

Licensing Committee

Wednesday, 18th January, 2017

MEETING OF LICENSING COMMITTEE

Members present: Councillor Armitage (Chairperson);
the Deputy Lord Mayor (Councillor Campbell);
Aldermen L. Patterson, Sandford and Spence;
and Councillors Boyle, Clarke, Collins, Copeland,
Dudgeon, Groves, Heading, Magennis,
McConville, McDonough-Brown and Milne.

In attendance: Mr. S. Hewitt, Building Control Manager;
Ms. N. Largey, Divisional Solicitor; and
Mr. H. Downey, Democratic Services Officer.

Apologies

An apology for inability to attend was reported on behalf of Alderman McCoubrey.

Minutes

The minutes of the meeting of 14th December were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 3rd January, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were reported.

Non-Delegated Matters

Presentation - Police Service of Northern Ireland

The Committee was reminded that, at its meeting on 17th August, it had considered four applications for Temporary Street Trading Licences to trade on the Boucher Road, during the Tennents Vital event. It was reminded further that the Police Service of Northern Ireland had lodged objections to those applications and that it had been invited to send a representative to that meeting in order to clarify any issues which might be raised. However, no one had attended and, accordingly, the Committee had agreed that a senior representative be invited to a future meeting to discuss issues around representations made by the Police Service in relation to licensing applications.

It was reported that Inspector D. Hardy and Constable S. O'Hare were in attendance and they were welcomed by the Chairperson.

**Licensing Committee,
Wednesday, 18th January, 2017**

Constable O'Hare informed the Members that he had submitted the objections to the four applications for Temporary Street Trading Licences on the Boucher Road. He explained that the Tennents Vital festival had attracted an attendance of between 40,000 and 45,000 patrons and that, in his view, the presence of stalls along parts of the Boucher Road whilst patrons were exiting the venue would have had the potential to create significant problems for the Police Service, particularly in terms of crowd safety and given the limited number of officers who been allocated to that area.

Inspector Hardy apologised for the fact that the Police Service had not been represented at the meeting on 17th August, which he indicated had been due to resources across the City being stretched at that time. He accepted that the Council should have been notified in advance of that meeting that no one would be attending and confirmed that, in future, every effort would be made to ensure that, where the Police Service had lodged an objection to an application, a representative would be available and that they had been fully briefed beforehand.

In response to a question from a Member, Constable O'Hare stated that he had assumed the role of licensing officer for Belfast in May, 2016 and that he had attended three meetings of the Licensing Committee since then.

In terms of concerns which had been expressed by a Member around the level of resources which the Police Service had allocated to the Tennents Vital festival, Inspector Hardy confirmed that it was normal practice for a risk assessment to be undertaken in advance of such an event and that factors, such as the likely number and the profile of patrons, would be taken into account in determining the level of resources to be allocated. He added that, whilst he had no information to hand on, for example, the number of officers who had been on duty or on the number of arrests, it was his understanding that the festival had been a success and that no major issues had been identified.

The Building Control Manager explained that the Building Control Service worked closely with the Police Service of Northern Ireland and other key agencies in planning for major events such as the Tennents Vital festival and confirmed that it had had no concerns around the level of resources which had been allocated by the Police Service to that event.

The Chairperson then afforded the Members the opportunity to raise with the representatives any other issues of concern.

A Member referred to the fact that councils would soon be responsible for administering and implementing that part of the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010 relating to the holding of events on public roads. It was pointed out that the Council had concerns around the logistics and the potential liabilities and costs associated with the legislation and an assurance was sought that the changes would not affect the role of the Police Service of Northern Ireland when dealing with special events in the future.

In response, Inspector Hardy confirmed that the Police Service was aware of the role to be played by councils under the aforementioned Act and of the concerns which had been raised by them in that regard. He confirmed that the Police Service would

**Licensing Committee,
Wednesday, 18th January, 2017**

maintain its current role whilst the legislation was being progressed and that it was keen to work with councils to develop the processes, procedures and guidance required thereafter to deliver events safely across the City. He pointed out that, whilst the Police Service did not charge currently for policing special events, it was his understanding that, under the Act, such costs would be borne by organisers and that events involving, for example, community organisations would be assessed on a case-by-case basis.

A further Member alluded to the recent rise in drugs related deaths in Belfast and across Northern Ireland generally and sought from the representatives information on any measures being taken across the City by the Police Service to address the issue.

