



## LICENSING COMMITTEE

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MEETING TO BE HELD IN CIVIC HALL, LEEDS ON  
TUESDAY, 6TH JUNE, 2006 AT 10.00 AM

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### MEMBERSHIP

#### Councillors

R Downes	-	Otley and Yeadon
J Dowson	-	Chapel Allerton
J Dunn	-	Ardsley and Robin Hood
R Feldman	-	Alwoodley
T Grayshon	-	Morley South
D Hollingsworth	-	Burmantofts and Richmond Hill
G Hyde	-	Killingbeck and Seacroft
V Morgan	-	Killingbeck and Seacroft
B Selby	-	Killingbeck and Seacroft
C Townsley	-	Horsforth
D Wilson (Chair)	-	Rothwell
S Armitage	-	Crossgates and Whinmoor
A Castle	-	Harewood
G Wilkinson	-	Wetherby

# A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p>	
2			<p><b>EXCLUSION OF PUBLIC</b></p> <p>To identify items where resolutions may be moved to exclude the public</p>	
3			<p><b>LATE ITEMS</b></p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p><b>DECLARATIONS OF INTEREST</b></p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 13 of the Members Code of Conduct</p>	
5			<p><b>MINUTES</b></p> <p>To confirm the minutes of the last meeting held on 17<sup>th</sup> May 2006 as a correct record</p> <p>(copy attached)</p>	1 - 2

Item No	Ward/Equal Opportunities	Item Not Open		Page No
6	All Wards		<p><b>TERMS OF REFERENCE LICENSING COMMITTEES</b></p> <p>To consider the report of the Director of Legal and Democratic Services setting out the Terms of Reference for the Licensing Committee as agreed at Annual Council on 22<sup>nd</sup> May 2006</p> <p>(Report attached)</p>	3 - 4
7	All Wards		<p><b>LICENSING ACT 2003 - CREATION OF SUB COMMITTEES AND DELEGATION OF FUNCTIONS</b></p> <p>To consider the report of the Director of Legal and Democratic Services on the creation of Licensing Sub Committees, a proposed scheme of functions delegated from the Licensing Committee to the Sub Committees and officers and the Terms of Reference for the Sub Committees</p> <p>(Report attached) (Appendix 2 of the report will be tabled at the meeting)</p>	5 - 12
8	All Wards		<p><b>AMENDMENTS TO LICENSING HEARINGS PROCEDURE RULES</b></p> <p>To consider the report of the Director of Legal and Democratic Services setting out proposed amendments to the Hearing Procedure Rules employed by Licensing Sub Committees</p> <p>(Report attached)</p>	13 - 42
9	Chapel Allerton		<p><b>APPLICATION FOR A PREMISE LICENCE - POTTERNEWTON PARK</b></p> <p>To consider the report of the Director of Legal and Democratic Services on an application received for a Premises Licence in respect of land situated within Potternewton Park, Harehills Avenue, LS7</p>	

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## LICENSING COMMITTEE

17<sup>TH</sup> MAY 2006

**PRESENT** Councillor Wilson in the Chair  
Councillors Armitage, Downes (part), Dowson, Dunn,  
Grayshon, Hollingsworth, Robinson and Wilkinson

**57 Declarations of Interest**

The following Members declared personal/prejudicial interests for the purposes of Section 81 (3) of the Local Government Act 2000 and paragraphs 8 to 13 of the Members Code of Conduct

Councillor F Robinson – Application for grant of a Premise Licence in respect of Queens Park, Pudsey - declared a personal interest as a Councillor for the adjacent Calverley & Farsley ward and a member of the Area Committee which covers the application site (minute 59 refers)

Councillor R Downes – Application for grant of a Premise Licence in respect of Otley Wharfemeadows Park – declared a prejudicial interest as a ward Councillor for Otley & Yeadon (minute 60 refers)

**58 Minutes**

**RESOLVED** – That, subject to an amendment to the attendance list, the minutes of the meeting held on 28<sup>th</sup> April 2006 be approved as a correct record

**59 Application for the Grant of a Premise Licence – “Queens Park” Victoria Road, Pudsey, LS28 7SR**

The Director of Legal and Democratic Services submitted a report on an application received for grant of a Premise Licence in respect of land situated within the Queens Park, Victoria Road, Pudsey. This application was brought to Committee due to the size of the capacity for the site

Included within the report were copies of the completed application detailing all requested licensable activities and a copy of the LCC risk assessment as completed by the applicant. Also included were letters of representation and a petition submitted by local residents

The Committee heard representations made by the applicant and local residents objecting to the application who attended the meeting. Members discussed several matters including the setting of the park within a residential area and adjacent to a local school, highways access, plans for future use of the site and nature of proposed events

The Committee had regard to the applicants submission that the Licence was required in order to continue the use of the park for community events and that there was no intention to hold major events on the site. Additionally it was noted that the applicant had agreed that each individual event would require an Event Management Plan to be agreed by the statutory authorities.

**RESOLVED** – That the Premise Licence be granted as requested for all the licensable activities with one minor modification as follows:

- To adopt the Check 21 proof of age scheme in accordance with guidance issued by West Yorkshire Police.

Councillor R Downes, having earlier declared a prejudicial interest in the following matter, withdrew from the meeting and took no part in the decision making process.

**60 Application for the Grant of a Premises Licence – “Otley Wharfemeadows Park”, Farnley Lane, Otley, LS21 3BJ**

The Director of Legal and Democratic Services submitted a report on an application received for grant of a Premise Licence in respect of land situated within the Otley Wharfemeadows Park, Farnley Lane, Otley. This application was brought to Committee due to the size of the capacity for the site

The report included copies of the completed application detailing all requested licensable activities and a copy of the LCC risk assessment as completed by the applicant. Also included were letters of representation submitted by local residents

The Committee considered the representation made by the applicant and noted the intention to continue to use the site for local and community events only. Furthermore the applicant had agreed to produce an Event Management Plan in conjunction with the statutory authorities for each individual event

**RESOLVED** – That the Premise Licence be granted as requested for all the licensable activities with one minor modification as follows:

- To adopt the Check 21 proof of age scheme in accordance with guidance issued by West Yorkshire Police.



Agenda Item:

Originator: Gill Marshall

Tel: 2478822

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## Report of the Director of Legal and Democratic Services

### Report to the Licensing Committee

Date: 6<sup>th</sup> June 2006

### Subject: TERMS OF REFERENCE LICENSING COMMITTEES

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<b>Electoral Wards Affected:</b>	<b>Specific Implications For:</b>
All	Ethnic minorities <input type="checkbox"/>
	Women <input type="checkbox"/>
	Disabled people <input type="checkbox"/>
	Narrowing the Gap <input type="checkbox"/>

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## Executive Summary

Under the Licensing Act 2003 the Licensing Committee is authorised to discharge the licensing functions of the licensing Authority. The report sets out the Committees Terms of Reference.

