



LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR HEARINGS

Introduction

The procedure adopted at the licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below:-

The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Committee Members have a duty to view all evidence presented before them impartially. No matter how strong local opinion may be, Committee Members can only make decisions in the context of the licensing objectives as set out in legislation as follows:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The hearing will be in public session and this involves the publication of all paperwork relevant to the hearing on the Council's website. This includes letters of representation either in support or objection. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted. The Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.

In view of the requirement to hold hearings within specified timescales (usually 20 working days from the last date for representations), the Licensing Authority is unable to enter into discussions to identify dates convenient to all parties concerned. In

exceptional circumstances, the Licensing Authority will consider applications to hold hearings at a later date.

Representations at Licensing Hearings

The Applicant may speak at the hearing. Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. The Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. **Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.**

For the avoidance of doubt, if there is more than one individual making representations either for or against an application, this is classed as one party and consideration should be given to nominating a spokesperson. If necessary, the 15 minutes may be divided up between a number of people.

The Sub-Committee may take into account any documentary evidence or other information in support of the application or representations either before the hearing or, with the consent of all other parties, at the hearing.

If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written objection. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length. The Applicant and Representors cannot raise

substantial new information at a hearing which has not been seen previously by the other parties.

A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.

Any person behaving in a disruptive manner will be asked to leave the hearing.

Procedure prior to the Hearing

The Members sitting on the Sub-Committee will have a briefing prior to the hearing, usually in the meeting room where the hearing is to take place. They will only be accompanied by the Democratic Services Officer and the Council's Legal Advisor. During the briefing, attention will only be drawn to the nature of the application and the premises or person to which it relates and any procedural matters.

At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until called into the meeting room. Please arrive 15 minutes before the advertised start time.

Procedure at the Hearing

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and Officers and welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.
3. The Chair will ask if this procedure document has been read and understood by all parties and clarify if necessary.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.

6. The Licensing Officer outlines the application and gives an update on any recent changes.
7. The Chair will invite all present to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Applicant (or their representative) will present their case and may call any witnesses to support their case *[maximum 15 minutes]*.
9. The Chair will invite the Representors to ask questions of the Applicant in the following order *[maximum 5 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
10. The Chair will invite the Committee Members to ask questions of the Applicant
11. The Chair will invite the Representors in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case *[maximum 15 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
12. The Chair will invite the Applicant to ask questions of each Representor and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.
13. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
14. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*

- (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
15. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
16. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.
17. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.

Procedure after the Hearing

18. If the Sub-Committee wish to seek further clarification on the evidence given, the Democracy Officer will invite all parties back into the committee room.
19. If possible, and for all hearings under:-
- section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under section 34 or 37)
 - section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85)
 - section 105(2)(a) (counter notice following police objection to temporary event notice)
 - section 167(5)(a) (review of premises licence following closure order)
 - paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)
 - paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)

- paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)

the Sub-Committee will make a decision on conclusion of the hearing. The Legal Adviser and Democratic Services Officer will remain present during the decision making process. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

20. If the decision has been made, all the parties will be invited back into the committee room by the Democratic Services Officer. The Chair will announce the decision including details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing, including reasons for the decision, to the Applicant and all Representors (whether in attendance or not) within 5 working days of the hearing. There can be no further questions or statements.
21. For all other hearings not listed above, if the Sub-Committee is unable to make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 5 working days of the decision being made.
22. The notification will include information about the rights of appeal against the determination made.