

# **LICENSING ACT 2003 SUB COMMITTEE**

## **Summary Procedure – Dual Drivers Licence**

- 1. Recording Apparatus switched on**
- 2. All Parties introduce themselves**
- 3. Licensing Officer presents report and produces documents to be relied upon.**
- 4. Sub Committee retires to read documents and then returns**
- 5. Applicant makes opening statement**
- 6. Questions to Applicant by all others present**
- 7. Licensing Officer and Applicant sum up in that order**
- 8. Sub Committee retire to make decision accompanied by Legal Officer if required**
- 9. Sub Committee return and Chairman announces decision**
- 10. Hearing ends**

## LICENSING ACT 2003 SUB-COMMITTEE

### PROCEDURE FOR HEARING LICENSING APPLICATIONS Dual Driver's Licence

#### 1. GENERAL INFORMATION

In this document references to Committee shall be construed to include a Sub-Committee of the Committee.

Members of the Licensing Sub-Committee will not hear any application where they live within the proximity of the premises or where they know the Applicant.

**In the interests of timely, efficient and cost-effective decision making the Licensing Authority strongly urges all parties involved in any hearing to ensure that there is full advance disclosure between the parties of information to be put before the Licensing Sub-Committee hearing.** Failure to so disclose will unduly delay the proceedings due to arguments as to the admissibility of the information and may result in the information not being admitted.

A party will be entitled to supply additional information at the hearing in response to a point upon which the Licensing Authority has sought clarification, without the need for advance disclosure or permission of the Sub-Committee.

The hearing will be held in public unless the Sub-Committee feel it is necessary to hear all or part of the hearing in private. In considering this, the Sub-Committee will have regard to any unfairness to a party by holding the hearing in public and the need to protect, as far as possible, the commercial or other legitimate interests of the party.

The Sub-Committee may exclude anyone person from the hearing, or allow them to remain under conditions specified by the Sub-Committee, if their behaviour is deemed to be disruptive. If the party is refused permission to return to the hearing, the Sub-Committee will allow the party to submit written representation before the end of the hearing, summarising their intended entitled oral representation. This information, if relevant to the licensing objectives, will be taken into consideration in the Sub-Committee's determination.

#### **Exclusion of the Public**

Hearings of the Committee will take place in public save where the Committee direct that it is necessary in all the circumstances of the

case that a hearing or part thereof be heard in private having regard to:

- (a) any unfairness to a party that is likely to result from a hearing in public; and
- (b) the need to protect as far as possible, the commercial or other legitimate interests of a party.

In reaching a decision, the Committee will balance the public interest in the hearing taking place in public against the public interest in ensuring that a party has a fair hearing that does not result in harm to the commercial or other legitimate interests of the party.

The Committee are at liberty to reconsider at any point within the hearing whether the public interest requires that a part of the hearing take place in the absence of the public or whether documents which are being considered by the Committee should be excluded from publication and make a ruling accordingly.

### **Disturbance at a meeting**

Where any person disrupts the proceedings the Committee may exclude that person, including a party to the proceedings from the hearing, or allow the individual to remain subject to conditions. The process to be followed when removing a member of the public is that within the Council's Constitution for the management of disturbance by the public.

If a party is refused permission to return to the hearing, the Committee will allow the party to submit written representation before the end of the hearing, summarising their intended entitled oral representation. This information, if relevant to the licensing objectives, will be taken into consideration in the Committee's determination.

### **Time limit on Presentations**

All parties will be allowed the same amount of time. Please take the general information contained in paragraph 1.6 as notification of the maximum time to be allowed.

On the basis that there will normally have been full disclosure of the information to be presented at the hearing the Licensing authority is of the opinion that open statements should be brief.

For guidance only the maximum time normally applicable is as set out below:

- i. opening statement (10 minutes)

- ii. clarification of points raised by Licensing Authority before hearing (5 Minutes)
- iii. calling any witness in support of their application, representation or notice (10 minutes each)
- iv. question any other party or witness. (5 minutes)
- v. summing up (10 minutes)

### **Failure of parties to attend**

If the party has informed the Licensing Authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

Where a hearing is held in the absence of a party the Licensing Sub-Committee will consider the application/representation/ or notice made by the party.

Where the hearing is adjourned to a specified date the Licensing Authority will notify forthwith the parties of the date, time and place to which the hearing has been adjourned.

### **Cross Examination**

There is a presumption given by the Committee to allow cross-examination of all parties by all parties within the structure of the hearing process. The Committee will only exercise its discretion to stop or not allow cross-examination if the questioning is felt unnecessary for it to consider the application or representation. The Committee will not permit hostile or repetitive questioning.

## **2. THE HEARING**

- a) Prior to the commencement of the hearing the application will be informed that such hearings are normally in public but can be held in private if there are good reasons for doing so. The Applicant will be asked whether he wishes the hearing to be in private and if so, what reasons he can give to justify this. If such a request is made the Sub Committee will retire to determine whether the hearing will be in private. The Sub Committee will then return for the Chairman to announce its decision and if it has been decided that the hearing will be in private the Chairman will announce that the press and public are to be excluded.
- b) **The Chairman/Chairperson** will open the proceedings in the following order.
  - (i) The audio tape recording device will be turned on.

- (ii) The Chair will introduce himself and the other members of the Sub-Committee. The Legal Adviser and Licensing Officer will introduce themselves.
- (iii) The Chair will ask if there are any declaration of interest.
- (iv) He will confirm the parties in attendance including Applicants (or representative).
- (v) The following will be read out:
  - a. As all parties will have had the opportunity to make detailed written submissions so it is expected that any opening statement by the parties to be brief.**
  - b. The hearing will take the form of a discussion led by the Licensing Committee and cross-examination shall not be permitted if the Committee considers the cross-examination is not necessary for it to consider the submission.**
  - c. Additional information produced at the hearing without prior disclosure between the parties may not be heard if following objections to its submission by any other party the Sub-Committee so determine.**
- (vi) He will draw attention to the procedure for the hearing as set out in b) to h) below.
- c) The Licensing Officer will present his report, calling witnesses if required and will produce any documents to be relied upon including CRB results.
- d) The Sub Committee will retire to read the documents produced by the Licensing Officer.
- e) The Sub Committee will return and inform the Applicant that the documents have been read.
- f) The Applicant will be invited to make his opening statement and, if he wishes, to comment upon the content of the documents and call any witnesses.

- g) **Questions to the Applicant** and any witnesses by Sub-Committee Members/ Legal Adviser and Licensing Officer.
- h) **Summing up** – the Licensing Officer and the Applicant, in that order will then sum up (but not introduce new evidence)

### **3. DECISION MAKING PROCESS**

The audio recording will be turned off. The Sub-Committee will retire to deliberate its decision in private. The Sub-Committee may invite the Legal Adviser to retire with them if legal advice is required.

The Sub-Committee will return to the hearing. The Legal Adviser will turn the audio recording on and then inform all parties of any legal advice given to the Sub-Committee. The Sub-Committee will normally announce its decision and the reasons for it and that the decision will be confirmed in writing to the parties at the earliest opportunity.

In some cases the Licensing Authority will inform the Applicant of the Sub-Committee's decision and reasons for it within 5 days.

### **4. RECORDS OF PROCEEDINGS**

An audio tape record of the proceedings will be kept for a period of 6 years from the date of the determination of the proceedings or, where an appeal is brought against the determination of the Sub-Committee, the disposal of the appeal.