### 1.0 Purpose Of This Report

1.1 This report is presented to Members in order that they note the agreed Terms of Reference of the Licensing Committee. The Terms of Reference for the Licensing Committee are attached at **Appendix A** of this report and were agreed at the annual Council meeting held on 22<sup>nd</sup> May 2006.

### 2.0 Background Information

2.1 The Council is the licensing authority under the Licensing Act 2003. ("the 2003 Act") As Members are aware the licensing authority must carry out its functions under the 2003 Act with a view to promoting the licensing objectives.

2.2 The Licensing Committee is authorised to discharge the licensing functions of the authority. This discretion does not extend to any licensing function reserved to full Council or a licensing function where full council has referred a matter to another committee.

### 3.0 Main Issues

3.1 There are no issues raised in this report. It is for Member's information only.

#### **4.0 Implications For Council Policy And Governance**

4.1 There are no issues raised in this report. It is for Member's information only.

#### **5.0 Legal And Resource Implications**

5.1 Without a properly constituted Committee with agreed Terms of Reference the Council will be open to challenge.

#### **6.0 Recommendations**

6.1 Members of the Licensing Committee are requested to note the Terms of Reference for the Licensing Committee as attached at **Appendix A**.



## **Licensing Sub-Committees**

The Licensing Sub-Committees are authorised to discharge<sup>1</sup> the following functions<sup>2</sup> concurrently<sup>3</sup>:

1. functions<sup>4</sup> under:
  - (a) section 18(3) (determination of application for premises licences where representations have been made);
  - (b) section 31(3) (determination of application for provisional statements where representations have been made);
  - (c) section 35(3)(determination of application for variation of premises licence where representations have been made);
  - (d) section 39(3)(determination of application to vary designated premises supervisors following police objection;
  - (e) section 44(5)(determination of application for transfer of premises licences following police objection;
  - (f) section 48(3)(consideration of police objection made to an interim authority notice);
  - (g) section 72(3)(determination of application for club premises certificates where relevant representations have been made;
  - (h) section 85(3) (determination of application to vary club premises certificates where representations have been made);
  - (i) section 105(2)(decision to give counter notice following police objection to a temporary event notice);
  - (j) section 120(7)(determination of application for grant of personal licence following police objection);
  - (k) section 121(6)(determination of application for renewal of personal licences following police objection);
  - (l) section 124(4)(revocation of licence where convictions come to light after grant or renewal of personal licences);
  - (m) section 20(3)(making recommendations for restricting the admission of children to the exhibition of any film)
  
2. To discharge any other function referred by the Licensing Committee, including making representations to the Licensing Committee in connection with the discharge of its functions.

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<sup>1</sup> With the exception of those functions set out in paragraphs 1 and 2 above, and subject to any direction given by the Licensing Committee, the Licensing Sub-Committees may arrange for any of these functions to be discharged by an officer (Section 10(2) and (5) of the Licensing Act 2003 (the 2003 Act)).

<sup>2</sup> "Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

<sup>3</sup> Section 10(3) of the Act.

<sup>4</sup> Including agreeing whether a hearing is necessary.

Exceptions

A Sub Committee is not authorised to discharge functions under paragraph 1 (a) to (e) above where the application relates to an event in the open air, in a temporary structure or where the proposed capacity of the event exceeds 30,000 people.

## Director of Legal and Democratic Services

### Licensing Functions delegated by Licensing Committee:

<p>Subject to the exceptions listed below, the Director of Legal and Democratic Services is authorised to discharge the licensing functions<sup>1</sup> of the licensing authority.</p> <p><b><u>Exceptions:</u></b></p> <ul style="list-style-type: none"><li>• any licensing function<sup>2</sup> reserved to full Council;<sup>3</sup> and</li><li>• any licensing function where full Council has referred a matter to a committee other than the Licensing Committee;<sup>4</sup> and</li><li>• any licensing function within the terms of reference of the Licensing Sub-committees<sup>5</sup>, and</li><li>• To determine whether Section 20(3) or 74(3) applies to a film and to make recommendations about the admission of children to that film; and</li><li>• To object when the Authority is consultee and not the relevant authority considering an application; and</li><li>• <i>those matters where the Chair of Licensing Committee has directed that the delegated authority should not be exercised and the matter should be referred to the Licensing Committee for consideration.</i></li></ul>	Licensing Act 2003
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<sup>1</sup> “Licensing functions” means functions under the 2003 Act.

<sup>2</sup> “Licensing functions” mean functions under the 2003 Act.

<sup>3</sup> Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act.

<sup>4</sup> Under the provisions of Section 7(5)(a) of the 2003 Act.

<sup>5</sup> Except where a Licensing sub-committee has arranged for the discharge of any of their functions to an Officer.

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**Report of the Director of Legal and Democratic Services**

**Report to the Licensing Committee**

**Date: 6<sup>th</sup> June 2006**

**Subject: LICENSING ACT 2003 –  
CREATION OF SUB COMMITTEES AND DELEGATION FUNCTIONS**

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**Electoral Wards Affected:**

All

**Specific Implications For:**

Ethnic minorities

Women

Disabled people

Narrowing the Gap

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**Executive Summary**

The Licensing Committee is, with specified exceptions, authorised to discharge licensing functions. This report sets out how the Licensing Committee can delegate the exercise of these licensing functions to sub Committees and officers. Finally the report makes recommendations as to which functions should be delegated in the interest of the efficiency of business.

**1.0 Purpose Of This Report**

- 1.1 To appoint Licensing sub-committees and delegate licensing functions to those sub committees and to officers.
- 1.2 To seek approval for an amendment to the Terms of Reference of the Licensing sub committees to ensure that large scale or outdoor events are considered by the full Licensing Committee rather than a sub committee. The amendment will also ensure that sub committees will receive applications to licence smaller scale outdoor events.

**2. BACKGROUND INFORMATION**

- 2.1 Members will note the terms of reference for the Licensing Committee as set out in the report of the Director of Legal and Democratic Services at Item [ XX] on this agenda.

In accordance with the Licensing Act 2003 (the 2003 Act), with the exception of specified functions (which largely relate to the authority's statement of Licensing

Policy), all matters relating to the discharge by the authority of its licensing functions are referred to its Licensing Committee.

## 2.2 Legislation

Section 101 of the Local Government Act 1972 sets out the arrangements for the discharge of functions by local authorities. Section 101 is, however, amended by the 2003 Act, to dis-apply these provisions in respect of any functions of the Licensing Authority.

Instead, the 2003 Act specifically provides that a Licensing Committee may establish one or more sub-committees consisting of 3 Members of the Committee (section 9). It also provides that regulations may make provisions about the proceedings of licensing committees, and their sub-committees (including the validity of proceedings and the quorum for meetings).

Subject to any such regulations the Licensing Committee may regulate its own procedure and that of its sub-committees (Section 9 (3) of the 2003 Act).

The 2003 Act also provides that the Licensing Committee may arrange for the discharge of any functions exercisable by it –

- (a) by a sub-committee established by it, or
- (b) an officer of the licensing authority.

