



# LICENSING COMMITTEE

## CODE OF PRACTICE

May 2012

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# 1.0 Introduction

## 1.1 Code of Practice

- (a) This code of practice is intended to guide the procedures by which councillors (Members) and officers deal with licensing matters, and to give guidance in relation to standards of probity and conduct.
- (b) Members must follow the Codes and Protocols in the Constitution of Newport City Council which cover such matters as declarations of interests, gifts and hospitality and the Protocol for Member/Officer relations. When dealing with licensing matters they must also act in accordance with this Licensing Code of Practice.
- (c) A breach of these codes whilst not usually amounting to a breach of criminal law, may adversely affect the standing of the Council. It could result in a decision being judicially reviewed or in a complaint of maladministration, being made to the Local Government Ombudsman. A breach of the Members' Code of Conduct can result in a complaint against a Member personally.
- (d) If Members or Officers are in doubt about the application of the codes they should seek advice from the Council's Monitoring Officer.

## 1.2 Licensing Committee, Panels and Sub-committees

The Licensing Committee operates in three ways. The Scheme of Delegation provides detailed information but the following summarises the position

### (a) Licensing Committee

There are 11 Members on the Licensing Committee, appointed in political groups in proportion to the total number of seats they hold on the Council. The maximum number allowed for in the Council's constitution is 12. Members of the Committee are appointed at the Council's Annual General Meeting. Three Members of the Committee constitute a Quorum.

The full committee will meet to consider:

- Any policy matters relating to the functions of the Committee, often for recommendation to the Council or the Executive.
- The setting of taxi fees

### (b) Licensing Panels

The Council concluded that to allow a quicker, consistent approach to consideration of taxi driver and street licensing applications, they would be considered by way of a Panel of Members of the Committee.

Two panels of six members are established for this purpose. Each Panel is established in proportion to the full committee and the quorum is three. Should it become apparent that a panel hearing will not be quorate another member of the Licensing Committee would be allowed to attend? The Chairperson will be elected on the day by the members present.

The Panel will determine the fitness of Hackney Carriage and Private Hire Vehicles/Drivers on the occasion when the Head of Service can for any reason not determine if a vehicle or driver is "fit and proper" or for any reason the case may fall outside the taxi licensing policy. The Panel will also consider street licensing applications in line with the scheme of delegation.

A consultative group, consisting of four members of the Licensing Committee meets regularly with representatives of the Newport taxi trade on matters associated with hackney carriage and private hire licensing.

(c) Licensing Sub-committee

The Licensing Sub-committee comprises all members of the committee, other than those who have an interest or who is the ward member for the ward in which premises under consideration is located. The quorum is three.

Only when representations are made to the Licensing Authority is the Sub-committee asked to make a determination. The Sub-committee determines applications for

- Reviews of Premises Licenses and Club Premises Certificates
- Premises Licenses,
- Personal Licenses,
- Designated Premises Supervisors, Club Premises
- Temporary Events Notices

Where objections are raised in respect of applications under the Lotteries and Amusements Act 1976 and House to House / Street Collections the Licensing Sub-committee would consider the application.

## 2.0 General Roles, Responsibilities and Conduct

Members and officers have different, but complimentary roles in the licensing process. Members of the Licensing Committee whilst undertaking licensing functions have different roles to those of other councillors.

Councillors serving on the committee, panel or sub - committee will determine applications in line with the Scheme of Delegation. Other decisions will be taken by the Head of Service.

The role of the Elected Member as part of the Licensing Committee will involve balancing the multiple needs and interests of the local community whilst promoting the four Licensing Objectives set out in the Licensing Act 2003, namely:

- (i) The prevention of crime and disorder
- (ii) Public Safety
- (iii) Prevention of public nuisance, and
- (iv) The protection of children from harm

In doing so, the Elected Member must maintain his/her impartiality and, as public perception of probity is critical, his/her appearance of impartiality too, during the decision making process.

In taking decisions, members of the Committee, Panel or Sub-committee need to

- Exercise personal responsibility in deciding whether to declare any personal interest as defined in the Council's Code of Conduct in relation to any application that is before the Committee, Panel or Sub-committee for determination, and withdraw, if so required by the Code. If in doubt, Members shall consult and seek guidance from the Monitoring Officer in advance of the meeting.
- Act fairly and openly.
- Carefully weigh up all relevant issues before making a decision
- Make decisions purely on relevant licensing considerations in the public interest and not favour, or appear to favour, any person, company, group or locality.
- Have reasons and justification for their position and resolutions

Members will need to be aware of the requirements of the Code of Conduct and Rules of Natural Justice and the Human Rights Act.

## **3.0 Conduct and Procedure of Licensing Committee Meetings**

### **3.1 Conduct**

The chairperson of the Licensing Committee is responsible for the conduct of the meeting in accordance with the Rules of Procedure (Part 4 of the Constitution) and for the effective delivery of business in a professional, courteous and transparent manner.

The Committee is subject to the Rules of Procedure set out in the Council's Constitution, to Code of Conduct Requirements and to the Council's Standing Orders.

Members of the public are allowed to attend the meeting all items other than those identified as exempt or confidential, based on the Access to Information regulations.

### **3.2 Procedure**

The deliberations of the Committee will be confined to matters included on the published agenda and any urgent items that have been accepted by the chairperson in accordance with the Local Government Act 1972. The order of business will generally be in accordance with the agenda but the items of business may be amended by agreement with the Committee. Any amendment in the order of business should be recorded in the minutes or decision schedule.

The chairperson will ensure that meetings of the Licensing Committee are conducted in accordance with the Council's Rules of Procedure.

