

# Public Document Pack

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## MID DEVON DISTRICT COUNCIL

### LICENSING COMMITTEE

**A MEETING** of the **LICENSING COMMITTEE** will be held in the Phoenix Chamber, Phoenix House, Tiverton on Thursday, 3 September 2015 at 10.00 am

The next ordinary meeting of the Committee will take place on Thursday, 15 October 2015 at 10.00 am in the Council Chamber, Town Hall, Tiverton

**KEVIN FINAN**  
Chief Executive  
26 August 2015

**Councillors:** R J Chesterton, Mrs F J Colthorpe, D R Coren, N V Davey,  
Mrs E M Andrews, T G Hughes, D J Knowles, P H D Hare-Scott, C J Eginton,  
J M Downes, K Busch, Mrs B M Hull, Mrs G Doe, J Smith and L Taylor

### A G E N D A

#### **MEMBES ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE**

- 1 **ELECTION OF CHAIRMAN**  
To elect a Chairman of the Licensing Committee for the Municipal Year 2015/16.
- 2 **ELECTION OF VICE CHAIRMAN**  
To elect a Vice Chairman of the Licensing Committee for the Municipal Year 2015/16.
- 3 **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of Substitute Members (if any).
- 4 **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the agenda from members of the public and replies thereto.
- 5 **MINUTES** (*Pages 3 - 4*)  
To approve the minutes of the meeting held on 18 December 2014 (copy attached).

6 **REVIEW LICENSING HEARING PROCEDURES** (Pages 5 - 26)

To receive a report from the Head of Human Resources and Development outlining a revised procedure for Licensing Hearings.

**The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. The reports within this agenda have been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.**

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Sarah Lees on:

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **LICENSING COMMITTEE** held on 18 December 2014 at 10.00 am

### **Present**

#### **Councillors**

Mrs F J Colthorpe, D R Coren, N V Davey,  
A V G Griffiths, P H D Hare-Scott, T G Hughes,  
D J Knowles, E G Luxton and P F Williams

### **Apologies**

#### **Councillors**

R J Chesterton, M R Lee and M A Lucas

### **Also Present**

#### **Councillor**

E J Berry

### **Also Present**

#### **Officers:**

Sarah Lees (Member Services Officer) and Simon Newcombe  
(Public Health and Professional Services Manager)

## **1 ELECTION OF CHAIRMAN (THE CHAIRMAN OF THE COUNCIL, CLLR E J BERRY, IN THE CHAIR)**

**RESOLVED** that Cllr T G Hughes be elected Chairman of the Committee for the municipal year 2014/15.

Cllr T G Hughes then took the Chair.

## **2 ELECTION OF VICE CHAIRMAN**

**RESOLVED** that Cllr D J Knowles be elected Vice Chairman of the Committee for the municipal year 2014/15.

## **3 PUBLIC QUESTION TIME (00:02:50)**

There were no members of the public present.

## **4 MINUTES (00:02:55)**

The Minutes of the meeting held on 10 April 2014 were approved as a correct record and **SIGNED** by the Chairman.

## **5 LICENSING PERFORMANCE (00:05:00)**

The Committee had before it a report\* of the Head of Human Resources and Development providing the annual report on Licensing performance. The Licensing Officer had been unable to attend the meeting and so the Public Health and Professional Service Manager presented the report to the Committee.

Discussion took place regarding:

- The fact that the figures showed that there were more licenses issued than applications received. It was explained that this was because multiple licenses can sometimes be issued for one application.

- Whether it would be more practical to extend the target for issuing licenses to 10 days rather than 5, given the decrease in Licensing Team resource and the possibility of staff sickness affecting output. However, it was explained that the target was set after the point of a license approval and related to an administrative task and not something that needed to be consulted upon. Businesses were still able to operate legally post license approval even though they might not have the formal paperwork.

**RESOLVED** that the contents of the report be noted and that the target for the issuing of licences be amended from 95% to 97% and that the length of time to issue a license after approval be amended from three working days to five working days.

(Proposed by Cllr N V Davey and seconded by Cllr Mrs F J Colthorpe)

Note: \* Report previously circulated, copy attached to signed minutes

## 6 **AMENDMENTS TO THE LICENSING ACT (00:30:12)**

The Committee had before it, and **NOTED**, a report \* from the Head of Human Resources and Development providing an update on the legislative changes (and proposed changes) to the Licensing Act.

