gate to access the beer garden.

In making representations about loud music, the Resident explained that there had been 8 complaints made about the noise levels emanating from the premises where Officers had come out to assess the noise levels. He stated that there were instances where the music was so loud that he had no strength to contact Officers and wait their arrival as sometimes there would be long wait times. The Resident stated that after an entire week of working, one could reasonably expect to get a good sleep during the nights and weekends, except that noise arising from music nights at the pub was so bad that even if he wore earbuds and closed his double-glazed windows, the base was so deep that he could still hear it.

The Resident explained that in one of the video clips he submitted, a person crosses the road from the pub to smoke outside the Resident's house. The Residents submitted that the pub was designed to run from Catesby Road and not from Burnaby Road. The Resident further stated that he had no privacy as customers from the pub could look into his house. There had been occasions where customers had been standing in the middle of the road trying to stop cars. The Resident informed the Sub-Committee that a neighbour resident who has 3 children decided to move out of the area due to the noise and safety issues. The Resident submitted that the noise nuisance is impacting his mental health and that of the other residents. The Resident described his experience of the noise as being torturous and being kept in a prison and being forced to listen to loud noise levels.

The Sub-Committee did not have any questions for the Resident at this stage.

Counsel for the Licence Holder outlined their position. He explained that the pub had been on site for many decades and with it being a listed building it finds itself in the difficulties that it currently faces. Historically the pub was successful, although there had been a closure in 2010, Council explained that the current licence holder played no part in this and had bought the pub in an abandoned state in 2011 intending to renovate and redevelop it. But due to the Listed Building status, he could not carry out certain renovations. Counsel stated that it was not the Licence Holder's intention to run it as a pub and that if he could find someone else to run it for him, he would have done so. Parts of the building had been separated to allow different businesses to operate, these included a restaurant, flats on top and part of the outside area operated as a car wash. Counsel clarified that these were all separate businesses to the pub and as such, were all separate legal entities.

In addressing the proposals made by the Review Applicant, Counsel explained that there were a variety of different diagrams which mark the restaurant as a separate area to the pub such that the entrance to Catesby Road is used by the restaurant. And the pub was unable to access this entrance through the restaurant as this would infringe upon the lease of the restaurant. Counsel stated that the alternative to this was such that patrons would need to walk on to the road with glasses in their hands to get to Catesby Road. In addressing the Resident's comments about people jumping over the barrier structures currently put in place by the Licence Holder, (when closing off the beer garden at night), he explained

that restrictions relating to Listed Buildings precludes walls to be put in place to prevent people jumping over which meant that nothing more could be done to improve the situation. Counsel further stated that Historic England precludes improvements that might further enclose the beer garden area.

Counsel stated that in the absence of night-time entertainment and music in the premises, this would result in decreased footfall and the business would suffer. Counsel further stated that although business was improving since the pandemic, it was on a knife edge and as such the business was likely to be unviable if provisions for live and recorded music were removed from the licence.

Counsel explained that the reality of the situation given that the Listed Building status precludes change of use, the pub would have to be boarded up which might attract vandalism or lead to it being burnt down. This could remove the pub as a community space, as it was currently a popular community hub. Counsel stated that the Licence Holder recognised the issues faced by local residents and he accepts that there had been problems in relation to noise levels and the impact it has had on local residents.

Counsel explained that there had been a misunderstanding about exterior doors needing to be kept closed. The Licence Holder thought that the solid wooden doors were to be kept open as they were a health and safety hazard as they do not have windows and as such could cause an accident between people entering and existing the premises. Counsel stated that the Licence Holder had made and implemented changes recently to remedy the issues such as modifying the doors with the installation of windows and automatically closing mechanism, to ensure they were closed when music was being played. Furthermore, a Designated Premises Supervisor (DPS) had been appointed and a new sound monitoring system had been installed to keep noise levels in check.

Counsel questioned what weight should be attached to the video footage submitted by the resident. He referred to a video clip which related to the most recent complaint, received after the changes had been implemented at the premises, and submitted that the noise levels during the clip were quite low and that it was difficult to hear the music. The Sub-Committee were invited to compare and contrast this with the monitoring reports provided by the Officers in relation to previous complaints, where on those occasions, the doors were open and the noise levels were greater. Counsel stated that it was important to draw a distinction between the current situation with the new changes as compared to the situation prior to the changes.

The Sub-Committee questioned whether the doors from which the noise had been emanating should have been closed given that they were fire doors and leaving them open could amount to a breach of fire safety regulations. And whether the doors had been left open on more than one occasion. The Licence holder explained that the doors had been left open, but that was to the back of the premises and not on the Burnaby Road side. He further stated that he was not sure which doors were being referred to by the Sub-Committee. He assumed that reference was being made to either the two security doors at the front which look like fire doors or the doors at the back which are fire doors.

