

LICENSING AND SAFETY COMMITTEE

11 JANUARY 2005

LICENSING ACT 2003 - PROCEDURE FOR HEARING OF APPLICATIONS

Report from: Mark Bowen, Assistant Director Legal Services

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1 Summary

- 1.1 The purpose of this report is to ask the Licensing and Safety Committee to consider and approve the proposed procedure for hearing licensing applications under the Licensing Act 2003.

2 Decision Issues

- 2.1 The committee has delegated powers to determine this matter.

3 Background

- 3.1 The Licensing Act 2003, which comes into force on 7 February 2005, requires that the Council determine applications for a number of different matters to include alcohol, entertainment and late night refreshment. The Act requires that applications are determined within strict timescales which would put pressure on the proposed Licensing Hearing Panels to determine applications and appeals.
- 3.2 The committee is empowered to determine a procedure for hearing contested applications and appeals. In the event of the issues being straightforward, the Licensing Manager may deem it appropriate to invite the parties to make representations in writing for consideration by a proposed Licensing Hearing Panel. Under the current draft regulations this may only be done if all the relevant parties agree. However, in more complex cases a full hearing will be necessary.
- 3.4 In order to ensure a timely, consistent and fair approach to hearings, it is recommended that a procedure similar to that currently used by the magistrates court is used when determining licensing applications. A proposed procedure for such hearings is attached at appendix A.

4 Financial implications

- 4.1 There are no direct financial implications for Medway Council concerning this matter at present.

5 Legal implications

- 5.1 The legal implications are set out in the body of this report.

6 Recommendation

- 6.1 That the committee approve that applications may be determined by either written representation or by a full hearing, as deemed appropriate by the Licensing Manager in accordance with the provisions of the Licensing Act 2003.
- 6.2 That the committee approve the procedure to be used at a Licensing Hearing Panel meeting as shown at Appendix A.
- 6.3 That the committee agrees the proposed format for reports as shown at Appendix B.

Lead officer contact

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PROCEDURE FOR HEARINGS OF LICENSING HEARING PANELS

The Legal Officer will act in a similar role to that of the Magistrates' Clerk and as such will (with the permission of the Chairman) co-ordinate proceedings and seek to control the order of business.

The Chairman will of course have ultimate control over proceedings.

1. The chairman will briefly explain the procedure to be followed and ask all persons present to identify themselves
2. The Licensing Officer will briefly outline the application
3. The applicant/representative will be invited to make their application and call evidence as appropriate
4. Objectors will be invited to question the applicant/witnesses
5. Members will agree those issues they wish to raise, with appropriate advice of the legal officer.
5. The chairman will ask questions of the applicant/witnesses on behalf of the sub-committee.
6. Objectors will be invited to give evidence/call witnesses
7. The Applicant will be invited to question objectors/witnesses

Members will agree those issues they wish to raise, with appropriate advice of the legal officer.
8. The chairman will ask questions of objectors/witnesses on behalf of the sub-committee
9. Objectors may make any closing speech
10. The applicant may make any closing speech
11. All parties will leave the room in order that the sub-committee may deliberate. The Legal Officer and Clerk to the sub-committee will remain.
12. Parties will be invited to return to receive the decision. In the event of complex or lengthy applications the sub-committee may decide to adjourn the matter and return at a later date to give its decision.

PROPOSED FORMAT FOR REPORTS TO LICENSING HEARING PANELS

1. Title of application or matter for consideration.
2. Background to the case, including previous history if relevant.
3. Appendices.

Copy of application or relevant papers
Comments of responsible authorities (eg Police, Fire, Council departments)
Comments of authorised persons (eg authorised officers)
Comments of interested parties (eg residents, businesses or their representatives)
Applicants written submission (if any)
4. Recommendation of Licensing Manager (if appropriate).