

PROCEDURE
for Sub-Committee Hearings
under the
GAMBLING ACT 2005

Premises Licences

A. BEFORE THE HEARING

(i) The Licensing Authority

Where an application is to be considered by a Sub-Committee, the hearing is to be commenced as soon as it reasonably practicable after the expiry of any period for representations.

Notice of the hearing will be sent to all relevant parties ("parties to the hearing"). The notice will state the date, time and place at which the hearing is to be held and will be sent so that, in the ordinary course of events, it is received no later than 10 working days before the first day on which the hearing is to be held.

The notice of hearing will contain and be accompanied by the prescribed information.

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

The hearing must be in public however the Sub-Committee may direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all circumstances of the case having regard to any unfairness to a party that is likely to result from a hearing in public and the need to protect, as far as possible, the commercial or other legitimate interests of a party.

If a hearing is held in public, 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 where it considers this to be necessary in the public interest.

The Sub-Committee may at any time postpone a hearing to a specified date or arrange for a hearing to be held on a date specified by the Sub-Committee where it considers it necessary to enable it to consider any information or documents provided by any party or having regard to the ability of any party, person representing a party or witness to attend the hearing.

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 adjourned a hearing to a specified date or arranged for a hearing to be held on a specified additional date, it will as soon as reasonably practicable notify the parties to the hearing of the new or additional date, time and place for the hearing.

(b) Attendance, Representations and Supporting Evidence

A party to the hearing may:

- (1) attend the hearing and be assisted or represented by any person (whether or not that person is legally qualified) and will be given the opportunity to;
- (2) address the Sub-Committee on any matter that is relevant to the application or review or any representation made;
- (3) call witnesses to give evidence on any matter that is relevant to the application or review or any representation made.

When a party receives a notice of a hearing, they must give to the Licensing Authority 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.

If a party to the hearing has informed the Sub-Committee that they do not intend to attend or be represented at a hearing, failed to inform the Sub-Committee whether they intend to attend or be represented at the hearing or left the hearing in circumstances enabling the Sub-Committee reasonably to conclude that they do not intend to participate further, the hearing may proceed in their absence.

If a party who has indicated that they do intend to attend or be represented at the hearing, fails to so attend or be so represented the Sub-Committee may —

- (1) if it considers it to be in the public interest, adjourn the hearing to a specified date and notify the parties as soon as reasonably practicable of the date, time and place to which the hearing has been adjourned; or
- (2) proceed with the hearing in the party's absence.

Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee must consider at the hearing the application or representations 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 notified the Sub-Committee that they consent to the application or review being determined without a hearing, the Sub-Committee must as soon as reasonably practicable:

- (1) notify all the parties that the hearing has been dispensed with; and
- (2) determine the application or review.

C. AT THE HEARING

(i) Principles

Please note that:

- (a) The 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 where exercising the Authority's licensing functions.

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

- (a) refuse to permit that person to return, or
- (b) permit them 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 and the Sub-Committee will take into account that information in reaching a determination of the application or review.

(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 properly to consider the application or representation made by any party.

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 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 any relevant Code of Practice, the Gambling Commission's guidance, the Authority's statement of policy and legislation, together with informing the meeting of 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.
(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.
(b) With the consent of the Sub-Committee and through the Chairman, questions may be put to the responsible authorities or interested parties and 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 review.

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

The Sub-Committee will endeavour to reach a decision on the same day and 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 or excluded and the reasons for the decision. Dependant upon the case in question, this will normally only be in summary or outline form only and the exact wording and reasoning will be issued as part of the formal notification.

If a decision is not made on the day of the hearing, the Sub-Committee must determine the application or review before the end of the period of 5 working days starting with the day after the last day of the hearing.

9. Formal notification of the Sub-Committee's determination and related information in the prescribed form will then be issued to all parties to the hearing within the relevant period.