

CITY OF YORK COUNCIL

Gambling, Licensing and Regulatory Committee Sub-Committee Hearing (Miscellaneous Provisions) Act 1976, Section 61

1. Purpose of Meeting

To consider appeals against decisions of Officers to revoke a hackney carriage or private hire driver's licence.

Section 61 requires the licensing authority to make a finding on the balance of probabilities that the grounds set out in the legislation are made out.

In Section 61(1) (a) (i) the offence in question must *involve* dishonesty, indecency or violence. Dishonesty, indecency or violence must be part of the commission of the criminal offence for this subsection to apply but it is not necessary for the offence to be one of dishonesty, indecency or violence.

Section 61(1) (b) allows suspension or revocation (or refusal to renew) for any other reasonable cause. No further definition is given of reasonable cause within the legislation and ultimately the question is a matter for the discretion of the decision maker.

The decision must be taken in the interests of public safety and should be fair, reasonable, proportionate and in accordance with human rights and natural justice principles.

2. Nature of Meeting

(a) Appeals are heard under Council procedure as a measure of good administration, they are not statutory. In respect of appeals concerning drivers' licences there is also a right of appeal to the Magistrates Court.

(b) The Sub-Committee Hearing observes the “rules of natural justice” and to that end:-

- the members of the Sub-Committee have not previously been involved in the application(s);
- each side is given an equal opportunity to present its case: the decision of the Sub-Committee is based on the written evidence submitted and the evidence submitted at the meeting;

Council policies are not applied in a blanket fashion. They are considered in relation to the circumstances of each appeal.

3. Procedure

The following formal procedure will normally be observed:

- The appellant and/or his/her representative and the officer(s) appearing for the Council are invited into the meeting.
- The Chair of the Sub-Committee will confirm the nature of the appeal and that the appellant and/or his/her representative are aware of the procedure to be followed.
- The Council’s representative(s) will present the Council’s case and will call and question any supporting witnesses he/she considers necessary.
- Following the presentation of the Council’s case, the Sub-Committee will be invited to put questions to the Council’s representative(s).
- Then the appellant or his/her representative will be invited to put questions to the Council’s representative(s).
- The appellant or his/her representative will present his/her case and will call and question any supporting witnesses he/she considers necessary.

- Following the presentation of the appellant's case, the Sub-Committee will be invited to put questions to the appellant or his/her representative.
- Then the Council's representative(s) will be invited to put questions to the appellant or his/her representative.
- The Council's representative(s) will be invited to make a closing statement.
- The appellant or his/her representative will be invited to make a closing statement.
- The appellant, his/her representative and the officer(s) presenting the case on behalf of the Council will be asked to leave the meeting while the Sub-Committee considers its decision. You will be asked to wait for a few minutes in case the Sub-Committee wish to seek clarification of the evidence given. If it does then both parties will be invited back into the hearing.

4. Decision

The Sub-Committee will consider and reach its decision at the end of each appeal presented to it. Both sides will normally be notified of the decision, in writing, within five working days.