

## **Procedure to be followed under the Licensing Act 2003 when a notice of objection to a proposed Designated Premises Supervisor (DPS) has been received**

Pre meeting      Prior to the start of the Hearing the Democratic Services Officer will check that any person wishing to address the Sub-Committee is either:

The Holder of the Premises Licence or their authorised representative or  
The Chief of Police or their representative

Where there is any doubt about the person's eligibility to address the Sub-Committee, the Democratic Services Officer 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**The Chairman will ask**, before starting the Hearing, if the Notice of Objection has been withdrawn.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 the application to Vary the Premises Licence to Specify a DPS, Notice of Objection and any supporting information from either party received by the statutory deadline.
- 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
- That the applicant and proposed DPS has received a copy of the Notice of Objection

- 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.
  5. **The Chairman will inform all present** - that each Party will be given an equal amount of time to put forward their case. 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:**
    - The representative of the Chief of Police to address the Sub-Committee on matters they have already raised in their Notice of Objection and any supporting information received before commencement of the hearing.

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 then invite:

- The applicant to present their case against the Notice of Objection to the Sub-Committee *and finally invite:*
- The Proposed DPS to present their case against the Notice of Objection to the Sub-Committee

**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 Notices and any supporting information.

7. **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.
8. **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.
9. **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.

10. **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 or Notice of Objection, 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. If Members require further information from any Party or any further evidence, they will re-convene the hearing with all Parties able to be present.
11. **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.
12. **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 will be sent to all of the Parties shortly afterwards. If there is insufficient time to communicate this decision in writing before the proposed variation of DPS takes place, the decision will be given in full at the hearing.

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.

13. **The Chairman will inform all Parties** of their possible rights of appeal.

## **NOTES**

1. A Party is either the Applicant, the proposed DPS or Chief of Police or the associated representative
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 representatives offer Members of the Sub-Committee information in the absence of other Parties. Similarly, Members will not attempt to illicit information from any Party to the Hearing in the absence of the others. 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 normally take 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 re-admit the Party or re-admit 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) where

the applicant lives, 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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