Constable O'Hare assured the Members that the Police Service played a proactive role in addressing the issue of illegal drugs through, for example, the Get Home Safe campaign, which operated from Thursday night till Sunday night. He explained that he was examining the possibility of organising in the near future a seminar for licensees in order to raise their awareness of drugs issues and that an invitation would be extended to Council officers. Reference would be made at that event to an issue which had been raised by a Member around the benefits of drugs testing and drugs amnesties in nightclubs, which had been shown to be successful elsewhere.

Inspector Hardy reported that the Police Service did not have the resources available to monitor all licensed premises across the City on a sustained basis and that venues were targeted primarily on the basis of information which it received from various sources. He made the point that there were legal difficulties associated with providing the Committee with detailed information on premises which had been linked to drugs, as had been suggested by a Member, but confirmed that the Police Service had no difficulty in working with the Council, through the Licensed Premises Group, to explore other ways in which problematic premises could be addressed under the Entertainments Licensing legislation.

Finally, a Member pointed out that she was aware of entertainments licensing applications having been considered by the Committee, where there had been allegations of serious assaults by door supervisors, some of which had not been objected to by the Police Service.

In response, Constable O'Hare confirmed that, since a new regime had been introduced, which provided for dedicated officers to conduct regular checks of licensed premises, incidents involving door supervisors had fallen by two thirds. He pointed out that, whilst he would not necessarily be made aware of all investigations being undertaken by other officers around the conduct of door supervisors, he would, on most occasions, review a premises' file, consult with a licensee and submit comments to the Council.

The Chairperson thanked Inspector Hardy and Constable O'Hare for their contribution and they left the meeting.

The Committee noted the information which had been provided.

Fees for Street Trading Licences

The Committee agreed to defer until its next meeting a report in respect of proposed fees for Street Trading Licences to enable officers to provide additional information and to examine options for introducing the proposed fees on a phased basis over the term of a licence and for establishing a fee for a licence to cover one day only.

Consideration of Entertainments Licences with Previous Convictions

The Committee considered the following report:

“1.0 Purpose of Report/Summary of Main Issues

1.1 To consider, under the Local Government Miscellaneous Provisions (NI) Order 1985 (the Order), current enforcement procedures and consideration of Entertainments Licensing applications when the applicant has been convicted of offences under the Order.

1.2 Members will recall that, at your meeting on 21st September, 2016, you agreed that a report be submitted to a future meeting providing information on breaches and associated convictions and penalties resulting from inspections which had, during the past five years, been undertaken by Council officers under the Entertainments Licensing legislation.

1.3 The Committee agreed also that the report should outline the enforcement approach undertaken by the Council, depending upon the nature of the offence detected, together with proposals for enabling it to review those applications where there had been a conviction for a breach of the legislation which had posed a serious risk to the safety of patrons.

2.0 Recommendations

2.1 Taking into account the information presented, the Committee is requested to note the content of the report and provide comment and recommendations regarding how Officers deal with the enforcement of Entertainments Licensing legislation and any breaches found which may result in the initiation of legal proceedings.

2.2 Members may also wish to advise on how they would prefer future applications to be presented to the Committee where the applicant has been previously convicted.

2.3 As all matters pertaining to policy and legislation in relation to licensing matters are not delegated, any decision will be subject to ratification by the Council.

3.0 Main Report

Key Issues

Powers to deal with Offences under the Order

- 3.1 Where an applicant has been convicted of an offence under the Order the Council may:**
- 1. revoke an existing Entertainments Licence if the licence holder is convicted of an offence, or**
 - 2. refuse an application on the grounds that the applicant has been convicted of an offence under the Order within the period of 5 years immediately preceding the date when an application was made.**

Powers to deal with serious threats to Public Order or Public Safety

- 3.2 If it appears to the Council that the provision of entertainment at any place in respect of which an Entertainments Licence is in force is causing, or is likely to cause, a serious threat to public order or public safety it may order the suspension of that licence.**
- 3.3 The Council may, at any time, revoke an order to suspend an Entertainment Licence. Prior to doing so, the Committee should satisfy itself that all the matters that gave rise to the decision to suspend the licence have been satisfactorily dealt with and that provision of entertainment at the premises will no longer cause a serious threat to the public.**
- 3.4 Authority to revoke, refuse or suspend a licence is fully delegated to the Licensing Committee.**
- 3.5 If the licence is revoked, refused or suspended then the applicant may appeal the Council's decision within 21 days of notification of that decision to the County Court.**

Enforcement approach undertaken by the Service

- 3.6 Our role in Building Control is primarily that of ensuring that licensed premises are operated safely and in accordance with the terms and conditions of the licence and obtained through working constructively with the licensee in accordance with the principles of Good Enforcement. Where legal action is taken it is seen as a last resort to deal with those offenders either operating without a licence or found to be committing offences of a more serious nature.**
- 3.7 There are currently 411 premises licensed for indoor entertainment in Belfast and 44 other venues where entertainment may be held either outdoors or within a marquee.**

**Licensing Committee,
Wednesday, 18th January, 2017**

- 3.8** As part of our application process, officers engage extensively with the applicant, licensee and any other representative associated with the application in order to help ensure the respective parties understand their responsibilities and duties as a licence holder. This helps ensure compliance with the terms and conditions of the Entertainments Licence.
- 3.9** All venues are inspected as part of the annual renewal application process but are also subject to further inspection as part of our During Performance Inspection (DPI) protocol.