Where arrangements are made for a sub-committee to discharge functions, that sub-committee may in turn arrange for the discharge of the function by an officer of the licensing authority.

The powers of the sub-Committee to delegate to officers are subject to any direction given by the Licensing Committee to the sub-Committee (Section 10 (5) of the 2003 Act).

The arrangements may provide for more than one sub-committee or officer to discharge the same function concurrently (Section 10 (3)).

There are limitations to the power to delegate in relation to a number of different functions. Generally where representations or objections have been made in respect of particular applications decisions cannot be delegated to an officer. These limitations are set out in Section 10(4) of the 2003 Act.

## 3.0 MAIN ISSUES

### 3.1 Sub Committee Terms of Reference

Members will recall that at the 25<sup>th</sup> October 2005 meeting of the Licensing Committee, the Director of Legal and Democratic Services proposed amendments to the terms of reference for the sub-committees. The proposed amendment prohibited sub committees from dealing with large scale or outdoor events like the Leeds Festival. Such events raise serious issues of public safety, crowd control and public nuisance. As such it was felt they should be the subject of consideration by the full Licensing Committee.

- 3.2 The October 2005 amendment also encompassed all outdoor events applications such as those made by Parks and Countryside to licence Council Parks. These applications do not raise the same issues as large scale outdoors events and so may not require consideration by full Committee. In the interests of the efficiency of business it is therefore proposed that such applications for small scale outdoor events are determined by sub committees. The proposed Terms of Reference are located at **Appendix 1** to this report. Essentially this enables the sub committees to conduct the bulk of the hearings required under the new regime.

## **SUB COMMITTEES**

### 3.2 Appointment of sub-committees

As referred to above, the Licensing Committee may establish one or more sub-committees consisting of 3 Members of the committee. The Director of Legal and Democratic Services has previously proposed that 5 sub-committees were established, each with three Members. It is again proposed that 5 sub-committees are established. Due to changes in the Membership of Licensing it is now necessary to re-appoint the sub committees.

### 3.3 Membership

The proposed membership of each sub-committee is set out in **Appendix 2** to this report. Membership has been allocated to each sub-committee alphabetically by surname given that the rules on political balance do not apply.

### 3.5 Substitutes

The Director of Legal and Democratic Services proposes that the 15 Members of the Licensing Committee form a pool for the purposes of substitutions to the sub-committees. Therefore any Member of the Licensing Committee may substitute for any other Member of the Licensing Committee at any meeting of a sub-committee.

In respect of meetings of the committee and sub-committee which are hearings, this provision will be included within the licensing procedure rules, which is the subject of a separate report as item XX on this agenda.

### 3.6 Appointment of Chairs

Chairs are not appointed to each sub-committee, but instead, the Members present at each meeting of a sub-committee appointed a Chair. It is proposed that this practice should continue.

### 3.7 Quorum

The quorum for meetings of the Licensing Committee is five, and for the sub-committees, three.

## **OFFICER DELEGATION SCHEME**

- 3.8 As set out above, the Licensing Committee may arrange for any of its functions to be discharged by an officer. In accordance with the guidance, the Director of Legal and Democratic Services proposed that administrative decisions and functions should be delegated to officers in the interest of speed efficiency and cost effectiveness.

- 3.9 The proposed officer delegation in respect of licensing functions to be delegated by a Licensing Authority was approved by the Licensing Committee on the 2<sup>nd</sup> March 2005. It is set out as **Appendix 3** to this report. The delegation delegates all licensing functions, but limits this delegation by specifying those matters which are not delegated.

The exceptions listed are:

- (a) functions where Full Council has referred a matter to a committee other than the Licensing Committee; and
- (b) functions within the terms of reference of the sub-committees.

#### **4.0 Implications For Council Policy And Governance**

- 4.1 The appointment of sub committee with appropriate terms of reference is consistent with good corporate governance.

#### **5.0 Legal and Resource Implications**

- 5.1 The inappropriate delegation of licensing functions to Sub Committees and Officers will leave the licensing authority open to challenge.
- 5.2 This report raises no resource implications.

#### **6. RECOMMENDATIONS**

Members are asked to note the contents of this report and:

- (a) establish 5 Licensing Sub-Committees;
- (b) note the terms of reference for the Licensing Sub-Committees set out as Appendix 1 to this report;
- (c) approve the membership of each sub-committee as set out in Appendix 2 to this report;
- (d) note the delegations to officers in respect of licensing functions, as set out in Appendix 3 to this report;





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**Report of the Director of Legal and Democratic Services**

**Report to the Licensing Committee**

**Date: 6<sup>th</sup> June 2006**

**Subject: AMENDMENTS TO LICENSING HEARINGS PROCEDURE RULES**

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**Electoral Wards Affected:**

**Specific Implications For:**

Ethnic minorities

Women

Disabled people

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**EXECUTIVE SUMMARY**

Regulations issued under the Licensing Act 2003 provide that the Licensing Committee may regulate its own procedure and that of its sub committee. Rules of procedure were approved on the 2<sup>nd</sup> March 2005. This report proposes an amendment to the Hearings Rules.

**1. PURPOSE OF THIS REPORT**

1.1 The purpose of this report is to seek approval to amendments to the Licensing Hearings Procedure Rules to reflect current practice. The Rules govern the procedure of the Sub Committees and of the Committee when dealing with any hearing under Appendix 1 of the Rules.

**2.0 Background Information**

2.1 A revised set of Licensing Committee Hearings Procedure Rules were approved by the Licensing Committee on 25<sup>th</sup> October 2005.

2.2 One of the revisions made related to the use of the Notice of Hearing document. Members will recall this document is sent to anyone who is a party to the committee hearing. During the transitional period using the document proved to be an inefficient use of resources and it was no longer used. The Rules were therefore revised to reflect this

2.3 An improved Notice of Hearing document is now being sent out to the applicant and those who made relevant representations without their similar problems. It sets out the parties rights at the hearing and indicates where committee reports may be obtained. It is proposed that the Rules are revised to reflect this change in practice. A copy of this document is attached to this report at **Appendix 1**.

**2 Implications For Council Policy And Governance**

3.1 This report does not raise any issues for Council policy or governance

#### **4.0 Legal And Resource Implications**

4.1 This report has no legal or resource implications.

#### **5.0 Recommendations**

5.1 Members are asked to consider whether to approve the revised Hearings Procedure Rules.

# LICENSING ACT 2003 NOTICE OF HEARING



## Application No ...

Application for <ul style="list-style-type: none"><li>• Premises licence</li><li>•</li></ul>	Application to vary an existing <ul style="list-style-type: none"><li>• Premises licence</li><li>•</li></ul>
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To	
And to	

Leeds City Council has received an application as set out above and, having received relevant representations, has convened a hearing before a Licensing Sub Committee on **Friday 10<sup>th</sup> June** at the Civic Hall Leeds LS1 1UR at **10am**

***Please see the attached notes on adjournments to hearing dates***

Attached to this Notice is a document setting out

- The rights of the parties
- The consequences if a party(or their representative) fails to attend
- Details of the procedure to be followed at the hearing.

