

MID DEVON DISTRICT COUNCIL

Licensing Committee

Procedure for Hearings

1. Introduction

The hearing will be conducted in accordance with The Licensing Act 2003 (Hearings) Regulations (2005). The Sub-Committee will follow the procedure set out below at all hearings under the Licensing Act (2003)

2 The Officers

- 2.1 Each Sub-Committee will comprise of three Councillors of Mid Devon District Council who will hear applications made under the Licensing Act (2003)
- 2.2 The Committee will be attended by a:
 - (a) A Licensing Officer
 - (b) Representative of Legal Services
 - (c) Representative of Member Services
- 2.3 The role of the Licensing Officer will be to introduce the application, outline the relevant facts and any issues involved through the presentation of their report
- 2.4 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.
- 2.5 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 given and a minute of the decision reached, inclusive of the reasons for the decision.

3. Procedures at the hearing

- 3.1 The Chair of the hearing will introduce the members of the Sub-Committee and the Officers present at the hearing.
- 3.2 The Chair will introduce the matter to be resolved, and will ask the parties present at the hearing to introduce themselves.
- 3.3 The Chair will outline the procedure to be followed at the hearing.
- 3.4 Upon the failure of a party to attend the hearing, the Sub-Committee will decide whether to adjourn the matter, or proceed in the party's absence. If the decision is taken to proceed, the party's written application or representation will be taken into account.
- 3.5 The Sub-Committee will consider whether the hearing should be held in public or private session. The hearing will usually be heard in public except where the Sub-

Committee decide that it is in the public interest for the public to be excluded from a particular hearing, or part thereof or where the Sub-Committee make a resolution that the public and the press be excluded from the hearing, on the basis that either confidential or exempt information is likely to be disclosed.

- 3.6 The Sub-Committee will decide whether to grant any written request made by a party for permission to call a witness at the hearing. Any request may not be unreasonably withheld.
- 3.7 The Sub-Committee will consider any requests to present any new evidence or information that has not already been disclosed to all the parties and the Sub-Committee. The general rule is that the Sub-Committee must not consider information or evidence that was not disclosed to it or to the other parties prior to the hearing taking place, although all parties at the hearing can agree to that extra information being considered on the day of the hearing.
- 3.8 The Sub-Committee will consider any requests to call witnesses and will make a decision on such requests.
- 3.9 The Sub-Committee will consider any requests for permission to ask questions of other parties. The Sub-Committee will consider whether asking questions is required in order for it to consider the case properly. If permission is given to one party to ask questions, it will usually be given to all other parties at the hearing.
- 3.10 The Sub-Committee will decide the length of time that each party will be allowed to present their case.
- 3.11 The hearing will take the form of a discussion to be led by the Sub-committee
- 3.12 The Chair will ask the Licensing Officer to outline the matter before the Sub-Committee.
- 3.13 Where the written evidence or information provided by the applicant, responsible authorities and/or interested parties have raised legal issues or submissions, the Chair may request that any legal representatives present at the hearing and the legal representative of Legal Services address the Sub-Committee on the legal points raised.
- 3.14 The Applicant will make their case first either personally or through a representative. The Applicant may give further information in support of the application, but only in response to a point upon which the authority has given notice that it will want clarification.
- 3.15 Documentary evidence or other information produced by the Applicant may be considered, provided this has been produced prior to the hearing, or if not, with the consent of all the other parties. It may be necessary in some circumstances for the hearing to be put back until later in the day so that parties may consider additional information which is produced at the hearing.
- 3.16 The Applicant may then be questioned by members of the Sub-Committee. Questions will either be directed through the Chairman, or put directly by members with the agreement of the Chairman.

- 3.17 The Applicant may call any witnesses in support of his application, if this has been permitted by the Sub-Committee. The witnesses will address the Sub-Committee, which may then ask any question of the witnesses.
- 3.18 When the Applicant has completed the presentation of their case, the representatives of any responsible authorities who have made relevant representations address the Sub-Committee, and may be questioned by members of the Sub-Committee.
- 3.19 Witnesses may be called by the responsible authorities where permitted by the Sub-Committee. Documentary or other information produced on behalf of the responsible authority may be considered
- 3.20 Thereafter, other persons address the hearing, and they may be questioned by members of the Sub-Committee.
- 3.21 Witnesses who are permitted to be called in support of the submissions of the interested parties are then questioned by members of the Sub-Committee. Documentary or other information produced on behalf of an interested party may be considered
- 3.22 Where the Applicant is a responsible authority or an interested party the licence holder will present their case after the applicant followed by any responsible authorities and then interested parties.
- 3.23 After the conclusion of the evidence, each party may sum up their case, by addressing the sub-committee in the order in which they presented their case.
- 3.24 The Sub-Committee will either leave the hearing room to deliberate or ask all parties to leave the room.
- 3.25 Depending on the nature of the application, a determination of the case may be made either at the conclusion of the hearing or within 5 working days.
- 3.26 Where the case is determined at the end of the hearing the Chairman will read the Sub-Committee's determination aloud together with the terms of the decision made and the reasons for such decision.
- 3.27 The Chairman will thank everyone for their contributions, and closes the meeting, or moves on to the next item on the agenda.

4. After the Hearing

- 4.1 Once the meeting of the Sub-Committee has been concluded, Member Services will prepare minutes of the hearings.
- 4.2 The Licensing Officer will issue a notice to all of the parties involved (whether present at the hearing or not), outlining the decision of the Sub-Committee.