If urgent matters are considered, the reason for urgency must be explained and recorded in the minutes or in the record of decisions.

### **3.3 Webcasting/Broadcasting of Minutes**

The Council has agreed that certain meetings of the Licensing Committee may be the subject of live web transmission ( `webcasting` ) or recorded for subsequent transmission. Fixed cameras are located within the Council Chamber for this purpose.

The Council will ensure that in doing so it is compliant with its obligations under the Data Protection Act 1998 and the Human Rights Act 1998.

The Notice on the agenda and the Chair at the meeting will make it clear that whilst generally the public seating areas are not filmed; by entering the room and using the public seating area, members of the public are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. The process for prospective public speakers will be explained to them.

## **4.0 Conduct and Procedure of Licensing Panels**

### **4.1 Membership and Appointment of Chairperson**

Two panels of six members are established for this purpose. Each Panel is established in proportion to the full committee and the quorum is three. The Chair will be elected on the day by a simple majority vote.

### **4.2 Attendances and withdrawals**

Any elected members who arrive after the consideration of any application has commenced should withdraw and take no part in the consideration of that specific application.

Any member who leaves the meeting at any point during consideration of any application should withdraw and take no part in the consideration of that specific application.

### **4.3 Procedure**

Applications will be considered in the following structure:

- (a) First there will be a presentation about the application / report by a Licensing Officer alongside officer recommendations.
- (b) The Chair will invite the Applicant(s)/person(s) called to attend or their representative to speak about their application/the matter under consideration if they so wish.
- (c) The Chair will then provide an opportunity for members of the Panel to comment or ask questions of the Applicant/person(s) called to attend Licensing Officer or Legal Officer or of any other officer in attendance.
- (d) Questions must be relevant to the application being considered by the Panel
- (e) When the Chair considers all members and the applicant(s)/person(s) called to attend have had an opportunity to contribute he or she will ask the applicant to leave whilst the Panel retires to deliberate.
- (f) When the Panel retires, the Legal Officer(s) will remain in order to provide legal advice as and when required and to ensure that the decision schedule reflects the decision taken and the reasons for the decision. The democratic administrator will assist the Panel by recording a written note of the debate and of the vote taken.
- (g) Other officers or the applicant(s)/person(s) called to attend may be called to provide points of explanation if so required and the full meeting would reconvene for such purposes.
- (h) When the Panel, in retirement, has completed its deliberations, the Chair will ask for a motion to be moved, seconded and a vote taken.
- (i) The matter under consideration will be determined by a simple majority vote by a show of hands. All members of the Panel, including the Chair, should cast a vote either in favour or against the motion before the Panel. As all members of the Panel are performing a quasi - judicial role, then it would not generally be appropriate for members to abstain.
- (j) If an equal number of votes for and against are recorded, the Chair will have a second or casting vote. The Chair can only use a second or casting vote if he or she has participated in the original vote. In the event of there being no clear majority and if the Chair is not in a

position to use a casting vote then the matter must be reconsidered until a majority vote is taken. If no majority vote occurs then the matter has to be re-listed for consideration before an entirely fresh panel.

- (k) Following the vote, the matter is resolved. There must be no further discussion on the matter.
- (l) The applicant(s) person(s) called to attend and all other parties attending will be invited back and the meeting reconvened. The applicant(s)/persons called to attend will be informed of the decision and the reasons for the decision which has been taken. The applicant(s)/person(s) called to attend will be informed that the reasons for the decision will be forwarded to him or her in writing and will also be informed of the right of appeal.
- (m) The Senior Democratic Services Officer will provide a record of the decision and the reasons for the decision.
- (n) The Licensing Officer shall write to the applicant(s)/person(s) called to attend informing him, her or them of the decision and of the reason for the decision. The letter will also refer to the right of appeal.



## 5.0 Conduct and Procedure of Licensing Sub-committee

### 5.1 Membership and appointment of Chair

- (a) The Licensing Sub-committee comprises all members of the committee, other than those who have an interest or who is the ward member for the ward in which premises under consideration is located. The quorum is three. The Chair will be elected on the day by a simple majority vote.
- (b) For example, if they live in the vicinity of the licensed premises, or have a friendship or a close personal association with either the applicant or any objector this would disqualify the Member from considering the matter.
- (c) Members of the Licensing Sub-Committees should inform the Senior Democratic Services Officer immediately if they consider that they are disqualified from considering any application, if members of the Licensing Sub-Committee become aware of any personal interest in any application before them they should declare the interest at the beginning of the meeting and withdraw immediately.

### 5.2 Ward Councillors

- (a) Ward Councillors are no longer expressly permitted to make representation in their capacity as Ward Councillors, though they are entitled to make representations as individuals falling within the category of “any other person”, if they are likely to be affected by an application.(for example if they live in close proximity to the licensed premises). However, Councillors must comply at all times with the Members Code of Conduct (“the Code”). Ward Councillors should avoid discussing the application with any of the Licensing sub-committee beforehand to avoid any suspicion of undue influence or breach of the general obligation in the Code not to improperly use their position as a Councillor to secure any advantage.
- (b) If a Ward Councillor has a personal interest in an application (for example, because he/she lives in close proximity to the premises), then this is also likely to be a “prejudicial” interest under the Code. However, provided that the Member declares the interest and withdraws from the hearing after making representations, then he/she is entitled under paragraph 14(2) of the Code to appear at the hearing in the same way as any other member of the public who is any other person having made a relevant representation within the meaning of the Act (“any other person”). This also applies whether or not the Councillor is a Member of the Licensing Committee. However, because of this “personal and prejudicial” interest the Ward Councillor cannot have any other involvement with officers or members regarding the application.
- (c) Ward Councillors who are not members of Licensing Committee may also act as the appointed representatives for any other person at the hearing, if requested to do so, but they should avoid discussing the application with any of the Licensing Sub-Committee beforehand. However, if representing any other person, that other person must have objected on their own behalf before a Ward Member can be requested to act as their representative at the hearing.
- (d) Ward Councillors who are members of Licensing Committee should not appear as the appointed representatives for any other person at the hearing because of the requirements of natural justice and the need to avoid giving any impression of undue influence or breach of the general obligation in the Code not to improperly use their position as a Councillor to secure any advantage.

