

LICENSING SUB-COMMITTEE

EXTRACT FROM RULES OF PROCEDURE

Note – the full Rules of Procedure can be viewed at:

<https://democracy.eastherts.gov.uk/mgCommitteeDetails.aspx?ID=144&J=2>

11. Procedure at a Hearing

11.1 The hearing will proceed in the following order:

- (a) The Chair will elicit any Declarations of Interests.
- (b) The Chair will introduce members of the Hearing Panel.
- (c) The Chair will ask those present to introduce themselves.
- (d) The Chair will ask all parties to the Hearing whether they are happy to proceed with their application or representation.

11.2 The Chair may ask the officer of the Licensing Authority to report:

- (a) any requests from a party to the Hearing for permission for a witness to appear in support of his, her or their representation. Any such requests will be determined by the Hearing Panel; and
- (b) any documentary or other information that a party to the Hearing wishes to present. If there is any such material, the Chair will ask all the other parties to the Hearing whether they consent to it being presented. If they agree, the material will be distributed. If not, this material may not be distributed unless the Chair wishes it to be.

11.3 The Chair may invite the applicant/licensee or his, her or their representative to estimate the time required to present his, her or their case and ask questions of other parties to the hearing. The Chair will then ask the other parties to the hearing whether they will require a longer period to present their representation and question the applicant. The Hearing Panel will determine the maximum period of time allowed for each party to put his, her or their case. This decision will be final.

11.4 The Chair will ask the Officer of the Licensing Authority to summarise the matter under consideration.

11.5 The Members of the Hearing Panel, the applicant, and those making representations may ask questions of the Officer of the Licensing Authority.

11.6 Starting with the applicant or licensee, each party will exercise his, her or their rights within the identified maximum time, as follows:

- (a) each party to present his, her or their case, including responding to any points of which the Licensing Authority has previously given notice, and call any approved witness or witnesses in support of his, her or their case; and

(b) if given permission by the Chair, and only through the Chair, each party may raise questions of any other party or witness/witnesses.

11.7 The applicant/licensee or his, her or their representative will be asked to sum up his, her or their case.

12. Determination of Applications

12.1 In the case of a hearing relating to:

(a) a counter notice following police objection to a temporary event notice; or

(b) a review of premises licences following closure order; the Licensing Authority must make its determination at the conclusion of the hearing.

12.2 In the case of any other hearing, the members of the Hearing Panel may choose to determine the case at the conclusion of the hearing or after the hearing within five working days.

12.3 If determining the case at the hearing, it is for the members of the Hearing Panel to choose whether to retire to consider the case or discuss the case in front of all parties.

12.4 When determining a case, either during the hearing or after, and whether having retired or deliberating in front of the parties, the following shall apply:

(a) Members of the Hearing Panel will determine the case, not Officers or any other parties;

(b) Members of the Hearing Panel will be advised by a Legal Officer;

(c) a Democratic Services Officer will be available to make relevant notes and make a written record of the Panel's decision;

(d) if Members of the Hearing Panel have a question relating to the relevant legislation or the council's policies which the Legal Officer is unable to address, they may seek the advice of an officer of the council's Licensing Team; and

(e) if Members of the Hearing Panel wish to attach conditions to an application under consideration they may seek the views of any or all of the parties before determining the case, especially if the details of the possible condition were not discussed with parties during the hearing and/or members of the Hearing Panel do not feel they have as clear a view as possible of the proposed condition's efficacy, applicability and/or acceptability to any or all of the parties.

12.5 Once the case has been determined, all parties will be advised of the decision and the reasons for it, together with their right of appeal. If determined at the hearing, the Legal Advisor to the Hearing Panel will advise those present of any advice that has been provided during the determination. If determined after the hearing, the notification of the outcome shall make reference to any such legal advice provided.

12.6 A determination may authorise an officer of the Licensing Authority to approve an application subject to conditions to be applied in accordance with the decision made at the hearing.

12.7 Whether determined at the hearing or after, the applicant shall be informed of the decision and rights of appeal in writing within five working days of the hearing.

2. Definitions

2.1 In this document the following definitions apply:

(a) “applicant/licensee” means the person who has made an application for a licence under the 2003 Act or a person who has served notice of a temporary event in accordance with the 2003 Act or a person who is the holder of a licence under the 2003 Act;

(b) “representation” means a submission by a responsible authority or interested party under the 2003 Act, whether made in response to a consultation, by application for review or served in the form of a notice;

(c) “party to a hearing” means a person to whom notice of the hearing has been given in accordance with column 4 of Schedule 1 attached or who is otherwise entitled to speak at a hearing;

(d) “member of the Licensing Authority” means a Member sitting as a member of the Licensing Sub-Committee (hereinafter called a Hearing Panel), or an Officer who has been appointed by the council as a proper officer of the Licensing Authority, to provide any advice that Members require to fulfil their functions whether or not it is asked for on: - questions of law; - questions of mixed law and fact; - matters of practice and procedure; - the range of options available to the Hearing Panel; - any relevant decisions of the courts; - relevant national guidance or local policy; - other issues relevant to the matter before the Hearing Panel; - the appropriate decision making structure to be applied in any case; - assistance on the formulation of reasons and recording decisions; - the questioning of any party to a hearing; or - assistance to any party to clarify evidence and issues

(e) “discussion” means examination by argument and debate

(f) “cross examination” means the examination of a party or witness with a view to querying or questioning his or her evidence.