

BUCKINGHAMSHIRE COUNCIL

LICENSING SUB-COMMITTEE HEARING PROCEDURE

Procedure at Hearings before the Licensing Sub-Committee in relation to matters mainly under the Licensing Act 2003 as amended (“The 2003 Act”) **except** Interim Hearings (Summary Review of a Premises Licence) conducted pursuant to Section 53B of the Licensing Act 2003, as amended (separate Procedure).

Hearings for Gambling Premises are dealt with under the Gambling Act 2005 as amended.

ADMINISTRATION IN RELATION TO A HEARING

1. Prior written notice of the Hearing will have been given to the interested/relevant parties.
 - (a) Where a party has informed the Council that they will not be attending or represented the Hearing may proceed in their absence.
 - (b) Where a party has not replied to the notice, does not attend and is not represented then the Sub-Committee may proceed with the Hearing in that party’s absence or adjourn the Hearing if it is considered necessary in the public interest to do so.
 - (c) If a party has indicated they will attend but does not appear, that party must inform the Council of any delay – with reasons - and in consideration thereof the Sub-Committee can decide to proceed with the Hearing or adjourn to later the same day or another time. If a party is more than 15 minutes late and has not contacted the Council with details of any delay – the Sub-Committee can decide to proceed with the Hearing or adjourn to later the same day or to another time.

If the Hearing is held in a party’s absence, the Sub-Committee will still consider the application, representation or notice made by that party.

2. A Hearing can be dispensed with if all parties give notice that they consider a hearing unnecessary. If this is the case the application/notice will still be determined by the Sub-Committee in public – unless it is considered to be in the public interest that the determination should be in private - on the basis of the advance papers provided, with the Licensing Officer introducing his/her report and answering any queries the Sub-Committee may have before they make their determination.
3. Representations can be withdrawn by prior notice 1 working day before the Hearing or orally at the Hearing.
4. Hearings shall take place in public **except where** the Council considers that the public interest in excluding the public from all or part of the Hearing outweighs the public interest in it remaining public. The Council considers it to be in the public interest to exclude the public, including all parties, when the Sub-Committee are deliberating in order to reach their decision. Where facilities permit, public hearings will be available to be viewed and participated in online using the Councils webcast service. Members of the public who wish to record, photograph, film and report on public hearings are asked to advise the

Democratic Services Officers before the Hearing so that where possible all necessary practical arrangement can be made.

5. At the Hearing any party can be assisted or represented by any person whether or not that person is legally qualified.
6. The Hearing will be before the Licensing Sub-Committee which will be made up of three Members of the Buckinghamshire Council's Licensing Committee who will at the beginning of the session agree and identify which of them is to act as Chairman for the Hearing. Each matter/application will be dealt with individually and three Members **must** be able to participate in relation to each application for the Hearing to proceed and remain until the subject application/notice is determined.
7. The Chairman will address any issues of interests under the Council's Member Code of Conduct at the Hearing after the introductions have been made
8. Members of the Licensing Sub-Committee must consider beforehand if they need to declare any personal interests and whether their personal interest is also a prejudicial interest in which case they will not be able to attend the Hearing. Members who have any Disclosable Pecuniary Interests will not be able to attend the Hearing either. Members should also consider beforehand if they have or would be considered to have predetermined the matter in which case they should also distance themselves from the determination of the matter and not attend the Hearing.
9. Members of the Licensing Sub-Committee will have received in advance (5 clear days) in relation to each application/notice to be considered, the Licensing Officer's Report and associated papers and will come to the Hearing having read those papers.
10. Account can be taken of documentary or other information produced by a party in support of their application, representation or notice (as applicable) either 1 working day before the Hearing or - with the consent of all other parties - at the Hearing, in which case sufficient copies are required to be provided for all relevant parties. Any party wishing to call another person (other than a person representing them) to make oral representations must provide details of this to the Council within the time stated in the Notice of Hearing which the Council will serve on the Parties. At the beginning of the Hearing the Sub-Committee will consider any such requests and confirm whether permission is granted for that person to speak.
11. The Sub-Committee may disregard any information which is not considered relevant to the application/representation/notice and the promotion of the licensing objectives.
12. The purpose of a Hearing is to enable those with a right to appear to amplify their written application or representation and to test the case of their opponents. It is also to assist the Sub-Committee to gather evidence and understand the relevant issues. The parties (including other persons on their behalf) will be allowed an equal reasonable period of time to address the Hearing and ask questions – the Chairman may set such maximum period of time in the interests of the progress of the Hearing in the public interest. Where the representations made relate to the same or similar issues, a spokesperson should be

appointed where possible to speak on behalf of any person who has made a written representation.