### **5.3 Lobbying**

- (a) Other Members must not lobby any Member of the Licensing Sub-committee, directly or indirectly, about any application before them.
- (b) Members of the public or any of the parties must not lobby any members of the Licensing Sub-Committee about any application before them. If any of the members of the Licensing Sub-committee are approached by any person about a licensing matter, they should explain that they cannot discuss the matter and refer the person to the Licensing Officer. Any written representations received by individual members of the Licensing Sub-Committee must be passed to the Licensing Officer and reported at the hearing.

### **5.4 Chair of the Licensing Sub-Committee**

The Chair-of the Licensing Sub-Committee is to be elected by Members on the day by simple majority vote.

### **5.5 Quorum**

- (a) Although the Act allows for the hearing to continue with two members present, the Council's Constitution and the Statement of Licensing Policy provides that three Councillors shall constitute a quorum for any meeting and it is good administrative practice for three members to be present.

If the meeting becomes inquorate at any time, the matter will need to be adjourned or referred to full Licensing Committee.

- (b) Membership may change during the course of a Sub-Committee meeting if an individual member is only disqualified from considering some but not all of the applications on the agenda. However, all members considering an application must be present throughout the individual hearing. If, for any reason, a member needs to withdraw during the hearing, the proceedings should be temporarily adjourned until the member returns. The meeting will only commence if quorate. If a member arrives late and after the hearing commences, he or she will be disqualified from hearing the specific case under consideration but can hear other cases set out in the agenda.

### **5.6 Statutory Guidance**

- (a) The Licensing Act 2003 (Hearings) Regulations 2005 SI 44/2005 and the The Licensing Act 2003 (Hearings) (Amendment) Regulations 2004 SI 78/2005 ("the Regulations") made under Section 183 of the Act set out the statutory framework for the Licensing Sub-Committee hearings.
- (b) These Regulations make provision for the holding of hearings required to be held by the Council as Licensing Authority, under the Licensing Act 2003. In particular, the Regulations provide for the timing of the hearings and the notification requirements regarding the date, time and date of the hearings and information to be given to the parties. In addition, provision is made for a party to a hearing to provide information to the Licensing Committee about attendance at a hearing, representations, the seeking of permission for another person to attend to assist and whether a party believes that a hearing is necessary.
- (c) The Regulations provide for a range of procedural issues to govern the way in which preparations are made for a hearing, the procedures to be followed, the rights of parties at the hearing, the keeping of records and the manner of giving notices. The regulations also make provision for the timing of the Licensing committee's determination following a hearing.

- (d) Insofar as the Regulations do not make specific provision for procedures for and at hearings, the Licensing Authority can determine its own procedures.

### **5.7 Notice of Hearings**

- (a) The provisions of the Local Government Act 1972 requiring at least 2 three clear working Days' notice of Council and Committee meetings do not apply to hearings conducted under the Licensing Act 2003.
- (b) Instead Regulation 6 of the Regulations prescribes the period of notice to be given for a Licensing Committee hearing, depending upon the type of application being considered.
- (c) At least 2 clear working days' notice must be given if the hearing is to consider
- the cancellation of an interim authority notice following a police objection
  - counter notice following a police objection to a temporary event notice
- (d) At least 5 clear working days' notice must be given if the hearing is to consider
- review of premises licence following closure order
  - determination of application for conversion of existing licence
  - determination of application for conversion of existing club certificate
  - determination of application by holder of justices' licence for the grant of a personal licence
- (e) In all other cases, at least 10 clear working day's notice of the hearing must be given.

### **5.8 Timescale for arranging hearings**

- (a) Regulations 4 and 5 and Schedule1 set out the time periods within which the Council is required to arrange hearings. Where a hearing cannot be conclude in one day and has to be held on more than one day, the Regulations require that the hearing must be arranged to take place on consecutive working days.
- (b) The time frame for arranging hearings again depends on the nature of the application and varies from 20 working days from the last date when representation may be made or notice may be received from the Police to 5 working days in the case of cancellation of an interim authority notice following a police objection.

### **5.9 Form of Notice**

- (a) Regulation 34 requires that notice of the hearing shall be in writing but otherwise it is a matter for the Council to determine how the notice should be given. The Regulations specifically provide that notice can be given electronically (eg by E-Mail or facsimile transmission) provided that the recipient agrees to this method of notice beforehand and a hard copy of the notice is also despatched at the same time. The notice is then deemed to have been properly served at the time of the electronic transmission. Any notice served by first class post would generally be deemed to have been served within 2 working days in the case of first class post.
- (b) It is recommended that all notices and information should be sent to the parties by first class post. In the case of emergency applications that have to be dealt with at short notice or where the parties specifically request, copies will also be sent by E-Mail or fax, where these details are known.