The Chairman stated that he was in regular contact with the Licensing Officer and had concerns about the number and nature of temporary event notices coming through the department. In his opinion they often came with a significant number of complaints, especially in relation to noise, from neighbouring properties. The Committee stated that they were unaware that a problem existed with Temporary Event Notices and **AGREED** that a report be brought to the next meeting summarising the number received and how they were dealt with. It was felt that a full Committee debate ought to take place at the next meeting.

Notes: (i) Cllr N V Davey declared a personal interest as he had applied for a Personal License earlier in the year.

(ii) \* Report previously circulated, copy attached to signed minutes

(The meeting ended at 10.44 am)

**CHAIRMAN**

## REPORT OF THE HEAD OF HUMAN RESOURCES AND DEVELOPMENT

### LICENSING HEARING PROCEDURES

#### REASON FOR REPORT

1. The procedure used for hearings is in need of revision.

#### RECOMMENDATIONS

1. That Members adopt the proposed protocol and procedure documents for hearings held under the Licensing Act 2003.

#### RELATIONSHIP TO CORPORATE PLAN

1. Properly conducted hearings under the Licensing Act 2003 are the mark of a well-managed Council.

#### FINANCIAL, LEGAL AND RISK ASSESSMENT IMPLICATIONS

Any financial, legal and/or risk assessment implications are set out below:

<b>Financial</b>	Poorly conducted hearings could lead to unreasonable decisions that give rise to the expense of lost appeals or judicial reviews
<b>Legal</b>	Hearings must be conducted lawfully
<b>Risk Assessment</b>	Well conducted hearings will reduce the risk of appeals or judicial reviews

#### 1.0 HEARING PROCEDURE - INTRODUCTION

- 1.1 Hearings under the Licensing Act 2003 are regulated by the Licensing Act 2003 (Hearings) Regulations 2005. These regulations make rules on a number of matters, including:

- the period of time within which hearings must be held
- the notice of hearing and information to accompany the notice of hearing
- action following receipt of notice of hearing
- right to dispense with a hearing
- power to extend time

- failure of parties to attend the hearing
- 1.2 The regulations also allow the Licensing Authority to determine its own procedure to be followed at the hearing, subject to the provisions of the regulations.
- 1.3 The hearing procedure currently used by this Licensing Authority has been in place since 2008. Since this time we have received positive feedback on both our hearing format and Member conduct. However, as a result of recent legal opinion and Member / Officer training it has become apparent that the procedure could be updated to facilitate more open and efficient hearings.

## 2.0 HEARING PROCEDURE – PROPOSAL

2.1 It is proposed to introduce five documents which cover the most regularly heard applications. These are attached as follows:

- Annex 1: *Protocol and Procedure for Licensing Sub-Committee Hearings*
- Annex 2: *Procedure for New applications / Variations*
- Annex 3: *Procedure for Temporary Event Notices*
- Annex 4: *Procedure for Reviews*
- Annex 5: *General guidance for attendees*

2.2 Annex 1 is a document which covers elements of the Licensing Act 2003 (Hearings) Regulations 2005 along with more general points in relation to hearings.

2.3 Annexes 2 – 4 contain specific procedures for the most frequently held hearings under the Licensing Act. Many of the points on these procedures will look familiar to Members, however there are some important additions. These include:

- a) The scheduled ability for parties to question each other’s submissions (through the Chair)
- b) The scheduled ability for any party to suggest conditions that they feel appropriate and relevant during the hearing, and for others to comment
- c) The Legal Officer to retire with the Sub-Committee
- d) The option for Members to outline a condition and its intention / requirements, but to delegate specific wording to the Licensing Officer to prepare and send out in the decision notice (this is not applicable to hearings for TENs)
- e) The number of ‘experienced’ members to sit on the panel

2.4 Annex 5 is a general document for all parties that attend hearings. It seeks to address what may be FAQs.

## 3.0 RECOMMENDATION

3.1 It is recommended that the updated procedure and documents referenced in this report be adopted and used for future hearings to which they relate.

<b>Contact for any more information</b>	Tom Keating (4618) Simon Newcombe (4615)
<b>Background Papers</b>	Licensing Act 2003 (Hearings) Regulations 2005
<b>File Reference</b>	Licensing/Hearing/2015
<b>Circulation of the Report</b>	Licensing Committee

## MID DEVON DISTRICT COUNCIL – LICENSING COMMITTEE

### Protocol and Procedure for Licensing Sub-Committee Hearings

#### **1.0 Introduction**

1.1 The role of the Sub-Committee is to determine Applications / Notices in an impartial manner in accordance with the relevant provisions of the Licensing Act 2003, national guidance and the Council’s Policies.

