

**Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ**

please ask for Miss H Bell
direct line 0300 300 4040
date 6 October 2009

NOTICE OF MEETING

LICENSING COMMITTEE

Date & Time

**this meeting will commence immediately following the
conclusion of the Regulation Committee which begins at
9.30am**

Venue at

The Council Chamber, Priory House, Chicksands

Edwina Grant
Deputy Chief Executive

To: The Chairman and Members of the LICENSING COMMITTEE:

Cllrs L Birt (Chairman), T Green (Vice-Chairman), D Bowater, I Dalgarno, M Gibson,
K Janes, H J Lockey, Ms J Nunn, A A J Rogers, J A G Saunders, G Summerfield
and P F Vickers

[Named Substitutes:

Cllrs: P N Aldis, R D Berry, Ms C Maudlin, D McVicar, B J Spurr and
Mrs C Turner]

All other Members of the Council - on request

***MEMBERS OF THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THIS
MEETING***

AGENDA

1. **APOLOGIES FOR ABSENCE**

Apologies for absence and notification of substitute members.

2. **MINUTES**

To receive and sign as a correct record the minutes of the meeting of the Licensing Committee held on 18 June 2009.

3. **MEMBERS' INTERESTS**

To receive from Members declarations and the **nature** thereof in relation to:-

- (a) Personal Interests in any agenda item
- (b) Personal and Prejudicial Interests in any agenda item

4. **CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements from the Chairman and any matters of communication.

5. **PETITIONS**

To receive petitions in accordance with the scheme of public participation set out in Annex 2 in Part 4 of the Constitution.

6. **PUBLIC PARTICIPATION**

To deal with general questions and statements from members of the public in accordance with paragraph 1 of the scheme of public participation set out in Appendix 1 to Part 4 of the Constitution.

REPORTS

Item	Subject	Page Nos.
7	Delegation of Functions - Minor Variations The report proposes that the Licensing Sub-Committee delegates responsibility for all minor variations to premises licences and club premises certificates, to officers.	* 5 - 28
8	Licensing Sub Committees The report sets out information to enable the Committee to take a decision on the number and composition of Licensing Sub-Committees for Central Bedfordshire Council and also regarding provision for decisions to be taken by ward members in relation to premises within their wards.	* 29 - 36
9	Special Meeting of Licensing Committee To propose the holding of a Special meeting of the Licensing Committee on Wednesday 13 January 2010 at 9.30am to receive the reports of the Licensing Manager in relation to the Gambling Act 2005 Statement of Policy and The Licensing Act 2003 Policy.	

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CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **LICENSING COMMITTEE** held at Council Chamber, Priory House, Monks Walk, Shefford on Thursday, 18 June 2009

PRESENT

Cllr L Birt (Chairman)
Cllr T Green (Vice-Chairman)

Cllrs D Bowater
I Dalgarno
M Gibson
K Janes

Cllrs H J Lockey
A A J Rogers
G Summerfield
P F Vickers

Apologies for Absence: Cllrs J Nunn
J A G Saunders

Officers in Attendance: Mrs M Clampitt – Democratic Services Officer
Mrs K John – Democratic Services Manager,
MBDC
Mr R Mills – Committee Services Manager
Mrs B Morris – Assistant Director Legal &
Democratic Services and
Monitoring Officer

L/09/1

Membership of the Licensing Sub-Committee

The Committee received and considered a schedule submitted by the Assistant Director Legal & Democratic Services outlining the recommendations of the Group Leaders in relation to the appointment of Members of the Licensing Sub Committee.

Members asked for clarification of why only one sub committee had been arranged and what the process would be to further increase the number of sub committees. The Democratic Services Manager informed the Committee that historically there had been 3 or 4 sub committees, which had been introduced at the inception of the Liquor Licensing Regime in 2005. The Central Bedfordshire Constitution however allowed for only one Committee with all members of the Licensing Committee being named as substitutes. If the Committee wished for this to be reviewed they would have to add the item to the next full meeting of the Licensing Committee asking that they request the Constitution Working Group to amend the Constitution to allow for more sub committees to be established. The Committee unanimously voted for this to be done.

RESOLVED

1. ***that Members of the Licensing Sub Committee be appointed as indicated on the schedule attached as Appendix A to these Minutes.***
2. ***that the number of Licensing Sub Committees be added to the agenda for the next Licensing Committee to allow further discussion.***

(Note: The meeting commenced at 7.50 p.m. and concluded at 7.55 p.m..)

LICENSING COMMITTEE

18 June 2009

MEMBERSHIP OF THE LICENSING SUB-COMMITTEE

<i>Licensing Sub-Committee (3 members appointed by Licensing Committee)</i>	Cllr D Bowater Cllr T Green Cllr G Summerfield
Substitutes	
Any member of the Licensing Committee	

Note: Chairman of the Sub-Committee to be appointed at each meeting.

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Meeting: Licensing Committee

Date: 14 October 2009

Subject: Delegation of Functions – Minor Variations

Minor Variations to Premises Licences and Club Premises Certificates pursuant to Sections 41A to 41C and 86A to 86C of the Licensing Act 2003, as amended (“the Act”) and Variations to Premises Licences regarding a new Condition (Alternative Licence Condition) pursuant to Sections 25A, 41D and 52A of the Act.

