

PROCEDURE
for Sub-Committee Hearings
under the
GAMBLING ACT 2005

Permits and other Authorisations

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.

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.

B. 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 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 or equivalent party 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 any responsible authority 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 any responsible authority 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. Closing statements may then be made by or on behalf of:
- (i) any responsible authority;
 - (ii) any other party and;
 - (iii) the applicant or equivalent party.
7. 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 relevant 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.

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 with 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.

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