#### **2.0 Composition of Sub-Committee**

2.1 The Sub-Committee shall usually consist of three Councillors drawn on a “panel” basis from the membership of the Licensing Committee.

2.2 In forming the Membership of the Licensing Sub-Committee for a hearing, and where Councillors availability permits, Members Services shall try to ensure that:

- There are at least two experienced Members in attendance
- Rotation of Membership

‘Experienced’ is defined as having previously taken part in two separate hearings.

2.3 Members may sit on a Hearing which relates to their own Ward as long as there is no conflict of interest ’and any relevant declarations are made at the beginning of the meeting.

2.4 The Chairman for a Hearing shall be selected from the Members that form the Sub-Committee.

2.5 When unforeseen circumstances require, or an urgent matter has arisen, the Sub-Committee may be made up of two Councillors as opposed to three.

#### **3.0 Hearings to be held in public**

3.1 Licensing Hearings shall take place in public. However, the Sub-Committee may exclude the public (including a party to the hearing) from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

3.2 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:

- a) refuse to permit that person to return, or

- b) permit him/her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

#### **4.0 Time of Hearings**

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

#### **5.0 Notice of Hearing**

- 5.1 The Licensing Authority shall give parties to the Hearing a notice stating the date, time and place where the Hearing is to be held. This is the 'Notice of Hearing' and must be given in accordance with the provisions of the regulations.

- 5.2 The Notice of Hearing shall be accompanied by information regarding the following:

- a) the rights of a party provided for in regulations 15 and 16 of the Licensing Act 2003 (Hearings) Regulations 2005
- b) the consequences if a party does not attend or is not represented at the Hearing
- c) the procedure to be followed at the hearing; and
- d) any particular points on which the Licensing Authority considers that it will want clarification from a party at the hearing.

- 5.3 Each party shall respond to the Notice of Hearing within the time prescribed by regulations which shall be stated on the Notice itself. The response must state:

- a) whether he/she intends to attend or be represented at the hearing;
- b) whether he/she considers a hearing to be unnecessary

#### **6.0 Right of Attendance, Assistance and Representation**

- 6.1 Subject to paragraphs 3.1 and 3.2, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. A party may be assisted or represented by their Ward Councillor. Any Councillor undertaking such a role would not take part in the determination of the matter before the Sub-Committee.

## **7.0 Hearings held on more than one day**

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

## **8.0 Right to dispense with a hearing**

8.1 If all parties agree that a hearing is unnecessary, then with the agreement of the Licensing Authority, the hearing may be dispensed with.

## **9.0 Right to postpone or adjourn a hearing**

9.1 The Sub-Committee may postpone or adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party.

## **10.0 Report**

10.1 A report prepared by the Licensing Authority will be put before the Sub-Committee.

10.2 A copy of the report will be made available to all parties in advance of the hearing.

## **11.0 Detailed Procedural notes**

11.1 Detailed procedural notes for the most regularly heard hearings are available and will be circulated in advance of the relevant hearing. These procedural notes cover the following applications / notices:

- New Premises Licence / Variation of existing Premises Licence (or Club Premises Certificate)
- Temporary Event Notices
- Review of a Premises Licence or Club Premises Certificate

## **12.0 Procedure at hearing - General**

12.1 At the beginning of the hearing, the Chairman and members of the Sub-Committee will introduce themselves, invite parties to identify / introduce themselves and then explain the procedure that the Sub-Committee intends to follow.

12.2 If applicable, the Sub-Committee will then consider any request made by a party for any other person to appear at the hearing. Permission shall not be unreasonably withheld.

12.3 Where the written evidence or information provided by the applicant or any other party has raised legal issues or submissions, the Chairman may request that any legal

representatives present at the hearing and the legal representative of the authority address the Sub-Committee on the legal points raised.