Report of: Head of Public Protection

Summary: The report proposes that The Licensing Sub Committee delegate responsibility for all minor variations to premises licences and club premises certificates to officers.

Contact Officer: Susan Childerhouse

Public/Exempt: Public

Wards Affected: All

Function of: Licensing Committee

Reason for urgency (if appropriate) To ensure that all Minor Variation applications under the Licensing Act 2003 can be dealt with in the statutory 15 day timescales

RECOMMENDATIONS:

- 1. that the Director of Sustainable Communities be authorised to determine applications for minor variations of premises licences and club premises certificates in accordance with the provisions contained within the Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2008.**
- 2. that accordingly paragraph 4.3.10 of the Scheme of Delegation to Officers be amended by the addition of the following delegations and that the Constitution Advisory Group be advised accordingly:-**

Delegation	Qualifications (if any)
Determination of whether an application is deemed to be a minor variation.	None

Determination of application for a minor variation to a premises licence.	None
Determination of application for a minor variation for a club premises certificate	None

Background

1. On the 29th July 2009 The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 and The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 came into force. The regulations provide an update to The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 and the order amends The Licensing Act 2003.
2. The new regulations and order allow for variations that will not impact adversely on the licensing objectives to be subject to a simplified 'minor variations' process.
The Act does not define what a "Minor Variation" is information is set out at Appendix 1 relating to what may and may not be considered.
In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.
3. Sections 25A, 41D and 52A relate to a new condition regarding alcohol called an Alternative Licence Condition and were inserted in the Act by The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 No. 1724 which was made on 30 June 2009 and came into force on 29 July 2009 ("Order 1724").

Normally a Premises Licence which authorises the sale of alcohol must contain the Mandatory Conditions relating to alcohol ("Mandatory Conditions") which prohibit the supply of alcohol at any time where there is no Designated Premises Supervisor ("DPS") specified on the Premises Licence or at any time when the DPS does not hold a Personal Licence (or that licence is suspended) and also require that every sale of alcohol must be made or authorised by a Personal Licence Holder.

These new Sections allow the Management Committee of a Community Premises to be collectively responsible for the supervision of alcohol sales instead of a DPS by applying for the Alternative Licence Condition to be on the Premises Licence in place of the Mandatory Conditions. Such an application can only be made if the Licence Holder is, or is to be, a committee or board of individuals with responsibility for the management.

4. There is no requirement for these applications to be subject to consultation with responsible authorities, the applicant is not required to advertise the variation in a newspaper or circular or copy it to responsible authorities. However, they must display a notice, this notice must be white to distinguish it from the blue notices used for full variations and new applications and provide notice to the chief officer of police – this is only for the alternative licensing condition in 10(2), 12(2) or 13A

5. The Central Bedfordshire Constitution Part E2, Annex C, paragraph 7, Licensing Sub Committee Delegated functions states that the Licensing Sub - Committee is authorised to undertake the following functions on the Council's behalf; determination of application to vary premises licence where relevant representations are made.
6. The Council must determine the Minor Variation application within 15 working days starting on the first working day after the Council receives the application, otherwise it is deemed to be "refused" and the Council must return the application fee which has been set at £89.00. The DCMS Guidance confirms at paragraph 8.39 that the Council cannot determine an application before the 10 working day consultation period has expired and therefore there is a very small window in which to determine an application – 5 working days - or the application is deemed to be refused.

However, the Council with the agreement of the Applicant may treat the application or the fee or both as rejected, returned and resubmitted to the Council as a new application. This new application will be treated as having been received by the Council on the day of the agreement or on any other such date as specified in the agreement and the timescales will start from this date. Any fee which is owed to an Applicant may be recovered by the Applicant as a debt.

Considerations

7. New supplementary Government Guidance under S182 of the Licensing Act 2009 was published in July 2009. It gives guidance on the simplified process for minor variations and recommends that the decision-making process be delegated to officers. Attached at Appendix 2
8. Section 8.36 of the Guidance states that on receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. If not, the application can be processed as a minor variation and there will be no hearing, regardless of whether or not representations are received. In line with the recommendations in the Guidance, the Committee is asked to delegate the decision-making process to officers. If it were considered that there would be an adverse impact on any of the four licensing objectives, a full variation would be required. Full variation applications with no representations are already delegated to officers (Delegation No. 4.3.10.5) and where representations are received, the current procedure of holding a hearing would not change.

Conclusion and Next Steps

9. In accordance with the Government Guidance it is therefore recommended that the Director of Sustainable Communities be authorised to determine applications for minor variations of premises licences (such delegation would include authority to determine whether an application did constitute a "minor variation" (ie: that it would not adversely impact on any of the four licensing objectives.)

CORPORATE IMPLICATIONS

Council Priorities:

Creating Safer Communities is supported by the 4 licensing objectives

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Financial:

The fee set by the Government for a minor variation application is £89 and if the application is not dealt with within 15 working days, the fee must be refunded. As we do not know how many of these types of applications will be made we cannot say at this time what the impact may be for Central Bedfordshire. In order to mitigate financial implications of the amendment a processes will be put in place to ensure that applications can be determined by officers within 15 days of receipt

Legal:

The Licensing Act 2003 (Premises and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009

The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009

Risk Management:

None

Staffing (including Trades Unions):

None

Equalities/Human Rights:

None

Community Development/Safety:

None

Sustainability:

None

Appendices:

Appendix 1: What constitutes a minor variation

Appendix 2: Guidance issued under section 182 of the Licensing Act 2003

Background Papers (open to public inspection):

Licensing Act 2003

The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009

The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005

The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 No. 1724.

