



# Code for Licensing Hearings

## **I. Composition of the Licensing Committee and its Sub-Committees**

The Council's Licensing Committee comprises at least ten, but no more than fifteen, elected Members. Its Sub-Committees are made up from any three Members of the Licensing Committee.

The functions of the Licensing Committee and its Sub-Committees are set out in the Council's Constitution and Code of Corporate Governance. However, the role of determining applications that are subject to representations ordinarily falls to the Sub-Committee.

Members do not consider applications for premises located in the Wards they represent and the Council's Code of Conduct for Members applies.

## **2. Licensing Hearings**

Hearings are ordinarily held in public, however, the Sub-Committee may exclude the public and press, in accordance with Schedule 12A to the Local Government Act 1972, where it considers it to be in the public interest to do so. In addition, if in the view of the Sub-Committee any person attending the hearing is behaving in a disruptive manner, they may be required to leave. Such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to have given orally.

A party to a hearing (that is the applicant, licence holder or any person or body who has made relevant representations) may be assisted/represented by any person they choose, whether or not that person is legally qualified.

The rules and procedures concerning the running of hearings are often prescribed by regulations. Where regulations apply all parties will be provided with a copy of the relevant regulations prior to the hearing. It is usual for such regulations to set out timescales relating to the receipt of evidence and the calling of witnesses, together with the manner in which the hearing should be conducted.

In respect of hearings for applications not governed by regulations, any documentation to be used in evidence should normally be provided to the Council's Licensing Team not later than eight working days prior to the date of the hearing. If photographic or video evidence is to be presented, three copies should be provided within the same timescale.

If, at the hearing, any document or other evidence is introduced for the first time, the Chairman of the Sub-Committee will ask whether its introduction is opposed. Where any party objects to the introduction of new evidence, it will not be admitted.

Agenda papers for the Committee and Sub-Committee are made available to Members and placed on public deposit 5 working days before the date of the hearing.

However, there are some circumstances, which are prescribed by regulation, where it is not possible to deposit the agenda papers 5 working days before the hearing, for example consideration of a Temporary Event Notice following an objection notice served by the Police or Environmental Health Service.

### **Order of hearing**

The Council wishes to ensure that every hearing is fair to all concerned, and whilst hearings are ordinarily in the form of a discussion, the Chairman of the Sub-Committee will structure the discussion in a manner that ensures all parties have the opportunity to be heard and make their case.

Evidence is ordinarily heard in the following order:

- Any Responsible Authority and their witnesses;
- Any 'Other Person' and their witnesses; and,
- The applicant or licence holder and their witnesses.

The Chairman of the Sub-Committee may ask the parties to agree a time limit for this part of the hearing.

Members of the Sub-Committee may ask questions of all parties after they have given their evidence. However, cross examination of one party by another will only be allowed with the prior approval of the Sub-Committee.

Once all the evidence has been heard all parties will be offered the opportunity to briefly sum up. The applicant or licence holder will be the last person to sum up.

### **Giving evidence**

Before addressing the Sub-Committee each party should give their full name and address.

Strict rules of evidence do not apply and evidence is not given on oath. Hearsay evidence, such as repeating something another person has told you, may be taken into account but will be given the appropriate weight by the Sub-Committee. Unless exceptional circumstances apply, the Sub-Committee will usually give more weight to first hand evidence.

Where a number of parties have made relevant representations on similar grounds they may, if they wish, and depending on the circumstances, and if the Chairman of the Sub-Committee may so direct, nominate one of their number to act as their spokesperson.

Whilst the Sub-Committee needs to know the full extent of each party's case the repetition of information already given is not helpful and is time consuming. The

Sub-Committee reserves the right to interrupt any party who presents repetitious or irrelevant information and curtail that person's statement.

The Sub-Committee will disregard any evidence that is not relevant.

### **Non-attendance at a hearing**

If a party has informed the Sub-Committee that they will not attend, or be represented at a hearing, it is likely that the hearing will take place in their absence. If, without such an indication, a party fails to attend, the Sub-Committee may, where it considers it in the public interest, adjourn the hearing to a specified date or continue with the hearing in the party's absence. Where it is held in the absence of a party the Sub-Committee will nonetheless consider the application, representations or notice made by that party.

When a written statement is admitted by any party, the Sub-Committee may take into account the fact that the person to whom the statement is attributed is not present to be asked questions.

### **Determination**

After hearing all relevant evidence the Sub-Committee will retire. The Council's Legal Adviser will ordinarily accompany the Sub-Committee in order to provide any requisite information or advice regarding the appropriate legislation and procedure.

Once the Sub-Committee has concluded their deliberations the Chairman will announce their decision together with, if relevant, the detail of any advice or information provided to the Sub-Committee by the Legal Adviser.

### **Adjournments**

Subject to any statutory time limits, the Sub-Committee may adjourn a hearing if it considers it to be in the public interest to do so.

Where the Sub-Committee agrees an adjournment it will do so to a specific date, time and place.

### **Irregularities**

If there is any irregularity in proceedings the Sub-Committee may, if it considers that any party may have been prejudiced, take such steps as it thinks fit to cure the irregularity before reaching its decision.

The Sub-Committee may also correct any clerical mistake in any documents recording the Sub-Committee's deliberations or decisions.

### **Record of proceedings**

A record shall be taken in the form of notes and thereafter a formal minute of the hearing. The notes are not and do not purport to be a transcript of proceedings. A

formal minute of proceedings will be placed on the Council's website, normally within 15 working days.

### **Costs**

The Council has no power to award costs to any party.

### **3. Further Information**

If you need any further explanation about the procedure at hearings you should contact a member of the Licensing Team on telephone number 020 3045 3900 who will be pleased to help you. You can write to the Licensing Team at 2 Watling Street, Bexleyheath, Kent DA6 7AT or email [licensing.office@bexley.gov.uk](mailto:licensing.office@bexley.gov.uk)