The following documents are also served with this Notice

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Also enclosed is a **Parties Notice of Intention** which should be completed and returned to the Council **as soon as possible** but no later than 5 working days prior to the Hearing.<sup>1</sup>

**The Licensing Officer considers that clarification will be required at the Hearing on the following points<sup>2</sup>**

### **Adjournments during the transitional period - Important Information**

The Licensing Act 2003 and regulations made under it by the Secretary of State prescribes tight timetables for the determination of matters before a licensing committee. Dependent upon the application the Council has either 10 or 20 working days within which to hold a hearing to deal with an application to convert or vary a license respectively. In the case of a cancellation of an interim authority notice we have 5 working days and in the case of a counter notice following a police objection to a temporary event notice, 7 working days.

The Act also provides that if applications to convert and/or vary are not determined by the licensing authority within specified periods there is an automatic deemed grant or deemed refusal of the application dependent upon the type of application and the circumstances.

Having regard to these tight timetables and in the interests of justice the licensing authority has determined that adjournments will only be granted where it is necessary to do so to enable all relevant matters to be placed before the relevant sub-committee. This will be the case for example where there are a large number of witnesses or documents and the time allowed for the hearing will not be adequate. This will also be the case where the applicant or other party has indicated that they wish to attend the hearing but subsequently are unable to do so for example because of family emergency or ill health. In these circumstances the party requesting the adjournment will be expected to provide proof of the relevant circumstances such as a doctors note.

The committee can and may deal with matters by looking at written documents. It may be necessary to do this rather than adjourn the hearing.

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<sup>1</sup> 2 working days for conversions and review following closure order. 5 working days in all other cases.

<sup>2</sup> Para 7(1)(d) The Licensing Act 2003 (Hearings) Regulations 2005

Adjournments will rarely be granted due to the inability of the applicant's chosen representative to be present at the hearing. Whilst applicants and those making representations are entitled to have a representative present (whether qualified legally or not) this is not a requirement and the committee can deal with matters hearing from the parties in person or dealing with written representations.

# **LICENSING ACT 2003** **INFORMATION TO PARTIES** **TO ACCOMPANY NOTICE OF HEARING**



## **The Rights of the Parties at Hearings**

A party is any person who must be served with this notice of the hearing according to the Licensing Act 2003 (Hearings) Regulations 2005. It includes the applicant, any responsible authority or interested party who has made a relevant representation and the licence holder in the case of a request for a review.

If you have received a Notice of Hearing with this information attached you are a party and have the following rights.

- the right to attend the hearing and be assisted by or represented by any person whether or not that person is legally qualified.
- However, the licensing authority may exclude the public or any party (and their representatives) where it considers the public interest in doing so outweighs the public interest in dealing with the matter in public.

At the hearing you will be entitled to:

- Address the authority
- Give further information in support of your application or objection where the authority has given notice that it requires clarification
- Where the committee has given permission, question any other party

You may not introduce additional matters which were not included in your application or representations.

## **Failure of Parties to Attend the Hearing**

In returning the Notice of Intention attached to this Notice of Hearing you are asked to indicate whether you intend to attend the hearing and whether they are to be represented.

If you return the Notice of Intention stating that you do not intend to attend or be represented the committee may proceed in your absence.

If you do not return the Notice of Intention or you indicated that you do wish to attend and be represented but you fail to do so the committee may:

- Adjourn the hearing to a specified date where it is necessary in the public interest to do so, or
- Hold the hearing in your absence

Where the committee holds a hearing in the absence of a party it will consider at the hearing any application, representation or notice made by that party.

If the committee chooses to adjourn the hearing it will notify all the parties of the date, time and place to which the hearing has been adjourned.

## **Procedure at Licensing Committee Hearings**

There are three stages to the hearing process as follows:

### **Stage 1 - Preliminary Procedural Issues**

The chair of the Licensing sub-committee will introduce him or herself, the other members of the committee and relevant officers. The parties will then be asked to introduce themselves and the procedure will be outlined for those attending.

The sub-committee will then consider preliminary matters such as:

- Whether to adjourn the hearing where a party has failed to attend.
- Whether to exclude the public from any part or parts of the hearing
- Whether any parts of the agenda are not to be made available for public inspection
- Whether there are any additional documents and if so whether all parties consent to those being used
- Whether to grant an adjournment of the hearing at the request of any party
- Whether to permit any party to call witnesses
- The time limit to be applied to the hearing

The normal time allowed for each hearing is 45 minutes. However, in cases where there are a large number of issues in dispute and/or a large number of parties or witnesses the committee may choose to extend the time available for the hearing.

### **Stage 2 - Consideration of the Substantive Issues**

This part of the hearing will take the form of a discussion led by the committee.

Members of the committee may ask any questions of the licensing officer, any party or witness at any time.

The licensing officer will open the discussion by presenting the information contained in the licensing officer's report.

The committee will not allow cross examination of a witness or party unless the committee considers necessary to do so to enable it to properly consider the representations, application or notice as the case may be.

Where a number of parties have made representations on the same or substantially similar grounds, the chair of the committee may invite those parties to nominate a spokesperson to exercise the rights of interested parties.

The committee will expect the parties to give relevant reasons why the committee should decide in their favour. It will not be necessary for any party to repeat the written representations as these will all be set out in full in the papers before the committee.

### Order of Speeches

#### *Review of Existing Licenses*

- The party or parties requesting the review may exercise his or rights as set out below
- Any party who has made relevant representations in respect of the request for a review may exercise their rights as set out below
- The party who is the licence holder may respond to the request for review and to any representations by exercising her or her rights as set out below

#### *All other cases*

- The party who is the applicant may exercise his or her rights as set out below
- The parties who have made relevant representations may exercise their rights as set out below
- The party who is the applicant may respond to the representations and sum up his or her application

Parties will normally be invited to leave the room while the committee considers the application and the representations made.

### Stage 3 - Consideration of Representations

On reaching their decision the committee may take into account:

- Documentary or other evidence produced by a party
- The written application
- Any written representations
- Any oral evidence given by a party or a witness at the hearing.

The committee will disregard any information given or produced which is not relevant to the application, representation or notice and to the promotion of a licensing objective.

### Notification of the Decision

The committee will then call the parties back into the room and will given an indication of its decision.

Each party will then receive written notification of the determination of the committee together with written reasons for that determination.

All parties will be given notification within the decision letter of their right of appeal.



# LICENSING ACT 2003 PARTIES NOTICE OF INTENTION



**Application No .....**

Name of Applicant/Premises .....  
Date of Hearing .....

I am	The Applicant/Licence holder	
	A Responsible Authority	
	An Interested Party	

I will be attending the Hearing	
I will not be attending the Hearing	
I will be represented at the Hearing by	

*NB If you complete this section all further correspondence will be sent to your representative*

Note - if you say that you will not be attending the Hearing the Committee will make it's decision based upon your written objection, that submitted by any other party and any representations made by parties who do attend.

