

## APPEALS PENDING

<b>Committee</b>	Licensing Committee
<b>Officer Contact</b>	Stephanie Waterford, Licensing Officer X7230
<b>Papers with report</b>	None
<b>Ward(s) affected</b>	All

### SUMMARY

For the Committee to decide how to proceed with the Licence appeals which have been lodged with the Magistrates Court following the recent licence revocations.

### RECOMMENDATION

**That the Committee issue an instruction as to how to proceed with the Appeals.**

### INFORMATION

The Licensing Sub-Committees have recently revoked five premises licences.

Three of these premises licence holders have lodged appeals against the decisions.

The implications of the appeals are that the premises may continue to operate under the terms of their premises licences during the appeal period and until the appeal is heard which can take several months.

Officers are seeking instructions from the Committee as to how to proceed with the Appeals. There are two options available to the Committee;

- Defend the Council's decision to revoke the licence and continue with the Appeals
- Do not defend the Council's decision to revoke the licences and allow the appeals

Due to report deadlines, a full up-to-date list of the appeals will be presented by the Licensing Officer at the Licensing Committee meeting for decision.

### FINANCIAL IMPLICATIONS

None

### LEGAL IMPLICATIONS

A premises licence-holder has a right to appeal against a decision of the Licensing Authority to revoke a premise licence under Section 181 of the Licensing Act 2003 (the "Act").

The decision of a Licensing Authority to revoke a premises licence only comes into effect once the right of the licence-holder to appeal has passed. The licensable activities may therefore continue during the appeal period.

The appeal process must be commenced by the licence-holder within 21 days of receipt of the written notice of the decision of the Licensing Authority. In light of the burden of work already on the Magistrates' Court system, the appeal may take several months to be resolved.

An appeal is made to the Magistrates' Court direct. When considering an appeal the Court has the power to:

- a) dismiss the appeal; or
- b) substitute its decision for that of the Licensing Authority; or
- c) remit the matter back to the Licensing Authority to be disposed of in accordance with the direction of the Court. This could include a re-determination of the matter.

The Court may make an order for costs as it sees fit under Section 181 of the Act. Guidance issued by the Justices Clerks Society does suggest that an award for costs should be the exception and not the rule. If a Licensing Authority has acted responsibly it should follow that costs are not awarded.

The Licensing Authority will always be the respondent in any appeal under Section 181 of the Act as it is the Authority that determined the original application. It is permissible for the Licensing Authority not to defend its decision to revoke the premises licence; however in this scenario the Court has the power to require a delegated officer to attend should it deem this necessary.

## **BACKGROUND PAPERS**

None