During Performance Inspection and Enforcement Protocol

- 3.10** The DPI is not only carried out to ensure compliance with the terms and conditions of the licence but, importantly, it enables staff to develop a good working relationship with the person in charge of the premises and to help them understand their obligations in safeguarding the public.
- 3.11** The Service has an established risk rating process which enables targeted inspections to be carried out when entertainment is taking place where they are needed most. The risk is subject to regular review upon the completion of any DPI and updated accordingly.
- 3.12** The risk rating ultimately determines the frequency and number of inspections carried out on the premises over the annual period of the Entertainments Licence. However, other inspections can be arranged, as and when required, for monitoring purposes if a complaint is made or an issue occurs.
- 3.13** The following table provides a breakdown of the outcomes of DPI's by the Service over the last 5 years.

Outcome	Number	Action
Satisfactory	1580	None
Part Satisfactory	587	Letters Sent – 587 Office Meetings – 81
Not Satisfactory	100	Letters Sent (inc. PACE Letter) – 100 Office Meetings and resolved outside of court – 59

- 3.14** Generally, the majority of licensees and premises have been found to be compliant. The nature of the breaches and offences we have

**Licensing Committee,
Wednesday, 18th January, 2017**

uncovered over the last five years range from an emergency exit sign not being illuminated at the time of the inspection to locked exits or overcrowding of the premises.

- 3.15 'Part Satisfactory' decisions will normally require a letter to be sent to the licensee highlighting the problems uncovered and requesting that they be rectified as soon as possible. This is then followed up with another DPI a few weeks later to ensure the problems have been corrected.
- 3.16 Depending upon the severity of the problems failure to rectify them may mean an office meeting has to be arranged or legal proceedings are initiated against the licensee.
- 3.17 In circumstances where the inspection brings to light defects which give rise to more serious concerns about the safety of patrons a meeting will be arranged with the management of the premises to discuss how they may be resolved. The meeting also allows Officers to question the licensee and explore how well they are managing the premises.
- 3.18 A decision of 'Not Satisfactory' is recorded when significant defects or breaches have been found. Examples of this may be a locked exit, overcrowding of the premises or the fire alarm system being disabled. These problems and defects will normally result in legal proceedings being initiated against the premises. However each case is considered on its own merits and there are some circumstances in which, after consultation with Legal Services, an alternative solution may be offered.
- 3.19 Since 2011, through the adoption of the above procedures, the Service has secured a total of 41 prosecutions. These are broken down, as follows:
- 13 in 2011/2012
 - 8 in 2012/2013
 - 2 in 2013/2014
 - 5 in 2014/2015
 - 13 in 2015/2016

Initiation of Legal Proceedings

- 3.20 For any serious breaches discovered, we send formal correspondence in the form of a letter containing the PACE Caution to the licensee or defendant to afford them the opportunity to provide an explanation in relation to the suspected offences and any evidence or information which may be relevant.
- 3.21 The matter is then referred to Legal Services to consider whether legal proceedings should be initiated. Unfortunately under the terms

of the 1985 Order it is not possible to take cases in the Crown Court so all cases must be brought in the Magistrates Court.

Alternative Proceedings and resolved outside of Court

- 3.22 A prosecution will not always ensue, as each situation and case has to be determined on its own merits. It is unlawful to adopt a policy whereby every offence results in prosecution regardless of the circumstances.
- 3.23 There are a wide range of alternative resolutions available under the Council's Regulation and Enforcement Policy. These range from informal warnings through to formal cautions.
- 3.24 Most alternative disposals have been either by way of administering a formal caution or through a formal meeting held with the applicant/licensee which would involve a thorough review of their premises, the passive and active measures they have in place and their management arrangements to ensure the premises operates safely and effectively.