The Review Applicant clarified that the two doors at the front were not fire doors as established by a fire officer.

In his summing up, the Resident stated that the 8 complaints about the noise nuisance demonstrated that the impact of the noise levels was a real issue to residents and that it was simply unacceptable behaviour on part of the Licence Holder. He stated that the noise could be heard from his house and that the fire doors needed to be kept closed. He added that the business was designed to operate from the two doors on Catesby Road and not Burnaby Road. The Resident stated that the business did not care about the residents and should the beer garden remain on Burnaby Road, the problems would persist. The Resident thought that the Premises Licence should be suspended for 9 months to reflect the time period of residents tolerating the issue. He was also of view that entertainment should be removed and that closing times should be 11.00pm. The Resident believed that this would allow residents a better chance of getting peaceful sleep at night.

The Licence Holder was invited to sum up and Counsel on his behalf stated that the pub had been providing live entertainment since 2013 and during the pandemic, footfall had dropped, and business had decreased. He further stated that the complaints span a period of only 9 months and there had been no complaints prior to this. Counsel further stated that the Licence Holder did not seek to undermine the complaints but submitted that he had taken steps to address the issues. Counsel explained that if live entertainment was to be removed, it was likely that the pub would need to be boarded up. The pub could not function as anything else due it being a listed building. Counsel suggested that an acceptable level of sound should be set such that if the Licence Holder should fail to adhere to such pre-set levels, then further action could be taken at that stage. Counsel stated that principal security doors would remain closed.

Furthermore, Counsel stated that the restaurant was a standalone entity. The pub could not be entered or exited from Catesby Road as this was the entrance and exit to the restaurant. Counsel explained that the pub was currently closing one hour earlier than the closing times stipulated within the Premises Licence, lights were being switched off in the beer garden, the jukebox volume would be reduced further, and the barriers would remain in place to close off beer garden when closed. Moreover, Counsel explained that since the changes had been implemented, the Designated Premises Supervisor had been concerned about the impact of noise levels and so had been recording videos such that if there were complaints, there was evidence available on part of the pub. Counsel invited the Sub-Committee to consider that there should be proper testing and for the Premises Licence to function as it stands.

In their summing up, the Review Applicant stated that although they understood the difficulties that businesses faced, there had been a number of complaints about noise nuisance whereby the noise had been deeply intrusive into residents' homes and had had a detrimental effect on residents in the area. The Review Applicant stated that they had tried to resolve the issues via visits, advice and letters but such attempts had been ignored by the Licence Holder. The Review applicant explained that they understood the layout difficulties regarding the different entrances to the pub and restaurant, but that it was the Licence Holder who chose to do this. The Review Applicant submitted that they did not have



confidence in the pub's management and stated that the recent measures by the Licence Holder could have been implemented at a much earlier stage.

In reaching its decision, the Sub-Committee considered the application for a review of a premises licence on its own merits and due consideration was given to the evidence available to them including the representation made by a local resident and the Sub-Committee having regard to both national guidance and the Council's own policy.

The Sub-Committee considered the options available to them when determining review applications. The Sub-Committee were constrained under the Licensing Act 2003 to take such action to promote the Licensing Objectives. As such, any action the Sub-Committee decide must be a reasonable and proportionate measure to address any identifiable issues.

The guidance to the Licensing Act 2003 states that 'Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reductio of the living and working amenity and environment of other persons living and working in the area of the licensed premises'.

The Sub-Committee, in applying the common law definition of public nuisance to the evidence available before them, were satisfied that the Licensing Objective of Public Nuisance was being undermined.

The Sub-Committee considered that the Licence Holder was provided with sufficient warnings and failed to heed to such warnings in a timely manner. There was an acceptance on part of the Licence Holder that the noise levels emanating from the premises were causing issues to local residents albeit the explanation given was that of a misunderstanding of the licence conditions currently in place, in relation to doors and windows to be kept closed.

Furthermore, having reviewed the video footage provided by the Resident, the Sub-Committee were satisfied that the noise levels emanating from the premises were causing a nuisance to nearby residents.

The Sub-Committee noted that the Licence Holder was putting measures in place to address the issues; however, they considered that such measures could have been put in place at an earlier stage. They noted that the Review Applicant received complaints even after the new Designated Premises Supervisor was given advice on how to keep noise levels reduced and was reminded of the licence condition about doors and windows to be kept closed. As such, the Sub-Committee did not have confidence that the recent changes would result in the Licensing Objective of the Prevention of Public Nuisance being upheld.

