

## **6. LICENSING SUB COMMITTEE (ALCOHOL AND ENTERTAINMENTS) HEARINGS PROTOCOL AND PROCEDURE**

The role of the Sub-Committee is to determine applications in an impartial manner in accordance with the relevant provisions of the Licensing Act 2003, Gambling Act 2005, national guidance and the Council's Policies.

### **1. Appointments to the Licensing Sub-Committee**

The Corporate Manager – Democracy is authorised to make appointments to the Licensing Sub-Committee (alcohol and entertainments) from amongst the trained Members of the Corporate Governance, Audit and Standards Committee.

In forming the membership of the Licensing Sub-Committee for a hearing, and where members' availability permits, the Corporate Manager – Democracy shall seek to ensure where possible:

- Cross-party representation (3 Members)
- At least two experienced Members in attendance
- Rotation of Membership

The Chairman for a hearing shall be selected from amongst the Members forming the sub-committee, based on experience.

Members will not normally be approached to sit on a hearing if an application relates to their own ward.

### **2. Hearings to be held in public**

Licensing hearings shall take place in public. However, the Licensing Sub-Committee may exclude the public (including a party to the hearing) 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.

For hearings under Part 8 of the Gambling Act, the Sub-Committee may exclude the public if it is considered there may be any unfairness to a party resulting from a public hearing, or if there is a need to protect the commercial interests of a party.

### **3. Time of hearings**

Hearings of the Licensing Sub-Committee shall usually be held at the Council Offices during the day.

### **4. Notice of a hearing**

In the case of a hearing under:

- (i) section 48(3)(a) of the Licensing Act (cancellation of interim authority notice following police objection); or

- (ii) section 105(2)(a) of the Licensing Act counter notice following police objection to temporary event notice).

notice of the hearing will be given no later than two clear working days before the day the hearing is to be held.

In the case of a hearing under section 167(5)(a) of the Licensing Act (review of premises licence following closure order), notice of the hearing will be given no later than five clear working days before the day the hearing is to be held.

In any other case, notice of a hearing will be given no later than ten clear working days before the day the hearing is to be held.

Information accompanying a notice of a hearing shall be given in accordance with the licensing regulations, specifying the date on which, the place at which and the time when the hearing is to take place.

#### **5. Hearings held on more than one day**

Where a hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.

#### **6. Right to dispense with a hearing**

If all parties agree that a hearing is unnecessary, then with the agreement of the licensing authority, the hearing may be dispensed with. The application or review shall be determined as soon as reasonably practicable and all parties notified accordingly.

#### **7. Right to postpone or adjourn a hearing**

The Licensing Sub-Committee may postpone or adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party. A hearing may also be postponed to enable a person's attendance where appropriate.

#### **8. Papers available at the hearing**

The Administrative Officer (Democracy) will ensure that copies of the relevant Council policy and a reasonable supply of papers for the hearing are available for the public at the meeting.

#### **9. Substitutions**

If a Member of the Licensing Sub-Committee is unable to attend at, or has an interest in, a hearing, he/she shall notify the Administrative Officer (Democracy) at the earliest opportunity. In accordance with arrangements approved by the Corporate Governance, Audit and Standards Committee (previously known as the Licensing, Audit and General Purposes Committee), a nominated substitute

Member shall be appointed to the meeting by the Corporate Manager – Democracy and shall have full voting rights.

**10. Absence of the appointed Chairman at a hearing**

In the absence of the appointed Chairman at a hearing, the Members forming the Sub-Committee shall agree a Chairman for that meeting as its first item of business.

**11. Quorum**

The Quorum for the Licensing Sub-Committee shall be 3.

**12. Procedure at a hearing**

A detailed procedure note for hearings is attached at Annex 1.

12.1 At the beginning of the hearing, the Chairman shall identify persons present, and outline the procedure which shall be followed. If applicable, the Sub-Committee shall consider any request made by a party for any other person to appear at the hearing.

12.2 The hearing shall take the form of a discussion led by the Licensing Sub-Committee. Cross-questioning shall not generally be permitted unless the Sub-Committee considers that this is required in order to consider the matter before it.

