

CENTRAL BEDFORDSHIRE COUNCIL

LICENSING SUB COMMITTEE HEARING PROCEDURE

1. Introduction

- 1.1 The following procedures shall govern the Licensing Sub Committee established by Central Bedfordshire Council, as Licensing Authority, to undertake hearings under the Licensing Act 2003.

2. Membership

- 2.1 The Licensing Sub Committee shall comprise of three members appointed from amongst the membership of the Licensing Committee.
- 2.2 The Licensing Committee will appoint a Chairman for each Sub Committee at its first meeting of the Civic Year or its next meeting after a vacancy arises. The Chairman shall preside at meetings and 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 meeting or hearing.
- 2.3 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 with all three members of the sub committee present.
- 2.4 If at the commencement of the meeting there are only two members present, a Sub Committee shall consider whether or not to continue having regard to the views of the parties and the circumstances of the case, including any time limits that may be approaching and the consequences of any delay.
- 2.5 Members will be governed by the Code of Conduct for Councillors in respect of declarations of interests.
- 2.6 Site visits shall only be undertaken where there is good reason. Where Members propose to defer consideration of an application they must set out clear reasons for doing so and these will be minuted. Where the Sub Committee determines to undertake a site visit prior to a hearing, a member shall be precluded from taking part in the hearing if they have not attended that site visit.

3. Preliminary Matters

- 3.1 A 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. A Sub Committee will normally resolve to exclude the public from that part of the hearing during which it determines the matter which is the subject of the hearing.

- 3.2 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.
- 3.3 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.
- 3.4 The Sub Committee will consider any requests for permission to present any new evidence or information that has not already been disclosed to all the parties and the Sub Committee. The general rule is that a Sub Committee will not consider information or evidence that was not disclosed to it or to the other parties prior to the hearing taking place. The only exception to this is if all the parties at the hearing agree to that extra information being considered on the day of the hearing. If the other parties do not agree, the party seeking to rely on the extra information can ask the Sub Committee to be delayed for a short period to allow time for other parties to read the extra information.
- 3.5 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.
- 3.6 The parties will each be allowed equal time to present their case. The time allowed may be agreed in consultation with the parties prior to the hearing.

4. The Hearing Procedure

The Chairman will introduce Members of the Sub Committee and Officers present at the hearing. The Chairman will ask the Applicant and Objectors to identify themselves. The Chairman will draw attention to the procedure to be followed.

4.1 The Licensing Manager's Report

The Chairman will invite the Licensing Manager to present his report.

4.2 The Applicant's Case

- (i) the Chairman will invite Applicant or their representative to present their case.
- (ii) the Applicant or their representative may then call any witnesses or give evidence in support of their case.

- (iii) The Chairman will then invite the Objectors to question the Applicant and their witnesses as appropriate.
- (iv) Where considered necessary by the sub committee representatives of Statutory Bodies e.g. Police, Fire and Rescue Service and also the Council's Environmental Health Officers and Licensing Officers shall be entitled to question the Applicant on any of the representations made.
- (v) the Members of the Sub Committee may ask questions of the Applicant and their witnesses.
- (vi) the Applicant or his/her representative may then be invited to ask any further questions of their witnesses to clear up any points raised in the earlier questioning.

4.2 The Objector's Case

- (i) The Chairman will invite the Objector or their representative to present their case and give their reasons for objecting to the application.
- (ii) the Objector or their representative will then call any witnesses.
- (iii) the Applicant or their representative may then question the Objector and any witnesses.
- (iv) where considered necessary and appropriate by the Sub Committee representatives of Statutory Bodies e.g. Police, Fire and Rescue Service and also the Council's Environmental Health Officers and Licensing Manger shall be entitled to question the Objector on any of the representations made.
- (vi) the Members of the Sub Committee may ask questions of the objector and any witnesses.
- (vi) the Objector or his/her representative may then be given a final opportunity of asking any further questions of their witnesses to clear up any points raised in the earlier questioning.

If several objections have been received then unless the Objectors have agreed to present their objection jointly, this procedure will normally be repeated for each individual Objector.

4.4 The Chairman will then invite representations/responses from all or any of the following:-

- The Council's Environmental Health Officer.
- The Council's Licensing Manager .
- The Chief Officer or representative of the Police.

- The Chief Fire Officer or any representative of that organization.
5. The Applicant may be asked by the Chairman of the Sub Committee whether, in the light of objections, they wish to amend the application (when they retire Members will consider only the application before them at that time).

If the Applicant wishes to amend the application or indicates that they are prepared for Members to give consideration to an amended application if they are minded to refuse original application, the Objectors and other representatives shall be given the opportunity to comment on the amended application.

6. **Closing Statement or Summary**

- (i) By or on behalf of the Objectors. The Objectors can summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce any new issues at this stage.
- (ii) By or on behalf of the Applicants. The Applicants can summarise any points they wish to make and comment briefly on the objector's replies to questions. They cannot introduce new issues at this stage.

7. **Conclusion**

7.1 The Chairman will then ask the Legal Officer whether there are any other matters to be raised or resolved before the Sub Committee retires to begin its deliberations. The Sub Committee will exclude the press and public from its deliberations and its decision making.

7.2 Once a decision has been reached the press and public will be re-admitted to the meeting together with the Applicant, Objectors and their representatives and witnesses. At this stage, the Chairman will announce the Sub Committee's decision and will give reasons for the decision. The decision will subsequently be formally notified to the Applicant and the Licensing Manger in writing by the Clerk to the Sub Committee within seven working days of the Hearing. (The Sub Committee can make its decision up to five days after the Hearing or as otherwise required by statute).

7.3 If legal advice is given to Members by the Solicitor then this advice will be repeated in summary form when the public are re-admitted.

8. **Determination of Applications**

The Sub Committee will reach its decision on a majority basis of those present and voting. In the case of an equality of votes, the person presiding may give a casting vote.

9. Meetings of Sub Committees

Any meetings of a 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.