### **5.10 Information to be provided**

- (a) Regulation 7 provides that the following information must be sent out with the notice of hearing.
- The rights of attendance, assistance and representation
  - The consequences if a party does not attend or is not represented at the hearing (which will usually be that the hearing will proceed in the party's absence)

- The procedure to be followed at the hearing
  - Any particular points on which the Licensing Committee considers that it wants clarification from any party at the hearing
- (b) Regulation 7(2) also provides that, in relation to the hearings listed in column 1 of Schedule 3 of the Regulations, certain specified documents must be sent with the notice of hearing to the persons identified. For most types of application, this means that copies of the relevant representations or notices given must be sent to the applicants or licence holders.
- (c) The Regulations require that the notice of the hearing and supporting information must be sent to the parties to the hearing ie the applicant and any persons making relevant representations. There is no requirement for public notice to be given of the hearing or for the supporting information to be made available to the press and public or any other members of the Council. However, the Council has a discretion as to whether or not to publicise the hearing more widely.
- (d) Having regard to the principles of open government, the Constitutional requirements that decisions are taken in a transparent and accountable manner and the requirements of Regulation 14(1) that hearings are generally conducted in public, it is recommended that the Licensing Sub-committees follow the same publicity arrangements as with other Committee meetings.

### **5.11 Requirements for Applicants and any other persons**

- (a) Upon receipt of the notice of the meeting, the Applicant and any other person must inform the Council in writing.
- Whether they intend to attend or be represented at the hearing
  - Whether they consider a hearing to be unnecessary
  - Requests for any other people to attend the hearing eg witnesses (including their names and a brief description of the evidence that they can give and its relevance to the application)
- (b) In the case of emergency applications, such as the cancellation of an interim authority notice following representations by the police or a counter notice following a police objection to a temporary events notice, this information must be provided not later than 1 working day before the hearing. In the case of the review of premises licences following closure orders, an application for conversion of existing licences or club certificates and the grant of personal licences, the information must be provided at least 2 working days before the hearing. In all other cases the information must be provided at least 5 working days before the hearing.
- (c) It is recommended that a separate letter be sent to the Applicant and any other person at the same time as the agenda for the meeting, reminding them of the need for this information and asking them for a response as soon as possible before the meeting. If the Licensing Sub-committee is informed in good time before the meeting that the parties do not wish to attend, then it may be possible to reschedule other business or applications for that meeting.
- (d) Regulation 9 allows the Council to dispense with the need for a hearing if the Applicant and all the other persons agree. If all the parties respond to the request for information stating that they consider a hearing to be unnecessary, the hearing can be vacated and notice given to the parties accordingly. A determination must then be made within 10 working days of the notice.
- (e) Regulation 10 provides that any party may withdraw their representations by giving written notice at least 24 hours before the hearing or orally at the hearing itself. There are no powers to avoid wasted costs in favour of either party in the event of an abortive hearing due to late withdrawal of representations. However, the parties should be encouraged to give as much notice as possible if they intend to withdraw their representations to avoid the unnecessary time and expense of arranging a hearing.

- (f) Where all objections are withdrawn and/or all the parties agree that a hearing may be dispensed with, the applications may be determined by officers under delegated powers.

### **5.12 Extensions of Time and adjournments (Regulations 11-13)**

The Licensing Sub-Committee have a general discretion to extend the time limits contained in the Regulations or adjourn hearings if this is considered to be necessary in the public interest. Proper notice would have to be given of any extension of time or adjournment. However, time cannot be extended or hearings adjourned if this would result in a failure to comply with the timescales set out in the Act.

### **5.13 The Hearing**

(a) Exclusions

Regulation 14 provides that all hearings must be held in public. However, the Licensing Sub-Committee may exclude the press and public (including the parties and their representatives) from all or part of the hearing if they consider that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

- (b) The Access to Information provisions of Schedule 12A of the Local Government Act 1972 do not apply to hearings before the Licensing Sub-Committee. The test for exclusion of the press and public is not whether there is “exempt information” (as defined in Schedule 12A) which is likely to be disclosed, but whether it is in the “public interest” that the hearing (or part of the hearing) should be in private.

- (c) It is recommended that, as a general rule, all representations from the parties should be heard in public unless there are exceptional circumstances. The overriding public interest dictates that hearings should be conducted in a fair, open and transparent manner and justice should be seen to be done. The Council’s constitution is also based on democratic open government, accountability and public access to meetings. The parties should be given the opportunity at the beginning of the hearing to make an application for a private hearing, but they would have to establish a clear reason why this should override the public interest in an open hearing. The fact that personal information or information relating to financial, business or commercial interests would be disclosed would not, of itself, justify exclusion. An application for exclusion of the press and public could be made, for example, where sensitive information relating to individual children could be disclosed in relation to a policy issue involving the protection of children from harm, or where there are criminal justice implications involving representations made by the police. The final decision as to whether the press and public should be excluded for all or part of the hearing on public policy grounds is a matter for the Licensing Sub-Committee.

- (d) However, it is recommended that, as a general rule, the press, public and the parties are all excluded from the meeting while the Licensing-Sub-committee deliberate and come to their decision on the grounds that this private debate is considered to be in the “public interest”. Everyone should then be asked to withdraw from the room, except for the Licensing Officer, the Democratic Services Officer and the Head of Law and Standards or his nominated representative. These three officers shall be entitled to remain, but only for the purpose of offering advice as to procedure or any particular point of law and to record decisions. They must not participate in the decision-making by the Licensing Sub-Committee. Where it is more convenient, the Licensing Sub-Committee may withdraw to a private room rather than require everyone else to withdraw from the meeting room.

- (e) If there are any further points of clarification required, then all of the parties and the public should be allowed back into the meeting while these points of clarification are addressed.

