


<p><b>London Borough of Hammersmith &amp; Fulham</b></p> <p><b>MEETING OF THE LICENSING COMMITTEE</b></p> <p><b>27 March 2019</b></p>	
<p><b>Licensing Sub-Committee Procedure</b></p>	
<p><b>Report of the Assistant Director of Legal and Democratic Services</b></p>	
<p><b>Open Report</b></p>	
<p><b>Classification – For Decision</b></p>	
<p><b>Key Decision: NO</b></p>	
<p><b>Wards Affected: None</b></p>	
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## 1. EXECUTIVE SUMMARY

- 1.1 This report recommends that a standard procedure should be adopted when dealing with all licensing applications which need to be determined by the Licensing Committee and its Sub-Committees (the “Committee”) under the Licensing Act 2003 and the Gambling Act 2005 or any Acts which amend or vary these Acts.

## 2. RECOMMENDATIONS

- 2.1 That members of the Licensing Committee approve the procedure specified in Appendix 1;
- 2.2 That the Head of Environmental Health be delegated authority to amend the approved procedure in consultation with the Chair of the Licensing Committee as appropriate.
- 2.3 That the approved procedure be used as a template for other licensing applications considered by the Committee.

## 3. INTRODUCTION

- 3.1 The Committee determines a variety of licensing applications in relation to the grant, variation and review of applications and Notices under the Licensing Act 2003 and the Gambling Act 2005.
- 3.2 All applications must be determined in accordance with The Licensing Act 2003 (Hearings) Regulations 2005 (as amended), but subject to this, the Licensing Authority is entitled to establish its own procedure for determining applications and for carrying out its functions under these Acts.
- 3.3 The Council has been following an informal procedure for many years but it was considered that it would be helpful to provide a more formal procedure so that the parties and their representatives know what to expect at the hearing. **Appendix 1** attaches a proposed procedure

recommended for approval by the Committee.

- 3.4 The Committee will need to decide whether they wish to adopt a time limit for each party to present and sum up their case before the Committee.
- 3.5 The Committee deals with a variety of licensing applications for, for example lotteries; sex establishments and sexual entertainment venues; film classifications, marriage venues; non-medical poisons and scrap metal dealers. This procedure could also be used as a template for other licensing applications if the Committee wishes to do so, subject to any variations which may be needed in light of the differing legislative requirements which may be applicable.

#### **4. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES**

- 4.1 There are no financial implications.

#### **5. COMMENTS OF THE ASSISTANT DIRECTOR OF LAW AND DEMOCRATIC SERVICES**

- 5.1 The Licensing Committee is entitled to set its own procedure for determining licensing applications provided it complies with any legislation which may be applicable under the particular licensing regime.

#### **6. IMPLICATIONS FOR BUSINESS**

- 6.1 There are no business implications.

#### **7. PROCUREMENT AND IT STRATEGY IMPLICATIONS**

- 7.1 This is not applicable in this case.

#### **List of Appendices**

<b>Appendix Number</b>	<b>Description</b>
Appendix 1	Draft Procedure

## **APPENDIX 1**

### **DRAFT PROCEDURE FOR LICENSING HEARINGS**

#### **1.0 Scope**

- 1.1 This procedure applies to all applications, representations, notices and requests for review and such other functions which are required to be determined or considered by the Licensing Committee and its Sub-Committees (“the Committee”) of the Council. This will include applications for the grant, variation and review of Premises Licences or Club Premises Certificates; Temporary Event Notices; Personal Licences and any other application, representation or notices which the Committee is required to determine under the Licensing Act 2003 and the Gambling Act 2005, or such other Acts permitted under the Terms of Reference.

#### **2.0 Representations**

- 2.1 Any person who wishes to make a representation regarding an application for a licence or who wishes to request a review of a licence should email the Licensing Department on [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk) or or by mail to the Licensing Department, London Borough of Hammersmith and Fulham, Council Offices, 37 Pembroke Road, London, W8 6PW. Each representation and request for review should fully explain the nature of the points made and outline, in detail, the evidence relied upon to substantiate those points.
- 2.2 The Council is unable to accept anonymous representations or requests for review. Representations or requests for review will only be relevant if they relate to one or more of the four licensing objectives:
- (a) The Prevention of Crime and Disorder;
  - (b) Public Safety;
  - (c) The Prevention of Public Nuisance; and
  - (d) The Protection of Children from Harm.
- 2.3 Representations must be made in accordance with the time limits set out in the legislation.

#### **3.0 Arrangements for Licensing Hearings**

- 3.1 Licensing hearings will normally take place at the Town Hall, King Street, Hammersmith or such other venue as the Council advises. The hearing will normally take place before a Sub-Committee of the full Licensing Committee. The Sub-Committee will comprise three councillors but the hearing can proceed with two councillors as the quorum shall be two. The Sub-Committee will normally be advised

by a legal officer and attended by a committee co-ordinator who will prepare the minutes of the meeting. The minutes, when approved, will then be made available on the Council's website.