**RESOLVED that the Licensing Sub-Committee, having heard all of the evidence from all of the parties, and having reviewed all of the papers provided in advance of the hearing, including the video footage submitted by the Resident, decided to:**

1. **Exclude the provision of live and recorded music from the Premises Licence.**
2. **Reinstate the previous condition relating to the beer garden such that the only consumption of alcohol to be permitted outside is in a designated area on Catesby Road at the front of the premises and that there is to be no consumption of alcohol after 10.00pm.**
3. **Reduce the opening times to be in line with the opening times that are currently in place now, those being Sunday to Thursday 10.00am to 11.00pm and Friday to Saturday 10.00am to 12 midnight.**
4. **The hours pertaining to being open to the public shall align with the opening hours and therefore there will be no extension in place, this is to encourage earlier dispersion of customers, as such last orders will be 30 minutes before closing.**

5. **Any Other Business**

There were no other items of business.

(Meeting closed at 1.20 pm)



## Public report

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Licensing & Regulatory Committee

20 December 2022

**Name of Cabinet Member:**

Not Applicable

**Director Approving Submission of the report:**

Director Streetscene and Regulatory Services

**Ward(s) affected:**

Not applicable

**Title:**

Skin Piercing Registration – Review of Fees

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**Is this a key decision?**

No – although the proposals affect more than two electoral wards, the impact is not expected to be significant.

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**Executive Summary:**

This report seeks to inform the Committee of legislative powers to enable fee setting for skin piercing registration.

The Local Government (Miscellaneous Provisions) Act 1982 requires the person who carries out the practice of skin piercing to register the premises where the skin piercing business operates. Under the provisions of the Act, Local Authorities may determine reasonable fees for the registration of skin piercing activities. This gives Council's the power to set their own local fees that will enable it to recover reasonable costs.

**Recommendations:**

The Licensing & Regulatory Committee is recommended to:

1. Consider and approve the proposed fees for: -
  - I. Applications to register premises to undertake the practice of skin piercing and
  - II. Applications to register individuals, vary applications and other skin piercing services not previously charged for.
2. Delegate the authority to the Strategic Lead of Regulation to conduct an annual review of the fees and, where appropriate, amend if necessary.

**List of Appendices included:**

The following appendices are attached to the report:

Appendix 1: Proposed fees.

Appendix 2: Benchmarking data.

**Background papers:**

1. Local Government (Miscellaneous Provisions) Act 1982:

<https://www.legislation.gov.uk/ukpga/1982/30>

2. Coventry City Council Byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis:

[https://www.coventry.gov.uk/downloads/file/30675/skin\\_piercing\\_byelaws](https://www.coventry.gov.uk/downloads/file/30675/skin_piercing_byelaws)

**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.

**Report title:  
Skin Piercing Registration – Review of Fees**

**1. Context (or background)**

- 1.1 The City Council is required to register certain activities that require the puncturing of the skin for cosmetic purposes or acupuncture (this does not include the treatment by a qualified medical practitioner). The purpose of registration is to ensure satisfactory standards of hygienic practice and business management are met to minimise risk to the client and the operator.
- 1.2 When a needle, razor or other similar instrument breaks a person's skin, blood, serum or small fragments of tissue adhere to the instrument used. These can then be directly transferred to the blood stream of another person or could contaminate materials or other pieces of equipment. In this way infection can be transmitted. Viral infections that could be transferred through unhygienic skin piercing includes Hepatitis B and C and HIV (Human Immunodeficiency Virus). It is therefore imperative that adequate controls are in place.
- 1.3 The Local Government (Miscellaneous Provisions) Act 1982 requires the person who carries on the practice of skin piercing to register the premises where the skin piercing business operates.
- 1.4 Skin piercers must also comply with all relevant health and safety legislation such as the Health and Safety at Work etc Act 1974 as well as complying with any associated byelaws made by the Local Authority.
- 1.5 The City Council formally adopted a set of skin piercing byelaws in 1983 that set hygienic standards for skin piercing. Between 1983 and 2007, the byelaws were updated several times to take account of new skin piercing techniques e.g., body piercing and semi-permanent skin colouring.
- 1.6 Over recent years, the number of applications to register skin piercing premises has risen dramatically from 9 applications in 2014 – 15 to 68 applications in 2019 – 20. The number fell off after 2020 because of the pandemic, however, to date this year, 34 applications have been received and processed; thus, over the course of the year, application numbers are likely to reach pre pandemic levels.
- 1.7 Under the provisions of the Local Government (Miscellaneous Provisions) Act 1982, Local Authorities may determine reasonable fees for the registration of skin piercing activities. This gives Council's the power to set their own local fees that will enable it to recover reasonable costs.
- 1.8 The skin piercing regime has not been reviewed since 2007 and therefore the cost of registration has only risen in line with inflation. The current registration fee of £113.30 does not reflect the time spent by officers administering the scheme nor does it cover the costs of administering other elements of the scheme e.g., registering extra skin piercing practitioners, adding on extra skin piercing treatments to an existing registration, varying registrations etc. It is proposed therefore, to increase the fee charged for registering premises and introduce other local fees to enable cost recovery.