- (f) Regulation 25 permits the Licensing Sub-Committee to exclude any person from the hearing if they are behaving in a disruptive manner, either permanently or temporarily (permitting them to return only if they comply with such conditions as may be specified). If one of the parties is excluded on these grounds and not permitted to return, they are entitled to submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give orally had they not been excluded from the meeting.
- (g) Representations  
Any person or responsible authority may make written representations about an application for a premises licence or certificate within a specified period, which is generally 28 working days of the receipt of the application. Representations or requests for review will only be relevant if they relate to the four licensing objectives. The applicant will be provided with copies of all relevant representations received at the same time as the notice of hearing. The written representations will also be referred to as background papers to the Report of the Licensing Officer, which will be circulated to Members of the Licensing Sub-Committee and made available to the press and public as soon as possible and, in any event, at least 2 clear working days before the hearing.
- (h) Therefore, advice should be given that, if any person responds to any notice or advertisement, their letter of objection or support will be made available to the public, including personal data (such as names and addresses) in accordance with the Data Protection Act 1988. If any person objects to their name and address, or any other personal information, being made public, then their representations will need to be redacted or anonymised before being circulated (but this may affect the weight that the Licensing Sub-Committee attaches to their representations).
- (i) Where relevant representations have been made and an application is to be determined at a hearing, the applicant and those parties who have made representations have a right to attend the hearing (subject to rights of exclusion) and may be assisted or represented at the hearing by any person (whether or not that person is legally qualified) (Regulation 15).
- (j) Regulation 16 provides that a party shall be entitled at the hearing to
- Give further information in response to a point upon which the Licensing authority has given notice that it wants clarification
  - Question any other party, if permission is given by the Licensing Sub-Committee
  - Address the Licensing Sub-Committee
- (k) Regulation 17 provides that Members of the Licensing Sub-Committee may question any party or other person appearing at the hearing.
- (l) In considering any application, representations or notice made by a party, the Licensing Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice, either before the hearing or, with the consent of the parties, at the hearing. The Licensing Sub-Committee has discretion as to whether to admit this documentary evidence but should, generally allow this to be presented if it is relevant and material to the application, the representations or notice submitted and the licensing objectives. However, this should not be seen as an opportunity to introduce new representations outside the statutory timescale. The parties should be advised to provide any additional documentary evidence as soon as possible before the hearing and, wherever possible, this should be circulated in advance to the Members of the Licensing Sub-Committee and the other parties. The Sub-Committee will then decide at the hearing whether or not this additional documentary evidence should be admitted and considered. If admitted, the additional information will then be made available to the press and public at the meeting. If the additional documentary evidence has not been produced before the hearing, it can only be admitted with the consent of all the parties. If any other party objects to the evidence being produced at the hearing, the Licensing Sub-Committee has no discretion to admit it or take it into account.

#### **5.14 Failure of parties to attend the hearing**

If a party has informed the Council that he/she does not intend to attend or be represented at the hearing, then the hearing may proceed in their absence. If a party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Licensing Sub-Committee may either adjourn the hearing or hold the hearing in the party's absence. Where the hearing proceeds in the absence of a party, the Licensing Sub-Committee must still consider the written representations or notice submitted by that party and follow the same principles of decision-making.

#### **5.15 Procedure at the hearing**

- (a) Subject to the provisions of the Regulations, the Licensing Sub-Committee has discretion as to the procedure to be followed at the hearing and can regulate their own proceedings. Although the proceedings should be kept as informal as possible, a logical and ordered approach should be maintained in order to ensure a fair and impartial hearing. A suggested form of procedure is attached. However, the Chair should make it clear that the Licensing Sub-committee are not totally inflexible and would be prepared to vary the order of proceedings if this would facilitate the proper consideration of an application or notice.
- (b) Regulation 7(c) provides that parties should be informed of the procedure to be adopted at the hearing when they are sent notice of the arrangements for the meeting. Therefore, it is suggested that a copy of the written procedure is sent to the parties with the notice of the hearing.
- (c) Regulation 22 requires the Licensing Sub-Committee to explain the procedure to the parties at the beginning of the hearing and consider any request under Regulation 8(2) for permission for another person to appear at the hearing (such permission not to be unreasonably withheld). Prior notice should have been given if parties wish to call witnesses or other persons to address the hearing. Provided that their evidence or representations are relevant and material, permission should generally be allowed.
- (d) Regulation 23 provides that the hearing should take the form of a "discussion led by the authority" and cross-examination should not be permitted unless the licensing committee considers that this is required to enable them to consider the matter properly. However, although parties and their representatives should not be allowed to make the hearing too adversarial, it is suggested that both parties should be allowed an equal opportunity to put questions to the other party and their representatives/witnesses (under Regulation 16). A period of 5 minutes each should be allowed for questions, with the Chair having discretion to disallow any questions which are considered by the Licensing Sub-Committee to be irrelevant, hostile or repetitive. Wherever possible, large groups of objectors should be encouraged to appoint a single spokesperson to present their case, to save time and avoid unnecessary duplication.
- (e) Regulation 24 provides that the Licensing Sub-Committee must allow the parties an equal maximum period of time in which to exercise their rights to put questions and address the hearing. It is suggested that, as a general rule, a maximum time of 20 minutes should be allowed for both parties, with 10 minutes for addressing the Sub-Committee, 5 minutes for questioning and 5 minutes for summing up at the end. However, the Licensing Sub-Committee can extend time for both parties if this is necessary for the proper consideration of the matter.

## **5.16 Site Visits**

The Sub-Committee may, at its discretion, undertake a site visit of any premises that are the subject of any application. The visit may take place either before the hearing, by arrangement with the parties or the Sub-Committee may adjourn the hearing at any time to visit the premises. If a site visit is undertaken, it should be a fact-finding exercise only and no representations should be heard from any party. Any questions should be addressed to licensing officer(s), wherever possible, but if it is necessary to ask a question of any party, this should be done in the presence of all the other parties.

