

Public Document Pack



Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872452
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

5 June 2013

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **LICENSING COMMITTEE** will be held in the Council Chamber at these Offices on Thursday 13 June 2013 at 9.30 am when the following business will be transacted.

Members of the public who require further information are asked to contact Rebecca Brough on (01304) 872304 or by e-mail at rebeccabrough@dover.gov.uk.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", written over a white background.

Chief Executive

Licensing Committee Membership:

Councillor B W Butcher
Councillor R J Thompson
Councillor P M Beresford
Councillor J A Cronk
Councillor B Gardner
Councillor P S Le Chevalier
Councillor S M Le Chevalier
Councillor S C Manion

Councillor S R Nicholas
Councillor M J Ovenden
Councillor M A Russell
Councillor A R Smith
Councillor C J Smith
Councillor J M Smith
Councillor P Walker

AGENDA

1 **ELECTION OF A CHAIRMAN**

To elect a Chairman of the Committee for the ensuing Council year.

2 **APPOINTMENT OF A VICE-CHAIRMAN**

To appoint a Vice-Chairman of the Committee for the ensuing Council year.

3 **APOLOGIES**

To receive any apologies for absence.

4 **DECLARATIONS OF INTEREST**

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

Where a Member has a new or registered Disclosable Pecuniary Interest (DPI) in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Where a Member is declaring an Other Significant Interest (OSI) they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

5 **MINUTES** (Page 4)

To confirm the attached Minutes of the meeting of the Committee held on 26 February 2013.

6 **MINUTES OF SUB-COMMITTEE MEETINGS** (Pages 5 - 10)

To receive the attached Minutes of the meetings of Licensing Sub-Committees held on 3 April 2013 and 19 April 2013.

7 **LICENSING ACT 2003 AND GAMBLING ACT 2005 - APPOINTMENT OF LICENSING SUB-COMMITTEES AND CHAIRMEN OF SUB-COMMITTEES**
(Pages 11 - 12)

To consider the attached report of the Democratic Services Manager.

8 **FREQUENCY OF SCHEDULED LICENSING COMMITTEE MEETINGS** (Pages 13 - 16)

To consider the attached report of the Director of Governance.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Rebecca Brough, Team Leader - Democratic Support, telephone: (01304) 872304 or email: rebeccabrough@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Minutes of the meeting of the **LICENSING COMMITTEE** held at the Council Offices, Whitfield on Tuesday, 26 February 2013 at 9.34 am.

Present:

Chairman: Councillor B W Butcher

Councillors: P M Beresford
J A Cronk
B Gardner
S C Manion
S R Nicholas
M J Ovenden
M A Russell
A R Smith
C J Smith
J M Smith
R J Thompson

Officers: Licensing Team Leader
Senior Solicitor
Team Leader – Democratic Support
Democratic Services Officer

494 APOLOGIES

Apologies for absence were received from Councillors P S Le Chevalier and S M Le Chevalier. Subsequent to the meeting, additional apologies were received from Councillor P Walker.

495 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

496 DECLARATIONS OF INTEREST

There were no declarations of interest.

497 MINUTES

The Minutes of the meeting of the Committee held on 20 November 2012 were approved as a correct record and signed by the Chairman.

498 MINUTES OF SUB-COMMITTEE MEETING

The Minutes of the meetings of the Licensing Sub-Committee held on 26 October 2012 and 13 December 2012 were received and approved as a correct record.

The meeting ended at 9.37 am.

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Wednesday, 3 April 2013 at 9.30 am.

Present:

Sub-Committee:

Chairman: Councillor B W Butcher

Councillors: J A Cronk
R J Thompson

Officers:

Legal Adviser: Senior Solicitor
Licensing Officer: Licensing Team Leader
Administrator: Team Leader – Democratic Support
Democratic Support Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/001/2013)..

12 APOLOGIES FOR ABSENCE

There were no apologies from Members.

13 APPOINTMENT OF SUBSTITUTE MEMBERS

There were no substitute members appointed.