- 3.2 The hearing will take place in public. However, in exceptional circumstances, when the Committee considers that it is in the public interest, it may exclude the public from all or any part of a hearing.
- 3.3 If any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) it is appropriate that they be brought to the attention of the Council prior to the hearing in order that appropriate provision may be made.
- 3.4 The licensing hearing will normally be held within the period of 20 working days from the day when the consultation period ends. The Council will give appropriate notice of the hearing. The period of notice will depend upon the type of hearing, which is stated in The Licensing Act 2003 (Hearings) Regulations 2005. Expedited Reviews and Temporary Event Notices have different time limits.
- 3.5 A Notice of the hearing will be accompanied by:
- a copy of this procedure note;
  - confirmation that a party may be assisted or represented by a person whether or not that person is legally qualified;
  - confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification
  - the consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
  - a note of any particular points on which the Council wants clarification.
- 3.6 The Council's licensing officer will normally prepare a report for consideration by the Committee. This report will be sent to the parties and will be accompanied by the relevant documentary material that has been submitted by the parties.
- 3.7 All parties upon whom a notice of hearing has been served are required to give to the Council notice of:
- whether they intend to attend or to be represented at the hearing;
  - whether they consider a hearing to be unnecessary; and
  - whether they wish to request that another person appear at the hearing (other than their representative). If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the Council.

This notice has to be given to the Council no later than the day indicated in the notice served.

- 3.8 A Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

#### **4.0 Procedure at the Hearing**

- 4.1 The Chair of the Committee will open the hearing by introducing the members of the Committee and will ask all parties present to identify themselves. The Chair will usually open by explaining the following procedure.
- 4.2 The procedure of the hearing will take the form of a discussion, led by the Chair of the Committee, generally in line with the procedure specified below. However, the Chair has the discretion to amend the procedure as they consider appropriate.
- 4.4 Each Party will then be asked to address the Committee in support of their application, representation or notice. The usual order will be for the Licensing Officer to go first, followed by the Responsible Authorities, other persons who have made valid representations to the Licensing Authority, Ward Councillors and then the Applicant.
- 4.5 Each Party will address the Committee once for a **maximum of five minutes in which to present their case or representations.**
- 4.6 During this time, the Party will be expected to explain their case and present any evidence in support, including factual; references to legislation, authorities and dealing with any conditions which might be proposed or under consideration. The Chair may extend the time for each submission where it is necessary for the determination of the case.
- 4.6 Following the presentation by all parties, the Committee may ask questions of any party or other person present at the hearing. Members may also seek any guidance from any officers present during the hearing at any time. No party has the right to ask questions of any other party at any time during the hearing
- 4.6 Following the presentation and questioning, each party will be allowed a maximum of 3 minutes to sum up their case or representation
- 4.7 The Committee will normally retire to make their decision in private. Once a decision has been reached the Committee will normally return into open session and announce a summary of the decision. The Committee may however choose to make its decision within 5 working days of the close of the hearing.
- 4.8 If, during its deliberations, the Committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing will be reconvened to deal with that issue.
- 4.9 The Committee may allow the production of documentary or other evidence produced by a party in support of its case at the hearing provided all other parties give their consent. Even if new material is permitted, the hearing may need to be adjourned to allow time to consider it and for other parties to respond to it.

Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for parties to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

- 4.10 The Chair of the Committee may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he may specify.
- 4.11 Due to the subject matter of the hearings, they may not be appropriate for young children. If it is necessary for young children to attend, please advise the Licensing department in advance of the hearing.
- 4.12 It should be noted that the Committee has no power to award costs to any party to the hearing.

## **5.0 Procedure following the hearing**

- 5.1 The Licensing Authority will notify the parties to the hearing of the decision in writing. Where required by the Licensing Act 2003, the Council will also notify the chief officer of the police even though the chief officer was not a party to the hearing. The decision notice will be accompanied by information regarding the right of the parties to appeal against the Council's decision.

## **6.0 Failure to attend the hearing**

- 6.1 If a Party has informed the Authority that he or she will not attend or be represented at the hearing, the hearing can proceed in his or her absence.
- 6.2 If a Party has failed to indicate whether or not he or she will attend or be represented at the hearing, the Committee may: -
  - (a) adjourn the hearing to a specified date, where it considers it is necessary in the public interest; or
  - (b) hold the hearing in the Party's absence.
- 6.3 Where the Committee holds the hearing in the absence of a Party, the Committee shall consider the application and/or any valid representations or notice, which, that Party has previously submitted during the Committee's consideration of the application.

**7.0 Requests for adjournment of the hearing**

- 7.1 Any request for the adjournment of a hearing must be sent to [licensing@lbhf.gov.uk](mailto:licensing@lbhf.gov.uk) as soon as possible setting out the reasons for the request following notification of the hearing date. A decision on the request will be made by the Chair of the Sub-Committee and communicated to the parties as soon as possible.
- 7.2 In the event that the request for adjournment of the decision is made less than 72 hours before the scheduled date for the hearing, the decision on the request for the adjournment will be made at the hearing. All parties will be notified in advance of the hearing that a request for the adjournment of the hearing has been submitted to the licensing authority and that this will be determined at the hearing.
- 7.3 Where the hearing has been adjourned to a specified date, the Authority must notify the parties of the date, time and place to which the hearing has been adjourned.