## **5.17 Determination of applications**

- (a) Normally, the licensing Sub-Committee must make its determination at the conclusion of the hearing. In other cases the Sub-committee shall make its determination within 5 working days. Where a hearing has been dispensed with, the decision must be made within 10 working days of the notice to dispense with the hearing.
- (b) The Council's Statement of Licensing policy provides that every decision of the Licensing Sub-Committee shall be accompanied with reasons for that decision. A summary of the decision shall be posted on the Council's website as soon as possible after the decision has been made, where it will form part of the statutory licensing register.
- (c) Paragraph 24 provides that comprehensive reasons should be given and, on making findings of fact in its reasons, the Licensing Sub-Committee should ensure that they address the standard of proof and the burden of proof that they have adopted. The Licensing Sub-Committee should also address the extent to which the decision has been made with regard to its Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Act.
- (d) Regulation 28 requires the Council to notify the parties in writing of the determination of the Licensing Sub-Committee and their rights of appeal. The Council is also required to send notification of the determination to the Chief Officer of Police, where the police have not been a party to the hearing. This notification must be sent within the period specified in the Act or, if no period is prescribed, forthwith on making the determination.

## **5.18 Right of appeal**

Any aggrieved party will have the right of appeal to the Magistrates' Court within 21 days of being notified of the decision.

## **5.19 Record of proceedings**

Regulation 30 provides that the Council must keep a record of the hearing in a permanent and intelligible form for a period of 6 years from the date of the determination or, where any appeal is brought against the determination of the Licensing Sub-Committee, from the disposal of any appeal. A verbatim note or transcript of the proceedings is not required, but the Minute recording the decision must be sufficiently detailed so as to provide an accurate record of both the proceedings and the decision taken, together with the reasons given and any conditions imposed. These will be maintained electronically for a period of six years.

## **5.20 Irregularities**

Regulations 31-33 provide that any irregularities or clerical errors shall not invalidate any decision or render a determination void and enables the Council to correct any error or cure any irregularity as soon as possible.



## 5.21 Organisation of Cases for the Hearing

- (a) The hearings will normally take place at the Civic Centre, Newport at times to be agreed with the Sub-Committee.
- (b) The agenda for the meetings of the Licensing-Sub-committee shall be agreed by the Licensing Officer and the Senior Democratic Services officer after any necessary consultation with the relevant Chair of the Licensing Sub-Committee. The officers shall determine how many applications can be heard at each meeting and the order in which the applications should be considered, taking into account the number of parties who will be attending.
- (c) Hearings should be scheduled in accordance with the timescales prescribed by the Regulations. In general a hearing must be held within 20 working days after the time has expired for making representations.
- (d) Once the draft agenda has been agreed, the Senior Democratic Services Officer should send out notice of the agenda to the Members, press and public in the usual way. Members should immediately inform the Senior Democratic Services Officer if they consider they are disqualified from hearing or they have an interest in any specific case.
- (e) At the same time, the Licensing Officer shall send notice of the hearing to the parties, together with the following:
  - A copy of the procedure to be followed at the hearing,
  - Confirmation of the parties' rights to be assisted or represented at the hearing (whether or not that person is legally qualified),
  - Confirmation that the parties will be allowed to address the Licensing Sub-Committee and put questions to the other parties for a maximum of 20 minutes,
  - Confirmation that, if a party does not attend the hearing, the hearing would generally proceed in his/her absence,
  - A note of any particular point on which the Licensing Sub-committee requires further clarification and
  - Copies of all relevant representations received.
- (f) The parties should also be requested to notify the Council as soon as possible (and in any event within the timescale prescribed by the Regulations) whether they intend to appear and/or be represented at the hearing or whether they consider a hearing to be unnecessary.
- (g) If they intend to proceed with a hearing, they should be requested to give advance notice of any application to adduce any further documentary evidence (which should preferably be provided as soon as possible before the hearing) or request for any other person to appear at the hearing. The request must contain details of the name of the witness and a brief description of that person's evidence.
- (h) The notice of hearing and supporting documents should be sent by first class post and, except in the case of emergency applications or where the Regulations specify a shorter period, at least 10 clear working day's notice should be given. The Licensing Officer may also send electronic copies by E-Mail or fax by agreement with the applicants or other party.
- (i) The Chair of the Licensing Sub-committee may meet with the Democratic Services Officer, the Solicitor to the Licensing Sub-Committee and the Licensing Officer(s) presenting the report in advance of the hearing to identify any issues where further clarification should be requested from the parties. These issues will be notified to the parties by the Licensing Officer to enable them to address these issues in their submissions at the hearing. During this preliminary meeting and any pre-agenda meeting, no decisions shall be made and no discussions shall be held regarding the substantive merits of the application or representations.

- (j) The hearings shall be attended by a Solicitor, a Democratic Services Officer and the Licensing Officer. The officers shall attend for the sole purpose of giving advice on law and procedure and are not parties to the decision.
- (k) The role of the Solicitor is to provide legal advice in relation to the applications and submissions.
- (l) The role of the Democratic Services Officer is to record the proceedings and the decisions of the Sub-Committee and ensure efficient administration.
- (m) The Licensing Officer shall prepare a written Report for consideration by the Licensing Sub-Committee, which should include:
  - A brief summary of the application
  - A brief summary of the representations
  - The relevant licensing objectives
  - Relevant aspects of the Council's Statement of Licensing Policy and statutory Guidance
  - Other background information (such as copies of letters)
- (n) The Licensing Officer's Report should be sent out as soon as possible and, in any event, no later than 10 clear working days before the hearing, together with copies of relevant documentary evidence submitted by the parties. Wherever possible, the Licensing Officer's Report should be sent out at the same time as the notice of hearing and supporting documents, but this will not be reasonably practicable where there are a significant number of applications to be determined. If additional documentary evidence is provided later by the parties, it should be copied and sent to the other parties before the hearing, if reasonably practicable.
- (o) After hearing all the representations and prior to retiring to make its decision, the Licensing Sub-Committee may, if it wishes, seek the guidance of the Licensing Officer and/or Solicitor on possible conditions that could be attached to any licence.
- (p) The Democratic Services Officer shall keep a record of the decisions taken and the Licensing Officer shall send written confirmation of the decision to the relevant parties, together with the reasons, any conditions and their rights of appeal.

