

## **LICENSING AND REGULATED ENTERTAINMENT HEARINGS PROCEDURE**

This is the procedure that the Council has adopted under the Licensing Act 2003 (Hearings) Regulations 2005 for all of its licensing hearings to achieve a consistent approach. The hearing is started by the Chairman stating that the Sub-Committee is considering. It is then explained to all the parties that this is a mixed quasi judicial and administrative function. The hearing will take the form of a discussion led by the authority. The strict rules of evidence will not apply although the rules will be observed to a great extent because this is considered to be the best way of presenting the evidence. Documentary or other information produced at the hearing may be taken into account with the consent of all the parties.

All parties will be given an equal maximum period of time to exercise their rights to make representations and provide supporting information to the Sub-Committee as provided for in this procedure. The Chairman will ask those appearing to speak concisely and only on the points that have been raised in the representations submitted. If several representations have been received on similar lines the parties will be invited to appoint a spokesperson. The Sub-Committee will seek to avoid hearing repetitious representations.

- (1) Once all the parties are present in the room and seated the Sub-Committee will enter and the hearing will be convened.
- (2) The Chairman will introduce the Sub-Committee and the Officers serving the Sub-Committee.
- (3) The applicant and/or his representative should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (4) The objectors and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (5) The responsible authorities and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (6) The Chairman will invite the Licensing Officer to present his report.
- (7) The applicant may then state their case, calling any witnesses they consider necessary, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.
- (8) With the Chairman's permission members may ask the applicant or their witnesses questions. These questions should be for further information or clarification.

- (9) The objectors then state their case calling any witnesses, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.
- (10) The members may ask the objectors or their witnesses questions. These questions should be for further information or clarification.
- (11) The objectors are then asked if they wish to make a final address to the Sub-Committee.
- (12) The applicant or representative is then given the same opportunity to address the Sub-Committee.
- (13) The Sub-Committee will then retire to consider the representations which have been made and to make its decision. The Sub-Committee will be accompanied by the Legal Adviser and Committee Manager.
- (14) A decision is then taken.
- (15) The Sub-Committee will then return to inform all the parties of the decision. Notice of the determination will be given in writing after the hearing. For certain applications the determination will be made within five working days of the hearing.

If any legal clarification is needed during the Sub-Committee's deliberations, the Legal Adviser will return to inform all the parties of the point considered, together with the advice given and will invite comment on that.

## COMMENTS

Should the Sub-Committee decide to grant a licence it may only add conditions or restrictions which are necessary for promoting the licensing objectives and which do not duplicate other statutory requirements. However, the powers to add conditions are confined by the fact that any condition or restriction must be reasonable. The Courts have ruled that a public body in a privileged position of being able to exercise its discretion in dealing with applications for licences and consents of various kinds, when coming to a decision, must exercise that discretion reasonably and fairly and relate it to the subject concerned. A public body is not at liberty to use its powers for an ulterior object, that is one which is not within the ambit or intended purpose of the statutory provision under which the power is exercised however desirable that object may seem in the public interest.

The Sub-Committee will disregard any information which is not relevant to the matter being considered.

The Sub-Committee may exclude all the parties and the public from a hearing or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing.

The Sub-Committee may require any person attending a hearing who in its opinion is behaving in a disruptive manner to leave the hearing.