12.3 Each party who has received notice of the hearing has the right to address the Sub-Committee on any matter that is relevant to the application or review. In circumstances where there are a number of parties who wish to make the same or similar representations the nomination of a single spokesperson will usually be encouraged, and would normally be expected.

12.4 A party attending the hearing may call witnesses to give evidence on any matter that is relevant to the application or review, or any representations made on the application or review. For hearings under the Licensing Act 2003, the party must give notice and have the consent of the Sub-Committee.

12.5 A party attending the hearing may be assisted or represented by any person whether or not that person is legally qualified.

12.6 Except, in the case of hearings under Part 8 of the Gambling Act 2005, each party attending the hearing, or nominated spokesperson, shall be allowed an equal maximum period of time to address the authority. The maximum period of time permitted for each speaker will be 10 minutes, subject to the Chairman's discretion.

12.7 Members of the Licensing Sub-Committee may ask any question of any party or other person appearing at the hearing.

12.8 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party either before the hearing or, with the consent of all the other parties, at the hearing.

12.9 The Licensing Sub-Committee shall disregard any information given by a party that is not relevant to the application or representations made.

### 13. **Withdrawal of representations**

A party may withdraw any representations they have made, including orally at the meeting.

### 14. **Failure of Parties to attend the Hearing**

14.1 If a party has informed the Council that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence. The hearing may also proceed if a party has failed to advise whether he intends to attend or be represented, or leaves the hearing in circumstances enabling the committee to reasonably conclude that he/she does not intend to participate further.

14.2 If a party fails to attend or be represented at a hearing the Sub Committee may:

(1) adjourn the hearing to a specified date, where it is considered to be in the public interest to do so; or

(2) hold the hearing in the party's absence

14.3 Where a hearing is held in the absence of a party, the Licensing Sub-Committee shall consider the application, representations or notice made by that party.

### 15. **Disturbance by the Public or Parties**

15.1 If a member of the public, or party to the hearing, behaves in a disruptive manner, the Chairman may require that person(s) to leave the hearing.

15.2 The Licensing Sub-Committee may refuse to permit that person to return, or may permit that person to return only on such conditions as the Licensing Sub-Committee may specify.

15.3 Such a person may, before the end of the hearing, submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give had they not been required to leave. The Sub-Committee shall take into account that information in reaching a determination of the application or review.

**16. Determination of Applications**

16.1 Unless the matter being considered by the Sub-Committee falls within one of the categories below, the Sub-Committee has five working days to make their determination beginning with the day of the hearing. All parties will be notified of the determination together with a record of any legal advice given to the Members of the Sub-Committee in the absence of the parties, and details of any rights of appeal.

16.2 The time limit may be extended for a specified period, where the regulations permit and it is in the public interest. A notice of the extension shall be given to all parties stating the period of the extension and the reasons for it.

16.3 In respect of the following matters under the Licensing Act 2003, the Licensing Sub-Committee must make its decision at the conclusion of the hearing:

16.4 In the case of a hearing under

(i) section 105(2)(a) (counter notice following police objection to temporary event notice)

(ii) section 167(5)(a) (review of premises licence following closure order)

**17. Record of proceedings**

A record of the hearing shall be made by the licensing authority and kept for six years from the date of the determination or, where an appeal is brought against the determination of the authority, the disposal of the appeal. The Council may also record the proceeding through video and/or audio tape.

**18. Ruling of Chairman to be Final**

The ruling of the Chairman of the Hearing in any procedural matter at the hearing shall not be open to discussion.

## ANNEX 1

### PROCEDURE AT HEARINGS OF THE LICENSING SUB-COMMITTEE (ALCOHOL AND ENTERTAINMENTS)

The following procedure shall be followed at licensing hearings in respect of applications for alcohol and entertainments licences under the provisions of the Licensing Act 2003 and Part 8 of the Gambling Act, 2005.

