

# Procedure for Determining Licensing Act 2003 Cases

*The hearings will be held 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 i.e. normally 15 minutes each, in total. Any person may apply for longer time if they immediately notify the licensing authority upon receipt of the Notice of the Hearing and in exceptional circumstances, the licensing authority 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 licensing authority may ask an appropriate number of representatives or a single representative to put forward their views.*

## Introductions

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

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

2. The **Chair** will introduce himself and the Members of the Committee.
3. The **Chair** will then introduce and explain the respective roles of
  - (i) the Democratic Services Officer
  - (ii) the Officer representing the Licensing Authority
  - (iii) the Legal Advisor to the Committee
4. The **Chair** 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 **Chair** 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 Chair).

## The Application for Review of a Premises License

6. The **Legal Advisor** explains the procedure that will be followed at the hearing. All parties to note that any requests or issues should be directed through the Chair.
7. The **Officer representing the Licensing Authority** outlines the review application to the Committee by presenting the report referring to any relevant extracts from the Borough Council's Licensing Policy and any relevant Statutory Guidance.
8. The **Chair** will invite questions from all parties to clarify the content of the Licensing Officer's report.

## The Applicant's Case

9. The **Chair** then invites the Applicant or their 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 Chair invites questions to the Applicant or his representative from
  - (i) The Officer representing the Licensing Authority
  - (ii) The respondent (or their representative)
  - (iii) Responsible Authorities (or their representative)
  - (iv) Other persons (or their representatives)
  - (v) Members of the Committee.

11. The Chair will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The respondent (or their representative)
- (iii) 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 Respondent's Case**

12. The **Chair** then invites the respondent 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 respondent has presented their case, the **Chair** invites questions to the respondent or their representative from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) Responsible Authorities (or their representative)
- (iii) Other persons (or their representatives)
- (iv) Members of the Committee.

14. The **Chair** will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) Responsible Authorities (or their representatives)
- (iii) Other persons (or their representatives)
- (iv) Members of the Committee.

### **Responsible Authorities**

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

### **Questions**

16. Once the Responsible Authorities have presented their case, the **Chair** invites questions to the them or their representative from

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) The respondent (or their representative)
- (iv) Any other Responsible Authorities (or their representative)
- (v) Other persons (or their representative)
- (vi) Members of the Committee.

17. The **Chair** will invite questions to the witnesses from the

- (i) The Officer representing the Licensing Authority
- (ii) The applicant (or their representative)
- (iii) The respondent (or their representative)
- (iv) Any other 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.

## Other Persons

18. Each of the other persons or their representatives wishing to address the Committee may do so in an order determined by the **Chair**. 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 Committee.
19. The Officer representing the Licensing Authority, the applicant (or their representative), the respondent (or their representative) and Responsible Authorities (or their representatives) will be invited to ask relevant questions of those parties (or the parties' representatives).

## Summing Up

20. The **Chair** then invites the Officer representing the Licensing Authority 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.
21. The **Chair** then invites the respondent (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.
22. The **Chair** then invites the Responsible Authorities (or their representatives) 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.
23. The **Chair** then invites the other persons (or their representatives) to sum up their case. They may comment upon what has been said but no evidence should be introduced. Each party will be allowed 5 minutes to sum up.
24. The **Chair** 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

25. **The Chair** will ask the Council's Legal Advisor to address the Committee on any outstanding matters.
26. The **Chair** 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).
27. 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.
28. Once a decision has been made, **the Chair** will invite the **Legal Advisor** to announce in public any legal advice he/she has given in private.
29. **The Chair** 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).
30. **The Chair** will explain that all parties will be notified of the outcome of the decision and reasons for the decision in writing.

31. If the Committee is unable to reach a decision, the **Chair** 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.