

## **Procedure to be followed when considering Licencing Applications under the Licensing Act 2003**

Pre meeting Prior to the start of the Hearing the Committee Administrator will check that any person wishing to address the Sub-Committee is either an Interested Party or an authorised representative of an Interested Party or a Responsible Body and is entitled therefore to do so.

Where there is any doubt about the person's eligibility to address the sub-Committee, the Committee Administrator will seek advice from the Legal Officer(s).

### **1. The Chairman will introduce:**

- members of the Sub-Committee (which will be made up of three District Councillors);
- the officers present;
- the Parties and their representatives (if any).

**The Chairman will ask**, before starting the Hearing, if any representations are being withdrawn.

### **2. At the start of the hearing the Chairman will advise:-**

- all Parties of the reason for the Hearing and the procedure to be adopted;
- that where a Party wants another person to appear at the Hearing they must ask permission (under Regulation 8(2)) although such permission will not be unreasonably withheld. No permission is needed where the other person is acting only as the Party's representative;
- that if any Party wishes to ask the Sub-Committee to consider documentary or other information at the hearing, which was not provided before the Hearing, then all Parties must consent;
- that if any Party does not attend or is not represented at the hearing, the Hearing can go ahead but the Sub-Committee will consider any application, notice or written representations received by the relevant deadline from that Party;
- that in some circumstances, the Hearing may be adjourned, where the Sub-Committee consider the public interest demands it.

### **3. The Chairman will ask each Party to confirm receipt of the following documents:-**

- Officer's report relating to the case;
- The procedure to be adopted during the Hearing;
- The documents, which the authority is required to provide under the Regulations – this varies according to the type of application but normally this means checking that the applicant has received copies of all the representations made in response to the application notices.

Any queries on the procedure or the factual content of the Licensing Officer's report should be dealt with at this point, with the assistance of the legal officer(s), as required.

4. **The Chairman will then ask** the Licensing Officer to present their report on the application. The report will include confirmation that the requirements as to advertising the application and the serving of notices have been met.
5. **The Chairman will inform all present - prior to receiving representations** - that each Party will be given an equal amount of time to make their representations. This will normally be a maximum of five minutes. However, the Chairman has discretion about the time given to each Party and may vary the time limit where reasonable to do so although reasons will be given and fairness maintained.
6. **The Chairman will invite any Responsible Bodies present** e.g. representatives of Police/Fire Service/ Environmental Services to address the Sub-Committee on any relevant representations they have made.

7. **The Chairman will then invite:**

- Parties or their representatives speaking in support of the application (including the applicant for the review) to address the Sub-Committee on their relevant representations. The address shall relate only to those matters already raised in the application, representations or notice (as applicable). No new information can be presented at the hearing unless all Parties agree, however, where the authority has notified the Party that it requires clarification on any points, this should be provided at this stage;
- Parties or their representatives, speaking in opposition to the application for review, to address the Sub-Committee on their relevant representations. The address shall relate only to those matters already raised in the application, representations or notice (as applicable). No new information can be presented at the hearing unless all Parties agree, however, where the authority has notified the Party that it requires clarification on any points, this should be provided at this stage.

**The Chairman** will permit a Member to seek immediate clarification of a point made by a Party, their representative or any another person permitted to attend where, prior to this point in the Hearing, circumstances arise which make it desirable to do so, provided that the question is relevant and helps the proper conduct of the Hearing. The rules of natural justice will be followed.

No Cross examination will be permitted without the consent of the sub-Committee and this will only be given where Committee considers that cross-examination is required for it to consider the representations, application or notice.

8. **The Chairman will ask** whether anyone has any further relevant comments to make and whether each Party is satisfied with the conduct of the Hearing.
9. **The Chairman will then invite** Members of the Sub-Committee to ask any questions of any of the Parties or any other person permitted by the Sub-Committee to appear at the Hearing.
10. **The Chairman will check with the legal adviser(s) that all relevant points have been addressed before asking the Parties to leave the room while** the Sub-Committee consider its decision in private. Only the clerk and the legal adviser(s)

will remain with the Sub-Committee although only the sub-committee will be making the decision.

11. **Once in private the Chairman will advise the other Members** that they must consider all the information before them in making their decision but will disregard any information which is not relevant to the application, representations or notice and which does not relate to promoting the Licensing Objectives. Members will take account of the Statutory Guidance and the Council's Statement of Licensing Policy but shall be free to depart from it where the merits of the case warrant it. Full reasons shall be given for any such departure. If Members require further information from any Party or any further evidence, they will reconvene the hearing with all Parties able to be present.
12. **The Chairman will ensure, on the Parties return to the Hearing room,** that any legal advice given to the Sub-Committee in private is summarised to the Parties.
13. **The Chairman will notify** all Parties of their decision and the reasons for the decision. The decision will normally be given orally, at the Hearing, in a plain English format to help those attending the Hearing to understand it more easily. This is not the official written Notice of Decision which be sent to all of the Parties shortly afterwards.

Where the Sub-Committee is unable to give a decision at the meeting, **the Chairman will advise all Parties when a decision can be expected.** The decision will be sent to all Parties within the timescales set down in the Regulations.

14. **The Chairman will inform all Parties** of their possible rights of appeal (if any).

## **NOTES**

1. A Party is anyone who has submitted an application or made a relevant representation or served a notice.
2. Where an adjournment is granted the Sub-Committee will notify the Parties forthwith of the date, time and place to which the Hearing has been adjourned.
3. Under no circumstances must the Parties or their witnesses offer Members of the Sub-Committee information in the absence of the other Party. Similarly, Members will not attempt to elicit information from any Party to the Hearing in the absence of the other. Members will not make pronouncements on the merits of the case until all the evidence has been heard. These are essential elements of the rules of natural justice.
4. The Chairman may vary this procedure, as circumstances require but will have regard to the rules of natural justice.
5. The Hearing will take place in public. However, the public can be excluded from all or part of the hearing where the Sub-Committee considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

The Sub-Committee may also require a Party to leave the hearing if that Party is

behaving in a disruptive manner. The Sub-Committee can refuse to readmit the Party or readmit upon conditions but the Party can nevertheless submit to the Sub-Committee before the end of the Hearing any written information it would have been entitled to submit orally at the Hearing.

6. District Councillors representing the area (District Council Ward) to which the application refers, or have declared an interest, will not form part of the Sub-Committee.
  7. Where any irregularity is brought to the attention of the Sub-Committee during the hearing, the Sub-Committee may, if it feels that a Party has been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure that irregularity before it makes its determination. However, any irregularity from a failure to follow this procedure shall not of itself render the proceedings void and any clerical errors may be corrected.
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