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**Gwasanaeth Democraidd**  
**Democratic Service**  
Swyddfa'r Cyngor  
CAERNARFON  
Gwynedd  
LL55 1SH

Cyfarfod / Meeting

**PWYLLGOR TRWYDDEDU CANOLOG**  
**CENTRAL LICENSING COMMITTEE**

Dyddiad ac Amser / Date and Time

**10:00yb DYDD LLUN, 23 MEHEFIN 2014**

**10:00am MONDAY, 23 JUNE 2014**

Lleoliad / Location

**SIAMBR HYWEL DDA**  
**SWYDDFEYDD Y CYNGOR / COUNCIL OFFICES**  
**CAERNARFON**

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Dosbarthwyd / Distributed 16.06.14

**PWYLLGOR TRWYDDEDU CANOLOG**

**CENTRAL LICENSING COMMITTEE**

**Aelodaeth/Membership (15)**

**Plaid Cymru (7)**

Y Cynghorwyr/Councillors

Eddie Dogan      Huw Edwards

Annwen Hughes      Chris Hughes

W. Tudor Owen      Ann Williams

sedd wag / vacant seat

**Annibynnol/Independent (4)**

Y Cynghorwyr/Councillors

Eryl Jones-Williams      Christopher O'Neal

Angela Russell      Elfed Williams

**Llais Gwynedd (4)**

Y Cynghorwyr/Councillors

Llywarch Bowen Jones      Dilwyn Lloyd

Peter Read      Louise Hughes

**Aelod Ex-officio/Ex-officio Member**

Is-gadeirydd y Cyngor/Vice-chairman of the Council

# RHAGLEN

## 1. ETHOL CADEIRYDD

I ethol Cadeirydd am 2014/15

## 2. ETHOL IS-GADEIRYDD

I ethol Is-gadeirydd am 2014/15

## 3. CROESO AC YMDDIHEURIADAU

Derbyn unrhyw ymddiheuriadau am absenoldeb.

## 4. DATGAN BUDDIANT PERSONOL

Derbyn unrhyw ddatgan o fuddiant personol.

## 5. MATERION BRYD

Nodi unrhyw eitemau sy'n fater bryd ym marn y Cadeirydd fel y gellir eu hystyried.

## 6. COFNODION

Bydd y Cadeirydd yn cynnig y dylid llofnodi cofnodion cyfarfod diwethaf y pwyllgor hwn a gynhaliwyd ar 9 Rhagfyr 2013 fel rhai cywir.

(copi yma – papur **gwyn**)

## 7. COFNODION IS-BWYLLGOR TRWYDDEDU

Cyflwyno, er gwybodaeth, cofnodion cyfarfodydd o'r Is-bwyllgor Trwyddedu Canolog a gynhaliwyd ar y dyddiadau canlynol:-

(a) 21.1.2014

(b) 20.2.2014

(copi yma – papur **gwyrdd**)

## 8. CANLLAWIAU DIWYGIEDIG AR GYFER YR IS BWYLLGORAU TRWYDDEDU

(copi yma – papur **melyn**)

# AGENDA

**1. ELECT CHAIRMAN**

To elect a Chairman for 2014/15

**2. ELECT VICE – CHAIRMAN**

To elect a Vice-chairman for 2014/15

**3. WELCOME AND APOLOGIES**

To receive any apologies for absence.

**4. DECLARATION OF PERSONAL CONNECTION**

To receive any declaration of personal interest.

**5. URGENT ITEMS**

To note any items that are a matter of urgency in the view of the Chairman for consideration.

**6. MINUTES**

The Chairman shall propose that the minutes of the meeting of this Committee, held on 9<sup>th</sup> of December 2013, be signed as a true record.

(copy herewith – **white** enclosure)

**7. LICENSING SUB-COMMITTEE MINUTES**

To submit, for information, minutes of the Licensing Sub-committee meetings held on the following dates:-

(a) 21.1.2014

(b) 20.2.2014

(copy herewith – **green** enclosures)

**8. INVALID PREMISES LICENCE APPLICATIONS**

To submit the report of the Head of Regulatory Department

(copy herewith – **yellow** enclosures)

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## CENTRAL LICENSING COMMITTEE, 09.12.13

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**Present:** Councillor W. Tudor Owen (Chairman)  
Councillor Eryl Jones-Williams (Vice-chairman)

Councillors: Eddie Dogan, Huw Edwards, Louise Hughes, Dilwyn Lloyd, Llywarch Bowen Jones, Peter Read, Angela Russell, Ann Williams, Elfed W. Williams.

**Also Present:** Dilys Phillips (Head of Democracy and Legal Department), Siôn Huws (Language and Compliance Manager), Gwenan M. Williams (Licensing Manager) and Lowri Haf Evans (Member Support and Scrutiny Officer).

