



CHILTERN DISTRICT COUNCIL

Licensing & Regulation Committee

**Thursday, 24th November, 2011
At
6.30 pm**

**Large & Small Committee Room, King George V House, King George
V Road, Amersham**

**Revised Appendix for Item 9:
Taxi & Private Hire Sub Committee Procedures**

CHILTERN DISTRICT COUNCIL
TAXI LICENSING SUB-COMMITTEE - HEARING PROCEDURES

General Principles

The following general principles apply to the conduct of hearings by the Taxi Licensing Sub-Committee:-

- (i) all parties have the right to a fair hearing;
- (ii) each case shall be treated on its own merits;
- (iii) decisions shall be made in accordance with the principles set out in Article 12.2 of the Council's Constitution; that is to say all decisions shall be lawful, proportionate, non discriminatory, open and transparent; and
- (iv) decisions shall be made on the basis of the following considerations:- :
 - the merits of the case;
 - the promotion of Public Safety;
 - the controls arising from the Police Town Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976, byelaws made in respect of Hackney Carriages, and any amendments to or replacement of such Acts and/or byelaws;
 - the Taxi and Private Hire Licensing Policy from time to time adopted by Chiltern District Council; and
 - the Guidance from time to time issued by the Secretary of State for Transport or the Home Office pursuant to Taxi and Private Hire Licensing.

The Council last reviewed its Taxi and Private Hire Licensing Policy on 26th May 2005 and a copy can be viewed on the Council web site –

http://www.chiltern.gov.uk/downloads/Policy_on_Licensing_HC_and_PHV_2005-6_FINAL_1_.pdf

The current Guidance from the Secretary of State for Transport was issued on 2nd March 2010 and a copy may be viewed on the Department for Transport, web site –

<http://www.dft.gov.uk/publications/taxi-private-hire-licensing>

Hearing Procedures - Preliminary Matters

Notification of Hearing

Twenty-eight calendar days **written notice** of a hearing will be given to an Applicant/Licence Holder. The Applicant/Licence Holder will be advised that they may be represented at the hearing (at their own cost) by a legal or a non-legal representative (including a friend/colleague etc) and that they may call Witnesses.

The Applicant/Licence Holder should advise **in writing**, within 5 working days of the hearing, if they wish to be represented and by whom, and if they wish to call Witnesses.

Location of Hearings

All applications will be heard at the King George V House, King George V Road, Amersham Bucks HP6 5AW unless otherwise notified.

Admission of the Press and Public

The Sub-Committee is committed to taking decisions in an open, accountable and transparent manner but on occasion it may be necessary exclude members of the press and public based upon the legal framework set out in Section 100A to I and Schedule 12A of the Local Government Act 1972 and the Councils Access to Information Rules. Hearings will be held in public where appropriate but decisions will be made in private.

Time for Assembly

All scheduled day time hearings will normally be listed for 10.00 a.m. and all scheduled evening hearings will normally be listed for 6.30 p.m. Where more than one matter has been listed the Chairman shall determine the order in which applications are heard as a preliminary matter. The Applicant/Licence Holder, their representative and Witnesses (if any) are required to be present by the time stated in the written notification of the hearing that has been served.

Hearings will normally proceed regardless of the absence of the Applicant/Licence Holder, their representative and/or Witnesses. However, the Sub-Committee may take into account any reasons given.

Address of Chairman

The Applicant/Licence Holder, their representatives and Witnesses are reminded that the proper address for the Chairman is "Chairman" or "Madam Chairman" depending on the gender of the Chairman. "Chair" is not an acceptable term of address.

Introduction of Parties, Advocates and Witnesses

At the time for assembly, the Chairman will open the meeting, introduce the Sub-Committee and the officers present and summarise the hearing procedures adopted by Sub-Committee. The Chairman will then ask the parties to identify themselves and indicate whether they intend to be represented and/or call any Witnesses. Representatives and Witnesses will then be required to identify themselves. The purpose of this procedure is to:-

- identify any possible conflicts of interest for members of the Sub-Committee at the earliest opportunity;
- to determine the order in which cases will be heard (if more than one); and
- to determine which Witnesses will be heard (if there are a number of Witnesses with similar facts).

Witnesses

The Sub-Committee will hear submissions from the Applicant/Licence Holder. If the Applicant/Licence Holder is represented the Sub-Committee may nevertheless ask the Applicant/Licence Holder direct questions.

The overriding consideration for the Chairman will be the interests of justice and the conduct of a fair hearing.