Department for Culture, Media and Sport: Guidance issued Under Section 182 of the Licensing Act 2003

Location of Papers : Priory House

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Appendix 1 – What Constitutes a Minor Variation

Sections 41A(3) and 86A(3) state that an application under these new provisions cannot be made in certain circumstances which are listed below –

- (A) Extend the life of a Premises Licence (where an Applicant requested that the Premises Licence be issued for a limited period only.
- (B) Specify a Designated Premises Supervisor on a Premises Licence;
- (C) Include the Alternative Licence Condition on a Premises Licence
- (D) Re a Premises and Club – Authorise
 - (i) the supply of alcohol at any time between 11pm and 7am or
 - (ii) an increase in the licensable hours in which alcohol may be sold by retail or supplied/supplied to members or guests
- (E) Add the supply of alcohol as an activity authorised by the Premises Licence/Club Premises Certificate; and
- (F) Vary substantially the premises to which the Premises Licence or Club Premises Certificate relates.

Variation A would need to be the subject of a new Application for a Premises Licence pursuant to Section 17 of the Act.

Variations B to F would need to be made through the normal variations procedure under Section 34 of the Act.

Whilst the Act does not define what a Minor Variation is, the DCMS Guidance (paragraph 8.42) advises that Minor Variations will generally fall into four categories) all of which are discussed in more detail in paragraphs 8.43 to 8.60 of the DCMS Guidance:

- Minor changes to the structure or layout of a premises – but not if it will increase the capacity for drinking on the premises; affect access/exits or effect noise reduction measures;
- Small adjustments to licensing hours - i.e. to either reduce hours or to move hours around within the permitted time bands without increasing the licensed hours;
- The removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions - The Council cannot impose its own conditions and the application should be refused if additional conditions would be required as a result of the application;

- The removal of a Licensable activity - should normally be approved as a minor variation; and

The addition of certain licensable activities i.e. live music films and plays depending upon the effect on the licensing objectives.



department for
**culture, media
and sport**

THE LICENSING ACT 2003

Presented to Parliament pursuant to Section 182 of the Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003

Supplementary guidance on:

- a simplified process for minor variations to premises licences and club premises certificates and;
- the removal of the requirement for a designated premises supervisor and personal licence at community premises.

July 2009

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

Contents and Notes

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Notes on changes resulting from Part 1:

Paragraphs 8.33 and 8.34 below replace the corresponding paragraphs in the previous Guidance.

Paragraphs 8.35 to 8.60 below are newly inserted. Subsequent paragraphs (former paragraphs 8.39 to 8.78) are renumbered as 8.65-104, except for former paragraph 8.53, which is replaced and renumbered as paragraph 8.79 below.

Paragraph 8.61 below replaces previous paragraph 8.35.

Previous paragraphs 8.36 to 8.38 inclusive are renumbered as 8.62 to 8.64 inclusive below.

Paragraph 6.11 below replaces the previous paragraph 6.11

Notes on changes resulting from Part 2:

Paragraphs 4.1; 4.2; 4.19; 8.24; 8.34; 10.45 and 10.53 below each replaces the corresponding paragraph in the previous Guidance.

Paragraph 8.79 below replaces previous paragraph 8.53.

Paragraphs 4.32 to 4.47 below are newly inserted.

Part 1: A simplified process for minor variations to premises licences and club premises certificates

[Chapter 8: Applications For Premises Licences]

VARIATIONS

Introduction

8.33 This Guidance revises and replaces the Guidance on variations of premises licences published on 28 June 2007*. Where a premises licence holder wishes to amend the licence the Act allows, in most cases, for an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives.

Changes of name and address/ Designated Premises Supervisor

8.34 There are simplified processes for making applications in the following cases: a change of the name or address of someone named in the licence (section 33); an application to vary the licence to specify a new individual as the designated premises supervisor (section 37); an application in relation to a licence in respect of community premises that authorises the sale of alcohol to disapply the mandatory conditions concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence (sections 25A and 41D); an application for minor variation of a premises licence (sections 41A to 41C).

Minor variations process

8.35 The Licensing Act 2003 has been amended by the insertion of sections 41A to 41C relating to minor variations. These sections were commenced on 29 July 2009. Small variations that will not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). In

* http://www.culture.gov.uk/reference_library/publications/3667.aspx

accordance with those Regulations, the notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

- 8.36 On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. The Government recommends that decisions on minor variations should be delegated to licensing officers.
- 8.37 In considering the application, the licensing authority must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision. For instance, they may need to consult the environmental health officer on an application with possible public nuisance implications. But there is no requirement to consult all responsible authorities on each application and in many cases the licensing authority may be able to make a decision without consultation.
- 8.38 The licensing authority must also consider any relevant representations received from interested parties within the time limit referred to below. As stated earlier in this Guidance, representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision.
- 8.39 Interested parties have ten working days from the 'initial day', i.e., the day after the application is received by the licensing authority, to submit representations. The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that:
- the minor variation is granted; or,
 - the application is refused.
- 8.40 If the licensing authority fails to respond to the applicant within 15 working days (see section 193 of the Act for the definition of working day) the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.
- 8.41 Where an application is refused and is then re-submitted through the full variation process, the full 28 days notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).
- 8.42 Minor variations will generally fall into four categories: minor changes to the structure or layout of a premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. **In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.**

Changes to structure/layout

- 8.43 Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:

- increasing the capacity for drinking on the premises ;
- affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits;
- impeding the effective operation of a noise reduction measure such as an acoustic lobby;

8.44 Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of a premises) which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives. This emphasises the importance of having an up to date copy of the premises plan available.

