

# Procedure for Determining Licensing Act 2003 Cases

*The hearing will be held in public. However, the Borough Council may exclude the 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 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 Committee should read out a statement declaring under which capacity the Committee is sitting.

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

2. The **Chairman** will introduce himself and the Members of the Committee.
3. The **Chairman** will then introduce and explain the respective roles of
  - (i) the Democratic Services Officer
  - (ii) the Officer representing the Licensing Authority (i.e. Licensing Manager)
  - (iii) the Legal Advisor to the 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.
5. Each party will be asked by the **Chairman** for a time estimate 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).

## The Application for a Transfer of a Premises License

6. The **Licensing Manager** explains the procedure that will be followed at the meeting.
7. The **Licensing Manager** outlines the transfer application to the Committee by presenting the report referring to any relevancy to Licensing Policy and Statutory Guidance.
8. The **Licensing Manager** will invite questions from all parties to clarify the content of the Licensing Officer's report.

## The Applicant's Case

9. The **Licensing Manager** 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

10. Once the Applicant has presented their case, the **Licensing Manager** invites questions to the Applicant or his representative from
  - (i) the Responsible Authorities (or their representative)
  - (ii) other persons (or their representatives)
  - (iii) Members of the Committee.

11. The **Licensing Manager** will invite questions to the witnesses from the

- (i) the Responsible Authorities (or their representative)
- (ii) other persons (or their representatives)
- (iii) Members of the Committee.

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

### **The Responsible Authorities Case**

12. The **Licensing Manager** 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**

13. Once the Responsible Authorities has presented their case, the **Licensing Manager** invites questions to the Responsible Authorities (or their representative) from the

- (i) the applicant (or their representative)
- (ii) other persons (or their representatives)
- (iii) Members of the Committee.

14. The **Licensing Manager** will invite questions to the witnesses from the

- (i) the applicant (or their representative)
- (ii) other persons (or their representatives)
- (iii) Members of the Committee.

### **Other Persons**

15. Each of the other persons or their representatives wishing to address the Committee may do so in an order determined by the **Licensing Manager**. They too must be willing to be questioned by other parties in the same order. Local Objectors 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 Committee.

16. The applicant (or their representative) and the Responsible Authorities will be invited to ask relevant questions of those parties (or the parties' representatives).

### **Summing Up**

17. The **Licensing Manager** then invites the Responsible Authorities and other parties (or their representative) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. Each party will be allowed 5 minutes to sum up.

18. The **Licensing Manager** then invites the applicant (or their representative) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. They also will be allowed 5 minutes to sum up.

## Reaching and Making a Decision

19. **The Chairman** will ask the Council's Legal Advisor to address the Committee on any outstanding matters.
20. The **Chairman** will then thank all those who have spoken and invite the Committee to retire to consider the application, accompanied by the Legal Advisor and Democratic Services Officer (who will take no part in the decision).
21. The Committee will then debate the case presented to them at the hearing and will seek to reach a decision and reasons for their decision.
22. Once a decision has been made, the Committee (and relevant officer/Legal Advisor) will return back in to the room and **the Chairman** will invite the **Legal Advisor** to announce in public any legal advice he/she has given in private.
23. **The Chairman** will read out the decision and the reasons for the decision (unless the Committee is unable to reach a determination at the conclusion of the hearing).
24. **The Chairman** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.
25. If the 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.