### Part 1

#### 1. WELCOME AND APOLOGIES

Councillor W. Tudor Owen welcomed everyone to the Committee, along with a special welcome to Councillors Louise Hughes and Dilwyn Lloyd who were attending their first committee. An apology had been received from Councillor Annwen Hughes.

#### 2. DECLARATION OF PERSONAL INTEREST

No declarations of personal interest were received from any members present.

#### 3. MINUTES OF THE PREVIOUS MEETING

The Chairman signed the minutes of the previous meeting of this committee held on 16 September 2013 as a true record.

MATTERS ARISING FROM THE MINUTES:

##### a) Bangor City Council's Letter (4.9.2013)

It was confirmed that a response to Bangor City Council's letter had been sent on 18.10.2013 explaining the Committee's viewpoint. The letter outlined that the Sub-committees gave thorough consideration to all observations received and that the decision was made based on evidence submitted to them. It was noted that no further response had been received from Bangor City Council.

#### 4. MINUTES OF THE CENTRAL LICENSING SUB-COMMITTEES

Submitted – for information, the minutes of meetings of the Central Licensing Sub-committee held on 30 September, 2013 and 23 October, 2013.

**RESOLVED to accept the information.**

## **Part 2**

### **1. INFORMAL TRAINING**

A session focussing on the responsibilities of Members when serving on licensing sub-committees. The training had been divided into three parts:

- **Role of the Member**  
The Head of Democracy and Legal Department reminded Members of their role on the Sub-committees.
- **Hearing Procedures**  
The Compliance and Language Manager elaborated on the existing procedure of hearings.
- **Outcomes from the discussions**  
Observations / amendments proposed to the existing procedure:
  - i. **Committee Arrangements**  
The committee proposed that the panel should not convene with the consultees before the meeting commences. The panel to convene in a separate room and to come to the committee together.  
Agreed – the officers to be responsible for the arrangement.
  - ii. **Site visits**  
Propriety risks evident here – better management needed of the arrangement. A proposal that the report of the Licensing Unit included maps and photographs of the property's location and that these in turn were displayed on a projector in the committee.  
It was proposed that a site visit would be arranged in a case where it was really required and that officers would undertake arrangements.  
Agreed.
  - iii. **Setting time limits for the observations**  
An application was made to set time limits on observations submitted by the consultees. This created fairness for all.  
A time limit of no more than ten minutes was proposed.  
Agreed.
  - iv. **Order of the hearing**  
A proposal that the order of the hearing was to be forwarded to the applicant and the consultees in their information packs.  
A proposal that the Chair referred to the order of the hearing at the beginning of the meeting.  
Agreed.

- v. **Licensing Unit**  
A confirmation that incomplete applications would not be accepted by the Licensing Unit.
- vi. **Number of hearings**  
A proposal that only two hearings would be held in Licensing Sub-Committees.  
Agreed
- vii. **Timetable to receive observations**  
The consultation period was 28 days – late observations would not be accepted.  
Agreed – information needed to be shared with other Members
- viii. **Reserve member**  
It was recommended that a member of the Panel should contact the reserve member if he/she could not be present. Agreed.
- ix. **Number of panel members**  
The need to increase the number of panel members from 3 to 5 was proposed.  
Sïôn Huws to check what were the requirements of the Act.
- x. **Training**  
Essential that all members received training before serving on sub-committees in future.  
Agreed – arrangements would need to be made for the four members who were not present to receive training.

Everyone was thanked for their comments.

The meeting commenced at 10:00am and concluded at 12.30pm.



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## CENTRAL LICENSING SUB-COMMITTEE, 21.01.14

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**Present:** Cllr W. Tudor Owen, Cllr Elfed Williams, Cllr Dilwyn Lloyd

**Also present:** Mr Ian Williams (North Wales Police Licensing Coordinator), Ashley Dacre (North Wales Police), Sion Huws (Compliance and Language Manager), Gwenan M Williams (Licensing Manager) and Lowri H Evans (Member Support and Scrutiny Officer)

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**1. WELCOME**

Everyone was welcomed to the meeting by the Chairman, Cllr W. Tudor Owen. The Panel and officers were introduced to everyone present.