## **5.22 Principles of Decision-Making**

- (a) This note is intended to provide members of the Licensing Sub-committee with a guide to the principles of decision-making. The licensing hearings are of a quasi-judicial nature and the procedures are, therefore, markedly different to the usual arrangements for Committee meetings.
- (b) It should be noted that the proceedings are governed by adjudication procedures and the rules of natural justice will, therefore, apply. All the parties should be given a full and fair hearing, which should be conducted in an open, transparent and accountable manner.
- (c) Members must, at all times, comply with the Council's Member Code of Conduct.
- (d) All licensing applications must be considered on the basis of whether they promote the four licensing objectives set out in the Act and incorporated in the Statement of Licensing Policy, namely:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm

- (e) In reaching their decisions under the Act, the Licensing Sub-Committee must have regard to all relevant considerations including (but not limited to):
- The relevant statutory provisions
  - Relevant Statutory Guidance issued under Section 182 of the Act
  - The Council's Statement of Licensing Policy
  - The licensing objectives
  - The material facts based on the relevant evidence presented and representations received
  - The individual merits of each case
  - The public interest
- (f) The Licensing Sub-Committee must disregard any irrelevant considerations, including (but not limited to) information or evidence which is not relevant to the application or to the promotion of the licensing objectives. Members must also disregard any party political considerations or decisions taken in political group meetings.
- (g) Members of the Licensing Sub-Committee must act fairly, objectively and impartially throughout. They must not show any bias or predetermination and must keep an open mind on all applications until they have heard all the relevant representations and evidence. Members must not prejudge any application, express any view on the merits of any application, organise any support or opposition to any application, in advance of the hearing. Any Member with a "closed mind" on any application would be disqualified from sitting on the Licensing Sub-Committee which considers that application.

In the event of any licensing applications submitted by or on behalf of the Council or an officer of the Council, the same rules and procedures shall apply. No account shall be taken of the fact that the application is submitted by the Council or an officer and no favour or consideration shall be shown in relation to the application. Any member involved in the decision to apply for the licence shall be disqualified from sitting on the Licensing Sub-Committee which considers the application.

### **5.23 Procedure to be Followed at The Hearing**

(a) Preliminaries and Opening remarks

At the commencement of the meeting, the Chair for the meeting shall be elected by simple majority of members present.

The Chair of the Sub-Committee opens the meeting and welcomes those attending.

The Chair introduces the members and the officers present.

(b) Apologies/declarations of interest

The Chair deals with any apologies for absence and declarations of interest. Any substitution of members will be dealt with at this stage.

(c) Introductions

Chair invites the applicant, any other person and their representatives to introduce themselves and indicate who will be speaking.

Explains the procedures to be followed and the time allocated to each party and asks if there are any questions (The order of proceedings may be varied at the discretion of the Sub-Committee where the parties have any particular preference of where this is necessary for proper consideration). The proceedings will generally be conducted in private unless it is in the public interest to hear cases in private. Any applications to exclude the press and public should be dealt with at this stage.

(d) Applications.

Chair will inform the parties whether their applications to have certain people attend the hearing under Regulation 8(2) (eg witnesses) have been granted or refused.

Chair will summarise the papers before the Licensing Sub-Committee and will confirm that everyone has copies. Chair will ascertain whether any representations have been or are now to be withdrawn. Licensing Sub-Committee will consider any requests for additional documentary evidence or other information to be introduced by either party (Note that advance notification must have been given, otherwise the additional information or evidence can only be adduced at the hearing with the consent of all the parties and the agreement of the Sub-Committee).

Chair is to identify any specific points about which the Licensing Sub-Committee have requested clarification.

(e) Report from Licensing Officer

The Licensing Officer presents the Report outlining:

- The nature of the application
- Any relevant background information
- Relevant issues in relation to the promotion of the four licensing objectives
- Relevant representations received
- Any relevant policy issues, including the Statement of Licensing Policy and any statutory Guidance

The Licensing Officer presenting the report will not make any recommendation regarding the determination of the application, but will simply outline the relevant considerations which the Licensing Sub-Committee will need to take into account when arriving at their decision. (It should be noted if the Licensing Authority wishes to make representation regarding application as a relevant authority under the Licensing Act 2003 a further Licensing Officer will be required to attend the committee and Act as a relevant authority).

The Members will be able to ask questions of the Licensing Officer(s) presenting the report to clarify any issues arising out of the Report.

(f) The Applicant's case

- (i) The Applicant/representative to address the Sub-Committee and to call any witnesses where permission has been granted (maximum period of 10 minutes). Parties may give their evidence by making a statement or by being questioned by their representative.
- (ii) The objectors/representatives shall be allowed to put questions to the applicant/representative and any witnesses (maximum 5 minutes).
- (iii) The members of the Licensing Sub-committee to put questions to the applicant/representative and any witnesses.

