

LICENSING ACT 2003 SUB COMMITTEE

Summary Procedure

Personal Licence Application

- 1. Audio recorder switched on**
- 2. All parties introduce themselves**
- 3. Licensing Officer presents report and calls witnesses**
- 4. Licensing Officer questioned by all other parties**
- 5. Applicant makes opening statement and calls witnesses if any**
- 6. Applicant is questioned by all other parties**
- 7. Police if present make opening statement and call witnesses if any**
- 8. Questions to Police and witnesses by all other parties**
- 9. Licensing Officer, Police and the Applicant sum up in that order**
- 10. Audio recorder switched off and Members retire accompanied by Legal Officer if required**
- 11. Members return, audio recorder switched on and Chairman announces decision**
- 12. Hearing ends**

LICENSING ACT 2003

PROCEDURE FOR HEARING LICENSING APPLICATIONS

Personal Licence Application

1. GENERAL INFORMATION

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

Members of the Licensing 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 Committee thereof which will conduct the 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 Committee.

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 oral representation. This information, if relevant to the licensing objectives, will be taken into consideration in the Committee's determination.

Time limit on Presentations

Each party will be allowed the same amount of time to present its case. The times permitted for representations are those set out in paragraph 1.12 unless written representations are made to the Licensing Authority in advance of the hearing giving reasons why the particular limits should not apply. If written representations have been received the Committee will first consider any objection and determine whether to amend the allocated time.

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.

If a party who has so indicated fails to attend or be represented at a hearing the Licensing Committee may -

- i. where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- ii. hold the hearing in the party's absence.

Where a hearing is held in the absence of a party the Licensing 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.

1) **The Chair** will open the proceedings in the following order.

- i. The audio tape recording device will be turned on.
- ii. He will introduce the application to be heard and invite the other members of the Sub Committee, the Legal Adviser, the Licensing Officer, the Applicant and the Police if present to introduce themselves

- iii. He will ask whether there are declarations of interest.
 - iv. 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 unless the Committee considers the cross-examination is required 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 Committee so determine.**
 - v. He will draw attention to the procedure for the hearing as set out in b) to h) below.
 - vi. After the Committee has considered any preliminary issues the Licensing Officer is invited to present his report.
- 2) **Applicant** (or representative) to make an opening statement and may call witnesses
- b) **Questions to the Applicant** by the Sub Committee Members, Legal Adviser and Licensing Officer and the Police if present
 - c) **The Police** if present to make an opening statement and call witnesses if required.
 - d) **Questions to the Police** by the Sub Committee Members, Legal Adviser, Licensing Officer and Applicant.
 - d) **Summing up** – The parties will then sum up (but not introduce new evidence) in the following order:
 - i. Licensing Officer
 - ii. The Police
 - iii. Applicant

3. DECISION MAKING PROCESS

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

The 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 Committee. The 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 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 Committee, the disposal of the appeal.