If you wish to withdraw your representation please tick here

OR  
If you consider that a hearing can be dispensed with please tick here

Please give details as to why you think a Hearing can be dispensed with.  
(e.g. because you have reached agreement with the other party(ies) on conditions).

## WITNESSES

Please set out below the name of any person you wish to appear at the Hearing (other than your representative) and give brief details of what you want the witness to tell the Committee. You will only be allowed to call the witness if the Committee gives permission.

Name	Evidence to be given

## DOCUMENTS

Please list below and attach any documents (other than your application or written objections) that you wish the Committee to consider and indicate whether copies have already been sent to the other parties.

Document	Copy sent

**PLEASE RETURN THIS FORM TO**

**ENTERTAINMENT LICENSING SECTION  
LEGAL AND DEMOCRATIC SERVICES  
LEEDS CITY COUNCIL  
CIVIC HALL  
LEEDS  
LS1 1UR**

**FAX 0113 224 3885**

**E mail [entertainment.licensing@leeds.gov.uk](mailto:entertainment.licensing@leeds.gov.uk)**

**LICENSING COMMITTEE GENERAL PROCEDURE RULES**

**1. INTERPRETATION**

‘The Chair’ means the Chair of the Licensing Committee.

‘The Committee’ means the Licensing Committee or Licensing Sub Committee.

**2. SCOPE**

These General Procedure Rules will apply in respect all matters which are not Hearings as defined in the Licensing Committee Hearings Procedure Rules.

The Licensing Committee Hearings Procedure Rules will apply to all meetings which are hearings as set out in Annex 1 to those rules

**3. APPLICATION OF COUNCIL PROCEDURE RULES/ACCESS TO INFORMATION PROCEDURE RULES**

Except where these rules provide differently, the Council Procedure Rules and Access to Information Procedure Rules (in so far as they apply to committees and sub-committees) will be followed for all meetings of the Committee where the Licensing Hearing Procedure Rules do not apply.

In the event of any conflict between these rules and the Council Procedure Rules and Access to Information Procedure Rules, these rules shall prevail.

**4. APPOINTMENT OF CHAIR**

The Authority shall appoint the Chair of the Licensing Committee at its AGM.

The Chair of each Licensing Sub-Committee shall be elected by the Sub-Committee at the start of each meeting.

**5. QUORUM**

Five Members (including the Chair) shall form a quorum for meetings of the Licensing Committee.

Three Members shall form a quorum for meetings of a Licensing Sub-Committee.

Except where authorised by statute, business shall not be transacted a meeting unless a quorum is present.

**6. SUBSTITUTE MEMBERS**

Allocation

No substitute Members are appointed for the Licensing Committee.

## *Licensing Procedure Rules*

In relation to each Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other Members of the Licensing Committee.

### Substitution

A substitute Member shall be entitled to attend in place of a regular Member provided that the Committee Clerk has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that agenda item as a Member of the Licensing Sub-Committee concerned.

### Powers and duties

A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.

A substitute Member shall be for all purposes a duly appointed Member of the Licensing Sub-Committee to which s/he is appointed as a substitute Member for the meeting in question and shall have the like duties, powers and responsibilities as the member whom s/he is replacing.

## **7. MEETINGS OF THE COMMITTEE**

The Chair of the Committee or the Chief Executive may call a meeting at any time.

A special meeting of the Committee may be called on the requisition of any 3 Members of the Committee delivered in writing to the Chief Executive. The summons to such a special meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

## LICENSING COMMITTEE HEARING PROCEDURE RULES

### INTERPRETATION

‘The Act’ means the Licensing Act 2003;

‘The Authority’ means Leeds City Council as Licensing Authority;

‘The Chair’ means the Chair of the Committee;

‘The Committee’ means the Licensing Committee or Licensing Sub- Committee;

‘The Decision’ means the Committee’s consideration of matters listed in Schedule 4 of the Regulations;

‘The Hearing’ means a hearing listed in **Annex 1** of the Procedure;

‘The Legal Advisor’ means the officer giving legal advice to the Committee;

‘The Licensing Committee’ means the licensing committee established by the Authority;<sup>1</sup>

‘The Licensing Officer’ means the officer authorised by the Director of Legal and Democratic Services in respect of licensing functions;

‘The Licensing Sub-Committee’ means any sub-committee established by the Licensing Committee;<sup>2</sup>

‘The Notice of Hearing’ means the notice given under Regulation 6(1);

‘The Notice of Intention’ means the notice given by a Party under Regulation 8;

‘The Party’ means a person to whom the Notice of Hearing is given and ‘Parties’ is to be construed accordingly. Where appropriate it also includes a representative of a Party;

‘The Preliminary Hearing’ means a preliminary hearing held under paragraph 4.0 of the Procedure;

‘The Procedure’ means the Licensing Hearing Procedure Rules;

‘The Regulations’ means the Licensing Act 2003 (Hearings) Regulations 2005 as amended;

‘The Review’ means the determination of an application for review of:

- a premises licence; or
- club premises certificate; or
- following closure order.

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<sup>1</sup> Under Section 6(1) of the Act

<sup>2</sup> Under section 10(1) of the Act

## **1.0 GENERAL PROVISIONS**

### **1.1 SCOPE**

The Procedure will apply in respect all matters which are Hearings as set out in **Annex 1**.

The Licensing Committee General Procedure Rules will apply to all meetings which are not Hearings.

### **1.2 APPLICATION OF COUNCIL PROCEDURE RULES/ACCESS TO INFORMATION PROCEDURE RULES**

Council Procedure Rules and Access to Information Procedure Rules do not apply to meetings of the Committee which are Hearings.

### **1.3 APPOINTMENT OF CHAIR**

The Authority shall appoint the Chair of the Licensing Committee at its AGM.

The Chair of each Licensing Sub-Committee shall be elected by the Sub-Committee at the start of each meeting.

### **1.4 QUORUM**

Five Members (including the Chair) shall form a quorum for meetings of the Licensing Committee.

Three Members shall form a quorum for meetings of a Licensing Sub-Committee.

Except where authorised by statute, business shall not be transacted a meeting unless a quorum is present.

### **1.5 SUBSTITUTE MEMBERS**

#### Allocation

No substitute Members are appointed for the Licensing Committee.

In relation to each Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other Members of the Licensing Committee.

#### Substitution

A substitute Member shall be entitled to attend in place of a regular Member provided that the Committee Clerk has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that meeting as a Member of the Licensing Sub-Committee concerned.

Powers and duties

A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.

A substitute Member shall be for all purposes a duly appointed Member of the Licensing Sub-Committee to which s/he is appointed as a substitute Member for the meeting in question and shall have the like duties, powers and responsibilities as the Member whom s/he is replacing.

**1.6 MEETINGS OF THE COMMITTEE**

The Chair of the Committee or the Chief Executive may call a meeting at any time.

A special meeting of the Committee may be called on the requisition of any 3 Members of the Committee delivered in writing to the Chief Executive. The summons to such a special meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

**1.7 TIME LIMITS**

The Licensing Officer or the Committee may<sup>3</sup> extend a time limit under the Procedure for a specified period where s/he considers this to be necessary in the public interest.

