

LICENSING SUB COMMITTEE PROCEDURE

(Report by the Head of Administration)

1. INTRODUCTION

- 1.1 The Licensing Act 2003 enables the Licensing Committee to determine its own proceedings and those of its sub committees, subject to the provisions of any regulations made by the Secretary of State. The draft Hearings Regulations specify a number of requirements for hearings of licensing sub committees but not for meetings of licensing committees themselves.
- 1.2 A separate report has been submitted to the Committee on the proceedings of its own meetings. The purpose of this report is to invite the Committee to determine the procedure for hearings and meetings of the sub committees.

2. SUB COMMITTEE PROCEDURE

- 2.1 The Committee will be aware that the sub committees are established solely to determine applications etc. for licences as required under the Licensing Act. Where hearings are convened the sub committees are not subject to the normal committee procedures established under the Local Government Act 1972 and the Council Procedure Rules contained in the constitution.
- 2.2 The attached annex contains a suggested procedure for sub committee hearings which incorporates the requirements of the draft Hearings Regulations. Subsequent amendments may be required following publication of the regulations.

3. CONCLUSION AND RECOMMENDATION

- 3.1 The Committee is required to approve proceedings for meetings of its sub committees, subject to the provisions of the Hearings Regulations and it is

RECOMMENDED

- (a) that the proceedings set out in the attached annex be adopted for hearings of the licensing sub committees; and
- (b) that the Head of Administration, after consultation with the Chairman and Vice-Chairman of the Committee be authorised to make any consequential changes to the proceedings in the light of the content of the Hearings Regulations once the latter have come into force.

BACKGROUND PAPERS

Draft Hearings Regulations issued by the Secretary of State

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HUNTINGDONSHIRE DISTRICT COUNCIL
LICENSING SUB COMMITTEE PROCEDURE

1. Introduction

- 1.1 The following proceedings apply to the licensing sub committees established by the Licensing Committee of the Huntingdonshire District Council acting as the licensing authority.

2. Membership

- 2.1 Each licensing sub committee shall comprise three Members appointed by the Licensing Committee from amongst its membership. A sub committee shall elect a chairman at its first meeting following the annual meeting of the Council in each year and the chairman shall preside at hearings of that sub committee until the ensuing annual meeting. In the event of the chairman not being present at a hearing, the sub committee shall elect a chairman from amongst its members for the purpose of that hearing or meeting.
- 2.2 The quorum for hearings and meetings of a sub committee shall be two members but a sub committee shall make every endeavour to ensure that each hearing is conducted when all three members of the sub committee are present.
- 2.3 Members shall endeavour to be present throughout an individual hearing by a sub committee. If a member of a sub committee is required to leave a hearing temporarily, the chairman shall adjourn the hearing for the duration of the period whilst that member is unavailable. Any member who is absent from a hearing for any reason whilst that hearing is taking place shall be precluded from commencing or continuing to take part in the matter under debate upon his arrival/return and from voting upon the matter at the conclusion of that item of business.
- 2.4 Where the sub committee undertakes a site visit prior to a hearing, a member shall be precluded from taking part in the hearing if he has not attended that site visit.
- 2.5 A Member will not take part in a hearing or meeting at which a matter is being discussed which relates to a premises licence, club premises certificate, temporary events notice or personal licence where either the premises or the person is resident in the Ward which he represents.

3. Notice of Hearings

- 3.1 Upon the date of a hearing of a sub-committee being arranged, notice shall be given to the parties to the hearing in accordance with the requirements of the Hearings Regulations. For the purposes of this procedure, a party is defined as an applicant for a licence, a responsible authority or person or business that has submitted relevant representations in respect of an application and, in certain additional instances, the chief officer of police.

3.2 The notice of the hearing shall be accompanied by a copy of this procedure which sets out

- the right of attendance at a hearing by a party and the right to submit representations etc.
- the consequences if a party does not attend or is not represented at a hearing
- the procedure to be followed at the hearing

3.3 The notice of the hearing will also be accompanied by copies of the documents required by the Hearings Regulations and any particular points upon which the sub committee considers that it will want clarification from a party at the hearing.

4. Action Following Receipt of Notice of Hearing

4.1 Upon receipt of a notice of a hearing, a party is required to notify the licensing authority whether he intends to attend or be represented at the hearing, whether he intends to call a witness at the hearing, the name of the witness to be called (if any) and whether he considers the hearing to be necessary. A party should notify the licensing authority within the following timescales-

- 1 working day of the hearing in the case of a cancellation of an interim authority notice following police objections or a counter notice following police objection to a temporary events notice;
- 2 working days of the hearing in the case of a review of a premises licence or the conversion of an existing licence or club premises certificate or an application by the holder of a justices' licence for a personal licence; or
- 5 working days of the hearing in all other cases.