14 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

15 LICENSING ACT 2003 - APPLICATION FOR THE VARIATION OF A PREMISES LICENCES IN RESPECT OF MODERN MOON MINI MART, 38 CASTLE STREET, DOVER CT16 1PJ

The Sub-Committee considered an application for a variation of an existing premises licence from the applicant, Mr N Naveenachandrian, in respect of an existing premises licence for Modern Moon, 38 Castle Street, Dover CT16 1PJ.

- (a) Amend condition 16 to EXTEND the hours of licensable activities in respect of the supply of alcohol (off the premises) from 09.00 hours – 22:00 hours to 06:00 hours– 22:00 hours.
- (b) REMOVE condition 21 of the licence which stated:

'No single cans of alcohol to be sold.'

On the basis of the representations of the applicant and his representative, the responsible authorities and other persons, the Sub-Committee found the following facts to be established:

- (i) That no other licence in Dover had the restriction of the sale of single cans of alcohol.
- (ii) That other licensed premises in the area were able to sell alcohol prior to 09:00hrs.
- (iii) The applicant wishes to sell alcohol earlier so as to make it available to those people finishing a night shift.
- (iv) The two restrictions were affecting the goodwill between the business and its customers.
- (v) That the applicant would be willing to consider participating in a scheme to be launched soon by the Council in respect of discouraging the drinking of high strength alcohol in the street.
- (vi) The Council was not aware of any concerns which were directly connected to the running of this business and its licence.

In reaching its finding, the Sub-Committee took into account the following:

- (i) The Licensing Act 2003 including sections 34, 35 and 182.
- (ii) The Council's licensing policy.
- (iii) The case of Daniel Thwaites PLC –v- Wirral BC.
- (iv) The Human Rights Act 1998.
- (v) Section 17, Crime and Disorder Act 1998.

RESOLVED: That the application for a variation in the premises licence of Modern Moon, 38 Castle Street, Dover CT16 1PJ:

- (a) GRANT an extension to the hours of licensable activities in respect of:

The supply of alcohol (for consumption off the premises ONLY):

All Days	06:00 to 22:00
----------	----------------

- (b) GRANT the removal of condition 21 so as to now permit the sale of single cans of alcohol.

The meeting ended at 10.04 am.

Minutes of the meeting of the **LICENSING SUB-COMMITTEE** held at the Council Offices, Whitfield on Friday, 19 April 2013 at 10.03 am.

Present:

Sub-Committee:

Chairman: Councillor S M Le Chevalier

Councillors: J A Cronk
C J Smith (In place of S R Nicholas)

Officers:

Legal Adviser: Senior Solicitor
Licensing Officer: Licensing Team Leader
Administrator: Team Leader – Democratic Support
Democratic Support Officer

Persons attending in connection with the Hearing

As shown on the Notice of Determination (NOD/002/2013).

16 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors P M Beresford and S R Nicholas.

17 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that in accordance with Council Procedure Rule 4, Councillors S M Le Chevalier and C J Smith had been appointed as substitutes for Councillors P M Beresford and S R Nicholas respectively.

18 DECLARATIONS OF INTEREST

There were no declarations of interest made by Members.

19 LICENSING ACT 2003 - APPLICATION FOR THE VARIATION OF A PREMISES LICENCE IN RESPECT OF CO-OP PIONEER, MOAT SOLE, SANDWICH, KENT CT13 9AL

The Sub-Committee considered an application for a variation of an existing premises licence from the applicant's representative, Mr R Arnot of Ward Hadaway Solicitors, in respect of an existing premises licence for Co-Op Pioneer, Moat Sole, Sandwich, Kent CT13 9AL.

The application was for a variation of the existing premises licence to:

- (a) EXTEND the hours of licensable activities in respect of the supply of alcohol (for consumption off the premises only) from 08:00 to 23:00 (Monday to Saturday) and 10:00 to 22:30 (Sunday) to 07:00 to 23:00 (Monday to Saturday) and 10:00 to 22:30 (Sunday).
- (b) REPLACE condition 7 of the licence which states:

"The premises licence holder will endeavour to eliminate or minimise any nuisance arising out of its licensable activities. In doing so the premises licence holder will work with enforcement authorities where any issues are identified. A complaints procedure will be maintained in order that local residents have a means of contact if necessary."

With the following new condition:

'The premises licence holder will, upon request, provide the telephone number of their Customer Relations Contact Centre'.