Where a time limit has been extended, the Licensing Officer or Committee Clerk must immediately give a notice to the Parties stating the period of the extension and the reasons for it.

**1.8 IRREGULARITIES**

Failure to comply with these Rules shall not, of itself, render any decision made at a Hearing invalid.

If the Committee considers that any person may have been prejudiced as a result of any irregularity resulting from a failure to comply with any provision of the Regulations, the Committee shall take such steps as it thinks fit to cure the irregularity before reaching its Decision.

The Authority shall be entitled to correct clerical mistakes or accidental slips or omissions in any document recording the decision of the Authority.

**1.9 WITHDRAWAL OF REPRESENTATIONS**

A Party who wishes to withdraw any representations they have made may do so –

- (a) by giving a notice of this to the Authority no later than 24 hours before the day or the first day on which the Hearing is to be held; or
- (b) orally at the Hearing.

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<sup>3</sup> subject to Regulation 13

## **1.10 ADJOURNMENT OF HEARING**

At any time the Committee or the Committee Clerk, in consultation with the Licensing Officer may<sup>4</sup> -

- adjourn the Hearing to a specified date, or
- arrange for the Hearing to be heard on specified additional dates,

where this is necessary for the consideration of any representations or notice made by a Party<sup>5</sup>.

Where a Hearing has been adjourned to a specified date, the Committee Clerk must immediately notify the Parties of the date, time, and place to which the Hearing has been adjourned.

Where the Hearing is to be held on specified additional dates, the Committee Clerk must immediately notify the Parties of the additional dates, time and place of the Hearing.

## **2.0 PRE-HEARING PROCESS**

At the end of any period allowed for the making of objections or representations the Licensing Officer will consider:

- whether such representations or objections have been made
- whether they are relevant
- In the case of interested parties whether they are frivolous, vexatious or repetitious.

If the Licensing Officer forms the view that relevant representations have been made and that they are not frivolous, vexatious or repetitious, then s/he will notify the Committee Clerk that a Hearing is required.

The Licensing Officer will inform the Committee Clerk of the last date on which the Hearing should take place in accordance with the Regulations.

The Licensing Officer will also notify the Committee Clerk of any decision to extend a relevant time limit.

## **2.1 DATE OF HEARING**

The Committee Clerk shall:

- allocate a Committee for the Hearing; and
- set the date, time and place for the Hearing<sup>6</sup>.

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<sup>4</sup> Subject to Regulation 13

<sup>5</sup> Except in exceptional circumstances, adjournments will not be granted simply on the grounds of convenience for the Parties.

<sup>6</sup> in accordance with Regulation 5

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The Committee Clerk shall inform the Committee and Licensing Officer of the allocation, date, time and place for the Hearing.

## **2.2 NOTICE OF HEARING TO THE PARTIES**

The Licensing Officer shall give the Parties a Notice of Hearing.<sup>7</sup>(**Annex2**)

The Notice of Hearing shall contain information about:

- the rights of a Party;
- the consequences if a Party does not attend or is not represented at the Hearing;
- the procedure to be followed at the Hearing;
- a request for clarification on any particular point which the Licensing Officer considers that the Committee will want at the Hearing from the Party;
- any additional documents required by the Regulations;<sup>8</sup>
- a Notice of Intention to be completed by the Party in relation to representation, witnesses, time estimate and whether the Party considers the Hearing to be unnecessary

The Parties will be requested to return the Notice of Intention by a date specified by the Licensing Officer.<sup>9</sup>

## **2.3 DOCUMENTS**

The Licensing Officer will forward a report to be considered by the Committee at the Hearing, to the Committee Clerk.

The report provided by the Licensing Officer will include:

- copies of applications/representations and notices (as applicable) provided by the Parties; and
- copies of letters regarding a party's intentions received by the Authority;
- a summary of the relevant provisions of the Licensing Policy;
- a summary of relevant guidance of the Secretary of State;

Before the Hearing, where reasonably practicable, the Committee Clerk will circulate to all Parties copies of:

- letters of intention received by the Authority; and
- the report provided by the Licensing Officer (excluding appendices<sup>10</sup>)

## **2.4 AGENDA**

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<sup>7</sup> in accordance with Regulations 6 and 7

<sup>8</sup> in accordance with Regulation 7(2)

<sup>9</sup> Regulation 8

<sup>10</sup> These should already have been received by the Parties

## *Licensing Procedure Rules*

The Committee Clerk will compile an agenda for each meeting, which will list each of the Hearings and each Preliminary Hearing to be held by the Committee.

The Committee Clerk will make copies of the agenda and subject to 3.1 below will make reports for each meeting open to the public in accordance with the Access to Information Procedure Rules, so far as this is reasonably practicable<sup>11</sup>.

### **3.0 GENERAL PROVISIONS-PRELIMINARY HEARINGS AND HEARINGS**

#### **3.1 PUBLIC ACCESS**

Subject to the paragraph below the Preliminary Hearing and Hearing shall take place in public.

The Committee may exclude the public from all or part of a Preliminary Hearing or Hearing where it considers that the public interest in so doing outweighs the public interest in the Preliminary Hearing or Hearing, or that part of it, taking place in public. In this respect, a Party and any person assisting or representing a Party may be treated as a member of the public.

Guidance on making decisions to exclude the public from Hearings is set out in **Annex 2**

#### **3.2 DISRUPTION BY PERSON ATTENDING**

If in the opinion of the Committee any person attending a Preliminary Hearing or Hearing behaves in a disruptive manner, the Committee may require that person to leave and may

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

Such a person may, before the end of the Hearing, submit to the Committee in writing any information which they would have been entitled to give orally had s/he not been required to leave.

#### **3.3 RECORD OF PROCEEDINGS**

The Committee Clerk shall ensure a record is taken of the Preliminary Hearing and Hearing in a permanent and intelligible form, and kept for six years from the date of the Decision, or where an appeal is brought against the Decision of the Committee, the disposal of the appeal.

### **4.0 PRELIMINARY HEARINGS**

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<sup>11</sup> Subject to para 3.1.  
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Where all of the Parties have indicated on their Notices of Intention that they consider a Hearing to be unnecessary, the Licensing Officer will ask the Committee Clerk to convene a Preliminary Hearing of the Committee.

Where reasonably practicable, this Preliminary Hearing shall take place before the day of the Hearing.

At the Preliminary Hearing, the Committee will decide whether the Hearing should be dispensed with.

If the Committee agrees that the Hearing is unnecessary, the Committee Clerk will immediately give notice to the Parties that the Hearing has been dispensed with.

Where the Hearing has been dispensed with, the Committee may:

- if time allows, proceed to make a Decision on the basis of the written submissions or,
- adjourn the Hearing to another Committee or another date<sup>12</sup>

The Committee will make the Decision in accordance with paragraph 7.0 (stage 3) of the Procedure.