- 12.4 The hearing shall take the form of a discussion led by the Sub-Committee on any matter that is relevant to the application, notice or review.
- 12.5 The Chairman should indicate that members of the Sub-Committee have read the circulated papers; therefore there is no need for parties to repeat points that have already been made in representations.
- 12.6 In circumstances where there are a number of parties who wish to make the same or similar representations the nomination of a single spokesperson will usually be encouraged, and would normally be expected. This does not prevent those who have made representations from speaking during the hearing.
- 12.7 Applicants and other parties will not usually be given a time limit to present their application / representations but the Sub-Committee may stop them should they begin to repeat themselves or straying from what is considered to be relevant matters.
- 12.8 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party either before the hearing or, with the consent of all other parties, at the hearing. A party introducing documentary evidence at a hearing should bring sufficient copies for all other parties and the Sub-Committee.
- 12.9 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing.
- 12.10 The Sub-Committee will disregard any information given by a party that is not relevant to the application, notice or representations made.
- 12.11 Parties may question any other party if permission is given by the Sub-Committee. Cross examination will not be allowed unless the Sub-Committee considers that it is required for it to consider the representations, application or notice as the case may require.
- 12.12 Hearsay evidence is admissible but consideration will always be given to the weight, if any, to be attached to such evidence, depending on the circumstances in which it arises.

### **13.0 Roles of Officers**

#### Representative of Legal Services

- 13.1 The role of the representative of Legal Services will be to deal with any questions of law, matters of practice and procedure and where appropriate assist the Sub-Committee in formulating the reasons for its decision. They may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.

#### Representative of Member Services

- 13.2 The role of the representative of Member Services will be to make a record of the proceedings both by way of notes of the evidence / information given and a minute of the decision reached, inclusive of the reasons for the decision.

#### Licensing Officer

- 13.3 The role of the Licensing Officer will be to introduce the application / notice, outline the relevant facts and any issues involved through the presentation of their report.

### **14.0 Determination of Applications / Notices**

- 14.1 Unless the matter being considered by the Sub-Committee falls within one of the categories listed in point 14.2, the Sub-Committee has five working days to make their determination beginning with the day, or the last day, on which the hearing was held.

- 14.2 In relation to the following matters, the Sub-Committee must make its decision at the conclusion of the hearing:

- a) A counter notice following an objection to a temporary event notice
- b) Review of a premises licence following closure order

### **15.0 Record of proceedings**

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

### **16.0 Appeals**

- 16.1 Either those who have made an application or those who have made a representation on an application may have the right to appeal the authorities decision to the Magistrates Court.

16.2 An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the licensing authority of their decision.

### **17.0 Irregularities**

17.1 Proceedings will not be rendered void only as a result of failure to comply with any provision of the Hearing Regulations.

17.2 Where the authority considers that any person may have been prejudiced as the result of an irregularity relating to the Hearing Regulations, it will take such steps, as it thinks fit to cure the irregularity, before reaching its determination.

17.3 Clerical mistakes in any document recording a determination of the authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the authority.

## **The following information and procedures are associated with this document**

### **Legislation**

- The Licensing Act 2003 (Hearings) Regulations 2005:
  - [http://www.legislation.gov.uk/uksi/2005/44/pdfs/uksi\\_20050044\\_en.pdf](http://www.legislation.gov.uk/uksi/2005/44/pdfs/uksi_20050044_en.pdf)

### **Hearing Procedures**

- New / Variation of Premises or Club
- Temporary Event Notices
- Review

### **Hearing Guidance**

- General guidance to attendees

## **HEARING PROCEDURE: NEW / VARIATION OF PREMISES OR CLUB**

### **Introduction and Preliminary remarks**

1. The following parties will introduce themselves:
  - The Chairman of the Sub-Committee
  - Members of the Sub-Committee
  - Council Officers (legal advisor, member services officer and licensing officer)
2. The Chairman will ask for any declarations of interest.
3. The Chairman will announce if the hearing is to be held in public or private session.
4. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
  - Applicant and any person representing or assisting them
  - Responsible Authorities that have made a relevant representation
  - Other Parties who have made a relevant representation. If a spokesperson has been appointed / nominated for a group they should be identified.
5. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
6. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
7. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

### **Statement by the licensing officer**

8. The Chairman will ask the officer to summarise the matter under consideration and present the salient points of the report.
9. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:

- Applicant
- Responsible Authorities
- Other Parties
- Sub-Committee

10. The licensing officer may respond to any new issues raised.

**Case for the applicant**

11. The applicant (or their representative) to present case in support of the application.

12. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Responsible Authorities
- Other Parties
- Sub-Committee

13. The applicant (or their representative) may then respond to any new issues raised

**Case for responsible authorities (i.e. Police, Environmental Health)**

14. The representative of each responsible authority will be invited in turn to present the views of their organisation.

15. Each other party (if permitted by, and via the Chairman) may then ask questions of the representative based on what they have heard. This will be in the following order:

- Applicant
- Other Parties
- Sub-Committee

16. The representative may then respond to any new issues raised.

**Case for the 'other parties'**

17. Those who have made representations will be invited to present their views.

18. If a spokesperson has agreed to speak on behalf of a several people, all of those he/she represents may add any further points after.

19. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Responsible Authorities
- Other Parties
- Sub-Committee

20. The other party may then respond to any new issues raised.

### **Discussion about conditions**

21. If it appears to any party that one or more of the issues raised during the hearing could be dealt with by means of a condition attached to the licence, that person may put forward the suggestion(s) to the Chairman at this stage. All other parties are to be given an opportunity to comment and express a view on any proposed condition.

### **Summary**

22. Any party wishing to summarise his or her views may do so, in the order in which they presented their case. This will usually be as follows:

- Applicant
- Responsible Authorities
- Other Parties

### **The decision**

23. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from legal and members services.

24. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.

25. The Chairman to announce the Sub-Committee's decision if one has been made. This can include giving reasons (if finalised). If the Sub-Committee is minded to grant with the addition of conditions they may give the general of the condition and the intention of them. Specific wording in line with the Sub-Committee's direction may then be delegated to the Licensing Officer to prepare and send out in the decision notice.

26. The Council's legal officer will then outline the rights of appeal.

27. The decision and rights of appeal will be confirmed in writing by the licensing officer.

**HEARING PROCEDURE: TEMPORARY EVENT NOTICES (TENS)****Introduction and Preliminary remarks**

1. The following parties will introduce themselves:
  - The Chairman of the Sub-Committee
  - Members of the Sub-Committee
  - Council Officers (legal advisor, member services officer and licensing officer)
2. The Chairman will ask for any declarations of interest.
3. The Chairman will announce if the hearing is to be held in public or private session.
4. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
  - Premises User (the person who has submitted the TEN) and any person representing or assisting them
  - Responsible Authorities that have made a relevant representation
5. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
6. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
7. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

**Statement by the licensing officer**

8. The Chairman will ask the officer to summarise the matter under consideration and present the salient points of the report.
9. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:
  - Premises User

- Responsible Authorities
- Sub-Committee

10. The licensing officer may respond to any new issues raised.

**Case for the premises user (the person who has submitted the TEN)**

11. The premises user (or their representative) to present case in support of the TEN.

12. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Responsible Authorities
- Sub-Committee

13. The premises user (or their representative) may then respond to any new issues raised.

**Case for responsible authorities (Police / Environmental Health)**

14. The representative of each responsible authority will be invited in turn to present the views of their organisation.

15. Each other party (if permitted by, and via the Chairman) may then ask questions of the representative based on what they have heard. This will be in the following order:

- Premises user
- Sub-Committee

16. The representative may then respond to any new issues raised.

**Summary**

17. Any party wishing to summarise his or her views may do so, in the order in which they presented their case. This will usually be as follows:

- Premises User
- Responsible Authorities

**The decision**

18. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from legal and member services.

19. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.
20. The Chairman to announce the Sub-Committee's decision and the reason for the decision.
21. The Council's legal officer will then outline the rights of appeal.
22. The decision and rights of appeal will be confirmed in writing by the licensing officer.

## **HEARING PROCEDURE: REVIEW OF PREMISES**

### **Introduction and Preliminary remarks**

1. The following parties will introduce themselves:
  - The Chairman of the Sub-Committee
  - Members of the Sub-Committee
  - Council Officers (legal advisor, member services officer and licensing officer)
2. The Chairman will ask for any declarations of interest.
3. The Chairman will announce if the hearing is to be held in public or private session.
4. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
  - Applicant for review and any person representing or assisting them
  - The holder of the premises licence and any person representing or assisting them
  - Responsible Authorities that have made a relevant representation
  - Other Parties who have made a relevant representation. If a spokesperson has been appointed / nominated for a group they should be identified.
5. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
6. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
7. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

### **Statement by the licensing officer**

8. The Chairman will ask the officer to summarise the matter under consideration and present the salient points of the report.

9. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:

- Applicant for review
- Holder of premises licence
- Responsible authorities
- Other parties
- Sub-Committee

10. The licensing officer may respond to any new issues raised.

**Case for the applicant of the review**

11. The applicant (or their representative) to present case in support of the application.

12. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Holder of the premises licence
- Responsible authorities
- Other Parties
- Sub-Committee

13. The applicant (or their representative) may then respond to any new issues raised

**Case for the premises licence holder**

14. The premises licence holder (or their representative) will be invited to present their response to the review application.

15. Each other party (if permitted by, and via the Chairman) may then ask questions of the premises licence holder (or their representative) based on what they have heard. This will be in the following order:

- Applicant
- Responsible authorities
- Other Parties

- Sub-Committee

16. The premises licence holder may then respond to any new issues raised.

**Case for responsible authorities (i.e. Police, Environmental Health)**

17. The representative of each responsible authority will be invited in turn to present the views of their organisation.

18. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Premises licence holder
- Other Parties
- Sub-Committee

19. The representative may then respond to any new issues raised.

**Case for the 'other parties'**

20. Those who have made representations will be invited to present their views.

21. If a spokesperson has agreed to speak on behalf of several people, all of those he/she represents may add any further points after.

22. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Premises licence holder
- Sub-Committee

23. The other party may then respond to any new issues raised.

**Discussion about conditions**

24. If it appears to any party that one or more of the issues raised during the hearing could be dealt with by means of a condition attached to the licence, that person may put forward the suggestion(s) to the Chairman at this stage. All other parties are to be given an opportunity to comment and express a view on any proposed condition.

## **Summary**

25. Any party wishing to summarise his or her views may do so, in the order in which they presented their case. This will usually be as follows:

- Applicant
- Premises licence holder
- Responsible Authorities
- Other Parties

## **The decision**

26. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from legal and members services.

27. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.

28. The Chairman to announce the Sub-Committee's decision if one has been made. This can include giving reasons (if finalised). If the Sub-Committee is minded to place on the licence additional conditions they may give the general of the condition and the intention of them. Specific wording in line with the Sub-Committee's direction may then be deferred to the Licensing Officer to prepare and send out in the decision notice.

29. The Council's legal officer will then outline the rights of appeal.

30. The decision and rights of appeal will be confirmed in writing by the licensing officer.

## **General guidance to attendees**

### **RIGHTS OF A PARTY**

As a party to the hearing, you are entitled to:

- Attend the hearing
- Be assisted or represented at the hearing by another person, whether or not that person is legally qualified
- Give further information in support of your application or representation in circumstances where the Licensing Authority has given you notice that clarification on a point is required
- Question any other party if given permission to do so by the Licensing Authority
- Address the Licensing Authority

### **FAILURE TO ATTEND THE HEARING**

- If you or your representative are unable to attend the hearing, the hearing may proceed in your absence (in which case the Licensing Authority will consider the application, representation or notice made by you)
- Alternatively, the Licensing Authority may, where it is in the public interest, adjourn the hearing to another date and notify all parties

### **HEARING PROCEDURE**

- The procedure to be followed at the hearing is contained in the document 'Protocol and Procedure for Licensing Sub-Committee Hearings'.

### **ADDITIONAL INFORMATION**

#### **Documents**

- You may produce documents or other information in support of your application, representation or notice (as applicable) either before the hearing, or with the consent of all the other parties, at the hearing
- In considering the representations or notice made by you, the Licensing Authority may take into account any documents produced in accordance with this provision.

### Submissions

- You must confine your submission at the hearing to the representations you have made within the statutory prescribed period. You may not raise new representations at the hearing.

### Time

- There is no set time limit for verbal submissions at the hearing. The Chairman or Councils legal advisor may move the discussion on if you begin to repeat yourself or introduce points that are not relevant.
- Where a number of parties attending a hearing wish to make the same or similar points, the Chairman may invite parties to appoint a spokesperson (if they have not done so already). You will then be entitled to add anything you consider the spokesperson has omitted.

### Disruptive behaviour

- Any person attending the hearing who is deemed by the Licensing Authority to be behaving in a disruptive manner will be required to leave the hearing.

### **DETERMINATION AND NOTIFICATION OF DECISION**

- The Licensing Authority will try to make its decision on the same day as the hearing whenever possible
- The Licensing Authority will notify each party in writing of its determination and the rights of appeal

### **ADDITIONAL INFORMATION**

Should you require any further information about the hearing process please contact the Licensing Authority on 01884 255255

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