8.45 An application to remove a licensable activity should normally be approved as a minor variation.

8.46 Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases.

8.47 The Act covers a wide range of other licensable activities and licensing authorities will need to consider each application on a case by case basis and in light of any licence conditions put forward by the applicant.

8.48 For example, the addition of live or recorded music to a licence may impact on the public nuisance objective, but this will depend on many factors. Licensing authorities will need to consider factors such as proximity to residential areas and any noise reduction conditions volunteered by the applicant. It is very much the Government's intention that applications to vary a licence for live music should benefit from the minor variations process unless there is likely to be an adverse impact on the licensing objectives.

8.49 Similarly, in some circumstances, the addition of other types of regulated entertainment, such as the performance of plays or exhibition of films, to a licence may have no adverse impact on the licensing objectives.

8.50 In considering applications to add licensable activities, licensing authorities and officers may find it helpful to consider the following factors:

- the nature of the licensable activity;
- proximity of the premises to residential areas;
- any licence conditions volunteered by the applicant to mitigate the impact of the activity;
- whether alcohol is sold at the premises when the licensable activity is taking place; and whether it will continue to be sold during the extended period. For example, a pub that applies to stay open an extra hour after the sale of alcohol has ended to sell hot drink and food could be considered to benefit the promotion of the licensing objectives;
- track record of the premises – whether positive or negative. For example, any complaints or enforcement action related to the licensing objectives, or conversely any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;

- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

This is not an exhaustive list and licensing officers should bring their own experience and knowledge of licensing to bear when considering applications.

Licensing hours

8.51 Variations to:

- extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises

are **excluded** from the minor variations process and must be treated as full variations in all cases. Applications to reduce licensing hours for the sale or supply of alcohol or to or move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.

8.52 Applications to vary the time during which other licensable activities take place should be considered on a case by case basis with reference to the likely impact on the licensing objectives. In arriving at a decision, licensing authorities may wish to consider the following factors:

- the nature of the licensable activity;
- the extent of additional hours sought and whether it will involve later opening or opening between 23.00 and 07.00;
- proximity of the premises to residential areas;
- any licence conditions already in place to mitigate the impact of the activity; any additional conditions volunteered by the applicant;
- arrangements for dispersal, i.e. when people leave the premises is there potential for noise and disturbance near the venue? Is the only means of dispersal a single route through residential areas?
- whether the proposed extension applies only on the weekend or also during week days;
- whether there will be new admittances during that period;
- track record of the establishment whether positive or negative, e.g. complaints related to the licensing objectives, any enforcement action or conversely any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;
- whether the premises is already open during the extended period for other licensable activities;
- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

8.53 These factors are not an exhaustive list and licensing authorities and officers should bring their own experience and knowledge of licensing to bear when considering applications.

Licensing conditions

a) Imposed conditions

8.54 Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they should refuse it.

b) Volunteered conditions

8.55 Applicants may volunteer conditions as part of the minor application process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with responsible authorities or the licensing authority.

8.56 For instance, there may circumstances when the licence holder and a responsible authority such as the police or environmental health authority, agree that a new condition should be added to the licence. For example, that a nightclub adds the provision of late night refreshment to its licence to ensure a longer period of dispersal. Such a change would not normally impact adversely on the licensing objectives and could be expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may provide a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used where the agreed variations are minor and the licensee and the responsible authority have come to a genuine agreement. The licensing authority should be alive to any attempts to pressure licensees into agreeing to new conditions where there is no evidence of a problem at the premises and, if there is any doubt, should discuss this with the relevant parties.

c) Amending or removing existing conditions

8.57 Licence or club certificate conditions will normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives. In most cases therefore, any application to remove or change the wording of a condition should be treated as a full variation.

8.58 However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.

8.59 Changes in legislation may invalidate certain conditions. For instance, the recent Regulatory Reform (Fire Safety) Order 2005 annulled all fire safety related conditions imposed on licences purely for fire safety reasons. Although the conditions do not have to be removed from the licence, licensees and licensing authorities may agree that this is desirable to clarify the licensee's legal obligations.

8.60 There may also be cases where it is necessary to revise the wording of a condition that is unclear and/or unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote the licensing objectives by making it easier for the licensee to understand and comply with the condition and easier for the licensing authority to enforce it.

Full variations process

- 8.61 Any other changes to the licence require an application to vary under section 34 of the Act.
- 8.62 Licensing authorities will wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an application to vary in relation to features which are not required to be shown on the plan under section 17 of the Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).
- 8.63 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:
- extend a time limited licence; or to
 - transfer the licence from one premises to another.
- 8.64 If an applicant wishes to make these types of changes to the premises licence they should make a new premises licence application under section 17 of the Licensing Act 2003.

