

# Procedure for Determining Licensing Act 2003 Cases

*The hearing will be held in public. However, the Borough Council may exclude the press and public from all or part of a hearing where it 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 hearing is not adversarial but an examination of the facts by the Members of the Sub-Committee. All participants must be courteous at all times. All parties will be given equal maximum time which is normally 15 minutes each, in total. Any person may apply for longer time if they immediately notify the Borough Council upon receipt of the Notice of the Hearing and in exceptional circumstances, the Borough Council may extend the maximum time allowed to all parties if the complexity of the application demands. In the event that there are a large number of objections to a particular application, the Borough Council may ask an appropriate number of representatives or a single representative to put forward their views.*

## Introductions

1. The **Chairman** of the Sub-Committee should read out a statement declaring under which capacity the Sub-Committee is sitting.

**This Sub-Committee is sitting to consider matters under the Licensing Act 2003.**

2. The **Chairman** will introduce himself and the Members of the Sub-Committee.
3. The **Chairman** will then introduce and explain the respective roles of
  - (i) the Democratic Services Officer
  - (ii) the Licensing Manager
  - (iii) the Legal Advisor to the Sub-Committee
4. The **Chairman** should invite all those present to introduce themselves and ask them to indicate if they wish to speak during the hearing. (Only those persons/bodies who have made representations may address the Sub-Committee).
5. Each party will be asked by the **Chairman** whether 15 minutes is sufficient for the presentation of his/her/body's case. (Agreement on the length of time given for each speaker is at the discretion on the Chairman).
6. Please note at any time during the hearing the Legal Advisor or the Licensing Manager may be asked or may offer advice to the Sub-Committee/other parties or ask questions of any party.

## The Application for a Variation of a Premises Licence

7. The **Legal Advisor** explains the procedure that will be followed at the meeting.
8. The **Licensing Manager** outlines the variation application to the Sub-Committee by presenting the report referring to any relevant extracts from the Borough Council's Statement of Licensing Policy and Statutory Guidance.
9. The **Chairman** will invite questions from all parties to clarify any aspects of the Licensing Manager's report.

## The Applicant's Case

10. The **Chairman** then invites the Applicant or his representative to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

## Questions

11. Once the Applicant has presented their case, the **Chairman** invites questions to the Applicant or his representative from

- (i) The Licensing Manager
- (ii) The Responsible Authorities (or their representative)
- (iii) Other persons (or their representative)
- (iv) Members of the Sub-Committee.

12. The **Chairman** will invite questions to the witnesses (if present) from the

- (i) The Licensing Manager
- (ii) The Responsible Authorities (or their representative)
- (iii) Other persons (or their representative)
- (iv) Members of the Sub-Committee

Questions should be relevant to the application and repetition will be discouraged.

## The Responsible Authorities Case

13. The Chairman then invites the Responsible Authorities (or their representative) to make their case. Witnesses may be called but each will be subject to separate questioning (see below).

## Questions

14. Once the Responsible Authorities have presented their case, the **Chairman** invites questions to the Responsible Authorities (or their representative) from the

- (i) The Licensing Manager
- (ii) The applicant (or their representative)
- (iii) Other persons (or their representative)
- (iv) Members of the Sub-Committee.

15. The **Chairman** will invite questions to the witnesses from the

- (i) The Licensing Manager
- (ii) The applicant (or their representative)
- (iii) Other persons (or their representative)
- (iv) Members of the Sub-Committee

## Other Persons Case(s)

16. Each of the other persons or their representatives wishing to address the Sub-Committee may do so in an order determined by the **Chairman**. They too must be willing to be questioned by other parties in the same order. Other Persons may not however question each other. Questions should be relevant to the application and repetition will be discouraged.

This will operate as follows:

- each party will present his/her/body's case
- each party's witnesses (if any) will give evidence in support of the party's case
- firstly, each party and, secondly, their witnesses may be questioned by other parties, prior to questioning by Members of the Sub-Committee.

17. The Licensing Manager, Applicant (or their representative) and the Responsible Authorities will be invited to ask relevant questions of those parties (or the parties' representatives).

### **Summing Up**

Each party will be allowed 5 minutes to sum up their case. They may comment upon what has been said but no new evidence should be introduced.

18. The **Chairman** then invites the Licensing Manager to sum up his case.
19. The **Chairman** then invites the Responsible Authorities and other persons (or their representative) to sum up their case.
20. The **Chairman** then invites the applicant (or their representative) to sum up their case.

### **Reaching and Making a Decision**

21. **The Chairman** will ask the Council's Legal Advisor to address the Sub-Committee on any outstanding matters.
22. The **Chairman** will then thank all those who have spoken and invite the Sub-Committee to retire to consider the application, accompanied by the Legal Advisor and Democratic Services Officer (who will take no part in the decision).
23. The Sub-Committee will then debate the case presented to them at the hearing and will seek to reach a decision and reasons for their decision.
24. Once a decision has been made, the meeting will be reconvened and **the Chairman** will invite the **Legal Advisor** to announce in public any legal advice he/she has given in private.
25. **The Chairman** will read out the decision and the reasons for the decision (unless the Sub-Committee is unable to reach a determination at the conclusion of the hearing). Where appropriate, **the Chairman** will ask the Licensing Manager for any comments on their decision prior to any final determination.
26. **The Chairman** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.
27. If the Sub-Committee is unable to reach a decision, the **Chairman** will explain that all parties will be notified as soon as possible (but within 5 working days) of the decision and the reasons for such.

### **NOTE**

A decision may be deferred to:-

1. Receive further documentation referred to in the meeting
  2. Enable a site visit to take place
  3. Invite the Applicant or his representative to appear if they had not done so at the meeting (only once)
- No further debate may be heard on further documentation or at a site visit
  - Adjournments should generally be granted if to refuse would deny applicant a fair hearing.