

Licensing Committee



Date	22 August 2005
Venue	Lowther Pavilion, Lytham
Committee members	Dawn Prestwich (Chairman) Christine Akeroyd, Eric Bamber, Elizabeth Clarkson, Susan Fazackerley, Janine Owen, Albert Pounder, Heather Speak, Martin Taylor, Ronald Wilson, Keith Wright
Other Councillors	Derek Lancaster
Officers	Peter Welsh, Clare Holmes, Chris Hambley, Stuart Handley, Andrew Lee

At the commencement of the meeting it was agreed that councillor Albert Pounder should act as vice chairman.

1. Declarations of interest

Members were reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.

2. Confirmation of minutes

RESOLVED: To approve the minutes of the Licensing Committee meeting held on 20 January 2005 as a correct record for signature by the chairman.

3. Substitute members

None.

4. A charter for the licensing committee

After the last meeting of the committee on January 20, members considered a charter, prepared by the chairman, Councillor Prestwich. The charter was intended to set out working arrangements for the committee and the kinds of matters on which the committee would expect to be briefed. The chairman was keen that the committee should work under good firm ground rules, which were seen as being good practice.

Members had previously agreed with the principles of the charter and it had been placed on this agenda for formal adoption.

The elements of the charter were as follows:

- Membership comprises of fifteen members
- Chairman and vice-chairman and thirteen members
- The committee will be responsible for the policy decisions
- To review any policy at any meeting and if urgent a meeting will be convened
- To receive reports as to the percentage of applications in that quarter whether approved or otherwise and as to any appeals
- To receive a short report from the convenors on general matters or any problems arising
- If any panel does not reach a quorum the application to be sent to the full licensing committee

The committee RESOLVED to adopt the charter as its working protocol for fulfilling its statutory responsibilities.

5. Summary of applications

The purpose of this report was to provide members of the Licensing Committee with information relating to licensing applications received in accordance with the Licensing Act 2003 and also provide feedback from recent licensing panels.

Members discussed and exchanged views on their experiences on the licensing panels and suggested a number of enhancements by way of providing location maps, room layout, formatting decision notices etc. It was noted that every application was unique and that members had to take into account the particular issues of each and every licensing application.

Chris Hambley, (Licensing Officer) provided details of applications received to date, which included a breakdown as to how many applications had been dealt with by means of Officers delegated powers, those where mediation had taken place and subsequently been approved and those which had been considered by a Licensing Panel. (Details appended).

At the conclusion of the Licensing meeting members considered a discussion document prepared by Ian Curtis (Legal & Democratic Services Manager) that suggested a number of procedural changes for licensing panels.

Members agreed that the proposals should be adopted.

A copy of the discussion document is attached.

Breakdown of Applications Received

Total Number of Applications Received	252 (224 Premises, 28 Clubs)
Applications for Premises Licences	224
Applications for Club Premises	28

(this is estimated to be 95% of the premises with grandfather rights)

Applications Granted	117
Granted by Delegated Powers	94
Granted following mediation	15
Granted following Panel Hearing	8

Applications outstanding

Conversion Applications outstanding	43
Variation Applications outstanding	92

Total Number of Applications Outstanding 135

(it is estimated that approximately a third of the outstanding variations will need to be considered by a Licensing Panel)

Personal Licences

Total Applications Received	305
Conversion	293
New	12

1 application for Personal Licence has been referred to Panel and been refused.

Licensing Committee

Discussion document

Introduction

This is not intended to be part of the formal agenda of the Licensing Committee as it deals with points of procedure which do not need a formal committee resolution. Instead, and with the consent of the chairman, I envisaged that they might be discussed after the formal meeting has closed.

The licensing panels have now met on half a dozen or so occasions. The panels have given an overall impression of professionalism and thoroughness. Considering that the procedures are new to all, including applicants and objectors as well as members, this is worth celebrating.

However, given the newness of the system, it is inevitable that there are some points of procedure that could do with looking at again in the light of experience. This short paper flags up three such areas.

Unfortunately, I am on leave this week. But I have discussed the points I make below with the chairman and Clare Platt, as well as Clare Holmes and licensing officers.

Who should lead on procedure?

Presently, the convenor of the panel is expected to set the scene for all parties before the hearing starts. He or she is also expected to take the parties through the correct procedure, prompting them to the next stage at appropriate times. In essence, the panel convenor acts like the chairman of a committee or sub-committee would act, leading the participants through the agenda.

This "chairman model" may not be the most appropriate one for licensing hearings. It requires the convenor to have a thorough and confident knowledge of the procedure. This aspect has not been a significant problem so far. But more importantly, it means that the panel members, and particularly the convenor, cannot concentrate entirely on the substantive arguments about the application, as they need also to keep procedure at the forefront of their minds.

An alternative would be the "Justice's clerk model". This is where a clerk or similar officer steers the procedure, subject to the panel's approval, leaving the convenor and the panel free to concentrate entirely on the issues that they need to decide. Under this model, the legal advisor would make the introductory announcements and would verbally advise the hearing of each procedural stage. It would probably be most appropriate to address the convenor, but to do so aloud so that all present could hear. The convenor would then give the formal "nod" for the next stage to start.

This "justice's clerk model" is used in most if not all other tribunals where lay adjudicators make judicial or quasi-judicial decisions.

Before the hearing.

At present, members of the panel arrive at in the hearing room individually and at different times before the hearing. This presents a danger that applicants or objectors may attempt to talk to members of the panel before the hearing starts. This could appear unfair to another party.

It may be better if panel members went straight to the retiring room when they arrive at the venue for the hearing. Then they could come into the hearing room together at the start

time. This would avoid the possibility of being “buttonholed” beforehand, as well as looking more polished.

Cross-examination

The Regulations say that a party to a hearing may question another party if given permission to do so by the panel. The committee’s own procedures say that:

“A party or their representative may only question another party if they have asked for permission from the panel after the panel members have finished questioning that party or their witness. The panel will only give permission if it is satisfied that the questioning will provide useful information about a matter relevant to their determination which is unlikely to be placed before the panel without such questioning”

At most hearings, this has been ignored. Parties who have wanted to question other parties have been given permission to do so as a matter of course, without being asked to explain what relevant information they expect to get by their questions. This is particularly the case with objectors, who often use their “questions” as an opportunity to make a statement, even if they have not given notice that they want to address the panel. Convenors may want to ensure that anyone wanting to cross-examine (1) always asks the panel for permission; (2) explains to the panel what relevant information their questioning will bring out that would otherwise not be put before the panel; and (3) confines himself to seeking that information.

Ian Curtis
17 August 2005