



## **LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REVIEW HEARINGS**

### **Introduction**

The procedure outlined below will be followed at all Licensing Review Hearings.

As Licensing Hearings are quasi-judicial the Sub-Committee will, in effect, act like a Court and the rules of natural justice will apply. 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. Members of the Licensing Sub-Committee have all received relevant training and are used to making decisions of this type. No matter how strong local opinion may be, Committee Members can only make decisions based on relevant licensing issues as set out before the Sub-Committee in determining applications.

The hearing will be in public session. However, 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.

The purpose of the hearing is

- To enable those with a right to appear to advance their point of view and to test the case of their opponents
- To assist the Sub-Committee to gather evidence and understand the relevant issues

**In view of the requirement to hold hearings within specified times, the Licensing Authority will generally be unable to enter into discussions to identify dates convenient to all parties concerned.** In exceptional circumstances, the Licensing Authority will consider applications to adjourn hearings to a later date.

### **Representations at Licensing Hearings**

The Applicant for the Review, Ward Councillors, the Licence Holder(s) and Representors who have made written submissions will be allowed to speak at the Sub-Committee. At any hearing of an application for a Review, the Applicant for the Review, the Licence Holder(s) 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. A time limit has been set because of the pressures on the Sub-Committees to hear so many applications in a short period of time. **Each party will have 15 minutes to address the Sub-Committee, give**

**any further information, and call any witnesses.** If any party considers this time to be insufficient then a request in writing may be made to the Democracy Officer for an extension of time at least 2 working days before the hearing. However, this will not be automatically granted and will be at the discretion of the Sub-Committee.

The Sub-Committee may take into account any documentary evidence or other information in support of the application, representations or notice, 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 and hear and consider any evidence and argument in relation to it put forward by the Applicant for the Review and the Licence Holder(s). 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 for the Review, the Licence Holder(s) 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 extend or 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 repeated or made at length. The Applicant for the Review, the Licence Holder(s) and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

The Applicant for the Review or any Representor **may not** introduce any new ground or objection not referred to in the written submission. Amplification of the original representation may be made but any additional or new representation may not be made at the hearing.

Any person behaving in a disruptive manner will be asked to leave the hearing. If this does occur, that person may, before the end of the hearing, submit in writing any information which they would have been entitled to give orally.

### **Procedure prior to the Hearing**

The Members sitting on the Sub-Committee will meet prior to the hearing to note the matters that are to be presented. They will only be accompanied by the Democracy Officer and Legal Advisor. Attention will only be drawn to the nature of the application and the premises or person to which it relates. The actual application will not be discussed.

At any hearing of an application for a Review, the Licensing Officer, the Applicant for the Review, the Licence Holder(s) and any Representors or representatives will report to reception and be asked to wait in reception until the democracy officer calls them through to the committee room.

### **Procedure at the Hearing**

1. Members of the Sub-Committee will appoint a chair.

2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee and the Licensing Officer*], welcomes the Applicant for the Review, the Licence Holder(s) and Representors (or their representatives), and establishes the identity of all who will be taking part.
3. The Chair will explain to the parties the procedure that will be followed at the hearing.
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, confirms the application details, introduces the report and gives an update on any recent changes.
7. The Chair will invite Committee Members, the Applicant for the Review, the Licence Holder(s) and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will invite the Applicant for the Review (or their representative) to present their case and call any witnesses to support their case [*maximum 15 minutes*].
9. The Chair will invite the Licence Holder(s) and Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses [*maximum 5 minutes each party*]
  - (i) Responsible Authorities
  - (ii) Ward Councillors
  - (iii) Interested Parties in support of the Review
  - (iv) Interested Parties opposing the Review
  - (v) Licence Holder(s)
10. The Chair will invite the Committee Members to ask questions of the Applicant for the Review (or their representative) and/or witnesses.
11. The Chair will invite the Representors in support of the review (or their representative) 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) Responsible Authorities
  - (ii) Ward Councillors
  - (iii) Interested Parties
12. The Chair will invite the Applicant for the Review and the Licence Holder(s) and representors opposing the review to ask questions of each Representor in support of the review (or their representative) 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 in support of the review (or their representative) and/or their witnesses after each presentation.
14. The Chair will invite the Licence Holder(s) (or their representative) to present their case and call any witnesses to support their case *[maximum 15 minutes]*.
15. The Chair will invite the Applicant for the Review and Representors (or their representative) in the following order to ask questions of the Licence Holder(s) (or their representative) and/or witnesses *[maximum 5 minutes each party]*
  - (i) Applicant for the Review
  - (ii) Responsible Authorities
  - (iii) Ward Councillors
  - (iv) Interested Parties in support of the Review
  - (v) Interested Parties opposing the Review
16. The Chair will invite the Representors opposing the review (or their representative) 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) Responsible Authorities
  - (ii) Ward Councillors
  - (iii) Interested Parties
17. The Chair will invite the Applicant for the Review and the Licence Holder(s) and representors in support of the review to ask questions of each Representor opposing the review (or their representative) and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.
18. The Chair will invite the Committee Members to ask questions of each Representor opposing the review (or their representative) and/or their witnesses after each presentation.
19. The Chair will invite the Licence Holder(s) (or their representative) to summarise their case *[maximum 5 minutes]*.
20. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*
  - (i) Responsible Authorities
  - (ii) Ward Councillors
  - (iii) Interested Parties opposing the Review
  - (iv) Interested Parties in support of the Review
21. The Chair will invite the Applicant for the Review (or their representative) to summarise their case *[maximum 5 minutes]*.

22. 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.
23. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant for the Review, the Licence Holder(s) 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**

24. 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.
25. If possible, and always in the case of a Review of a premises licence following a Closure Order, the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee will remain in the room with the Committee Members. 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.
26. If the decision has been made, all the parties will be invited back into the committee room by the Democracy Officer. The Chair will announce the decision including reasons together with, if appropriate, details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing to the Applicant for the Review, the Licence Holder(s) and Representors within 3 working days of the hearing. There can be no further questions or statements.
27. 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 for the Review, the Licence Holder(s) and Representors within 3 working days of the decision being made.
28. The notification will include information about the rights of appeal against the determination made.