#### 1. Introduction and Preliminary Remarks

- All parties are invited to join the meeting and the Chairman will introduce the Sub-Committee Members, Council Officers, and the procedure to be followed.
- The Chairman will take details of all other parties appearing at the hearing who are eligible and wish to speak.
- Typically, and subject to any ruling by the Chairman, the views of the parties will be heard in the order set out below. Some applications may involve additional parties, e.g. a Premises Supervisor and/or an existing Licence Holder, and if so, the Chairman will advise the parties at the start of the hearing, the order in which each is to present his/her case.
- Except in the case of hearings under Part 8 of the Gambling Act 2005, each party attending the hearing, or nominated spokesperson, shall be allowed an equal maximum period of time to present their case at the hearing. The length of time allowed shall be determined by the Chairman at the beginning of the meeting and will usually be 10 minutes. Following each presentation, there will be an opportunity for questions and answers.

(NB. To make efficient use of time at the hearing, parties can assume that the Sub-Committee Members have read all papers and statements which have been circulated in advance and form part of the agenda for the meeting. Therefore, parties need not read them aloud as part of their presentation unless they wish to do so.)

- The Chairman to deal with any preliminary matters or questions raised, check that all parties have all relevant documentation and remind the parties of issues specifically to be addressed.
- The Chairman to draw attention to matters of general housekeeping, including virtual meeting etiquette if the meeting is held as a remote meeting.

#### 2. Statement by the Licensing Officer

- Licensing Officer to summarise the salient points of the report on the agenda.

- Each other party in order, (if permitted by the Chairman), to have an opportunity to ask the Licensing Officer any questions on his statement.
- Sub Committee Members to ask the Licensing Officer any questions.
- Licensing Officer may respond to any new issues raised.

**3. Case for the Applicant**

- The Applicant to present the case in support of the application or existing licence.
- Each other party in order, (if permitted by the Chairman), to have an opportunity to ask the Applicant any questions on his/her statement.
- Sub-Committee Members to ask the Applicant any questions.
- The Applicant may respond to any new issues raised.

**4. Case for the Responsible Authorities (Police, Fire Authority etc)**

- The representative of each Responsible Authority will be invited in turn to present the views of their organisation.
- Each other party in order, (if permitted by the Chairman,) to have an opportunity to ask the representative(s) any questions on his/her statement.
- Sub-Committee Members to ask the representative(s) any questions.
- Each representative may respond to any new issues raised.

**5. Case for any Other Persons (Local Residents and Businesses)**

- Those who have made representations will be invited to present their views and answer questions in turn.
- (NB. If a spokesperson has agreed to speak on behalf of several Other Persons, all those he/she represents will be permitted to answer questions when the representative has finished presenting their views and add any further points.)
- Each Other Person or their representative who wishes to speak, to present his or her views.
- Each other party in order, (if permitted by the Chairman), to have an opportunity to ask each Other Person or their representative any questions on his/her statement.

- Sub-Committee Members to ask each Other Person or their representative any questions.
- Each Other Person or representative may respond to any new issues raised.

**6. Discussion about Conditions or Technical Issues**

- The Chairman to invite each party, in order, to put forward any suggested conditions that may deal with or help resolve any issue(s) raised during the course of the hearing.
- Each other party to be given an opportunity in turn to express any views on any proposed conditions and to clarify any legal, technical or other point(s) which have arisen during the hearing and allow these to be discussed.

**7. (Self) Excluded or Disruptive Party Submissions**

- The Chairman to check whether any additional written comments have been submitted by any (self) excluded or disruptive party to the meeting and ensure copies of any such submissions are circulated in public to all remaining parties.
- Where applicable, each other party to be given an opportunity in turn to express any views or points raised in submitted comments.

**8. Summary**

- Any party wishing to summarise his or her views may do so, in the reverse order to that in which cases were presented.

**9. The Decision**

- The Chairman will advise the timescale in which the Sub-Committee expects to make a decision before the Sub-Committee retires to reach a decision in private, accompanied by the Administrative Officer and the Council's Legal Representative.
- On determination, the Members of the Sub-Committee will return\*. Any legal advice given in the absence of the parties will be reported in public and all parties given an opportunity to respond before a decision is announced.
- The Chairman will announce the Sub-Committee's decision, giving reasons.
- The Council's Legal Representative to advise of the next steps, including arrangements for confirming decision.



\*For Virtual Meetings, the meeting will not usually reconvene. The decision together with the following documentation will instead be sent electronically to all parties within the timescale indicated and will be published on the Council's website:

- A record of any legal advice given to the Members of the Sub-Committee in the absence of the parties; and
- Details of any rights of appeal