Penalties

- 3.25 As Members are aware, the penalties handed down by the Court in recent years are not always considered a true reflection of the severity of the offences discovered. Members may recall that in the Council's response to the review of entertainment licensing, in June 2015, the Committee provided alternative proposals on how to deal with breaches to the legislation.
- 3.26 Additionally, a letter has also recently been sent to the Minister for Communities, Mr Paul Givan MLA, to request that sentencing guidelines for breaches of the entertainments licensing be provided as part of his Department's review of entertainment licensing.
- 3.27 A summary of the problems, breaches and convictions and subsequent penalties handed down to licensed premises since 2011 has been circulated to Members.

Review of Applications where the applicant has been convicted for breaches of the legislation and posed serious risks to the safety of patrons

- 3.28 Members are advised that, since 2011, the Committee has considered a total of 81 Committee reports as a consequence of legal action and previous convictions of applicants. Some of the applicants offences have been considered on more than one occasion due to the '5 year rule'.

**Licensing Committee,
Wednesday, 18th January, 2017**

- 3.29 The Service believes that it takes a fair but robust approach to ensure applicants comply with the terms, conditions and restrictions attached to their Entertainments Licence.
- 3.30 In addition, Members can be assured that, in cases where legal proceedings are initiated we continue to engage proactively with all licensees to work to improve their overall safety procedures.
- 3.31 It was apparent, at the meeting on 21st September, 2016, that Members were concerned that, in some instances, the courts were handing down penalties for offences which did not reflect the seriousness of the offence.
- 3.32 It is not possible for the Council to appeal sentences to the County Court. The only mechanism available to challenge the level of penalty in the Magistrates Court is by way of judicial review. The threshold for successfully challenging a decision this way is quite high. It is not enough to demonstrate that the decision was unreasonable. The Council must establish that the decision was so irrational that it clearly falls outside the broad area of the lower courts sentencing discretion.
- 3.33 The Council has previously successfully challenged a sentence which was considered to be too lenient and a further judicial review is currently being considered by Legal Services in relation to a recent decision.
- 3.34 A further deterrent action which could be taken and which, to date, has not been utilised would be for Committee to consider the revocation of an Entertainments Licence immediately after a licence holder is convicted of an offence.
- 3.35 This would mean that as soon as an applicant is convicted of an offence, rather than when their licence falls due for renewal, the licence holder will be invited to appear before Committee and convince Members as to why their licence should not be revoked.
- 3.36 This would have the benefit that, regardless of any Court penalty, Members would have the opportunity to impress upon the applicant the severity of their offence and seek assurances in relation to future management of the premises. Whilst it is not possible to attach conditions to an extant licence undertakings could be sought from a licensee in terms of additional controls to be put in place at the premises. Compliance with such an undertaking would be relevant to their fitness in any future renewal application.

Financial and Resource Implications

- 3.37 Officers carry out during performance inspections on premises providing entertainment which is catered for within existing budgets.

Equality and Good Relations Implications

3.38 There are no equality or good relations issues associated with this report.”

After discussion, the Committee noted the information which had been provided and agreed to adopt the approach, as set out within paragraphs 3.34 to 3.36 of the report, as soon as a licence holder had been convicted of an offence under the Entertainments Licensing legislation. The Committee noted also that a report on the outcome of a review of the level of costs which the Council could apply for in relation to prosecutions taken under the entertainments licensing legislation, which it had requested previously, would be included on the agenda in the near future.

**Consideration of Representations Received
Outside the Statutory 28-Day Period**

The Committee considered the following report:

“1.0 Purpose of Report or Summary of main Issues

1.1 Members will recall that, at your meeting on 14th December, when agreeing to consider objections to the grant of a Seven-Day Annual Entertainments Licence for the Hawthorn Bar, which were received outside the 28 day statutory period, the Committee further agreed that officers submit to a future meeting a report outlining potential options for dealing with such representations which were submitted outside the statutory timeframe.

2.0 Recommendations

2.1 The Committee is requested to consider the proposal for dealing with representations received outside the 28 day statutory period and determine if you wish to adopt the proposal or adopt it with any necessary modifications arising from your discussions.

3.0 Main report

Key Issues

Legislative Requirements

3.1 In accordance with Schedule 1 of the Local Government (Miscellaneous Provisions) (NI) Order 1985, any person wishing to make any representation in relation to an application for the grant, renewal or transfer of an Entertainments Licence shall give notice to the council, stating in general terms the nature of the representation, not later than 28 days after the date of the application.

**Licensing Committee,
Wednesday, 18th January, 2017**

3.2 Under Paragraph 5(8), in considering any application for the grant, renewal or transfer of an Entertainments Licence, the council must have regard to any representations received within 28 days and must give an opportunity of appearing before and of being heard by the council to any person who has made such representation.