[Chapter 6: Club Premises Certificates]

- 6.11 The arrangements for applying for or seeking to vary club premises certificates are extremely similar to those for a premises licence. Clubs may also use the minor variation process to make small changes to their certificates as long as these could have no adverse impact on the licensing objectives. Licensing authorities should refer to Chapter 8 of this Guidance on the handling of such applications. In that Chapter most of the references to the premises licence, premises licence holders, and applicants can be read for the purposes of this Chapter as club premises certificates, qualifying clubs and club applicants.

Part 2: The removal of the requirement for a designated premises supervisor and personal licence at community premises

[Chapter 4: Personal Licences]

INTRODUCTION

- 4.1. This Chapter provides advice about best practice in administering the process for issuing personal licences to sell or supply alcohol. It also contains guidance for decision-making on applications from community premises (church and village halls etc.) to disapply the usual mandatory conditions that relate to personal licences and Designated Premises Supervisors (DPSs).

REQUIREMENTS FOR A PERSONAL LICENCE

- 4.2 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why individuals who may be engaged in making and authorising the sale and supply of alcohol require a personal licence. Not every person retailing alcohol at premises licensed for that purpose needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder (see paragraphs 10.48 -10.53 of this Guidance). The only exception is for community premises in respect of which a successful application has been made to disapply the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act. (Guidance on such applications is set out in paragraphs 4.32 to 4.47 of this Guidance). Any premises where the personal licence holder requirements do apply at which alcohol is sold or supplied may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence.

SPECIFICATION OF NEW DESIGNATED PREMISES SUPERVISORS

- 4.19 In every premises licensed for the supply of alcohol, a personal licence holder must be specified as the 'designated premises supervisor', as defined in the 2003 Act. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to disapply the usual mandatory conditions set out in sections 19(2) and

19(3) of the 2003 Act. Guidance on such applications is set out in paragraphs 4.32 to 4.47 of this Guidance.

APPLICATION FORMS

8.24 An application for a premises licence must be made in the prescribed form to the relevant licensing authority and be copied to each of the appropriate responsible authorities. For example, applications for premises which are not vessels should not be sent to the Maritime and Coastguard Agency. The application must be accompanied by:

- the required fee (details of fees may be viewed on the DCMS website);
- an operating schedule (see below);
- a plan of the premises in a prescribed form; and
- if the application involves the supply of alcohol:
 - a form of consent from the individual who is to be specified in the licence as the designated premises supervisor; or
 - in the case of a community premises seeking to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (i.e. to remove the usual requirements in respect of the authorisation of alcohol sales by a personal licence holder and for a Designated Premises Supervisor who holds a personal licence), a completed form prescribed for that purpose.

VARIATIONS

8.34 There are simplified processes for making applications in the following cases: a change of the name or address of someone named in the licence (section 33); an application to vary the licence to specify a new individual as the designated premises supervisor (section 37); an application in relation to a licence in respect of community premises that authorises the sale of alcohol to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence (sections 25A and 41D); and application for minor variation of a premises licence (sections 41A to 41C).

APPLICATIONS TO CHANGE THE DESIGNATED PREMISES SUPERVISORS

8.79 Paragraphs 4.19 – 4.28 above cover designated premises supervisors and applications to vary a premises licence covering sales of alcohol by specifying a new designated premises supervisor. Paragraphs 4.32 to 4.47 cover applications by community premises to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act concerning the authorisation of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence.

[Chapter 10: Conditions attached to premises licences and club premises certificates]

Designated Premises Supervisor

10.45 Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force.

That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in paragraph 10.46 to 10.53 below in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see paragraphs 4.32 to 4.47 of this Guidance).

Authorisation by personal licence holders

10.53 It must be remembered that whilst the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises, and is also responsible for alcohol sales at community premises where the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act relating to personal licence holders and Designated Premises Supervisors have been disapplied (see paragraphs 4.32 to 4.47 of this Guidance).

[Chapter 4: Personal Licences]

DISAPPLICATION OF CERTAIN MANDATORY CONDITIONS FOR COMMUNITY PREMISES

4.32 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 (SI 2009/1724) amends the 2003 Act to allow certain community premises which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) (“the alternative licence condition”) of the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act. Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises (the “management committee”). If such an application is successful, the effect of the alternative licence condition will be that the licence holder (i.e. the management committee) is responsible for the supervision and authorisation of all alcohol sales made pursuant to the licence. All such sales will have to be made or authorised by the licence holder. There will be no requirement for a Designated Premises Supervisor or for alcohol sales to be authorised by a personal licence holder. The Order defines community premises as premises that are or form part of a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building. While there may be issues relating to whether a premises is a community premises with a proper management committee, there should not be many disputed cases and many will self evidently meet the definition of a community premises and have an appropriate management structure in place. There is more detailed commentary on what constitutes community premises in paragraphs 4.35 to 4.40 of this Guidance.

4.33 The process requires the completion of a new form which is set out in The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009/1809. Where the management committee of a community premises is applying for authorisation for the sale of alcohol for the first time, it should include the form with the new premises licence application or the premises licence variation application. No extra payment is required beyond the existing fee for a new application or a variation.

4.34 Where a community premises already has a premises licence to sell alcohol, but wishes to include the alternative licence condition in place of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act, it should submit the form on its own together with the required

fee. The work required to process such an application is expected to be similar to that required for to process an application for a variation of a Designated Premises Supervisor.