**2. Fee Methodology**

- 2.1 When fixing fees, the Council may consider all costs incurred by the Authority in carrying out their registration 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. It also includes any site visits that take place. The time taken is assigned to different roles and the costs based on hourly rates. The proposed fees are provided in Appendix 1. It is also proposed that the fees are reviewed on an annual basis.

- 2.2 It should be noted that a benchmarking exercise has been undertaken of fees set by other Local Authorities for applications of these types. A summary is provided in Appendix 2.

### **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 approve the proposal contained within this report to charge the applicant(s) fees to recover the reasonable costs of the service(s) provided.

3.1.2 Option 2 is to continue to process these applications at the current rate or, for those not currently charged for, 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. Should Committee approve the proposed fees, a new skin piercing policy will be published on the Council's website that references this matter.

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

- 5.1 If approved, the decision to increase existing fees and introduce new fees for some applications, will take immediate effect.

### **6. Comments from Chief Operating Officer (Section 151 Officer) and Chief Legal Officer**

- 6.1 Financial implications

The proposed fees have been calculated on a full cost recovery 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 registration 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.

Regulation 18 (4) of the Provision of Services Regulations 2009, 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**

### **7.1 How will this contribute to the Council Plan [www.coventry.gov.uk/councilplan/](http://www.coventry.gov.uk/councilplan/)?**

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 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.

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<b>Contributor/approver name</b>	<b>Title</b>	<b>Directorate or organisation</b>	<b>Date doc sent out</b>	<b>Date response received or approved</b>
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Davina Blackburn	Strategic lead of Regulation	Place	15/11/2022	22/11/2022
<b>Names of approvers for submission: (officers and members)</b>				
Cath Crosby	Lead Accountant	Place	23/11/2022	29/11/2022
Gill Carter	Regulatory Team Leader, Legal Services	Place	23/11/2022	25/11/2022
Kate Eales	HR Business partner	Place	23/11/2022	01/12/2022
Andrew Walster	Director Streetscene and Regulatory Services	Place	01/12/2022	07/12/2022

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## Skin Piercing Registration – Review of Fees

### Appendix 1: Proposed fees

Type of skin piercing application / activity	Proposed fee
Registration of a premises	<b>£190</b>
Registration of an individual practitioner	<b>£190</b>
<p>Combined registration of premises and individual practitioners  <i>(i.e., at the same visit) (charge made for one premises inspection and then each individual practitioner in addition).</i></p>	<p><b>A) Inspection of premises - £190 plus</b>  <b>B) Registration of individual practitioner whilst undertaking a premises registration visit - £75/ practitioner.</b></p> <p><i>E.g. Registration of a new skin piercing business and 1 practitioner is £190 + £75= £265</i></p> <p><i>Registration of a new skin piercing business and 2 practitioners is £190 + £75 + £75 = £340</i></p>
Registration of additional treatments	<b>£140</b>
Variation of registration e.g., change of name, registered practitioner moving to another registered premises	<b>£62</b>
Extra copies of certificates of registration	<b>£37</b>

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## Skin Piercing Registration – Review of Fees

### Appendix 2: Benchmarking

Local Authority	Registration of a premises	Registration of a practitioner
Warwickshire		
North Warwickshire	£172.10	-
Nuneaton & Bedworth	Charge per treatment type – range £112.45 - £229.10	
Rugby	£165 (ears only £85)	£165 (ears only £85)
Stratford Upon Avon	£110	£58
Warwick	£283.50	£241.50
West Midlands		
Birmingham	£41	£41
Dudley	£195.96	£64.15
Sandwell	£184	£184
Solihull	£209 for initial registration; includes up to 2 practitioners	
Walsall	£201	£271
Wolverhampton	£201	£271
Other Local Authorities		
Bristol	£110	£85
Cannock	£155	-
Manchester	£72	£43
Sheffield	£270	£55
South Staffordshire	£202	£141
Telford	£86	£86
Worcester	£290	£105

NB: As fees are set locally by each Council, comparative data for the full range of proposed fees is not available.

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