**2. DECLARATION OF PERSONAL INTEREST**

Nothing to note

**3. URGENT ITEMS**

Nothing to note

**4. APPLICATION TO VARY A PREMISES LICENCE – BLACKOUT, 32 HOLYHEAD ROAD, BANGOR**

**On behalf of the premises:** Miss Melody Jones, Mr Harry Bradford

**Local Members:** Cllr June Marshall and Cllr Mair Rowlands

**Others:** Ms A G Davies (Member of Upper Bangor Association and a nearby resident), Councillor Keith Marshall (Bangor City Council), Mr Gwyn Hughes (Bangor City Council), Ms Bethany Shooman (Belle Vue Hotel – nearby business), Mr Chris Jere (Belle Vue Hotel – nearby business)

**Apologies:** Bangor City Council Councillor Rhys Taylor

Everyone was reminded of the procedure for the hearing and of the four principles of the Licensing Act 2003 which needed to be considered when determining the application.

It was noted that a letter objecting to the application had been received by the Licensing Unit on 20.12.13 (letter dated 18.12.13). However, it had become evident that the letter had been recorded and had therefore reached the Council on 19.12.2013 - the closing date for correspondence on the application. The Panel was asked to decide whether the letter should be included in the discussion. It was agreed that the evidence proved that the letter had been received within the allocated period. The applicant was given an opportunity to read the letter.

Submitted – the report of the Licensing Manager detailing the application of Blackout, 32 Holyhead Road, Bangor for a new premises licence. The application was in respect of the supply of alcohol, recorded music and the provision of late night refreshment.

Details of the proposed hours were provided, and the measures recommended by the applicant to promote the licensing objectives were listed.

Following the appropriate consultation period, observations and objections relating to the application had been received from Local Members and from Bangor City Council. Objections to

the application were received on the grounds of the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance and public safety, as approving the application would exacerbate the cumulative impact of nuisance, crime and disorder as a result of the over-provision of licensable activities in a residential area.

North Wales Police had no objection but it was recommended that conditions be imposed on the licence following agreement with the applicant.

The Fire and Rescue Service did not object to the application.

It became evident that Gwynedd Council Planning Service had noted that formal planning permission would be required prior to implementation as the premises' current legal use was as a shop (A1). It was mentioned that the applicant had confirmed to the Licensing Unit's officers that she was in the process of submitting a full change of use application for the premises.

In considering the application, the following procedure was followed:-

- Members of the Sub-committee and the applicant were given an opportunity to ask questions of the Licensing Manager.
- The applicant was invited to expand on the application.
- Consultees were given an opportunity to support their observations.
- The licensee, or his representative, was invited to respond to the observations.
- Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- Members of the Sub-committee were given an opportunity to ask questions of the consultees.

The applicant was invited to expand on her application. She informed the sub-committee that she agreed with the Police's recommended conditions and that she had discussed issues such as a fire exit and the building's capacity with the Fire Service. One fire exit at the front of the property would be sufficient. The intention was to sell snacks only, and not to sell take-away meals from the premises.

She added that opening a new premises would not encourage more people to go out. The premises was located in a busy area, and would not encroach upon the outskirts of a residential area more than other public houses and businesses. She noted her intention to work with the local people, not against them, and that she was receptive to any observations.

The objectors present at the meeting took advantage of the opportunity to elaborate on their objection and they reiterated the observations that had been submitted by letter.

The following specific points were noted –

- It was highlighted that there was no planning permission for the property.
- Upper Bangor already had an over-provision of businesses supplying late night food / alcohol / snacks. As a result, the over-provision would exacerbate problems such as unrest, noise, litter, antisocial behaviour and general nuisance.
- Reference was made to the 'Cumulative Impact' policy used by some local authorities to restrict the growth of licensed establishments in 'problematic' areas.
- There were already adequate entertainment venues available for students.
- No specific smoking area for the premises - smokers would congregate in a very narrow space (pavement) outside the only entrance which was near the main road.
- Concern that the business only had one fire exit - difficult to believe that this was adequate for customers and staff within a narrow building.

- Penrallt Baptist Church adjacent to the building. The Church held a Youth Club on Friday evenings
- The new premises would probably be an attraction in the area and would bring in more people - an additional venue would create additional problems. Enough is enough.

It was acknowledged that a letter had been received from Councillor Rhys Taylor (Bangor City Council) - the apology was noted.

The police representative reported that they had no direct evidence in relation to the premises as it was a new application. The application had been discussed with Bill Coppack and it was reported that he was happy with the content and that the applicant agreed with the Police's conditions. If the application were to be approved it became evident that the promotion of alcoholic drinks would have to be discussed with North Wales Police and not with PS483 Bill Coppack.

In response to questions from the panel, the applicant noted that she intended to extend the iron railings on the corner outside the property so that customers would not be standing on the main road - this was being discussed with planning service managers. There was no intention to allow customers to carry drinks from the building.

The relevant parties left the meeting.