## **5.0 THE HEARING (GENERAL PROVISIONS)**

### **5.1 REPRESENTATION**

Subject to paragraph 3.1 above, a Party may attend the Hearing and may be assisted or represented by any person whether or not that person is legally qualified.

### **5.2 FAILURE TO ATTEND<sup>13</sup>**

If a Party has informed the Committee Clerk that s/he does not intend to attend or be represented at the Hearing, the Committee may hold the Hearing in his/her absence.

If the Party who has not so indicated fails to attend or to be represented at the Hearing the Committee may –

- where it considers it to be necessary in the public interest, adjourn the Hearing to a specified date, or
- hold the Hearing in the Party's absence.

Where the Committee holds the Hearing in the absence of a Party, at the Hearing the Committee shall consider the application, representations or notice made by that Party.

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<sup>12</sup> Subject to regulation 13

<sup>13</sup> Regulation 20

When the Committee adjourns the Hearing to a specified date it must immediately notify the Parties of the date, time and place to which the Hearing has been adjourned.

### **5.3 RIGHTS OF PARTIES AT THE HEARING**

At the Hearing a Party shall be entitled to –

- address the Committee;
- give further information about any point upon which the Licensing Officer has given notice that the Committee will want clarification;
- if given permission to do so by the Committee, question any other person; and
- call a witness in respect of whom the Committee has given permission.

The Committee will allow the Parties an equal maximum period of time in which to exercise these rights.

Any response to questions from the Committee shall not be included within the period of time allowed for each party.

### **5.4 SPOKESPEOPLE**

Where a number of Parties have made representations on the same or substantially similar grounds the Chair of the Committee may invite those Parties to nominate a spokesperson to exercise their rights on behalf of all those Parties<sup>14</sup>.

### **5.5 CROSS-EXAMINATION**

The Committee shall not permit cross-examination of a witness or Party unless the Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require.

### **5.6 SITE VISITS**

The Committee may only carry out a site visit in the exceptional circumstances set out in the Licensing Code of Practice, and in accordance with the Code of Practice.

### **5.7 COSTS**

The Committee cannot make any order as to the costs incurred by any Party in connection with any Hearing<sup>15</sup>.

### **6.0 PROCEDURAL ISSUES PRE-MEETING**

On the day of the Hearing, the Committee shall hold a meeting prior to the Hearing to consider procedural issues only<sup>16</sup>. This meeting will be in private.

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<sup>14</sup> Where this occurs the spokesperson shall be entitled to the same maximum period as the applicant to make all the representations

<sup>15</sup> Section 183(2)

<sup>16</sup> At the pre-meeting, the Committee shall not:

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At the pre-meeting the Committee will do some or all of the following as the Committee considers appropriate:

- Review the documents in respect of the Hearing
- Familiarise themselves with the main issues raised by the Parties
- Identify whether the Parties dispute any facts
- Identify whether those facts are significant to the Decision
- Consider any possible lines of questioning by the Committee;
- Consider whether or not there is any part of the Hearing that should be held in private;
- Consider whether or not any part of the report or other documents should be withheld from the public
- Consider the maximum period of time for each Party under paragraph 5.3, subject to any decisions made in respect of witnesses under 7.2.2 below

## **7.0 THE HEARING**

The Members of the Committee will elect a Chair for the meeting.<sup>17</sup>

### **7.1 VARIATION OF STAGE 1 AND STAGE 2**

Subject to the provisions of the Regulations, the Committee may vary Stage 1 and 2 of the Procedure as it considers appropriate in the circumstances.

### **7.2 STAGE 1 – PRELIMINARY PROCEDURAL ISSUES**

The Parties will be brought into the room where the Hearing is to be held, by the Committee Clerk.

The Members of the Committee will make any declarations of interest in respect of the Hearing.

The Chair will introduce him/herself, other Members of the Committee, and relevant Officers<sup>18</sup>.

The Chair will ask the Parties to introduce themselves.

The Legal Adviser will outline the procedure which the Committee proposes to follow for the Hearing. If the Committee proposes to vary the Procedure from that set out below, it will invite and consider representations on this from the Parties about this, before proceeding.

- 
- discuss the merits of an application or representations; nor
  - determine any application.

<sup>17</sup> Where it is a meeting of a Licensing Sub-Committee

<sup>18</sup> At no time before, during or after the Hearing, should the Licensing Officer or any Party be present or represented before the Committee without all other Parties also being present or represented, unless a Party has failed to attend and the Committee is discussing whether to proceed in his/her absence or has decided to proceed in his/her absence.

Where a Party has failed to attend the Hearing, then the Committee will consider whether to adjourn the Hearing in accordance with 5.2 above.

The Committee will consider whether to exclude the public from any part or parts of the Hearing, in accordance with 3.1 above.

The Committee will also decide which reports are not to be made available for public inspection, in accordance with 2.4 above.

The Chair will ask the Parties if any of them wish to appoint a spokesperson under 5.4 of the Procedure.

The Chair will inform the Parties of the Committee's views about:

- the main issues raised by the Parties;
- whether any facts are disputed by the Parties;
- whether those disputes are significant to the Hearing.

The Committee will then invite the Parties to make any requests as follows:

#### **7.2.1 Additional Information**

The Chair will ask whether any Party wishes to produce any documentary or other information in support of their application, representation or notice (as applicable).

The Chair will then ask the other Parties<sup>19</sup> whether they consent to the other information being produced.

Where all Parties consent, the Committee Clerk will circulate the additional information to the Parties.

The Chair will then ask the Parties and the Licensing Officer whether they wish to adjourn the Hearing in order to allow the Parties to properly consider the information.

The Committee will then decide whether to grant an adjournment.

#### **7.2.2 Witnesses**

The Committee will then consider any request by a Party in a Notice of Intention for another person to appear before the Committee.

The Committee will determine the request having considered whether allowing the request will assist their ability to make a full and reasoned Determination.

Such permission will not be unreasonably withheld.<sup>20</sup>

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<sup>19</sup> In the absence of one of the parties at the Hearing no documents may be admitted without the consent of the absent party  
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### 7.2.3 Time limits for Parties

The Committee will then decide the maximum period of time for each Party to exercise their entitlement under 5.3 above. The Committee must allow each Party an equal maximum period of time.

## 7.3 STAGE 2 : CONSIDERATION OF SUBSTANTIVE ISSUES

The Hearing shall take the form of a discussion led by the Committee.

Members of the Committee may ask any question of the Licensing Officer, any Party or witness at any time.

The Licensing Officer shall open the discussion, by presenting the information contained in his/her report.

Each Party shall then exercise his/her rights under 5.3 above, in the following order:

#### Reviews:

- The Party or Parties who requested the Review
- Parties who are responsible authorities
- Parties who are interested persons
- The Party who is the licence holder

#### All other Hearings:

- Parties who are responsible authorities
- Parties who are interested persons
- Party who is the applicant

## 7.4 STAGE 3 – DECISION

The Committee will then consider whether to resolve to exclude the public while it makes its Decision.

Where the Committee resolves that the public should be excluded, the Parties will be informed when they will be notified of the Decision.

