

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **LICENSING COMMITTEE** held on 21 March 2017 at 10.00 am

Present

Councillors

D R Coren (Chairman)
Mrs E M Andrews, K Busch, R J Chesterton,
Mrs F J Colthorpe, Mrs G Doe, C J Eginton,
P H D Hare-Scott, D J Knowles and
L D Taylor

Apologies

Councillor(s)

T G Hughes and J L Smith

Also Present

Officer(s):

Simon Newcombe (Public Health and Professional Services Manager), Thomas Keating (Lead Licensing Officer), Philip Langdon (Solicitor) and Julia Stuckey (Member Services Officer)

8 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllrs T G Hughes and J L Smith.

9 PUBLIC QUESTION TIME

There were no members of the public in attendance.

10 MINUTES

The Minutes of the last meeting were approved as a true record and signed by the Chairman.

11 PRE-APPLICATION ADVICE AND CHARGING FOR LICENSING APPLICATIONS

The Committee had before it a report * from the Public Health and Professional Services Manager which set out proposals for the introduction of a discretionary chargeable service for the provision of pre-application advice for licensing applications.

The officer outlined the contents of the report, explaining that the Localism Act 2011 allowed authorities to make a charge where it was not under a duty to provide the service and the person had agreed to the service being provided. There was also a duty to ensure that taking one financial year with another, the income from charges did not exceed the costs of providing of the service, in other words the Council cannot make a profit from charging for the service.

The licensing team dealt with a wide range of licensable activities under a range of different legislation. In particular, the following applications were the most complex and time-consuming:

- Licensing Act 2003: Sale of alcohol, entertainment and the provision of late night refreshment (i.e. new premises, variations, transfers and changes of Designated Premises Supervisors)
- Gambling Act 2005: Gambling (i.e. new premises, variations, transfers)

Although there was a statutory duty on the Council to administer applications, that duty did not extend to the provision of pre-submission advice and assistance.

The officer explained that the proposal to introduce discretionary services held benefits for the Council. Officers believed that the assistance offered under the proposed discretionary scheme would benefit residents and persons present in the Mid Devon area. From discussions with applicants, officers knew that some were put off, for example, by the length of application forms and the amount of sometimes technical information required in submitting a completed application. Guidance notes and policies were publicly available to applicants on the website, but the prescribed application process was inherently complicated mainly because it was closely linked to the primary legislation and applicants did not always have time to consider the guidance that was available.

The proposal was that potential applicants or persons indicating an interest in applying for a licence would be given the opportunity to take advantage of officer assistance at the appropriate discretionary fee.

The level of pre-application advice and assistance required was determined by the type of application to be completed and experience of the applicant. In order to try and be as inclusive as possible, it was proposed to offer three levels of service for the majority of applications, ranging from low to high (1 hour to 3 hours) of officer time. Costs were then calculated based on the hourly rate (including on-costs) of the licensing officer post for 2017/18.

Proposed fees were set as follows:

Level of assistance required		
Low	1 hour	£30.00
Medium	2 hours	£60.00
High	3 hours	£90.00

The type of pre-application advice and assistance given would depend on the requirements of the applicant but examples of what the service may consist of included:

- Advice and assistance with completing the application forms;
- Advice on appropriate conditions taken from the pool of standard conditions or in consultation with responsible authorities;
- Advice on drawing up plans and other technical documents to accompany the application in accordance with the relevant requirements,
- Advice on nominating an appropriate designated premises supervisor,
- Assistance with completing the statutory notices and advertising,
- On-site visit(s) to ensure plans were compliant with prescribed regulations and the appropriate statutory notices were correctly on display.

The officer clarified that applicants who decided not to take advantage of the proposed new process would still be signposted to the relevant guidance notes and policies. It was also important to ensure that the new process did not become overly bureaucratic. As a consequence, no fees would be charged for straightforward queries that could easily be dealt with over the phone or email and did not require significant officer time.

It was proposed that the officer involved with pre-application assistance and advice would not have any subsequent involvement with processing or determination of that individual application. This would help to ensure that a potential conflict could neither be seen nor occur, especially with those applications decided by officers under delegated authority.

The officer clarified that where an application related to the provision of regulated entertainment only (not alcohol) and that application was by or on behalf of an educational institution e.g. a school or college or a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building, no fee was payable on application. Consequently it was proposed to extend this exemption and not charge for pre-application advice for these premises.

Discussion took place regarding:

- How applicants would know the level of support required;
- TENS (Temporary Event Notices) applications and the fact that it was not proposed to include them at the present time but they could be considered in the future;
- The requirement that charges were at cost and not profit making;
- Consideration that would be given to charging when a site visit was required, by combining the visit with another check in the area;
- Other authorities that had introduced the same scheme and the number of applicants;
- Applicants could still apply without taking advantage of the advice facility;
- On line information was completely free and would continue to be available;
- Minor changes to the application form which included examples being provided at 5, changes to wording at 6 and simplification of the sentence at 8. Officers would liaise with the legal service regarding this;
- The recommendation within the report should refer to 'this committee' and not 'these committees';
- A detailed log of applications and the time they took to process would be kept and there would be ongoing review of this.

It was **RECOMMENDED** that Council:

- a) Approve the introduction of the discretionary chargeable service for the provision of pre-application advice for relevant licensing applications as set out in Section 2 and Annexe 1 of the report.

and

- b) That the Scheme of Delegation for the Licensing Committee be updated within the Constitution to include the Localism Act 2011 to enable consequential reviews and updates to scheme charges to be made by this committee.

(Proposed by the Chairman)

Note: Report * previously circulated and attached to Minutes.

12 **ENFORCEMENT UPDATE**

The Lead Licensing Officer informed the Committee that the team had been making proactive premises inspections, which involved visiting unannounced. Since November six premises had been found to have a risk rate of medium and two premises had a risk rate of high. Where a high risk was reported a second visit would take place to ensure that areas of concern had been put right.

The team had handled seven new applications since November; the average was around twenty for the year.

Since November the team had issued two simple cautions for non-compliance. One involved a premises that had been selling alcohol whilst their licence was suspended for non-payment of an annual fee and the other was for selling alcohol without a licence or a TENs notice. They had subsequently applied for a licence.

A hearing had been held regarding Eggbeer Farm and the licence had been granted.

The officer informed the Committee that the team were continuing to work in partnership with Trading Standards and the Police and had undertaken evening work visiting the pubs in the three main town centres.

13 **IMMIGRATION ACT UPDATE**

The Lead Licensing Officer informed the Committee that he expected the checking of immigration status for new applicants to commence in early April. Officers would be undertaking Home Office training and he would provide further information as and when it became available.

(The meeting ended at 10.55 am)

CHAIRMAN