Members of the Sub-committee discussed the application, considering all the evidence submitted, and gave particular attention to the principles of the Licensing Act 2003, namely -

- Crime and Disorder prevention
- Public Safety
- Public Nuisance prevention
- Protection of Children from Harm

The members were of the opinion that the application should be approved. The Sub-committee was sympathetic to the consultees' concerns but there was no justification for not approving the application or in anticipating problems from the premises. A 'Cumulative Impact' policy had not been adopted by Gwynedd Council and therefore the Sub-Committee could not determine that there was an over-provision of similar businesses in Upper Bangor.

## **RESOLVED**

**To approve a new premises licence to BLACKOUT, 32 HOLYHEAD ROAD, BANGOR in accordance with the recommendations, and to include a new condition that glasses and drinks are not to be taken out from the premises. (Subject to a planning application).**

- To approve the supply of alcohol, Monday to Sunday from 10:00 - 01:00
- To allow recorded music, Monday to Sunday from 10:00 - 01:30
- To provide late night refreshments, Monday to Sunday evenings between 23:00 and 00:00
- Opening and closing hours for the public, Monday to Sunday between 10:00 and 1:30 (A half-hour extension for all licensable activities, and to closing time during special periods - such as Fresher's Week, St David's Day, St Patrick's Day, Halloween, Christmas Eve and New Year's Eve.

Measures recommended by the applicant to promote the licensing objectives.

- Implement the 'Challenge 21' policy

- No unaccompanied children on the premises
- No children on the premises after 19:30
- Provide training for staff
- Consult with the Police prior to holding events that promote alcoholic drinks
- A Fire Safety risk assessment to be conducted in collaboration with the Fire Service
- Customers to be reminded of the need not to disturb nearby residents when leaving

To accept all the Police's recommendations as listed below:

- a) That a digital CCTV system will be installed and will work to the satisfaction of the Police and Local Authority monitoring both the interior and exterior of the premises.
- b) In the case of the interior of the premises there will be sufficient cameras to record images of all areas available to the public, except for the toilets.
- c) Lighting in the location must be of sufficient brightness and quality to identify persons within the building.
- d) The CCTV system will record and retain colour images of all times when members of the public are on the premises, for a minimum of 31 days.
- e) Images will be surrendered on request to the Police or Local Authority at the time the request is made and the premises will ensure they keep sufficient software available to comply with this condition. If unable to comply with a request under this condition those responsible for the premises must understand that they will be liable to have the premises licence reviewed.
- f) There must be a minimum of one trained member of staff available to download evidence at the request of the Police or an authorised officer when the premises are open.
- g) Signs will be installed and displayed clearly in public areas of the building warning that a CCTV system is in operation.
- h) Recordings of incidents must be kept secure for inspection by the Police.
- i) The Designated Premises Supervisor will maintain a register, approved by the Police and Local Authority, of all door staff employed on the premises. The register will include details of the times each person working as door staff, start and finish duty, the name and SIA licence number of the person employed (including the name of the company that employs them, if relevant).
- j) The register will remain permanently on the premises and will be made available for inspection on request by the Police or Local Authority. On completion of the register, it will remain on the premises for a period of at least one year from the date it was completed, and for that period of time it will be available for inspection by the Police or Local Authority.
- k) The door supervisors will be appropriately registered with the Security Industry Authority (SIA) and will display a correct name badge.
- l) These premises will employ a minimum of one SIA registered door supervisor on Thursday, Friday and Saturday evenings from 22:00 until the premises closes to the public, unless the premises has received permission in writing from the police not to do so.

The Solicitor reported that he would aim to send a letter formally confirming the Sub-committee's decision to all present, and informing the applicant and the objectors of their right to appeal against the decision within 21 days of receiving that letter.

**5. APPLICATION TO REVIEW LICENCE – YATES, GLANRAFON, BANGOR LL57 1LP**

**On behalf of the premises:** Mr Steve Burnett (Solicitor), Mr Stewart Draper (Stonegate Pubs), Mr Tye Healey (Manager - Yates), Ms Melissa Hughes (Deputy Manager - Yates)

**Others:** Mr Gwyn Hughes (Clerk, Bangor City Council)

**Apologies:** None to note

Everyone was reminded of the procedure for the hearing and of the four principles of the Licensing Act 2003 which needed to be considered when determining the application.

Submitted - the Licensing Manager's report detailing the application from Yates, Glanrafon, Bangor, to vary the opening hours for licensable activities; and for the purpose of deleting conditions that are either no longer suitable or are too restrictive.

It was requested that the property be opened to the public at 09.00 am., seven days a week. The property currently opened to the public at 10:00 Monday to Saturday; and at 11:00 on Sunday mornings. It was noted that the hours for licensable activities would be retained in accordance with the existing licence. Details of the conditions which required changing / deleting (and the reasons for the changes) were included in the application.