Definition of community premises

- 4.35 In most instances, it should be self evident whether a premises is, or forms part of a church hall, chapel hall or other similar building or a village hall, parish hall, community hall or other similar building.
- 4.36 Many licensing authorities will already have taken a view on how to determine whether a premises meets the definition of community premises for the purpose of the fee exemptions set out in regulation 9(2)(b) of the Licensing Act 2003 (Fees) Regulations 2005 (SI 2005/79). As the criteria are the same, premises that qualify for these fee exemptions for regulated entertainment will also be “community premises” for present purposes.
- 4.37 However, there may be types of premises seeking disapplication of the personal licence and Designated Premises Supervisor requirements which have not previously sought exemption from the fee as a community premises. This might be because they had previously included alcohol or late night refreshment in their licence and therefore had to pay a fee regardless, or may have qualified for the exemption from the fee for regulated entertainment licences as an educational institution.
- 4.38 Where it is not clear whether premises are “community premises”, licensing authorities will need to approach the matter on a case-by-case basis. The main consideration in most cases will be how the premises are predominately used. If they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which include purposes beneficial to the community as a whole, the premises will be likely to meet the definition. This could feasibly include educational premises, such as school halls, but only where they are genuinely and widely used for the benefit of the community as a whole, and not just for the particular school in question. As such, community premises are usually multi-purpose and a variety of activities can be expected to take place in them, such as playschools, senior citizens’ clubs, indoor sports, youth clubs and public meetings.
- 4.39 Many community premises such as school and private halls are available for private hire by the general public. This fact alone would not be sufficient for such halls to qualify as “community premises”. Although availability of premises for hire might be seen as providing a facility for the community, licensing authorities will want to consider whether halls used largely for private hire by individuals or private entities are genuinely by their nature “community premises”. The statutory test is directed at the nature of the premises themselves, as reflected in their predominant use, and not only at the usefulness of the premises for members of the community for private purposes.
- 4.40 If the general use of the premises was contingent upon membership of a particular organisation or organisations, this would strongly suggest that the premises in question were not “community premises” within the definition. However, the hire of the premises to individual organisations and users who restrict their activities to their own members and guests would not necessarily conflict with the status of the premises as “community premises”, provided the premises are generally available for use by the community in the sense described above. It is not the intention that ‘qualifying’ clubs which are able to apply for a club premises certificate should instead seek a premises licence with the disapplication of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act relating to the supply of alcohol.

Management of the premises

- 4.41 Sections 25A(1) and 41D(1) and (2) of the 2003 Act allow applications by community premises to apply the alternative licence condition rather than the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act only where the applicant for the licence is the management committee of the premises in question. In addition, sections 25A(6) and 41D(5) require the licensing authority to be satisfied that the arrangements for the management of the premises by the committee or board are sufficient to ensure the adequate supervision of the supply of alcohol on the premises.
- 4.42 The reference to a “committee or board of individuals” is intended to cover any formally constituted, transparent and accountable management committee or structure. Such a committee should have the capacity to provide sufficient oversight of the premises to minimise any risk to the licensing objectives that could arise from allowing the responsibility for supervising the sale of alcohol to be transferred from a personal licence holder/designated premises supervisor. This could include management committees, executive committees and boards of trustees. The application form requires the applicants to provide the names of the management committee’s key officers e.g. the Chair, Secretary, Treasurer.
- 4.43 The application form requires applicants to set out how the premises is managed, its committee structure and how the supervision of alcohol sales is to be ensured in different situations (e.g. when the hall is hired to private parties) and how responsibility for this is to be determined in individual cases and discussed and reviewed within the committee procedure in the event of any issues arising. The application form requires that the community premises submit copies of any constitution or other management documents with their applications and that they provide the names of their key officers e.g. the Chair, Secretary, Treasurer. Where the management arrangements are less clear, licensing authorities may wish to ask for further details to confirm that the management board or committee is properly constituted and accountable before taking a decision on whether to grant the application (subject to the views of the police). Community premises may wish to check with the licensing authority before making an application. The management committee is strongly encouraged to notify the licensing authority if there are key changes in the committee’s composition e.g. to the Chair, Secretary, Treasurer and to submit a copy to the Chief Officer of Police. A failure to do so may form the basis of an application to review the premises licence, or be taken into account as part of the consideration of such an application.
- 4.44 As the premise licence holder, the management committee will collectively be responsible for ensuring compliance with licence conditions and the law (and may remain liable to prosecution for one of the offences in the Licensing Act) although there would not necessarily be any individual member always present at the premises. While overall responsibility will lie with the management committee, where the premises are hired out the hirer may be clearly identified as having responsibility for matters falling within his or her control (e.g. under the contract for hire offered by the licence holder), much in the same way that the event organiser may be responsible for an event held under a Temporary Event Notice. Where hirers are provided with a written summary of their responsibilities under the 2003 Act in relation to the sale of alcohol, the management committee is likely to be treated as having taken adequate steps to avoid liability to prosecution if a licensing offence is committed.
- 4.45 As indicated above, sections 25A(6) and 41D(5) of the 2003 Act require the licensing authority to consider whether the arrangements for the management of the premises by the committee are sufficient to ensure adequate supervision of the supply of alcohol on the premises. Where private hire for events which include the sale of alcohol is permitted by the licence, it would be necessary to have an effective hiring agreement. Licensing authorities should consider arrangements for the use of hiring agreements in the light of recommendations for best practice

made by organisations such as ACRE and Community Matters. Model hire agreements are available from these bodies. The model agreements can also be revised to cater for the circumstances surrounding each hire arrangement e.g. to state that the hirer is aware of the licensing objectives and offences in the 2003 Act and will ensure that it will take all necessary steps to ensure that no offences are committed during the period of the hire.

