



Ryedale District Council

LICENSING SUB COMMITTEE PROCEDURE

1. INTRODUCTION

- 1.1 The following procedure applies to the licensing sub committees established by the Licensing Committee of the Ryedale 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. If the Licensing Committee has not already done so, the Licensing Sub- Committee shall elect a chairman and vice 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 or the vice 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 three members.
- 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. The meeting shall commence upon the return of the absent member.
- 2.4 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 the Licensing Act 2003 (Hearings) Regulations 2005 as amended . 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. **Any party who attends the hearing may be assisted or represented by any person whether or not that person is legally qualified.**
- 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 Licensing Officer considers that clarification is needed from a party at the hearing.

4. ACTION FOLLOWING RECEIPT OF NOTICE OF HEARING

4.1 In the interests of timely, efficient and cost-effective decision making the Licensing Authority request that all parties make full disclosure in advance of all information they intend to present at the hearing. Failure to do so may result in its admissibility being challenged and the information not being admitted.

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 written notice that they consider a hearing to be unnecessary. Where the parties have agreed that a hearing is unnecessary in such circumstances, the Licensing Officer (or other Officer with delegated powers under the Licensing Act 2003) of 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 that was to have been the subject of the hearing may be determined under the Officers Scheme of Delegation.

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 FAILURE OF PARTIES TO ATTEND A HEARING

7.1 Where a party has informed the Licensing Authority that he does not intend to attend or be represented the hearing may proceed in their absence.

7.2 Where a party who has not so indicated their intentions fails to attend or be represented at a hearing the Licensing Act 2003 Sub-Committee may -

7.2.1 where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or

7.2.2 hold the hearing in the party's absence.

- 7.3. Where a hearing is held in the absence of a party, the Licensing Act 2003 Sub-Committee will consider any application/representation/ or notice made by that party but may consider that lesser weight be given to such evidence.

Where a hearing is adjourned to a specific date the Licensing Authority will notify the parties of the date, time and place to which the hearing has been adjourned.

**PROCEDURE FOR THE HEARING OF EVIDENCE IN RESPECT OF LICENSING
APPLICATIONS WHERE REPRESENTATIONS HAVE BEEN RECEIVED**

INTRODUCTIONS AND PRELIMINARY MATTERS

1. At the commencement of the hearing the **Chairman** will take the following steps:
 - (a) **The Chairman** will introduce him/herself and the other members of the Sub-Committee, the Clerk to the Sub-Committee, the Licensing Officer, Legal Advisor and any Officers present.
 - (b) **The Chairman** will ask the parties and representatives to introduce themselves and provide information as to the names of any witnesses they will be calling. At this point, the Chairman will satisfy himself/herself as to whether a representative has been appointed on behalf of those raising a representation and if not, will establish which of the representators wishes to speak. The Chairman will establish whether it is possible to appoint one representative to represent the view of all those raising a representation to present the views of all present.
 - (c) **The Chairman** will 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 clarification or explanation about its contents.
 - (d) **The Chairman** will remind those present of the proposed time limits;
 - (e) **The Chairman** will advise those present that any **opening statements will be brief** as all parties will have had the opportunity to make detailed written submissions and to consider the submissions of other parties, and
 - (f) **The Chairman** will advise those present that additional information produced at the Hearing **without prior disclosure** between the parties **may not be heard** if following objections to its submission the Sub-Committee so determine.
 - (g) **The Chairman** will ask if proposed conditions of licence have been agreed between all parties should the application be granted emphasizing that these are circulated without prejudice to the decision of the Sub-Committee;
 - (h) **The Chairman** will remind the parties that their representations should be relevant to the licensing objectives under the Licensing Act 2003, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

2. **The Licensing Officer** (or other Officer with delegated powers under the Licensing Act 2003) will at the invitation of the Chairman outline the details of the application, representations and any relevant part of the Statement of Licensing Policy . (All documentation will have been circulated prior to the hearing.)

PRESENTATIONS

(Members of the Sub Committee and the legal adviser to the Sub Committee may ask questions of any party at any stage during the hearing).

The Chairman will lead all parties to follow the following procedure and the sub-committee may allow cross examination if it determines that it is required for it to consider the representations, applications or notice as the case may be:

3. **Applicant** (or representative) - opening statement and, if notice has been given, call witnesses.
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 normally be allowed a maximum period of time of **twenty minutes** in which to address the sub committee and call witnesses.
4. **Cross examination of the applicant/witnesses** by: (a) 'Responsible Authorities' and (b) Others who have submitted written representations.
5. **'Responsible Authorities'** (or representative) - opening statement and, if notice has been given, call witnesses. Each party will normally be allowed a maximum period of time of **twenty minutes** in which to address the Sub-Committee and call witnesses
6. **Cross examination of the 'Responsible Authorities'/witnesses** by: (a) the Applicant and (b) Others who have submitted written representations, [If there is more than one 'Responsible Authority' making representations steps (5) and (6) will be repeated for each Authority.]
7. **Interested Parties who have made written representations** (or representative) - opening statement and, if notice has been given, call witnesses. Each party will normally be allowed a maximum period of time of **twenty minutes** in which to address the Sub-Committee and call witnesses
8. **Cross examination of Interested Parties/witnesses** by: (a) the Applicant and (b) 'Responsible Authorities'.
9. **Interested Parties who have made written representations but who are not present**
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.
10. **SUMMING UP** - All parties may be afforded the opportunity to sum up their case (but not to introduce any new evidence) in the following order: (a) 'Responsible Authorities', (b) Interested Parties and (c) Applicant. Each party will normally be allowed a maximum period of time of **three minutes** to sum up.
11. Advice from Licensing Officer on licensing policy and/or Legal Advisor on law and jurisdiction.

THE DECISION MAKING PROCESS

12. The Public and press and all parties will be excluded from the meeting whilst the Sub-Committee deliberates in private in the presence of the Clerk. The Sub-Committee may call in its Legal Advisor to help draft reasons for decision.
13. The Sub-Committee will invite all parties, the Public and press into the meeting and the Chairman will normally announce its decision and the reasons for it and that the decision will be confirmed in writing to the parties at the earliest opportunity.

THE HEARING – FURTHER RULES OF PROCEDURE

- 14 The Sub-Committee may resolve to 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.
- 15 Subject to the rules about advance notice above,. a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified
- 16 If, in his/her 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.
- 17 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.
- 18 Where there is more than one Interested Party making relevant representations, it may be helpful for the Interested Parties to choose a spokesperson to ensure that all views are represented in a reasonable time.

DETERMINATION OF APPLICATIONS

- 19 At the conclusion of the hearing, the Sub-committee will determine the application in accordance with the timescales specified in the Licensing Act 2003 (Hearings) Regulations 2005 as amended but, in any event, will endeavour to do so as soon as practicable after the hearing has concluded.
- 20 The licensing authority will notify the applicant and parties of its decision forthwith upon the making of the decision.

MEETINGS OF THE SUB COMMITTEE

- 21 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.