3.3 Similar requirements are in place for other application types the Committee consider, namely:

- Amusement Permits under the Betting and Gaming (NI) Order 2004 and Betting, Gaming, Lotteries & Amusements (NI) Order 1985;**
- Sex Establishment Licences under Article 4, Schedule 2 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.**

3.4 For both these application types the council must also have regard to representations which have been received within the 28 day statutory period.

House of Lords Judgement

3.5 The Local Government (Miscellaneous Provisions) (NI) Order 1985 permits the Committee to consider objections received outside the 28 day statutory period but it is a matter for the Committee to decide whether or not to exercise its discretion in such instances.

3.6 Members are reminded of the House of Lords decision in the case of Belfast City Council v Miss Behavin' Ltd. which, in 2007, upheld Belfast City Council's decision to refuse an application for a sex establishment. In delivering that judgement the Court held that it would be perverse if relevant information could not be taken into account just because it had been received outside the statutory time period.

3.7 The Court stated that the 28 day period should be treated as being administrative as opposed to mandatory. The Court ruled that the council was entitled to take into account late objections when deciding on an application and, in fact, there could be circumstances in which its failure to take that information into account would itself be judicially reviewable.

3.8 This was also the view taken by the High Court in Northern Ireland in cases such as Ava Leisure, in which the Court held that the failure to take into account an objection just because it was out of time was unlawful.

**Licensing Committee,
Wednesday, 18th January, 2017**

- 3.9** In the Miss Behavin' case, Lord Neuberger declared that if an objection which revealed to a council for the first time certain highly relevant information was received one day late, it would be a little short of absurd if it could not be taken into account.
- 3.10** He stated that it might reveal, for instance, that a family with a large number of small children had moved into the flat above the subject property, or that the applicant had a string of relevant convictions. In such cases, it would be contrary to the purpose of the 1985 Order, and to the public interest generally, if the council was obliged to ignore the information.
- 3.11** He further declared that it would be the duty of council officers to open and read any letter received; such an officer would be placed in an impossible situation if she or he had read a late letter of objection, with new and important information, but was effectively precluded from communicating this information to Council members.
- 3.12** Additionally, it was stated that the council is not prohibited from taking all relevant representations into account, whether they have been communicated by objectors or others, early or late, or in any other way.
- 3.13** In light of the above, Committee is advised that, in considering applications for Entertainment Licence, Amusement Permit or Sex Establishment Licences it has a discretion, but not a duty, to consider objections received outside the 28 day statutory period.
- 3.14** A copy of both the Miss Behavin' and the Ava Leisure decisions have been circulated to Members.

Consideration of objections received outside the 28 day statutory period by Committee

- 3.15** A review of applications since 2013 for which objections were received outside the 28 day statutory period and subsequently brought to Committee for consideration was undertaken and details of those applications have been forwarded to Members.
- 3.16** Members will note that for all 12 applications, which include both indoor and outdoor entertainment licence as well as amusement permit applications, the Committee has, in each case, exercised its discretion to consider objections received outside the 28 day statutory period.

Consideration of representations received outside the 28 day statutory

- 3.17** Whilst late objections have been considered in the past there is nothing to preclude the Committee from determining that, in future, this will not always be the case. Legal Services have advised that given the Miss Behavin' decision discussed above it would be unlawful to refuse to consider all representations received outside the 28 day period.
- 3.18** It should also be borne in mind that when assessing applications the Committee is often tasked with assessing competing Convention rights, those of the business owner and those who are affected by the operation of that business. It is therefore important to ensure that both parties have a fair opportunity to express their case.
- 3.19** Should Committee wish to set guidance as to when late objections may be considered it is important to make provision for unforeseen and exceptional circumstances so that new relevant information, which comes to light through a late objection, is not precluded from being presented to Committee.
- 3.20** It is proposed that a more rigorous test of the merits of each late objection be undertaken which, unless Members are satisfied, will mean the objection is not taken into account.

Proposal for dealing with late representations

- 3.21** For any representation which is received outside the 28 day statutory period Members may wish to consider adopting the following criteria:
- 1.** Has a reasonable explanation been provided, in writing, by the objector as to why their representation was not made within the 28 day period;
 - 2.** Does the representation provide substantially different additional information to that already contained within representations that have been received within the 28 day period;
 - 3.** How far outside the 28 day period were the representations received;
 - 4.** The proximity of the objectors to the premises;
 - 5.** The number of other representations received outside the 28 day period;

