

PROCEDURE
for Sub-Committee Hearings
under the
LICENSING ACT 2003

A. BEFORE THE HEARING

(i) The Licensing Authority

Where an application is to be considered by a Licensing Sub-Committee, the hearing is to be held within the time scales stipulated in regulations.

Notice of the hearing will be sent to all relevant parties ("parties to the hearing"). The notice will state the date on which and time and place at which the hearing is to be held and will be sent out in accordance with the relevant regulations. The notice will be accompanied by a copy of the procedure and prescribed information.

A covering report prepared by the Authority's Licensing Enforcement Officer may accompany the notice or be provided prior to the hearing.

As the hearing will take place in public (except where there is an overriding public interest in excluding the public from all or part of the hearing), a copy of the notice will also be published for the benefit of members of the public or representatives of the press who may wish to observe the proceedings.

(ii) The Parties to the Hearing

(a) Time Limits

In certain circumstances, the Licensing Authority may extend a time limit provided for in the regulations and this procedure where it considers this to be necessary in the public interest.

In certain limited circumstances, the Licensing Authority may also adjourn a hearing to a specified date or arrange for a hearing to be held on specified additional dates where it considers this to be necessary for its consideration of any representations or notice made by a party.

If a party to the hearing considers an adjournment to be a necessary course of action, application including reasons should be made to the Licensing Enforcement Officer at the earliest possible opportunity.

Where the Authority has extended a time limit, adjourned a hearing to a specified date or arranged for a hearing to be held on a specified additional date, it will forthwith give a notice to the parties to the hearing stating the period of the extension and the reasons

for it.

(b) Attendance, Representations and Supporting Evidence

A party to the hearing may attend the hearing and be assisted or represented by any person (whether or not that person is legally qualified) and is entitled to—

- (1) give further information and call any witness in support of their application, representation or notice (as applicable),
- (2) question any other party or witness if the Sub-Committee allows this, and
- (3) address the Authority.

When a party to the hearing receives a notice of a hearing, they must give to the Licensing Authority within the prescribed time a notice stating—

- (1) whether they intend to attend or be represented at the hearing;
- (2) whether they consider a hearing to be unnecessary;
- (3) whether they wish any other person (other than the person they intend to represent them at the hearing) to appear at the hearing. If so, the notice returned must contain a request for permission for that person (be it a witness of the party, a supporter or otherwise) to appear at the hearing, accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the Authority in relation to the application, representation or notice of the party making the request.

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

If a party, who has not indicated that they do not intend to attend, fails to attend or be represented at a hearing the Sub-Committee may —

- (1) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date and notify the parties of the date, time and place to which the hearing has been adjourned; or
- (2) hold the hearing in the party's absence.

Where the Authority holds the hearing in the absence of a party, the Sub-Committee will consider at the hearing the application, representation or notice made by that party.

The Sub-Committee will only take into account any documentary or other information produced before the hearing or at the hearing with the consent of all parties.

B. WHERE A HEARING IS UNNECESSARY

Where all of the parties, who are required to do so for these purposes, have returned a notice which states that they consider a hearing to be unnecessary. The Licensing Authority will:

- (1) forthwith give notice to the parties that the hearing has been dispensed with; and
- (2) determine the application within the prescribed time period.

C. AT THE HEARING

(i) Principles

Please note that:

- (a) The Licensing Sub-Committee is not a Court and the strict rules of evidence do not apply;
- (b) Evidence will not be taken on oath;
- (c) Persons attending the Sub-Committee will not be expected to stand when addressing the meeting or giving evidence; and
- (d) Most comment or questions are to be put to, or through, the Chairman.

The hearing before the Sub-Committee remains quasi-judicial and the principles of natural justice must be applied when exercising the Authority's licensing functions.

At any hearing, the Sub-Committee (through the Chairman) may require any person who in their opinion is behaving in a disruptive manner to leave and may:

- (a) refuse to permit that person to return, or
- (b) permit him or her to return only on such conditions as the Sub-Committee may specify.

Such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

(ii) Procedure

The hearing will take the overall form of a discussion led by the Sub-Committee and cross-examination shall not be permitted unless the Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require.

The precise format and order of events on the day is a matter for the Sub-Committee having regard to the objectives of ensuring the fairness and good administration of the hearing. Subject to amendment for any particular hearing, the procedure will be as follows:

1. Appointment of the Chairman by the Members from amongst their number where one has not been appointed in advance
2. The Chairman of the Licensing Sub-Committee will-
 - (i) introduce those present at the hearing and outline their role where appropriate;
 - (ii) ensure that the applicant and any other party present understand the procedure to be followed; and
 - (iii) agree any maximum period of time in which the parties to the hearing may exercise their rights under this procedure and, if so, state that the maximum time shall be applied equally to each of the parties.

3. The Licensing Enforcement Officer will outline the relevant details of the application and relevant representations received in respect of it, where appropriate relating that to and advising upon the appropriate provisions of the Authority's statement of policy, government guidance and legislation, together with any details relevant to the application that may have come to light since the report was written.
4. (a) The Chairman will normally invite the applicant or equivalent party, or their representative, to present their application and address the relevant representations or notice.
(b) With the consent of the Sub-Committee and through the Chairman, questions may be put to the applicant by:
 - (i) the Members of the Sub-Committee;
 - (ii) another party to the hearing (in the order as determined by the Chairman);
 - (iii) the Legal Officer to assist in their advice to the Sub-Committee.
5. (a) The Chairman will then normally invite the officers of the responsible authorities and the interested parties and any other party, or their representative(s), to present their relevant representations or notice.
(b) With the consent of the Sub-Committee and through the Chairman, questions may be put to the responsible authorities or interested parties or any other party by:
 - (i) the Members of the Sub-Committee;
 - (ii) another party to the hearing (in the order as determined by the Chairman);
 - (iii) the Legal Officer to assist in their advice to the Sub-Committee.
6. Where more than one representation in support or objection has been received, the parties concerned will be strongly encouraged to agree to present the case jointly unless their representations differ so as to require differing outcomes or quite differing reasons for a desired outcome.
7. Closing statements may then be made by or on behalf of:
 - (i) each interested party (subject to the request for a co-ordinated approach);
 - (ii) each responsible authority; and
 - (iii) the applicant or equivalent party.
8. Normally, all parties will then withdraw, directly or through retirement of the Sub-Committee. This will include all officers of the Council, including any legal officer appearing to represent an officer of the Council appearing on its behalf as a responsible authority.

The only exceptions shall be any Democratic Services Officer acting solely in that role and the Sub-Committee's legal advisor. The legal advisor's role is to:

- (i) advise the Sub-Committee on points of law, following which the substance of any such advice must be shared with all of the parties unless considered inappropriate (as determined by the public interest test); and
- (ii) assist the members of the Sub-Committee in formulating their reasoning and any conditions.

Neither the administrator nor the legal advisor may advise the Sub-Committee on the merits or otherwise of the determination of the application or other matter.

If further information is required from one party, all parties will be recalled whilst it is obtained.

When the Sub-Committee has reached a decision, all parties will be recalled and the decision will be announced together, if appropriate, with details of any conditions to be attached and the reasons for the decision. Dependant upon the case in question, this will normally be in summary or outline form only and the exact wording and reasoning will be issued as part of the formal notification.

9. Formal notification of the Sub-Committee's determination and related information will then be issued in writing to all parties to the hearing as soon as practicable.