Police views

4.46 An additional safeguard is that in exceptional circumstances the Chief Officer of Police for the area in which the community premises is situated can object to a request for inclusion of the alternative licence condition on the grounds of crime and disorder, and any responsible authority and/or interested party can seek reinstatement of the mandatory conditions through a review of the licence (as provided in section 52A of the 2003 Act). The police will want to consider any history of incidents at an establishment in light of the actual or proposed management arrangements, including the use of appropriate hire agreements. If the Chief Officer of Police issue a notice seeking the refusal of the application to include the alternative licence condition, the licensing authority must hold a hearing in order to reach a decision on whether to grant the application.

Appeals

4.47 Where the Chief Officer of Police has made relevant representations against the inclusion of the alternative licence condition, or given a notice under section 41D(6) which was not withdrawn, the Chief Officer of Police can appeal the decision of the licensing authority to allow the inclusion of the alternative licence condition. Similarly, a community premises can appeal a decision by the licensing authority to refuse to include the alternative licence condition following a hearing triggered by relevant representations or by a notice given under section 41D(6). Following a review of the licence in which the mandatory conditions are reinstated, the licence holder may appeal against the decision. If the alternative licence condition is retained on review, the applicant for the review or any person who made relevant representations may appeal against the decision.

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Meeting: Licensing Committee

Date: 14 October 2009

Subject: Licensing Sub Committees

Report of: Head of Public Protection

Summary: The report sets out information to allow the Committee to take a decision on the number and composition of Licensing Sub Committees for Central Bedfordshire and as to decisions being taken by ward members in relation to premises within their wards.

Contact Officer: Susan Childerhouse
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Public/Exempt: Public

Wards Affected: All

Function of: Council

Reason for urgency
(if appropriate)

RECOMMENDATIONS:

- 1. that the Licensing Committee support the retention of the current provision within part E2.3 of the Constitution, namely:-**
 - (a) the appointment of one licensing sub committee for Central Bedfordshire, comprising 3 named members**
 - (b) The appointment of all 9 remaining members of the Licensing Committee as substitutes for the three standing members of the Licensing Sub Committee**
- 2. that having regard to the legal advice now submitted, a ward member who is also a member of the licensing committee be permitted to participate in a meeting of the sub committee which is determining a licensing application relating to their ward.**

Background

1. In the Shadow Council, the member led constitutional working group considered the types and numbers of committees which would be required by Central Bedfordshire in order to allow it to fulfil its duties and obligations. The recommendations of the working group were incorporated into the constitution for Central Bedfordshire which was approved by full Council in February 2009. Part E2 of the Constitution, paragraph 3 presently provides for one Licensing Sub – Committee to be appointed, comprising 3 members, to discharge the relevant functions of the Council under the Licensing Act 2003 and the Gambling Act 2005.
2. Part E3 of the Constitution, Committee Procedure Rules, paragraph 7.1 states that ‘the Licensing Committee may appoint one or more sub - committees to discharge its functions by virtue of section 9 (1) of the Licensing Act 2003.’
3. There is no limitation to the number of members who may sit as substitutes on the committee, therefore, to maximise flexibility, at the Committee’s meeting following the Annual Council meeting held on 18 June 2009, it was agreed that any member of the Licensing Committee (ie all 9 remaining members) should be authorised to act as a substitute at meetings of the Licensing Sub Committee.
4. In the previous legacy authorities’ more than one licensing sub committee was established. This was due to the anticipated volume of work that would be associated with the introduction of the Licensing Act 2003.
5. The legacy authorities had a different view on members taking a decision in relation to premises within their own ward areas. Legacy Mid Beds DC allowed this legacy South Beds DC did not.
6. Legal opinion in relation to points 3 to 6 is attached at Appendix A.

Considerations

7. As indicated in paragraph 1 above, presently the constitution only makes provision for one Licensing Sub Committee; members will therefore need to have regard to what value will be added to the democratic process by introducing more than one sub committee.
8. When considering membership of the Licensing Sub Committee there would appear to be two other options available.
9. Firstly twelve members of the Licensing Committee to provide a pool from which a sub committee is drawn.
10. Secondly four sub committees are set up each comprising of three standing members drawn from the Licensing Committee.

11. In the interest of impartiality the committee may wish to take a decision on ward members being involved in the decision making process relating to a premises in their area. Due to the quasi-judicial business of the sub committee it is also recommended that non-members are not invited to contribute to the debate, unless invited to do so by an objector.