13. Parties can ask questions of other parties in accordance with the procedure below. The Chairman can stop a party asking questions if they feel the questions are unnecessary. Parties are expected to treat other parties with respect and any form of harassment or excessive questioning will not be tolerated. In such cases the Chairman will ask the party to discontinue that type of questioning. The Chairman can require any person (including any of the parties) who is disrupting the proceedings to leave the Hearing.
14. The Decision of the Licensing Sub Committee will be made after the close of the Hearing for that matter and confirmed in writing to the Applicant and all parties who submitted relevant representations together with details of the right of appeal within the time limits set out in Legislation and Regulations. The date of formal notification for the purposes of any appeal against the Licensing Sub-Committee's decision will be the date the letter from the Licensing Officer enclosing the Decision Notice and confirming the rights of appeal and the timescales involved is deemed to have been served on the parties.
15. The Sub-Committee may depart from this procedure (as varied/amended from time to time based on changes to law and practice) if it considers it necessary and/or equitable to do so.

AT THE HEARING

1. The Chairman will open the Hearing and start the introductions of the Sub-Committee and Officers and ask each party to introduce themselves. The Chairman will confirm that if a party is not present their representations/application will have been read and will be considered in reaching the decision.
2. The Chairman will address any interest arising under the Code of Conduct.
3. The Chairman will consider any submitted requests from a party for permission for another person to appear at the Hearing. If necessary, the sub-committee will retire to deliberate before making a decision.
4. The Chairman will confirm that the Hearing will take the form of a round the table discussion led by the Sub-Committee in accordance with this procedure. If all parties present confirm that they have seen and understand the procedure to be followed at the Hearing and agree they are ready to proceed then the Hearing **shall commence as set out from para 9 below.**
5. The Chairman will remind everyone that the purpose of the Hearing should be borne in mind at all times i.e.
 - to enable those with a right to appear to advance their point of view and concerns and to test the case of their opponents and
 - to assist the Sub-Committee to gather evidence and understand the relevant issues.

6. The Chairman will confirm what advance papers have been received and that these have been read and therefore there is no need to repeat these matters.
7. The Chairman will make clear that parties should only address the Sub-Committee in relation to matters previously raised/submitted. Late evidence to be submitted at the Hearing will only be considered by the Licensing Sub-Committee with the consent of all parties present.
8. The Chairman will then outline the procedure to be followed by reading out points 9 to 15 below **unless** all parties present have confirmed that they have seen and understood the procedure and are ready to proceed with the Hearing.
9. The Chairman will ask the Applicants whether they wish to make any amendments to their application with a view to addressing issues raised by the representations.

10. ORDER OF ORAL PRESENTATIONS

- a. The Licensing Officer will present their report outlining the details of the application/notice and representations received.
- b. Any party may question the Licensing Officer.
- c. The Members may question the Licensing Officer.
- d. The Responsible Authorities will present their case and call their witnesses*.
- e. Any other party may question the Responsible Authorities.
- f. The Members may question the Responsible Authorities.
- g. Each Interested Party will present their case in turn and call their witnesses*.
- h. Any other party may question the Interested Party.
- i. The Members may question the Interested Parties.
- j. The Applicant/Licence Holder will present their case and call their witnesses*.
- k. The other parties may question the Applicant/Licence Holder.
- l. The Licensing Officer may question the Applicant/Licence Holder.
- m. The Members may question the Applicant/Licence Holder.

* If permission has been given to do so.

11. Before moving onto the next party, the Chairman will check there are no further points the current party wishes to make or any further questions that need to be put to that party.
12. On a without prejudice basis, the Licensing Officer will present the schedule of proposed non mandatory Conditions to be imposed of any Licence if granted as set out in their report. Each party will be asked to address/give their views on those proposed conditions and suggest any other appropriate conditions to assist the Sub-Committee. If possible an agreed schedule of conditions will result. It will remain however for the Sub-Committee to determine what conditions will apply should the application be successful.
13. Each party will be invited to make closing submissions in the following order
 - a. Licensing Officer
 - b. Responsible Authorities
 - c. Interested Parties

d. the Applicant

14. The Chairman will then close the Hearing and the Sub-Committee will retire together with the Committee Clerk and the Sub-Committee Legal Advisor for the matter to be determined.

15. The Sub-Committee will come to a decision which will be sent to the Applicant and all other parties' who submitted relevant representations within the time limits set out in Regulations together with details of the right of appeal.

NOTE

IN PRODUCING THIS PROCEDURE, THE FOLLOWING HAVE BEEN CONSIDERED: -

- Licensing Act 2003 *as amended* - and Explanatory Notes
- National Guidance
- The Licensing Act 2003 (Hearings) Regulations 2005 as amended
- The Human Rights Act 1998.
- Local Government Act 1972 as amended.