Following the appropriate consultation period, observations and objections to the application had been received from Bangor City Council. There were objections to the application based on the licensing objectives of preventing crime and disorder, public protection and the prevention of public nuisance. Concern was expressed about the location of the premises - a sensitive location near the Cathedral and residential property. It was noted that there was evidence that glasses and bottles had been thrown into the Cathedral garden, and that deleting the condition in relation to prohibiting the use of glasses after 19:00 would lead to endangering the public. Changing the condition relating to Door Supervisors would also lead to a lack of control over customers that could lead to an increase in antisocial behaviour.

North Wales Police had no objection, but some of the recommended conditions, for example, changing the condition that drinks are not to be served in glass containers after 19:00, had been discussed with the applicant.

The Fire and Rescue Service had not submitted any observations.

In considering the application, the following procedure was followed:-

- Members of the Sub-committee and the applicant were given an opportunity to ask questions of the Licensing Manager.
- The applicant was invited to expand on the application.
- Consultees were given an opportunity to support their observations.
- The licensee, or his representative, was invited to respond to the observations.
- Members of the Sub-committee were given an opportunity to ask questions of the licensee.
- Members of the Sub-committee were given an opportunity to ask questions of the consultees.

The licensee's representative, Stonegate Pub Company Ltd, were offered an opportunity to expand on their application. He noted that Poppleton Allen solicitors (acting on behalf of the applicant) had provided a written response to Bangor City Council. He presented information and policies relating to Stonegate company, and emphasised that it was a national company

with a good reputation. He referred to the fact that Mr Tye Healey, Yates's Manager, was the Chair of Bangor Pubwatch.

There was no evidence linking the glasses and bottles to Yates, and no evidence with the documents confirming that Yates were responsible for the litter. Bottles and glasses were not permitted to be taken from the premises. Opposite Yates there was a taxi rank used by vehicles and buses to pick people up and drop them off - Yates staff themselves had seen litter being dropped - there was a demand here for additional bins. In relation to the proposal to open at 9:00 in the mornings, the intention was to serve breakfast. The solicitor noted that there was no intention to change the condition regarding Door Supervisors, but that the second condition on page 18 of the licence required deleting.

The objectors present at the meeting took advantage of the opportunity to elaborate on their objection and they reiterated the observations that had been submitted by letter. The objector referred to the fact that he had photographs to show in the context of the litter around the Cathedral. Mr Sion Huws clarified that the relevant regulations made provision for the sub-committee to consider any documents submitted on the day of the hearing with the agreement of all the other parties. The applicant agreed that some of these photographs could be submitted - these photographs were distributed to the panel.

The following specific points were noted by the consultee—

- The photographs had been taken on a Monday morning, showing glasses, bottles and cans in the Cathedral.
- The City Council were happy to retain the condition relating to Door Supervisors
- The sale of drinks in glasses after 19:00 increased the litter problem.

A police representative noted that they had no objection to the deletion of some of the conditions. In addition he noted that enquiries were being made by the Police regarding Cathedral Land and that the Street Pastors confirmed that there was a problem there regarding the disposal of glasses. Despite this, there was no direct link with Yates. It was also verified that Yates' staff prohibited customers from taking glasses from the premises.

The applicant took advantage of the opportunity to conclude his case. No staff from the Cathedral, the City Council or Environmental Officers had contacted the premises regarding litter. No allegations had been brought to the attention of the Police and Yates were more than willing to cooperate with the Police.

The relevant parties left the meeting.

Members of the Sub-committee discussed the application, considering all the evidence submitted, and gave particular attention to the principles of the Licensing Act 2003, namely -

- Crime and Disorder prevention
- Public Safety
- Public Nuisance prevention
- Protection of Children from Harm

The members were of the opinion that the application should be approved. The application, along with the police's conditions were in accordance with the licensing objectives. There was insufficient evidence to link the glasses and bottles in the Cathedral as having originated from Yates.

It was agreed that the condition relating to serving drinks in glasses should be deleted, but that the door Supervisors should ensure that customers did not leave the premises with any drinks.

**RESOLVED**

**To approve varying the premises licence of YATES, GLANRAFON, BANGOR as follows:**

- **The property to be opened to the public at 09.00 am, seven days a week**

The Solicitor reported that he would aim to send a letter formally confirming the Sub-committee's decision to all present, and informing the applicant and the objectors of their right to appeal against the decision within 21 days of receiving that letter.

The meeting commenced at 2.00pm and concluded at 5.15pm.

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## CENTRAL LICENSING SUB-COMMITTEE 20.02.14

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**Present:** Cllr Eryl Jones-Williams, Cllr Louise Hughes, Cllr Ann Williams

**Also present:** Mr Ian Williams (North Wales Police Licensing Coordinator), Geraint Edwards (Solicitor), Gwenan M. Williams (Licensing Manager), Heilyn Williams (Licensing Officer) and Lowri H. Evans (Member Support and Scrutiny Officer).