6. Whether there are any other material considerations which would warrant consideration of the objection.

- 3.22** At present, when a late objection is received, a preliminary report is brought to Committee to seek its view on whether the late objection would be considered. If Committee agrees to do so all parties are invited to a subsequent meeting of the Committee which will receive a detailed paper. As part of the preparation for that meeting, both the applicant and objectors are required to submit their representations which are exchanged with the parties, considered by officers and addressed in the case officers report.
- 3.23** Committee had requested that officers consider the possibility of rolling up the process so that all matter could be dealt with at one hearing. Having done so officers are concerned that this will be more cumbersome for Committee, members of the public and officers.
- 3.24** A rolled up hearing would mean the parties would have to lodge formal representations in accordance with the Operating Protocol. Officers would have to investigate the issues raised in those representations and the objector would have to appear before Committee without any certainty as to whether they would be heard. It would also cause difficulties for applicants as they would not know until the last minute whether they had to address the objections in their deputation to Committee.
- 3.25** In light of these concerns officers would recommend that the present approach is maintained.

Financial and Resource Implications

- 3.26** There are no financial or resource implications associated with this report.

Equality and Good Relations Implications

- 3.27** There are no equality or good relations issues associated with this report.”

After discussion, the Committee agreed to maintain the current approach for considering representations which had been received outside the statutory 28-day period and agreed also that the criteria set out within paragraph 3.21 of the report should, in future, form the basis for considering such representations.

**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF THE
POWERS DELEGATED TO IT UNDER STANDING ORDER 37(d)**

Licences/Permits issued under Delegated Authority

The Committee noted a list of licences and permits which had been issued under the Council's Scheme of Delegation.

**Applications for the Grant/Renewal/Variation of
Entertainments Licences with Previous Convictions**

The Building Control Manager submitted for the Committee's consideration the following report:

“1.0 Purpose of Report/Summary of Main Issues

- 1.1 To consider applications for Entertainments Licences where the applicant has been convicted of an offence under the Local Government Miscellaneous Provisions (NI) Order 1985 (the Order) within the previous five years.**

2.0 Recommendations

- 2.1 Taking into account the information presented, you are required to consider the applications and to:-**

- 1. approve the applications, or**
- 2. should you be of a mind to refuse any of the applications, or approve any applications with additional special conditions, an opportunity of appearing before and of being heard by the Committee must be given to the applicants.**

3.0 Main report

Key Issues

- 3.1 Members are reminded that the normal process for dealing with Entertainments Licence applications which are not the subject of objections is that the licence will be granted as provided for in the Council's Scheme of Delegation.**
- 3.2 However, as each applicant has been found guilty of committing an offence within five years of the application for a licence being submitted to the Council, you are required to consider the following applications:**

**Licensing Committee,
Wednesday, 18th January, 2017**

Premises and Location	Applicant	Application Type	Offence Details	Date of Conviction and Penalty
<p style="text-align: center;">AM:PM 38-44 Upper Arthur Street Belfast BT1 4GH</p>	<p style="text-align: center;">AM:PM Limited</p>	<p style="text-align: center;">Renewal and Variation</p>	<p style="text-align: center;">20th May 2016</p> <p>Rear final escape door was obstructed.</p> <p>Rear escape stair was obstructed.</p> <p>Rear escape corridor on the ground floor was obstructed.</p> <p>Fire door was held open on the ground floor escape route.</p> <p>All escape routes, including stairways, were not maintained with non-slippery and even surfaces.</p> <p>The appropriate pre-entertainment checks were not completed</p> <p>Entertainment was being provided on the 2nd floor which is an area not covered by the Entertainments Licence.</p> <p>The Entertainments Licence was not being displayed.</p>	<p style="text-align: center;">On appeal: 6 January 2017</p> <p>£2750 and £66 Court costs.</p> <p>Charges 1-5 £500 each, Charge 6 withdrawn 7-8 £250 each.</p> <p>Original penalty was £3250 – charge 6 was withdrawn – penalty reduced to £2750.</p>

