

HUNTINGDONSHIRE DISTRICT COUNCIL

GAMBLING ACT 2005

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 under the Gambling Act 2005.

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 hearing or 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 or meeting 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, provisional statement, temporary use notice or permit where either the premises or land is situated 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 Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees)(Premises Licences and Provisional Statements)(England and Wales) Regulations 2007 (the Regulations). For the purposes of this procedure, a party is defined as an applicant for a licence or permit, a person who has given a temporary use notice, a licensee or permit holder and a

person who has made (and not withdrawn) representations about the application, review notice or permit. A person who has made representations may include a responsible authority and a person who lives sufficiently close to the premises to be likely to be affected by the authorised activities or who has business interests that might be affected by the authorised activities or anyone who represents such a person.

- 3.2 The notice of the hearing shall specify the date and time when and the place at which the hearing is to take place. Such notice shall be sent so that, in the ordinary course of events, it is received no later than 10 days before the first day on which the hearing is to be held.
- 3.3 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
 - the time limits relevant to the hearing.
- 3.4 The notice of the hearing will also be accompanied by copies of the documents required by the Regulations and any particular points upon which the sub committee considers that it will want clarification from a party at the hearing.
- 3.5 Where a hearing is to be held on more than one day, the hearing will be arranged so that it takes place on consecutive working days.

4. Action Following Receipt of Notice of Hearing

- 4.1 Upon receipt of a notice of a hearing, a party is required to give notice to the licensing authority within 5 working days before the first day on which the hearing is to be held whether
- he intends to attend or be represented or assisted at the hearing,
 - he wishes to call a witness to give evidence at the hearing, accompanied by the name of the witness and a brief description of the matters in relation to which the witness will give evidence, and
 - he considers the hearing to be necessary.
- 4.2 Notice may be given to the licensing authority by electronic means to the address democratic.services@huntsdc.gov.uk or in writing to the Democratic Services Section at Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN.
- 4.3 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 licensing authority shall give notice to the parties that the hearing has been dispensed with.

4.4 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.

4.5 A sub committee may postpone a hearing to an alternative date and if it does so, notice of the date, time and place of the hearing shall be given to the parties as soon as practicable.

5 Non- Attendance at the Hearing

5.1 If a party informs the licensing authority that he does not wish to attend or be represented at the hearing, fails to so inform the sub committee, fails to attend or be represented at the hearing, or leaves the hearing in circumstances enabling the sub committee to conclude that it is not his intention to return, the sub committee may

- proceed with the hearing in accordance with the notice given or
- adjourn the hearing to a specified date if it considers it to be in the public interest to do so.

5.2 Where a hearing proceeds in the absence of a party, the application or representations made by that party shall be considered at the hearing by the sub committee.

6. Withdrawal of Representations

6.1 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.

7. Extension of Time

7.1 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.

7.2 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.

8. The Hearing

8.1 The sub committee may exclude the public from all or part of a hearing where it considers that any unfairness to a party is likely to result from a hearing in public or there is a need to protect as far as possible the commercial or other legitimate interests of a party. 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.

- 8.2 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
- 8.3 At the commencement of the hearing, the chairman shall introduce the members of the sub committee and any officers in attendance to support the sub committee and shall ask the parties and any persons accompanying them to state their names and addresses or who they represent. 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.

Procedure in all cases other than an application for a review of a premises licence or the removal of gaming exemptions from premises or the cancellation of permits.

- 8.4 The chairman will invite the applicant or his representative to address the sub committee on his application, to respond to any point(s) upon which notice has been given that clarification is required by the licensing authority and to call any witness of whom notice has been given. The applicant will be allowed a maximum period of time of twenty minutes in which to address the sub committee and call witness(es) on his behalf.
- 8.5 The applicant or his representative or any witness called on his behalf 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.
- 8.6 The chairman will then invite each of the parties at the hearing or their representative sequentially to address the sub committee and call any witness(es) of whom notice has been given to appear. Each party will be allowed a maximum period of time of twenty minutes in which to address the sub committee and call witness(es) on his behalf. The sequence in which each of the parties will be invited to address the sub committee will be at the discretion of the chairman but will normally be in the order of the chief officer of police, the fire and rescue authority, the local planning authority, the local environmental health authority, the authority responsible for the protection of children from harm, Her Majesty's Commissioner of Customs and Excise and any other party that has submitted representations in respect of the application, notice, permit or other matter appearing before the sub committee.
- 8.7 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.
- 8.8 Where relevant written representations have been received and the party submitting those representations has given notice of his intention not to attend the hearing, fails to give notice, fails to attend or be represented or leaves the hearing, the parties present will be invited by the chairman to indicate whether they wish to comment on the representations submitted.

The sub committee may take into account documentary or other evidence submitted by a party either in support of their application, notice or representations either before the hearing or, with the consent of all of the other parties present, at the hearing.

- 8.9 Where appropriate, the chairman shall remind the parties that their representations should be relevant to the licensing objectives of preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime; ensuring that gambling is conducted in a fair and open way; and protecting children and other vulnerable persons from being harmed or exploited by gambling. The sub committee shall disregard any information given by a party or witness which is not relevant to their application, notice or representations or to the licensing objectives. 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.
- 8.10 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.
- 8.11 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.

Procedure in cases relating to an application for a review of a premises licence or the removal of gaming exemptions from premises or the cancellation of permits.

- 8.12 In the case of such hearings, the above procedure shall be followed with the exception that the applicant for a review of a premises licence or the licensing authority in the case of the removal of gaming exemptions or the cancellation of a permit will be invited to address the sub committee first and to call any witness of whom notice has been given.
- 8.13 After any questions have been dealt with, the holder of the licence or permit will be invited to address the sub committee and to call any witness of whom he has given notice.
- 8.14 There shall be no right of reply for the applicant for a review of the licence or the licensing authority.

9. Determination of Applications

- 9.1 At the conclusion of the hearing, the sub committee will determine the application, removal of the exemption or cancellation of the permit within 5 working days starting with the day after the last day of the hearing but, in any

event, will endeavour to do so as soon as practicable after the hearing has concluded.

- 9.2 Where a hearing has been dispensed with in accordance with paragraph 4.3 above, the application, removal of the exemption or cancellation of the permit 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.
- 9.3 The licensing authority will notify the applicant and parties of its decision forthwith upon the making of the decision.
- 9.4 A record shall be taken of the hearing by the licensing authority which shall be retained for six years after the date of the determination of the hearing or the disposal of an appeal or judicial review against the determination.

10. Meetings of the Sub Committee

- 10.1 Where a hearing is conducted by the Licensing Committee in place of a sub committee, the above procedure shall apply.
- 10.2 Any meetings of the sub committee, other than hearings described above, shall be subject to the procedure adopted by the Licensing Committee for the conduct of its own business except where otherwise stated above.