- (c) REMOVE the embedded conditions carried over from the previous Justices' licence issued under the Licensing Act 1964 which states:

"The restrictions do not prohibit:

- (a) During the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (b) The ordering of alcohol to be consumed off the premises or the despatch by the vendor of the alcohol so ordered;
- (c) The sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces.

Alcohol shall not be sold in an open container or be consumed in the licensed premises."

On the basis of the representations of the applicant and his representative, the responsible authorities and other persons, the Sub-Committee found the following facts to be established:

- (i) The Applicant was desirous of the small change to an hour earlier for the licensable hours (apart from Sundays) so as to be contemporaneous with the shop's new opening hours.
- (ii) That there was no cumulative impact policy in place in Sandwich.
- (iii) That the till system would not permit sales of alcohol outside of the licensed hours in the event that the opening hours were longer than the licensed hours.
- (iv) The till system was also used to assist with age checking and recording for alcohol sales.
- (v) The Sub-Committee had regard to the fact that there was no police evidence relating to potential problems relating to crime and disorder and the police had not made representations.

- (vi) The Sub-Committee had regard to the evidence from the Licensing Officer and the Applicant which stated that the shop had been re-fitted approximately 12 months ago and both then and now there are ever present concerns about the prevention of theft of alcohol and its location in the premises; although these concerns didn't necessarily exceed the norm.
- (vii) It was possible, in the future, that the opening hours of the store may change and may not then correspond with the licensed hours.

In reaching its finding, the Sub-Committee took into account the following:

- (i) The Licensing Act 2003 including sections 34, 35 and 182.
- (ii) The Council's licensing policy.
- (iii) The case of Daniel Thwaites PLC –v- Wirral BC.
- (iv) The case of Matthew Taylor-v-Manchester City Council and TCG Bars Ltd (2012) EWHC 3467 (Admin).
- (v) The Human Rights Act 1998.
- (vi) Section 17, Crime and Disorder Act 1998.

RESOLVED: That the application for a variation in the premises licence of Co-Op Pioneer, Moat Sole, Sandwich, Kent CT13 9AL:

- (a) GRANT an extension to the hours of licensed activities in respect of:

The supply of alcohol (for consumption off the premises ONLY):

Monday to Saturday	07:00 to 23:00
Sunday	10:00 to 22:30

- (b) AMEND condition 7 of the licence to read:

"The premises licence holder will, upon request, provide the telephone number of their Customer Relations Contact Centre."

- (c) REMOVE the embedded conditions carried over from the previous Justices' Licence issued under the Licensing Act 1964 (as mentioned above) with the exception of the following condition which is to remain:

"Alcohol shall not be sold in an open container or be consumed in the licensed premises."

Our reason for stating this is to give everybody added protection.

- (d) ADD the following conditions to the licence:

- (i) Should the till system, which prevents the sale of alcohol outside of the licensed hours, stop

working, Dover District Council's Licensing Officer must be informed within 48 hours.

- (ii) That Dover District Council's Licensing Officer must be informed within 7 days of any change to the store opening hours.

Our reason for imposing these conditions, is to ensure, so far as is possible, that the Licensing Officer and Authority have no concerns about the sale or theft of alcohol on the premises outside of the licensed hours.

- (e) Please note that the paper licence will again reflect what the current opening hours are and please confirm today what these are.
- (f) Please note for any future application we request the information in Box L (page 23) which states what your current opening hours are.

The meeting ended at 11.40 am.

Subject: LICENSING ACT 2003 AND GAMBLING ACT 2005 – APPOINTMENT OF LICENSING SUB-COMMITTEES AND CHAIRMEN OF SUB-COMMITTEES

Meeting and Date: Licensing Committee – 13 June 2013

Report of: Louise Cooke, Democratic Services Manager

Classification: Unrestricted

Purpose of the report: To appoint Licensing Sub-Committees to hear applications for licences, variation of licences and applications for review of licences.

Recommendation: That the Licensing Committee appoints 5 Sub-Committees together with a Chairman for each Sub-Committee for the ensuing municipal year 2013/14.

1. Summary

The Licensing Act 2003 makes provision for the establishment by the Licensing Committee of Sub-Committees consisting of 3 Members to discharge its functions.

