

PROCEDURE NOTES FOR THE HEARING OF REPRESENTATION AGAINST THE DECISION OF THE COUNCIL TO REFUSE TO GRANT OR RENEW, REVOKE OR VARY A STREET TRADING LICENCE

London Local Authorities Act 1990, as amended by the London Local Authorities Act 1994

1. PURPOSE OF THE HEARING

- 1.1 The purpose of the hearing is for the Licensing Panel (the Panel) to hear representations by the applicant or licence holder, before the Council decides to grant or renew, or which might result in the refusal or the revocation or variation of a street trading licence.
- 1.2 In the event that there are no representations made the Director of Public Protection (the Director) had delegated authority to refuse to grant or renew, or to revoke or vary a street trading licence.
- 1.3 However, the Council will not proceed to determine any of the above matters until the applicant or licence holder has been given **21 days' notice** in writing that objection has been or will be taken to such a grant or renewal or to make representations against the revocation or variation proposed. The grounds on which such a decision would be based will be specified and the applicant given the opportunity to appear before the Panel which will determine the matter.
- 1.4 In order for the Panel to determine the matter it will need to consider all the relevant circumstances.
- 1.5 The matters under consideration are exempt information in accordance with Local Government Act 1972 as they may relate to the financial or business affairs of a particular person (other than the Authority). Consequently, the proceedings before the Panel will not be conducted in public. The trader, his/her representative and officers of the council will be permitted to be present when giving evidence material to the decision.
- 1.6 If the Panel is not satisfied that all the formal requirements have been complied with, they will decide whether to:
 - a) continue with consideration of the matter, or
 - b) adjourn the proceedings to enable the formal requirements to be completed.
 - c) dismiss the matter.
- 1.7 A summary of the main reasons for refusing to grant or renew a licence or to revoke or vary the conditions are detailed on the Variation of Street Trading Licence Report attached to these Guidance Notes.

2. ORDER OF PROCEEDINGS

- 2.1 The Chair of the Panel shall have discretions as to the conduct of the proceedings but normally the procedure will be as follows.
- 2.2 The Chair of the Panel will open the hearing by introducing himself/herself and the other members of the Panel and will explain the purpose of the hearing to all present.
- 2.3 All those present will then be asked to identify themselves. The trader making representation against the proposed actions, the trader's representatives (if any) and the officers of the Council will be permitted to be present throughout the hearing. These persons, the trader's witnesses and the other persons invited to make representations to the panel will be entitled to address the Panel.
- 2.4 The Chair will outline the procedure to be followed and give the order in which those present will be asked to speak. He/she will also state that the trader and Director (or his/her nominated representative) has the right to call witnesses.
- 2.5 The Director or his/her nominated representative(s) will present the details of the case including the circumstances, facts and any other relevant information relating to the proposal that the trader's licence should be revoked, refused, or be varied.
- 2.6 Members of the Panel and the trader or his/her representative may then question the Director, or the Directors nominated representative and any of the witnesses called on evidence presented.
- 2.7 The trader whose licence is being determined will then be invited to make his/her representations. The trader may put forward any evidence to support the representations and may call upon a representative to assist, present or support his/her case.
- 2.8 Members of the Panel and the Director (or nominated representative) may question the trader, his/her representative and any witnesses called on the evidence presented.

3. SUMMING UP STAGE

- 3.1 The Panel will invite the Director (or nominated representative) to sum up the case. The trader or his/her representative will then be entitled to sum up the trader's case. No new evidence will be permitted once the summing up stage has commenced.

4. DELIBERATION OF THE PANEL

- 4.1 The panel will consider, in private, the trader's representations.
- 4.2 If, during their deliberation, the Panel wishes to recall the trader, or his/her representative or an officer of the council or any other person involved with

the hearing to provide further information or clarification, then ALL parties to the hearing shall be invited to return.

5. NOTIFICATION OF THE PANEL DECISION

- 5.1 The trader and the Director will be notified of the Panel's decision, in writing, within 10 working days of the Panel reaching its conclusion (this may be from the date of any subsequent hearings if the hearing is adjourned for any reason).

6. APPEAL AGAINST THE DECISION OF THE PANEL

- 6.1 A trader who is aggrieved by the decision of the Panel may appeal to a Magistrates' Court in accordance with the provisions of the London Local Authorities Act 1994. Such an appeal must be made before the expiration of 21 days beginning with the date upon which written notification of the Panel's decision was received.
- 6.2 If the trader decides to appeal to the Magistrates' Court, he/she must give written notice to the court and to the Council, specifying the grounds of the appeal.
- 6.3 An appeal against the decision of the Magistrates' Court may be brought to the Crown Court and the Council shall not give effect to the order of the Magistrates' Court until such appeal is determined or abandoned.
- 6.4 It is the duty of the Council to give effect to the order of the Magistrates' Court or the Crown Court.