

<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.