

LICENSING AND SAFETY COMMITTEE

3 MARCH 2009

LICENSING ACT 2003

EXPEDITED/SUMMARY LICENCE REVIEWS

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Summary

The purpose of this report is to inform the Committee of the procedure for expedited/summary premises licence reviews, highlighting the requirement for an initial hearing (Licensing Hearing Panel) within 48 hours of receipt of an application from the Police.

1. Budget and Policy Framework

1.1 The Council's statement of licensing policy in respect of its functions under the Licensing Act 2003 refers to the licensing objective of the prevention of crime and disorder and associated enforcement. This report refers to associated legislation in this connection.

2. Background

2.1 There are provisions in the Licensing Act 2003 (the 2003 Act) which allow a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both). These provisions were inserted at section 53A of the 2003 Act by the Violent Crime Reduction Act 2006.

2.2 The powers apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, nor to those operating under a club premises certificate. The purpose of these powers is to complement procedures in the Licensing Act 2003 for tackling crime and disorder associated with licensed premises. The existing powers, in Part 8 of the 2003 Act, provide for the instant closure of premises by the police in some circumstances, and the review of premises' licences by the licensing authority. The quick process powers are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.

2.3 The powers allow:

- the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with **serious** crime or **serious** disorder (or both); and
- the licensing authority to respond by taking interim steps quickly, **where appropriate**, pending a full review.

2.4 In summary, the process is:

- a local chief officer of police may apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both);
- on receipt of the application and the certificate the licensing authority must within 48 hours consider whether it is necessary to take interim steps pending determination of the review of the premises licence – the authority must in any event undertake a review within 28 days of receipt of the application.

2.5 The range of options open to the licensing authority at the interim steps stage are:

- modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- removal of the designated premises supervisor from the licence; and
- suspension of the licence.

2.6 Following the full licence review the Licensing Authority may do any of the above or may revoke the licence.

3. Comments Of The Licensing Manager

3.1 Paragraph 2.4 above explains that on receipt of the application from the Police, the council must within 48 hours consider whether it is necessary to take interim steps pending determination of the review of the premises licence.

3.2 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions must be taken by the relevant licensing sub-committee, or by the authority acting as a whole. It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This

means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached. Officers feel however, it would be good practice to hold a formal hearing if practical.

- 3.3 In this connection Members are advised that it will be necessary to organise a meeting of the Licensing Hearing Panel at very short notice. The position with the council's constitution and notice of meeting is commented on at paragraph 4.1 of this report.

4. Legal Implications

- 4.1 Chapter 4 of the council's constitution Rule 4 – Notice of Meeting states as follows:

“The council will give at least five working days notice of any meeting by posting details of the meeting in public buildings, on its website, in newspapers and at its offices, unless the law provides otherwise in special circumstances”.

- 4.2 A hearing within 48 hours of receipt of the Police application is required under Section 53A of the Licensing Act 2003 and notice of the meeting is therefore covered under the council's constitution as above – “unless the law provides otherwise in special circumstances”.

5. Financial Implications

- 5.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if as a result of a hearing an appeal is lodged to the Magistrates Court, there may be costs associated with this process.

6. Recommendation

- 6.1 That the committee note the procedure for expedited/summary premises licence reviews and the requirements for a panel meeting within 48 hours of receipt of the Police application.

Background Papers

Licensing Act 2003 – Section 53A
Medway Council Statement of Licensing Policy

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