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**1. WELCOME**

Everyone was welcomed to the meeting by the Chairman, Councillor Eryl Jones-Williams. The Panel and officers were introduced to everyone present.

**2. DECLARATION OF PERSONAL INTEREST**

Nothing to note.

**3. URGENT ITEMS**

Nothing to note.

**4. APPLICATION TO VARY A PREMISES LICENCE – Y CWRT, BALA**

**On behalf of the premises:** Mr Maesoud Anafcheh and Ms Moira Mai

**Others:** Mr Martin Tranter (S A Brains), Mr M Phipps (S A Brains), Mr Paul Grainge (Local Resident), Ms Valerie Floyd (Local Resident)

**Apologies:** None to note

The Chairman noted that concern had arisen regarding the panel's right to consider the application in question since the advertising process did not comply with the requirements of the Licensing Act 2003.

**On legal advice, the Sub-committee decided that it would not be possible to make a decision regarding the application:**

1. The power of the Sub-committee to consider an application to vary a premises licence was derived from section 35 of the Licensing Act 2003 ("the Act"). That section only applied if the authority had received an application to vary a licence under section 34 and were satisfied that the applicant had complied with the requirements stipulated in section 34(5) of the Act.
2. Section 34(5) stated that the duty to produce regulations under section 17(5) of the Act was also appropriate for applications under section 34.
3. Section 17(5) stated that it was a requirement for the Secretary of State to produce regulations which made it a requirement for the applicant to advertise an application in a specific manner.
4. Under regulation 25 of the Licensing Act 2003 Regulations (Premises Licences and Club Premises Certificates) 2005, amongst other things, the applicant must publish a notice of the application (i) in a newspaper or similar publication, circulating in the vicinity of the premises, and (ii) on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority.



5. **The date when the application form was submitted to the Council was 8 July 2013. Therefore, the applicant would have had to publish an advertisement on any date between 9 July 2013 and 18 July 2013.**
6. **In relation to this application, it had been given to understand that no advertisement had been published during the above period. There was no evidence that the application had been advertised during the statutory period.**
7. **In these circumstances, the Sub-committee was not satisfied that the application complied with the requirements of section 34(5) of the Act. Consequently, the Sub-committee had no authority to determine the application under section 35. If the applicant wished to vary his licence then he had to submit a new application to vary the licence.**

Disappointment was expressed that it would not be possible to continue with the hearing as weekly correspondence had been held with the relevant parties and the Licensing Unit. It was suggested that the information regarding the shortcomings of the advertising process should be resolved prior to convening a hearing.

It was also expressed that it was the practice for Licensing Authorities to extend the consultation period on an application in circumstances where the applicant had not succeeded in advertising the application in accordance with the requirements of the regulations.

However, it was decided to keep to the procedure. The result of the hearing was likely to be open to challenge and, therefore, there was a need to ensure that the requirements of the law were addressed.

The Solicitor reported that he would aim to send out a letter formally confirming the Sub-committee's decision to all present.

The applicant was notified that he needed to submit a new application.

The meeting commenced at 11.00pm and concluded at 11.55pm.

<b>COMMITTEE:</b>	<b>CENTRAL LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>23 JUNE 2014</b>
<b>TITLE:</b>	<b>INVALID PREMISES LICENCE APPLICATIONS</b>
<b>PURPOSE:</b>	<b>FOR INFORMATION</b>
<b>AUTHOR:</b>	<b>HEAD OF REGULATORY DEPARTMENT</b>

## BACKGROUND

This report is submitted to the Committee for information. The Licensing Section has recently received several applications for premises licences, or applications to vary a premises licence that have had to be refused as invalid applications by the officers because they have not been submitted in accordance with the requirements of the Licensing Act and associated regulations.

## REQUIREMENTS OF THE LEGISLATION AND ASSOCIATED REGULATIONS

The Licensing Act 2003 and the relevant regulations – the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005/42 as amended), clearly sets out the requirements from, and expectations of, applicants when submitting an application for a premises licence or to vary a premises licence. The application forms used to submit an application include the information an applicant needs in order to ensure that the application is submitted and advertised in accordance with the requirements.

When an application is submitted, it must be ensured that the following steps are followed -

1. The application is submitted on the appropriate form
2. The application includes a plan of the proposed licensed area
3. The relevant fee is included with the application
4. The application must include a copy of the current licence (or relevant section of that licence) if there is no good reason why it cannot be included
5. Ensure that every Responsible Authority receives a copy of the application along with the relevant documents on the day the application is submitted to the relevant licensing authority.