2. Introduction and Background

2.1 As in previous years and in accordance with the Licensing Act 2003 and the Gambling Act 2005 this Council, as the Licensing Authority, is required to appoint Sub-Committees to hear applications for licences, variation of licences and applications for review of licences. As the Licensing Committee is composed of 15 Members, this requires the establishment of 5 Sub-Committees.

2.2 The Sub-Committees have been set up in such a way as to ensure that licence applications are not considered by Members representing the Ward in question and thereby to avoid any conflict of interests. In addition, married couples/civil partnerships will not be appointed to serve on the same Sub-Committee in accordance with advice previously given.

2.3 In the year 2012/13 the 5 Sub-Committees were as follows:

A	B W Butcher (CH)	S C Manion	M A Russell
B	P M Beresford (CH)	S R Nicholas	J M Smith
C	M J Ovenden	A R Smith (CH)	D G Smallwood / P Walker
D	B Gardner	P S Le Chevalier (CH)	C J Smith
E	J A Cronk	S M Le Chevalier (CH)	R J Thompson

2.4 In forming the Sub-Committees it should be noted that political balance requirements do not apply. It is not recommended that any changes be made to the composition of Sub-Committees for 2013/14.

A	B W Butcher	S C Manion	M A Russell
B	P M Beresford	S R Nicholas	J M Smith
C	M J Ovenden	A R Smith	P Walker
D	B Gardner	P S Le Chevalier	C J Smith
E	J A Cronk	S M Le Chevalier	R J Thompson

2.5 There have been no suggestions for Sub-Committee Chairmanships made as part of this report and this is a matter for the Licensing Committee to determine. However, the proposed Sub-Committees would still enable the same Sub-Committee Chairmen to be retained if that was the preference of the Licensing Committee.

3. **Identification of Options**

3.1 The appointment of Sub-Committees by the Licensing Committee provides for the efficient and effective discharge of its functions. This is the recommended option.

4. **Resource Implications**

There are no resource implications arising from this report.

5. **Background Papers**

Licensing Committee Agenda – 12 June 2012

Contact Officer: Rebecca Brough, Team Leader – Democratic Support

Subject:	FREQUENCY OF SCHEDULED LICENSING COMMITTEE MEETINGS
Meeting and Date:	Licensing Committee – 13 June 2013
Report of:	David Randall, Director of Governance
Classification:	Unrestricted

Purpose of the report:	To identify the range of options open to the Licensing Committee in respect of its frequency of scheduled meetings.
-------------------------------	---

Recommendation:	(a) That the report be noted.
	(b) That the Licensing Committee determine its schedule of meetings in accordance with Option 1c.

1. Summary

The Chairman of the Licensing Committee, Councillor B W Butcher, requested at the meeting of the Licensing Committee held on 26 February 2013 that a review be undertaken by Democratic Services in respect of the frequency of scheduled Licensing Committee meetings.

2. Introduction and Background

2.1 The Council's licensing functions are primarily exercised through the five Licensing Sub-Committees. The consequence of this is that the Licensing Committee itself has little in the way of regular business to transact which has resulted in a number of meetings of a very short duration.

2.2 Part 3 (Responsibility for Functions) of the Constitution defines three functions for the Licensing Committee as follows:

- (a) To discharge those functions referred to it by Section 7(1) of the Licensing Act 2003 (the exercise and delegation of licensing functions).

As part of the first meeting of the Licensing Committee each municipal year, it establishes Sub-Committees to discharge functions relating to applications, reviews and revocation of licences and Temporary Event Notices (TENs). The Committee also receives the Minutes of the Licensing Sub-Committees.

- (b) To consider and report upon any recommendation or report of the Council or its Committees or the Executive and its Committees on any matters referred to it which relate to a licensing function.

The Licensing Committee considers the annual fees and charges report relating to licensing matter.

- (c) To make recommendations to the Council or its Committees or to the Executive and its Committees on any matter relating to a licensing function.