**Licensing Committee,
Wednesday, 18th January, 2017**

<p style="text-align: center;">Hole In The Wall</p> <p style="text-align: center;">1-3 Baltic Avenue Belfast BT15 2HR</p>	<p style="text-align: center;">H.I.T.W Limited</p>	<p style="text-align: center;">Renewal</p>	<p style="text-align: center;">13th February 2016</p> <p>An exit route from the side of the bar was blocked with a speaker and a fridge.</p> <p>Mag lock was installed to a final exit door and prevented the door from being open and a final exit within the smoking area was locked and the replacement of a push bar with a tea spoon on another fire exit door.</p> <p>An exit route to the fire panel and final exit was blocked with tables and chairs and a door leading to an exit route was locked.</p> <p>There was no 'Fire Exit Keep Clear' signs fitted to doorsets, as required, and break glass Fire Action signs were missing.</p> <p>The Emergency Exit signs were not illuminated throughout the premises.</p> <p>No evidence of any pre-event log book checks being carried out.</p> <p>No Evacuation Procedures in place.</p> <p>Staff were not instructed or trained on the action to be taken in the event of a fire.</p> <p>The noise limiting device was not operating when entertainment was being provided.</p>	<p style="text-align: center;">On appeal 25th November 2016</p> <p>£6000 and £66 Court costs.</p> <p>Original penalty was £9000 but following Appeal by the applicant it was reduced to £6000.</p>
<p style="text-align: center;">Boyle's Bar</p> <p style="text-align: center;">91 Falls Road Belfast BT12 4PE</p>	<p style="text-align: center;">Mr. Stephen Carson</p>	<p style="text-align: center;">Grant</p>	<p style="text-align: center;">26th February 2016</p> <p>Entertainment was taking place without a valid Entertainments Licence.</p>	<p style="text-align: center;">13th December 2016</p> <p>£250 and £66 Court costs.</p>

**Licensing Committee,
Wednesday, 18th January, 2017**

3	St Paul's GAC 98c Shaws Road Belfast BT11 8LN	Dr. Paul Donnelly	Renewal	<p style="text-align: center;">28th March 2015</p> Entertainment was taking place in an area (1st Floor) not covered by the Entertainments Licence. The appropriate pre-entertainment checks had not been completed prior to entertainment taking place. A games machine was obstructing a final exit. The main entrance door was not being manned.	<p style="text-align: center;">10th November 2015</p> 12 months Conditional Discharge and ordered to pay court costs of £69.
		Mr. Billy McLarnon		<p style="text-align: center;">2nd February 2011</p> Ground floor of the premises was overcrowded	<p style="text-align: center;">11th November 2011</p> £500 and ordered to pay court costs of £69.
	Voodoo 9-11 Fountain Street Belfast BT1 5ED	Phoenix Wine and Spirits Store Limited	Renewal	<p style="text-align: center;">4th November 2011</p> Locked fire exit Obstructed means of escape The appropriate pre-entertainment checks had not been completed prior to entertainment taking place.	<p style="text-align: center;">4th September 2012</p> £270 and ordered to pay court costs of £69.

.3 Notwithstanding the possibility of refusing an Entertainments Licence on any other grounds, the Council may refuse an application on the grounds that the applicant has been convicted of an offence under the Order.

Application History

AM:PM

3.4 These are the first offences committed by the applicant and, therefore, this is the first time since the applicant was convicted that the Committee has an opportunity to take them into account in considering the applications for the renewal and variation of the licence.

**Licensing Committee,
Wednesday, 18th January, 2017**

- 3.5** The variation application is to include the 2nd floor area on the Entertainments Licence. One of the offences witnessed on 20th May, 2016 was that entertainment was being provided on the 2nd floor which, at that time, was unlicensed.
- 3.6** Due to the seriousness of the offences, officers met with the applicant immediately after legal proceedings were initiated to discuss them and to seek assurance that the applicant had taken appropriate steps to ensure that there would be no recurrence of these or any other safety issues.
- 3.7** Since then, the premises have been subject to two further during performance inspections, as well as a renewal inspection, to ensure that there has been no recurrence of these or any other safety issues and we have found that management procedures are being implemented effectively.

Hole in the Wall

- 3.8** These are the first offences committed by the applicant and, therefore, this is the first time since the applicant was convicted that the Committee has an opportunity to take them into account in considering the application for the renewal of the licence.
- 3.9** Due to the seriousness of the offences, officers met with the applicant on several occasions to ensure that the problems were resolved and revised measures were put in place to prevent further problems. The meetings involved a critical analysis of the passive and active safety measures as well as the management procedures that the applicant had in place for the premises.
- 3.10** Since then, the premises have been subject to two further during performance inspections, as well as a renewal inspection, to ensure that there has been no recurrence of these or any other safety issues and we have found that management procedures are being implemented effectively.

Boyles Bar

- 3.11** This is the first offence committed by the applicant and the Committee now has an opportunity to take it into account in considering the application for the grant of the licence.

The premises were previously licensed for entertainment but this was under a different name and management and expired in 2009.

**Licensing Committee,
Wednesday, 18th January, 2017**

- 3.12** A grant application was received in November, 2013 and the applicant was advised on numerous occasions that they were not permitted to provide entertainment until an Entertainments Licence was issued. Despite these warnings, entertainment was found to be taking place without a licence and legal proceedings were initiated.
- 3.13** A new grant application was subsequently made and is placed before you for your consideration.

