

Institute of Licensing
2021
25th National Training Conference

Improving the Appeals System

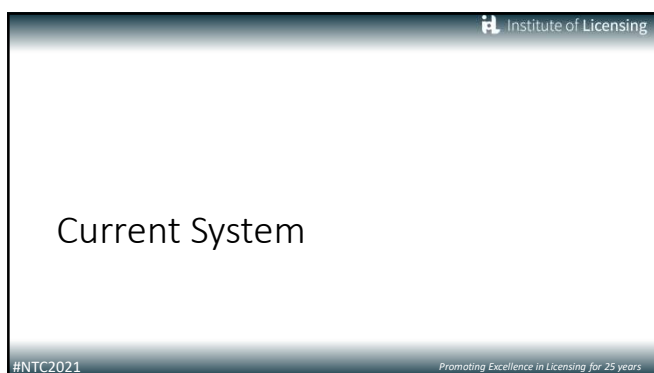
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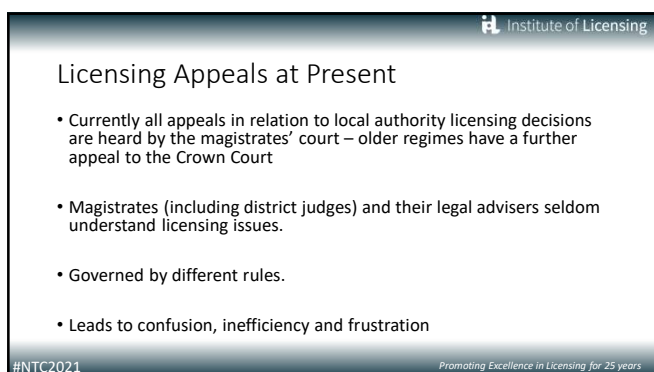


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Current System

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Licensing Appeals at Present

- Currently all appeals in relation to local authority licensing decisions are heard by the magistrates' court – older regimes have a further appeal to the Crown Court
- Magistrates (including district judges) and their legal advisers seldom understand licensing issues.
- Governed by different rules.
- Leads to confusion, inefficiency and frustration

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Improving the Current System?

- Regional pools or panels of trained magistrates (primarily lay magistrates but also district judges) together with trained legal advisers.
- Appeals heard at either particular regional Magistrate's Court or selected magistrates and legal adviser sit at local Magistrate's Court.
- Could be organised by the Courts Service under existing provisions.
- Still appeals to Crown Court.


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Short Term Improvement

- Standard Directions for all Licensing Appeals e.g.
 1. The Appellant do file and serve all evidence on the court and the Respondent by 4pm (date) 6 weeks before the hearing date.
 2. The Respondent do file and serve all evidence on the court and Appellant by 4pm (date) 4 weeks before the hearing.
 3. The Appellant do file and serve any skeleton argument and legal authorities on the court and Respondent by 4pm (date) 3 weeks before the hearing.
 4. The Respondent do file and serve any skeleton argument and legal authorities on the court and Appellant by 4pm (date) 2 weeks before the hearing.
 5. The Appellant shall serve 4 copies of an agreed, paginated and indexed appeal bundle on the court and serve one copy on the Respondent no later than 4pm, 7 days before the agreed hearing date.
 6. The hearing date is the () (Hearing 1 day) before a District Judge if possible.
 7. If any party fails to comply with the above directions made by the court the court may of its own motion, or on the application of any party, vacate the hearing.


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Requires


- Training for magistrates' and legal advisers
- Understanding of problems of delay
- For appellants – either delay to business commencing or uncertainty over future
- For respondents (Councils) – frustration over decisions not being confirmed and implemented

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Proposals for Change – Short Term


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A new approach

- Standard directions issued immediately on lodging notice of appeal
- Counting forwards from the date of appeal not backwards from date of hearing.
- Any other directions needed should be applied for and issued on paper.


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A new approach

- All papers before Council plus the decision to be filed as bundle A.
- Ensure Magistrates and legal adviser have the bundles well in advance of hearing and take the time to read them.
- No opening speeches.
- Evidence taken as read.


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A new approach

- Witnesses timetabled as in criminal cases.
- If appeal over conditions rather than grant, make parties agree lists of conditions (as in planning)
- Make parties agree all propositions of law.
- Time runs from the summary decision, not any detailed decision issued later.


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Requires

- A national approach
- National agreement
- Lead by Institute of Licensing?

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Proposals for Change – Long Term

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Licensing Tribunal

- Creation of a licensing appeal tribunal
- Alteration of all licensing legislation to lead appeals to that body.
- The tribunal could consist of:
 - Magistrates;
 - magistrates and a judge;
 - a trained chair and lay members;
 - a trained chair and councillors.


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Licensing Tribunal

- Could sit regionally
- May need Divisions:
 - Licensing Act Tribunal
 - Gambling Act Tribunal
 - Taxi Licensing Tribunal
 - Others Tribunal


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Requires

- Legislation
- Political will
- Parliamentary time


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Existing Route

- Appeals against refusals to grant Gambling Operator Licences go to the First Tier Tribunal (Gambling Commission Decisions)
- Appeals against Caravan Site Licence refusal, conditions etc (in England) already go to the First Tier Tribunal (local authority decisions) – changed from Magistrates’ Court in 2014
- So a clear precedent for change

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Conclusion

- Appeals system needs to change
- Will lead to:
 - Quicker appeals
 - More effective and efficient appeals
 - Cheaper appeals
 - Happier clients!

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