- 2.3 There are currently four scheduled meetings a year of the Licensing Committee. An analysis of meetings of the Licensing Committee since 2009 demonstrate the following meeting durations:

	Duration Less Than 15 Minutes	Duration 16 - 30 Minutes	Duration 31 – 60 Minutes	Duration Longer Than 1 hour
2009-10	5	0	0	1
2010-11	6	0	0	0
2011-12	4	1	0	0
2012-13	3	0	0	0

- 2.4 It should be noted that the decrease in the frequency of meetings has not led to an increase in the duration of meetings.

3. Identification of Options

- 3.1 The five options identified below are intended to develop a clear framework under which the Licensing Committee can operate for Members and the public.
- 3.2 Option 1 – To make no change to the number of scheduled meetings agreed by Council at its Annual General Meeting held on 22 May 2013.
- 3.3 This represents the status quo for the Licensing Committee, with four scheduled meetings each year. However, this can be operated in a variety of ways.
- 3.4 Option 1(a) would be to hold all four meetings, regardless of the quantity of business to be transacted and expect all members of the Committee to still attend. This would mean that even if the minutes of the Sub-Committees were the only business to transact the meeting would still be held.
- 3.5 Option 1(b) would be to still hold all four meetings, regardless of the quantity of business to be transacted but leave it to the judgement of individual members as to whether they attended so long as a quorum could be attained. It should be noted that the right of a member to attend a committee to which they are appointed cannot be removed, except by full Council removing the member's appointment.
- 3.6 The scheduling of the Regulatory Committee immediately after the Licensing Committee would be a means of ensuring a quorum (one quarter of the whole membership, in this case 4 members) was always present so long as the four of the five members of the Regulatory Committee were also on the Licensing Committee or able to substitute on the Licensing Committee to maintain the quorum.
- 3.7 Option 1(c) would be to keep a schedule of four meetings but to cancel those where there is no business to be conducted. For these purposes "no business to be conducted" would mean that there are no reports or recommendations. In practical terms this could see up to 2 of the 4 scheduled meetings being cancelled.
- 3.8 Option 2 – To reduce the number of scheduled meetings from four to a number to be agreed by the Committee, accepting that a minimum of two meetings will be required. If this option is agreed the Committee is asked to be mindful that it will still need to hold a meeting in the month after the Annual General Meeting to appoint the Sub-Committees and a meeting in November / December to consider the Fees and Charges.

- 3.9 Option 3 – To increase the number of members on the Regulatory Committee so as to mirror that of the Licensing Committee, thereby increasing the likelihood that members present would have some business to transact beyond the approval of Licensing Committee minutes.
- 3.10 Option 4 – To hold the Licensing Committee on a different day / time from that of the Regulatory Committee, such as prior to full Council, when Members would have an additional meeting to attend.
- 3.11 Option 5 – To adopt a different option as determined by the Committee.

4. Evaluation of Options

- 4.1 Options 1(a) and 1(b) would not change the current situation of a number of Licensing Committees where the business to be transacted takes less than 15 minutes to complete, although Option 1(b) would potentially reduce the number of Members required to be present.
- 4.2 Option 1(c) would represent a small amendment to the current situation. The Democratic Support team would be required, during the agenda setting process, to assess whether there is business to be transacted and to cancel the meeting if there is none.
- 4.3 Option 2 would while reducing the number of short duration meetings increase the likelihood of special meetings of the Licensing Committee to be called where business arose that could not be delayed to the next scheduled meeting.
- 4.4 Option 3 would require both an increase in the membership of the Regulatory Committee to at least 10 members, the minimum size for a Licensing Committee. This is not the recommended option as it would make the Regulatory Committee unwieldy for considering Private Hire / Hackney Carriage licences. In addition, any change to the membership of a Committee would require a recommendation to Council to approve.
- 4.5 Option 4 while potentially negating a journey to the Council Offices for short duration Licensing Committee meetings is not the recommended option as it loses the benefit of the natural synergy between regulatory and licensing functions.
- 4.6 It is suggested that if Option 5 is adopted it be the subject of a follow-up report evaluating the implications of it prior to implementation.
- 4.7 It should be noted that Options 1(a), 1(b), 1(c) and 2 do not present any significant administrative difficulty in delivering.

5. Resource Implications

- 5.1 None.

6. Appendices

None

7. **Background Papers**

Licensing Act 2003

Constitution of the Council

Contact Officer: Rebecca Brough, Team Leader - Democratic Support