

Appendix B

Licensing Act Sub-Committee – procedure for Licensing Act 2003 hearings

General

The below procedure outlines the process that will ordinarily be followed during a Licensing Act Sub-Committee hearing. The Sub-Committee will seek to focus the hearing on the licensing objectives that have given rise to the representations which have made the hearing necessary. They will aim to ensure that the hearing stays on track and does not stray into undisputed areas. A Licensing Act Sub-Committee hearing is not a court and in general a less formal, discussion based approach will be taken. The below procedure provides a framework for this to ensure the principles of natural justice are applied, and that each party has an opportunity to be fairly heard.

It will ultimately be for the Chair of the hearing to determine proceedings using their discretion, whilst ensuring compliance with the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44).

Licensing Act Sub-Committees are meetings held in public and not public meetings, therefore only persons who have made valid representations (or their representative) will be permitted to speak.

Any person who disrupts a hearing may be required to leave. It is for the Chair to decide if a person's behaviour is considered disruptive and if they will be permitted to return to the hearing, which will be subject to such conditions as the Committee deem necessary.

1. Legal officer requests nominations for appointment of the Chair

For each Licensing Act Sub Committee hearing a Chair must be appointed to oversee the proceedings. A nomination for Chair from the Committee will be requested and agreed at the beginning of the hearing.

2. Committee declarations of interest

It is important that hearings are conducted in a fair and open way, and that no member of the Committee has an interest in the premises, or relationship with any person making a representation which might influence their decision making. Members of the Strategic Licensing Committee cannot sit on Licensing Act Sub Committees if they are the elected member for that area, or if they have another particular interest in the premises/area. However, there may be unforeseen circumstances which are appropriate to be declared as an interest at the start of a hearing. If, following the declaration of an interest, any party feels a Member's decision making may be prejudiced they should make it known. The hearing may then need to be adjourned so the Committee can be re-appointed.

3. Introductions

The Committee will introduce themselves and the Chair will invite all those around the table to introduce themselves.

4. Chair's statement

The Chair of the Committee will read a statement which briefly explains the process the hearing will follow and what will be expected of each party. Parties will also be invited to present any witnesses and additional evidence at this point.

5. Licensing Officer presents report

The Licensing Officer's report is a summary of the application and any representations received. The report informs the Committee, and others present, what must be taken into consideration as part of the Committee's decision making, and details what decisions the Committee is able to make for the particular application being considered.

6. Questions for the Licensing Officer

Each party will be given an opportunity in turn to ask any relevant questions of the Licensing Officer about their report, or ask for any points of clarification, in the below order.

Responsible Authorities
Other persons
Applicant
Committee

It is for the Chair to decide when a question has been adequately answered, or if a question is not appropriate.

7. Applicant presents their case

This is the opportunity for the applicant to summarise their case. For new premises licence applications, variations to premises licence applications, temporary event notices or personal licences the applicant should cover what their application is for and why they do not feel the application presents a risk in terms of undermining the licensing objectives.

Applicants for a review of a premises licence should use this opportunity to explain why they felt a review was necessary and any steps they feel need to be taken to ensure the premises does not undermine the licensing objectives.

Any additional relevant points can be made at this stage, but no new evidence should be introduced.

8. Questions for the Applicant

Each party will be given an opportunity in turn to ask any relevant questions of the applicant about their presentation, or ask for any points of clarification, in the below order.

Licensing Officer
Responsible Authorities
Other persons
Committee

It is for the Chair to decide when a question has been adequately answered, or if a question is not appropriate.

9. Responsible Authorities present their case

Any responsible authority who has made a representation to the application will be given an opportunity to outline their case and the reasons they made a representation.

Presentations will take place in the following order, dependent on which Responsible Authorities are present:

Police
Fire Service
Environmental Health
Planning
Trading Standards
Children's Services
Public Health
Home Office
The Canal and River Trust
Licensing Authority

Any additional relevant points can be made at this stage, but no new evidence should be introduced.

10. Questions of the Responsible Authorities

After each presentation from a Responsible Authority there will be the opportunity for each party in turn to ask any relevant questions of the Responsible Authority about their presentation, or ask for any points of clarification, in the below order.

Licensing Officer
Other persons
Applicant
Committee

It is for the Chair to decide when a question has been adequately answered, or if a question is not appropriate.

11. Other persons who have made a representation present their case

Any other person who has made a representation to the application will be given an opportunity to outline their case and the reasons they made a representation.

Any additional relevant points can be made at this stage, but no new evidence should be introduced.

12. Questions of other persons

Each party will be given an opportunity in turn to ask any relevant questions of the applicant about their presentation, or ask for any points of clarification, in the below order.

Licensing Officer
Responsible Authorities
Applicant
Committee

It is for the Chair to decide when a question has been adequately answered, or if a question is not appropriate.

13. Closing remarks from each party

In the following order:

Licensing Officer
Responsible Authorities
Other persons
Applicant

Each party will be permitted a brief opportunity to make any closing remarks. This should not be a repeat of the case already made or discussions during the questions, but a party may have some points to clarify or additional comments as a result of the questions and discussion. If a party has nothing further to say they do not have to speak.

14. Any necessary comments/clarification from Legal Officer

Throughout the course of the hearing there may have been legal points raised or specific issues which require clarification from a legal perspective. The Legal Officer will provide that advice at this time.

15. Chair sums up and explains process for deliberation

The Chair will make a summarising statement and explain the process for deliberation. If it is clear a decision will not be made on the same day, the Chair will explain that at this point. If it is likely a decision will be made on the same day, parties may wait outside and will be called back in to hear the decision. There is no requirement for parties to stay and hear the decision. In all circumstances the decision will also be sent in writing within 5 working days.

16. Chair presents decision

Parties will be called back in and the Chair will present the Committee's decision and explain the reasons for the decision reached. There will be no further opportunity for parties to comment on or discuss this. The Chair will explain the process for making appeals. If, during the course of their deliberation, the Committee decide that they need more time to deliberate and come to a decision, they will call the parties back in and inform them that their decision will be sent in writing within 5 working days.

What happens after a hearing?

Once the Committee have reached a decision all parties present at the hearing, and anyone who made a representation but did not attend the hearing, will be notified of the decision in writing (either by post or email) within 5 working days of the last day of the hearing.

Any party who feels aggrieved by the decision of the Committee has the right to appeal to the Magistrates' Court. This appeal must be made in writing, within 21 days of the notice being received, to:

Stafford Magistrates Court
The Combined Court Centre
Victoria Square
Stafford
Staffordshire
ST16 2QQ