The relevant Regulations – the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005/42 as amended), also imposes definite requirements on applicants for licences in relation to the manner in which applications are advertised. Specifically, these requirements includes the need to -

- Display a notice of the application for 28 consecutive days, commencing on the day after the day the application is submitted to the Licensing Authority
- The notice must be of a size equal to A4 or more
- Light blue in colour
- Black print with a minimum font size of 16
- To display the notice in a prominent and accessible place that can be read from outside the premises
- Publish an advertisement of the notice in a local newspaper which has a circulation in the vicinity of the premises at least once during a period of 10 days, commencing on the day after the day on which the application was submitted to the Licensing Authority.

Furthermore, below are details of the information which must be included on the notice of application in accordance with the regulations -

- A statement must be included of the proposed relevant licensable activities,
- Applicant's name
- Postal address of the premises
- Postal address and if relevant website address of the Licensing Authority where the register is kept and where and when the application can be checked.

- The date by which the representations should be made on the application to the Licensing Authority,
- Any observations made on the application must be in writing,
- That it is an offence to make any false or reckless statements in relation to the application and the maximum penalty imposed for making such a statement.

### **Implications of submitting an invalid application**

The implications of submitting an invalid application can cause frustration and additional costs for an applicant because the application will have to be re-submitted along with a new consultation period. Unfortunately, the legislation does not provide for any method of reimbursement of the fee for an application for a licence to the applicant; it is expected that an applicant pays another fee if the application is re-submitted.

When a submitted application is invalid, the Licensing Authority continues to incur the processing costs of that application. In addition, it is likely that the applicant will have to pay for re-advertising his application in a local newspaper in accordance with requirements.

Officers of the Licensing Section always attempt to provide applicants with advice to ensure that they submit their applications correctly. There is also comprehensive information available on the Home Office website on how to submit an application correctly. An applicant may appoint a solicitor or an agent specialising in the licensing field to prepare and submit a case on his behalf if he so wishes.

### **Legal Situation**

As members you will be aware that applications have been brought before the Sub-committee of this Committee for a hearing and that evidence has been received that the applications had not been submitted in accordance with the requirements of the relevant legislation and regulations. In these cases, the legal officer made it clear that officers or the Sub-committee have no legal right to make decisions on invalid applications.

In response to this, measures have been established to tighten the process of scrutinising every application received to try to ensure that invalid applications are not directed to the Sub-committee for determination.

### **Recommendation**

The Committee's support is sought for officers of the Licensing Authority to take action with the aim of ensuring that invalid applications are not submitted.

## ATODIAD – RHANNAU PERTHNASOL O'R DEDDF A'R RHEOLIADAU PERTHNASOL

### 17 Application for premises licence

- (1) An application for a premises licence must be made to the relevant licensing authority.
- (2) Subsection (1) is subject to regulations under—
  - (a) section 54 (form etc of applications etc);
  - (b) section 55 (fees to accompany applications etc).
- (3) An application under this section must also be accompanied—
  - (a) by an operating schedule,
  - (b) by a plan of the premises to which the application relates, in the prescribed form, and
  - (c) if the licensable activities to which the application relates (“the relevant licensable activities”) include the supply of alcohol, by a form of consent in the prescribed form given by the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor.
- (4) An “operating schedule” is a document which is in the prescribed form and includes a statement of the following matters—
  - (a) the relevant licensable activities,
  - (b) the times during which it is proposed that the relevant licensable activities are to take place,
  - (c) any other times during which it is proposed that the premises are to be open to the public,
  - (d) where the applicant wishes the licence to have effect for a limited period, that period,
  - (e) where the relevant licensable activities include the supply of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor,
  - (f) where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both,
  - (g) the steps which it is proposed to take to promote the licensing objectives,
  - (h) such other matters as may be prescribed.
- (5) The Secretary of State must by regulations—
  - (a) require an applicant to advertise his application within the prescribed period—
    - (i) in the prescribed form, and
    - (ii) in a manner which is prescribed and is likely to bring the application to the attention of the [persons who live, or are involved in a business, in the relevant licensing authority's area and who are] likely to be affected by it;
  - [(aa) require the relevant licensing authority to advertise the application within the prescribed period—
    - (i) in the prescribed form, and
    - (ii) in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it; and]
  - (b) . . .
  - (c) prescribe the period during which [responsible authorities and other persons] may make representations to the relevant licensing authority about the application.
- [(6) The Secretary of State may by regulations—
  - (a) require an applicant to give notice of his application to each responsible authority, and such other persons as may be prescribed, within the prescribed period, and
  - (b) in a case where the application is made by means of a relevant electronic facility, require the relevant licensing authority to give notice of the application to such persons as may be prescribed, within the prescribed period.]

