

Licensing Sub-Committee

Contested applications and hearings procedure – Licensing Act 2003

Purpose of the procedure

To enable those with a right to appear to put forward their point of view and to test the case of their opponents.

To help the committee to gather evidence and understand the relevant issues.

Guiding principles

1. We can accept hearsay evidence but may attach less weight to this evidence as we cannot test it.
2. We can accept petitions if the representation is relevant. However, we can only attach limited weight to petitions as we cannot test the individual views.
3. Where a large number of other persons are involved, we will encourage the appointment of a spokesperson(s) to avoid duplication of evidence.
4. We should not allow objectors to raise wholly new objections at the hearing.
5. We should ensure fair treatment of witnesses and protect them from interruptions and aggressive advocacy. We should discourage leading questions and encourage the witness to answer the actual question to prevent them from straying from the point.
6. If we invite submissions on a point by one party, we must allow all persons to make submissions on that point. If we have questions of our own, we should offer the participants a chance to ask further questions arising from our questions.
7. We may cut through issues by asking if a point is really contested or show that we have heard and understood the point. We may ask a witness if they wish to add to anything an earlier witness has said.
8. We may ask persons to collaborate and produce draft conditions but reassure the persons that this exercise is to save time and not because we have formed a view on the issue.
9. We will not express a view as to the merits of the application or objections before giving a decision. This also applied to any comments to the press or residents in the weeks or days leading up the hearing. We must behave and be seen to be behaving impartially.

10. We will normally provide reasons for our decision.

11. We do not normally select committee members:

- from the same wards as any applications under consideration
- who took part in the planning process as part of the Planning Committee for any premises up for consideration.

In Summary the Council's Licensing Sub-Committee Hearing procedures for The Licensing Act 2003 are laid down as follows:

Contested Licence Applications

In this procedure,

'Applicant' shall include a licence holder, respondent or any representative appointed to appear or speak on that person's behalf.

'Other Persons' means a person who has made a relevant representation.

"Responsible Authority" means. Those bodies listed from time to time listed on the Council's website. (For this report, appendix 5)

The Hearing is intended to be a discussion between the committee and the parties. In order to make it an orderly discussion some element of formality exists. Consequently, there will be an order in which the hearing will follow. The Chairperson may vary all or any part of this procedure as they see fit, having regard to advice from the Sub-Committee's Legal Adviser. This can include, but is not limited to, the power to limit or expressly refuse to hear specific comments or questions from any party, the power to increase or decrease the length of time a party may make submissions for and the power to refuse to hear a party, particularly if that party becomes disruptive during the proceedings.

The purpose of questions and answers at the Sub-Committee hearing are for the purposes of a discussion and fact finding led by the Sub-Committee and cross-examination shall not be permitted unless the Sub-Committee considers that it is necessary.

1. The Chairperson will open the hearing and will introduce the members of the Subcommittee and officers present.
2. Chairperson invites the Committee Clerk to explain the procedure to be followed.
3. The Licensing Officer, Applicant, Responsible Authorities, Other persons, Witnesses and Spokesperson will identify and introduce themselves.
4. Chairperson to confirm if there are any conflicts of interest.

5. The Chairperson receives any representations that the hearing can be dispensed with or that the hearing should be held in private.
6. The Licensing Officer outlines the case to the Sub-Committee and answers questions relating to issues arising from the report.
7. Presentation of case and answering of questions by:
 - a. Applicant.
 - b. Responsible Authorities.
 - c. Other Persons.

Order of questioning as follows:

- (i) Members of the Licensing Sub-Committee.
- (ii) Licensing Officer(s).
- (iii) Applicant.
- (iv) Responsible Authorities.
- (v) Other Persons.
- (vi) Re-examination by Members of the Licensing Sub-Committee.

NB. Where Witnesses are called, questioning is at the end of each Witness giving their evidence.

8. Invitation to sum up case by:
 - a. Applicant
 - b. Responsible Authorities.
 - c. Other Persons.
9. After hearing the representations, the Chairperson will require all persons, except for the Legal Adviser and Committee Clerk(s) to withdraw from the room to make its determination. Trainee Committee Clerks and Trainee Lawyers may also be invited to remain. The Legal Adviser will clarify any points of law arising from the hearing to the Sub-Committee.
10. If necessary, the Sub-Committee may reconvene to ask any party present for further information. The request will be made in open session where all persons are present to hear the request and the answer given.
11. All persons recalled and decision of determination announced.
12. Once the hearing is reconvened the Chairperson (or a person requested by the Chairperson) shall inform the persons of the Subcommittee's decision and where possible to give the reasons as to their decision. If reasons are not given on the day, they will follow in writing. The Chairperson will then inform the Applicant that they will receive the decision in writing from the Authority within five working days and which will include details of the person's right of appeal to the Magistrates Court.

Close of Licensing Sub-committee Meeting for Licensing Act 2003.

Version no.	Date	Status	Summary of changes
1	17 March 2017	Original	N/A
2	23 June 23	Draft for Adoption by Licensing Committee	Updated to reflect current legislation and best practice.