Conclusion and Next Steps

12. The appointment of any Member of the Licensing Committee to act as a substitute on the sub committee (ie: the remaining 9 members of Licensing Committee) provides flexibility to ensure that there are three members available for each sub committee meeting, if the named members appointed to the sub committee are unable to attend.
13. To ensure decisions are clear consistent and transparent officers would recommend that only one Licensing Sub – Committee is required. Members who regularly sit on the sub committee will have a level of knowledge, expertise and skill to ensure that all decisions taken are consistent across the process, and where a substitute is required this level of knowledge and skill will be retained. By calling on a pool of members there may not be the same level of knowledge and skill available across the membership of the sub committee to ensure this consistent approach to the decision making process. If four sub committees were in place it can be seen by the volume of work being achieved that these would sit infrequently and again the skills and expertise would not be developed across the membership to ensure a consistency of approach and decision making
14. There is not the volume of requests to drive a need for more than one committee In the municipal year 2009/10 there has been one meeting of the sub committee sitting on the 27th July to consider a variation in relation to one licensed premises. In the interim year April 09 to June 09 there were three sub committees 14th April 2009 application to vary a premises licence, 5th May 2009 application to grant a premises licence and 15th May 2009 application to vary a premises licence. Information available for the municipal year 2008/09 does not support the need for more than one sub committee.
15. Regulations require that the sub committee must consist of 3 members. Remaining members of the Licensing Committee have been appointed as substitutes for the Licensing Sub Committee, thereby providing the flexibility of membership to ensure that the meeting is always quorate.
16. Based on the legal opinion provided, the Committee is requested to consider whether to permit members to determine applications which relate to premises within their own wards.

CORPORATE IMPLICATIONS

Council Priorities:

Creating Safer Communities is supported by the 4 licensing objectives

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Financial:

None

Legal:

None

Risk Management:

None

Staffing (including Trades Unions):

None

Equalities/Human Rights:

None

Community Development/Safety:

the 4 licensing objectives as set out below support community safety

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Sustainability:

None

Appendices:

Appendix A – Legal Opinion

Background Papers (open to public inspection):

Central Bedfordshire Constitution
Licensing Act 2003

Location of papers: Priory House, Chicksands

**IN THE MATTER OF THE LICENSING COMMITTEE □WARD
COUNCILLOR HEARING AN APPLICATION IN HIS/HER WARD AND
NUMBER OF SUB-COMMITTEES**

ADVICE

1. I am asked to advise on two matters, firstly whether a member of the licensing sub-committee should take a decision in relation to premises within their Ward and whether there should be more than one licensing sub-committee. I will deal with each matter separately

Background

2. Prior to Local Government Reorganisation both Mid Beds District Council ("Mid Beds") and South Bedfordshire District Council each had a licensing committee with sub-committees, however they differed in their approach as to whether a Ward Member should take a decision of the sub-committee in relation to premises within their Ward. South Bedfordshire Council did not permit the Ward Member of the licensing sub-committee to take a decision whereas Mid Beds permitted such a role to be taken.

3. The difference to the two approaches appears to be based on Lacors Guidance¹ that allowing a ward member to determine licensing applications within his/her Ward was to be discouraged on the grounds of potential breaches of the Members Code of Conduct and the risk of the perception of bias or predetermination by the Councillor in question.

4. Mid Beds took Counsel's advice who advised that while appreciating the view taken by Lacors, there was no impediment in law to prevent a ward member from so determining an application, and consequently Mid Beds permitted a Ward councillor in such a position to form part of the licensing sub-committee and to determine such an application.

5. Central Bedfordshire Council has a licensing committee comprising of 12 members and one sub-committee comprising of 3 members.

Ward Member

6. There is no legal impediment to a member taking a decision on a licensing application that falls within that Members Ward. However in determining any such application that Member (the Code imposes a liability on the Member personally) *must* be aware of and adhere to the Code of Conduct and be aware that in determining such an application there is potential exposure to an allegation of bias and/or predetermination. There potential risk is at the expense

¹ Lacors Guidance: The Role Of Elected Members In. Relation To Licensing Committee Hearings

of the omission of the relevance of and assistance to the sub-committee by the Members' local knowledge. There are a number of Councils who do allow such Ward Members to sit and determine such applications and those that do not, it is a matter of choice for each Council.

More than one Sub-Committee

7. Prior to Local Government Reorganisation both District Councils had a number of licensing sub-committees. However the large number of sub-committees was deemed necessary at the time following the coming into force of the Licensing Act 2003 and the expected flood of applications that the respective Council would receive. To a large extent that expected flood never materialised and has since levelled off to a steady flow of applications for determination by Members.
8. The Council is a living body and can and often does adjust to the pressures before it in order to fulfil demand and provide the best public service as it is able to its customers. Consequently if the level of applications were to increase then so could the number of sub-committees to deal with any increase. I have no information that demand warrants any additional licensing sub-committees at this time.
9. The current position operates whereby the licensing sub-committee of 3 Members is appointed from the 12 Members of the Licensing Committee. It is for the Licensing Committee to determine how those Members are selected, for

example alphabetically or rotation to ensure regular sub-committee sittings for all Members. In practice selection is often determined by availability, where one Member is unavailable another Member acts as substitute to ensure the sub-committee is quorate.

Conclusion

10. In conclusion there is nothing to prevent a Member determining a licensing application in that Member's Ward, although that Member will need to be aware of the Code and the objective perception of bias/predetermination. Regarding further sub-committees I am not aware of any reasonable grounds to increase the number of licensing sub-committees at this time; if the concern is to the system used to select those sub-committee members that is a separate issue that can be looked at independently of this advice.

11. I trust I have dealt with your queries, however if you would like to discuss any of the matters raised, or I can be of further assistance, please do not hesitate to contact me.

Marc Ronan
Managing Solicitor
25 June 2009