### **S 34 Application to vary premises licence**

- (1) The holder of a premises licence may apply to the relevant licensing authority for variation of the licence.
- (2) Subsection (1) is subject to regulations under—
  - (a) section 54 (form etc. of applications etc.);
  - (b) section 55 (fees to accompany applications etc.).
- (3) An application under this section must also be accompanied by the premises licence (or the appropriate part of that licence) or, if that is not practicable, by a statement of the reasons for the failure to provide the licence (or part).
- (4) This section does not apply to an application within section 37(1) (application to vary licence to specify individual as premises supervisor).
- (5) The functions of the Secretary of State under subsections (5) and (6) of section 17 (advertisements etc. of application) apply in relation to applications under this section as they apply in relation to applications under that section.

### **S 54 Form etc. of applications and notices under Part 3**

In relation to any application or notice under this Part, regulations may prescribe—

- (a) its form;
- (b) the manner in which it is to be made or given;
- (c) information and documents that must accompany it.

### **S 55 Fees**

- (1) Regulations may—
  - (a) require applications under any provision of this Part (other than section 51) or notices under section 47 to be accompanied by a fee, and
  - (b) prescribe the amount of the fee.
- (2) Regulations may also require the holder of a premises licence to pay the relevant licensing authority an annual fee.
- (3) Regulations under subsection (2) may include provision prescribing—
  - (a) the amount of the fee, and
  - (b) the time at which any such fee is due.
- (4) Any fee which is owed to a licensing authority under subsection (2) may be recovered as a debt due to the authority

## **Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42)**

### **Regulation 25**

In the case of an application for a premises licence under section 17, for a provisional statement under section 29, to vary a premises licence under section 34 [(except where the only variation sought is the inclusion of the alternative licence condition)], for a club premises certificate under section 71 or to vary a club premises certificate under section 84, the person making the application shall advertise the application, in both cases containing the appropriate information set out in regulation 26—

- (a) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority, by displaying a notice,
  - (i) which is—
    - (aa) of a size equal or larger than A4,
    - (bb) of a pale blue colour,
    - (cc) printed legibly in black ink or typed in black in a font of a size equal to or larger than 16;
  - (ii) in all cases, prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises and in the case of a premises covering an area of more than 50 metres square, a further notice in the same form and subject to the same requirements every fifty metres along the external perimeter of the premises abutting any highway; and
- (b) by publishing a notice—
  - (i) in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises;
  - (ii) on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority.

### **Regulation 26**

- (1) In the case of an application for a premises licence or a club premises certificate, the notices referred to in regulation 25 shall contain a statement of the relevant licensable activities or relevant qualifying club activities as the case may require which it is proposed will be carried on on or from the premises.
- (2) In the case of an application for a provisional statement, the notices referred to in regulation 25—
  - (a) shall state that representations are restricted after the issue of a provisional statement; and
  - (b) where known, may state the relevant licensable activities which it is proposed will be carried on or from the premises.
- (3) In the case of an application to vary a premises licence or a club premises certificate, the notices referred to in regulation 25 shall briefly describe the proposed variation.

- (4) In all cases, the notices referred to in regulation 25 shall state—
- (a) the name of the applicant or club;
  - (b) the postal address of the premises or club premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises or club premises to be identified;
  - (c) the postal address and, where applicable, the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected;
  - (d) the date by which [a responsible authority or any other person] may make representations to the relevant licensing authority;
  - (e) that representations shall be made in writing; and
  - (f) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.

**Regulation 27 – Notice to responsible authority: applications made by means of relevant facility**

- (1) Where—
- (a) an application to which this regulation applies is made by means of a relevant electronic facility, and
  - (b) any plan or document required to accompany the application is given by means of that facility, the relevant licensing authority must, no later than the first working day after the application was given to the authority, give notice of the application to each responsible authority by giving each authority a copy of the application together with any accompanying plan or document.
- (2) This regulation applies to an application for—
- (a) a premises licence under section 17;
  - (b) a provisional statement under section 29;
  - (c) variation of a premises licence under section 34;
  - (d) minor variation of a premises licence under section 41A;
  - (e) a club premises certificate under section 71;
  - (f) variation of a club premises certificate under section 84;
  - (g) minor variation of a club premises certificate under section 86A.]

**Regulation 27A – Notice to responsible authority**

[In the case of—

- (a) an application of a kind referred to in regulation 27(2) made otherwise than as described in regulation 27(1), or
- (b) an application for a review under section 51 or section 87, the person making the application must give notice of the application to each responsible authority by giving each authority a copy of the application together with its accompanying plan, document or other information on the same day as the day on which the application is given to the relevant licensing authority