St Paul's GAC

- 3.14** This is the fourth time that an application for the premises has been considered by the Committee since being convicted in 2011 and for the most recent 2015 offences. Three previous renewal applications have subsequently been considered by the Licensing Committee, namely, on 15th August, 2012, 18th September, 2013 and 19th August, 2015.
- 3.15** The 2012 and 2013 reports were in relation to the 2011 offence and the most recent report of 2015 was regarding both the 2011 and the 2015 offences. However, after consideration, the Committee agreed to renew the Entertainments Licence on each occasion.
- 3.16** The 2011 offence may now appear to be outside of the legislative five year period but as this application was made in September, 2016 both are still applicable. However, this is the final year you are required to take the 2011 offence into consideration.

Voodoo

- 3.17** This is the third time an application for the premises has been considered by the Committee since the applicant was convicted on the 4th September, 2012.
- 3.18** Two previous renewal applications were brought before the Committee on the 21st August, 2013 and the 16th September, 2015 and, after consideration, you agreed to renew the licence on each occasion.
- 3.19** Since you last considered the application the premises have been subject to five further during performance inspections as well as a renewal inspection to ensure that there has been no recurrence of these or any other safety issues and we have found that management procedures are being implemented effectively.

Representations

- 3.20 Notice of the applications has been advertised and no written representations have been received.**

PSNI

- 3.21 The PSNI has confirmed that it has no objections to the applications.**

NIFRS

- 3.22 The Northern Ireland Fire Rescue Service has been consulted in relation to each of the applications and confirmed that it has no objections.**

Applicants

- 3.23 The applicants and/or their representatives will be available at your meeting to answer any queries you may have in relation to their respective applications.**
- 3.24 Copies of the application forms for each of the premises are have been circulated to the Committee.**

Financial and Resource Implications

- 3.25 Officers carry out during performance inspections on premises providing entertainment, which is catered for within existing budgets.**

Equality and Good Relations Implications

- 3.26 There are no equality or good relations issues associated with this report."**

AM:PM, 38-44 Upper Arthur Street

The Committee agreed that it would be beneficial to obtain further information on this application from the applicant on the circumstances which had given rise to his prosecution and, accordingly, Mr. E. McCusker, was welcomed by the Chairperson.

Mr. McCusker informed the Members that he had operated the premises for the past fifteen years and that this had been the first occasion on which he had been prosecuted for offences under the Entertainments Licensing legislation. He explained that, immediately following the inspection on 20th May, 2016, the management team had put in place comprehensive measures to prevent a recurrence. He confirmed that he had made a significant investment in a bespoke application, which was now used by

**Licensing Committee,
Wednesday, 18th January, 2017**

managers to ensure that all of the required pre-event checks had been carried out in advance of entertainment taking place. In addition, an adjacent property had been rented for the storage of those items which had the potential to cause the type of obstruction which had been identified previously.

The Chairperson thanked Mr. McCusker for his contribution.

The Committee agreed, in its capacity as Licensing Authority, to approve the application for the renewal and variation of the Seven-Day Annual Indoor Entertainments Licence for AM:PM, 38-44 Upper Arthur Street.

Hole in the Wall, 1-3 Baltic Avenue

The Building Control Manager provided a brief overview of the application. He stated that the applicant had, in accordance with normal practice, been invited to attend the meeting in order to address any issues which might be raised by the Committee. However, he had just been informed that the applicant was not present.

After discussion, it was

Moved by Councillor Heading,
Seconded by Councillor Dudgeon,

That the Committee, in its capacity as Licensing Authority, agrees to defer until its next meeting the application for the renewal of the Seven-day Annual Indoor Entertainments Licence in respect of the Hole in the Wall, 1-3 Baltic Avenue, and that the applicant be invited again to attend.

On a vote by show of hands, nine Members voted for the proposal and seven against and it was declared carried.

Boyles Bar, 91 Falls Road

The Committee agreed, in its capacity as Licensing Authority, to grant a Seven-Day Annual Indoor Entertainments Licence for Boyle's Bar, 91 Falls Road.

St. Paul's GAC, 98c Falls Road

The Committee agreed, in its capacity as Licensing Authority, to renew a Seven-Day Annual Indoor Entertainments Licence in respect of St. Paul's GAC, 98c Falls Road.

**Licensing Committee,
Wednesday, 18th January, 2017**

Voodoo, 9-11 Fountain Street

The Committee agreed, in its capacity as Licensing Authority, to renew a Seven-Day Annual Indoor Entertainments Licence for Voodoo, 9-11 Fountain Street.

Chairperson