In considering any application, representations or notice made by a Party, the Committee may take into account documentary or other evidence produced by a

Party in support of their application, representations or notice (as applicable) either before the Hearing or, with the consent of all the other Parties, at the Hearing.

The Committee shall disregard any information given or evidence produced by a Party or a witness which is not relevant to –

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<sup>20</sup> Reg 22

## *Licensing Procedure Rules*

- the application, representations or notice (as applicable) and
- the promotion of the licensing objectives or, in relation to a Hearing to consider a notice given by a Chief Officer of Police, the Crime Prevention Objective.

### **7.5 NOTIFICATION OF THE DECISION**

The Committee will make the Decision in accordance with the time limits set out in the Regulations<sup>21</sup>.

The Committee Clerk will notify each Party of the Decision of the Committee in accordance with the Regulations<sup>22</sup>

The Committee Clerk will send information regarding the right of the Party to appeal against the Decision, with the notification.<sup>23</sup>

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<sup>21</sup> Regulation 26 and 27

<sup>22</sup> Regulation 28. The Committee Clerk will also immediately notify a chief officer of police, where the Act provides for a chief officer of police to be notified of the Determination, and that chief officer of police has not been a Party.

<sup>23</sup> Regulation 29



**LIST OF HEARINGS**

1.	Determination of an application for a premises licence
2.	Determination of an application for a provisional statement
3.	Determination of an application to vary a premises licence
4.	Determination of an application to vary a premises licence to specify the individual as premises supervisor.
5.	Determination of an application for transfer of a premises licence
6.	Cancellation of an interim authority notice following a police objection
7.	Determination of an application for review of premises licence.
8.	Determination of an application for club premises certificate
9.	Determination of an application to vary a club premises certificate.
10.	Determination of an application for a review of a club premises certificate.
11.	Counter notice following a police objection to a temporary event notice.
12.	Determination of an application for the grant of a personal licence.
13.	Determination of an application for the renewal of a personal licence.
14.	Determination of a police notice of convictions coming to light after the grant or renewal of the personal licence.
15.	The review of a premises licence following a closure order.
16.	Determination of an application to convert an existing licence.
17.	Determination of an application convert an existing club certificate.
18.	Determination of an application by the holder of a justices licence for the grant of a personal licence.

## LICENSING COMMITTEE HEARING PROCEDURE RULES

# GUIDANCE ON EXCLUDING THE PUBLIC FROM HEARINGS

## 1.1 Introduction

This annex is written to provide the Licensing Committee with guidance on making a decision to exclude the Public from all, or part of, a Preliminary Hearing or Hearing. This document should be read in conjunction with the Hearing Procedure Rules. In the event of any conflict the Hearing Procedure Rules take precedence over this document.

## 1.2 General Presumption in favour of Public Access

The Licensing Act 2003 (Hearings) Regulations 2005 provide that the hearing shall take place in public but that the Committee may exclude the public where the public interest in doing so outweighs the public interest in holding the Hearing in public.

Holding meetings in public ensures that the hearing process is open and fair. However, there may be some circumstances that require parts of a hearing to be held in private.

## 1.3 Relationship with Access to Information Procedure Rules

### 1.3.1 Confidential information.

Section 101 of the Local Government Act 1972 provides that, if a committee considers that “confidential information” is likely to be revealed during a hearing, the committee must exclude the public.

This provision is dis-applied in respect of any function of the Licensing Committee. Members will therefore not be able to exclude the public on the basis the committee is discussing confidential information.

### 1.3.2 Exempt Information

Schedule 12A of the Local Government Act 1972 sets out when the public can be excluded where “exempt information” is likely to be revealed during the Hearing.

As with confidential information these provisions are dis-applied in respect of any function of the Licensing Committee. Members will therefore not be able to exclude the public on the basis the committee is discussing exempt information.

## 1.4 Human Rights considerations

The Committee must act in accordance with the Human Rights Act when excluding the Public from Hearings. In particular, Members should be aware of Articles 6, 8 and 10 of the Act when deciding to exclude the Public.

### 1.4.1 Article 6

Article 6 says that the Public may be excluded from all or part of a Hearing as long as it is in the interests of:

- (a) Morals
- (b) Public Order
- (c) Justice
- (d) National security in a democratic society
- (e) Protecting young people under the 18 and the private lives of anyone involved.

There should be a public hearing unless the Committee decides that there is good reason, which falls within one of the five categories above, for the public be excluded.

### 1.4.2 Article 8

Article 8 provides that everyone has the right to respect for their private and family life, home and correspondence. The Committee may not interfere with this right unless it is

- (a) In line with the law; and
- (b) Necessary in a democratic society in the interests of:
  - National security;
  - Public safety;
  - Preventing crime and disorder
  - Protecting peoples health and morals; or
  - Protecting peoples rights and freedoms.

It is in the public interest to promote probity of public authorities and public confidence in them. For these reasons the Hearing should be in public unless the committee decides protecting the privacy of anyone involved is more important than the need for a public hearing.

### 1.4.3 Article 10

Article 10 allows the public to “receive and impart information and ideas without interference by a public authority.”. This right can only be restricted where it is

*“Prescribed by law and...necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintain the authority and impartiality of the judiciary.”*

Any interference with both articles 8 and 10 must be necessary and proportionate. The Human Rights Act provides that a an action is necessary if it meets a “pressing social need”.

In deciding on whether to exclude the Public, Members are performing a balancing act between conflicting rights. It is acknowledged this is not a simple task.

### **1.5 Where holding the hearing in public would be prejudicial the effective conduct of the hearing.**

Where the Committee reasonably believes discussing certain information in public, would prevent the committee from carrying out its business smoothly and effectively, then the committee may exclude the Public from such discussions, if it is in the public interest to do so.

### **1.6 Deliberations**

The public may also be excluded when the Committee are considering their decisions, if it is in the public interest to do so.

The Committee may exclude the public where it is felt the Committee could not freely debate the issues before them, with the public present. Again this course of action should only be taken where it is in the public interest to do so.

### **1.7 The Public Interest Test for excluding the Public.**

The public may be excluded where the public interest in doing so outweighs the public interest in not doing so.

Members should bear in mind the following factors in deciding what is in the public interest.

- Decisions made in the open lead to increase trust on behalf of the public
- The public should be confident decisions are being made on the basis of the best available information.
- Disclosure of information often improves the quality of debate
- Knowledge of the way in which Local Government works increases the public's participation
- The matters discussed or the information held would expose wrongdoing and or that the wrongdoing had been effectively dealt with

These considerations favour holding meetings in public. The following considerations would weigh against holding meetings in public.

- Where Members need space in which to develop their ideas and explore the options available to them
- Where Members need to think through the implications of making a decision including any associated risks.
- Where the premature disclosure of preliminary thinking leads to better options being closed off due to a negative reaction from the public

### **1.8 Reasons**

Advice may be sought from officers before a decision is made.

Full and clear reasons for a decision whether or not to exclude the public should always be given.



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