4.2 A sub committee may dispense with the holding of a hearing if all of the parties have given notice that they consider a hearing to be unnecessary. Where the parties have agreed that a hearing is unnecessary in such circumstances, the Council shall give notice to the parties that the hearing has been dispensed with.

4.3 Where a hearing has been dispensed with, the matter which was to have been the subject of the hearing shall be determined at a meeting of the sub committee.

5. Withdrawal of Representations

5.1 A party may give notice to the licensing authority no later than 24 hours before the commencement of the hearing that he wishes to withdraw his representations or he may do so orally at the hearing.

6. Extension of Time

6.1 The sub committee may extend any of the time limits specified in this procedure where it considers it necessary to do so in the public interest and shall give notice of the extension of time and the reason for it to the parties to the hearing.

6.2 The sub committee may adjourn the hearing or arrange for it to be held on specified additional days, where it considers this to be necessary to consider

any representations made by a party. The parties to the hearing will be notified of the adjournment or rearrangement.

- 6.3 In considering any extension of time or adjournment, the sub committee will not exercise its powers so that an application is deemed as granted or rejected in accordance with the transitional arrangements specified in the Act.

7. The Hearing

- 7.1 The sub committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing or that part of the hearing taking place in public. The sub committee will normally resolve to exclude the public from that part of the hearing during which the sub committee determines the matter which is the subject of the hearing.

- 7.2 Subject to the above, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified

- 7.3 At the commencement of the hearing, the chairman shall explain to the parties present that the hearing is subject to this procedure, copies of which will have been distributed to the parties with the notice of the hearing, and shall enquire of the persons present whether there are any questions of clarity or explanation about its contents.

- 7.4 The chairman will invite the applicant or his representative to address the sub committee on his application and to call any witnesses in support of his application. The applicant will be allowed a maximum period of time of twenty minutes in which to address the sub committee and call witnesses.

- 7.5 The applicant or his representative or any of his witnesses may then be asked any questions upon their presentation by any member of the sub committee or by any of the other parties present at the hearing or their representatives.

- 7.6 The chairman will then invite each of the parties at the hearing or their representative sequentially to address the sub committee and call any witnesses. Each party will be allowed a maximum period of time of twenty minutes in which to address the sub committee and call witnesses.

- 7.7 The party or his representative or any of his witnesses may be asked any questions upon their presentation by any member of the sub committee or by the applicant or his representative or any of the other parties present at the hearing or their representatives.

- 7.8 Where relevant written representations have been received and the party submitting those representations has given notice of his intention not to attend the hearing, the parties present will be invited by the Chairman to indicate whether they wish to comment on the representations submitted.

- 7.9 Where appropriate, the chairman shall remind the parties that their representations should be relevant to the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. If, in his opinion, the chairman feels that the representations being made are not relevant, he may, after first reminding the party of the need for relevance, advise the party that

he will no longer be heard. Where in the opinion of the chairman, a party is being repetitious, vexatious or slanderous in his remarks, the chairman may first warn the party and may then advise the party that he will no longer be heard. The ruling of the chairman shall be final in such circumstances.

- 7.10 After each party has addressed the sub committee and after comments have been invited on written representations, the applicant or his representative will be invited by the chairman to sum up his application for a time not exceeding two minutes but without introducing any new evidence to the proceedings.
- 7.11 The Chairman may require any person who in his opinion is behaving in a disruptive manner at a hearing to leave the hearing and may refuse to permit that person to return or to return only upon complying with such conditions as the chairman may specify. However any such person may submit any evidence in writing that they proposed to give orally, provided that they do so before the end of the hearing.

8. Determination of Applications

- 8.1 At the conclusion of the hearing, the sub committee will determine the application in accordance with the timescales specified in the Hearings Regulations but, in any event, will endeavour to do so as soon as practicable after the hearing has concluded.
- 8.2 Where a hearing has been dispensed with in accordance with paragraph 4.2 above, the application will be determined by the sub committee within 10 working days of notice having been given to the parties that the hearing has been dispensed with.
- 8.3 The licensing authority will notify the applicant and parties of its decision forthwith upon the making of the decision.

9. Meetings of the Sub Committee

- 9.1 Any meetings of the sub committee, other than hearings described above, shall be subject to the proceedings adopted by the Licensing Committee for the conduct of its own business except where otherwise stated above.