Closing Submissions

In the interests of justice, closing submissions (including a summing up of the case) by the Licensing Officer and Applicant/Licence Holder will be permitted.

For the avoidance of doubt the Applicant/Licence Holder shall be invited to make the final closing submission.

Hearing Procedures

Enforcement

1 Setting the Scene

- (i) The Licensing Officer will provide a brief factual outline of the case and the relevant statements and the relevance of these to the promotion of Public Safety, the legislative requirements, the Council's adopted Taxi and Private Hire Licensing Policy and the Guidance from the Secretary of State;
- (ii) Members may ask clarification questions of the Licensing Officer;
- (iii) The Chairman will ask the Licence Holder (if present) if they wish to ask any clarification questions of the Licensing Officer (through the Chairman).

2 Hearing the Enforcement

- (i) The Chairman will invite the Witnesses for the Licensing Authority (if any) to address the Sub-Committee;
- (ii) Members may question each Witness;
- (iii) The Licensing Officer may question each Witness (through the Chairman);
- (iv) The Licence Holder may question each Witness (through the Chairman).
- (v) The Chairman will then invite the Licence Holder to address the Sub-Committee and present their case and call any Witnesses;
- (vi) Members may question the Licence Holder and any Witness;
- (vii) The Licensing Officer may question the Licence Holder and any Witness (through the Chairman).

3 Closing Submissions

The Chairman will allow closing submissions from:

- The Licensing Officer
- The Licence Holder

4 Retirement and Decision

- (i) The Chairman will ask all Parties if they are satisfied that they have had their say.
- (ii) In cases where a decision will not be given at the end of the hearing the Chairman will inform the Licence Holder that a decision will be made within fourteen working days and notified to the Licence Holder.
- (iii) In all other cases the Sub-Committee will retire to make its decision. In exceptional cases when a retiring room is not available, the parties, their representatives, Witnesses and any members of the public will be asked to leave the room while the Sub-Committee reaches its decision.
- (iv) The Legal Advisor and Committee Clerk/s will remain with the Sub-Committee for the purpose only of giving legal advice and recording the decision.
- (v) The Sub-Committee will return (or the parties etc. and public (if applicable) invited back into the room) and the Chairman will announce the decision and brief reasons for the decision. The full decision notice will be completed within fourteen working days and notified to the Licence Holder.

Application for a licence

1 Setting the Scene

- (i) The Licensing Officer will provide a brief factual outline of the case and the relevant statements and the relevance of these to the promotion of Public Safety, the legislative requirements, the Council's adopted Taxi and Private Hire Licensing Policy and the Guidance from the Secretary of State;
- (ii) Members may ask clarification questions of the Licensing Officer;
- (iii) The Chairman will ask the Applicant (if present) if they wish to ask any clarification questions of the Licensing Officer (through the Chairman)
- (iv) The Chairman will invite the Witnesses for the Licensing Authority (if any) to address the Sub-Committee;
- (v) Members may question each Witness;
- (vi) The Applicant may question each Witness (through the Chairman);
- (vii) The Licensing Officer may question each Witness (through the Chairman).

2 Hearing the case for the Applicant

- (i) The Chairman will then invite the Applicant to address the Sub-Committee and call any Witnesses;
- (ii) Members may question the Applicant and any Witness;
- (iii) The Licensing Officer may question the Applicant and any Witness (through the Chairman).

3 Closing Submissions

The Chairman will allow closing submissions from:

- The Licensing Officer
- The Applicant

4 Retirement and Decision

- (viii) The Chairman will ask all Parties if they are satisfied that they have had their say.
- (ix) In cases where a decision will not be given at the end of the hearing the Chairman will inform the Applicant that a decision will be made within fourteen working days and notified to the Applicant.
- (x) In all other cases the Sub-Committee will retire to make its decision. In exceptional cases when a retiring room is not available, the parties, their representatives, Witnesses and any members of the public will be asked to leave the room while the Sub-Committee reaches its decision.
- (xi) The Legal Advisor and Committee Clerk/s will remain with the Sub-Committee for the purpose only of giving legal advice and recording the decision.
- (xii) The Sub-Committee will return (or the parties etc. and public (if applicable) invited back into the room) and the Chairman will announce the decision and brief reasons for the decision. The full decision notice will be completed within fourteen working days and notified to the Applicant.

Please Remember:

- 1 Decisions will generally be taken regardless of whether the Applicant/Licence Holder is present.
2. The Applicant/Licence Holder will have a right to appeal if they are unhappy with the decision taken. Appeal details will be provided with the decision notice.
3. The Council reserves the right to exclude any person who disrupts the hearing.