(g) The Objector(s) case

- (i) The Objectors/representatives to address the Sub-Committee and to call any witnesses, where permission has been granted (maximum period of 10 minutes).  
(The responsible authorities eg Police, Fire Authority, followed by any other person in the order in which they submitted their written representations. Where a large group have objected, they should be encouraged to appoint a single spokesperson in order to save time and avoid repetition).
- (ii) The applicant/representative shall be allowed to put questions to the objectors/representatives and any witnesses, (maximum 5 minutes).
- (iv) The members of the Licensing Sub-committee to put questions to the objectors/representatives and any witnesses.

(h) Closing Statements

- (i) Objectors or their representative(s) to sum up (maximum of 5 minutes. If more than one, in the order in which they addressed the Sub-Committee).
- (ii) Applicant or representative to sum up (maximum of 5 minutes. At this stage the applicant/representative should indicate whether, in the light of the representations made, they wish to amend their application or offer any conditions to overcome the objections and/or promote the licensing objectives).

(i) Decision

If there are no further matters to be resolved, the Chair will ask all the parties if they are satisfied that they have had a fair hearing and will then close the proceedings.

Sub-committee to consider whether it is in the public interest that they deliberate in private or whether this part of the hearing should continue to take place in public.

Pass resolution to exclude the press and public (including the parties and their representatives) pursuant to Regulation 14 (2) during this part of the hearing, while the Sub-Committee discusses its decision. Everyone should then be asked to withdraw from the room, except the Licensing Officer(s) presenting the report, the Democratic Services Officer and the Head of Law and Standards or his nominated representative(s). These officers shall be entitled to remain but only for the purpose of offering advice as to procedure or any particular point of law. The Sub-Committee may withdraw into a private room to do this.

The Members of the Sub-Committee will deliberate and come to their decision. The reasons for the decision, the material findings of fact and any conditions will be agreed and recorded in writing by the Chair. In the event of any disagreement, any matter under consideration shall be determined by a simple majority of votes cast.

The hearing will then resume in public. The Chair will announce the decision and give the reasons for that decision, any material findings of fact, any licence conditions that are to be imposed and the licensing objectives that they relate to ( unless, where permitted by the regulations, the decision is to be communicated at a later time).

**Repeat process for each hearing.**

**5.24 Conduct and Procedure for Hearings of the Sub-committee under the Gambling Act 2005**

(a) General

The following proceedings apply to the licensing sub-committees established by the Licensing Committee of Newport City Council acting as the licensing authority under the Gambling Act 2005.

(b) Composition of the Licensing Sub-Committee

The Licensing Sub-committee comprises all members of the committee, other than those who have an interest or who is the ward member for the ward in which premises under consideration is located. The quorum is three.

(c) Notice of Hearings

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 being 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.

- (d) The notice of the hearing shall specify the date and time when and the place at which the hearing is to take place. Such notices 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.
- (e) 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
- (f) 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.
- (g) 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.
- (h) Right of Attendance, Assistance and Representation  
Subject to paragraphs 9.1 and 10.11 below, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. For the avoidance of doubt, a party may be assisted or represented by their ward Councillor provided that such a Councillor is not a member of the Licensing Committee.
- (i) Action Following Receipt of Notice of Hearing  
Upon receipt of the notice of hearing and by no later than five working days before the day or the first day on which the hearing is to be held, each party shall give to the Licensing Authority a notice in writing stating:
- a) whether he intends to attend and to address the hearing,
  - b) whether he wishes to be assisted or represented by another person,
  - c) whether 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
  - d) whether he considers the hearing to be necessary and whether he is willing to consent to the application being determined without a hearing being held.
- (j) Notice may be given to the licensing authority by electronic means or in writing to the Democratic Services Section at The Civic Centre, Newport, South Wales, NP20 4UR.
- (k) 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.
- (l) 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.
- (m) 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.

(n) Non-Attendance at the Hearing

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-committees, 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:

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

(o) 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.

(p) Withdrawal of Representations

A party who wishes to withdraw any representations made may do so:

- (i) by giving notice to the licensing authority no later than 24 hours before the day or first day on which the hearing is to be held that he wishes to withdraw his representations, or
- (ii) orally at the hearing.

(q) Extension of Time and Adjournments

Subject to the provisions of the Regulations, the Sub-Committee may:

- (i) adjourn the hearing to a specified date (eg when a party fails to attend or be represented at a hearing and the sub-committee considers an adjournment to be necessary in the public interest), or
- (ii) arrange for a hearing to be held on specified additional dates.

(r) Where the sub-committee adjourns the hearing to a specified date it shall, as soon as reasonably practicable, notify the parties of the date, time and place to which the hearing has been adjourned.

(s) Similarly, when the sub-Committee arranges for the hearing to be held on a specified additional date it shall, as soon as is reasonably practicable, notify the parties of the additional date on which and time and place at which the hearing is to be held.

(t) 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.

(u) The Hearing - Hearings will usually be held in public

The sub-committee may however exclude the public from all or part of a hearing where it considers it necessary to do so being mindful 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.

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.

At the commencement of the hearing, the Chair 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. Any member who knows the Applicant or any of the objectors will declare such and will not take part in the hearing. This is in addition to the declaration of any personal or prejudicial interest. The chair 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 regarding the procedure or as to its contents. The hearing will take the form of a discussion and, no cross examination shall take place without the Chair's consent.

It is the responsibility of any member to declare any relationship with an applicant or objector; and any personal or prejudicial interest. Local Ward members will be disqualified from consideration of any cases within their ward.

- (v) Procedure in all cases other than an application for a review of a premises licence or licence or the removal of gaming exemptions from premises or the cancellation of permits.  
The Licensing Officer will outline the application.

The chair 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 of twenty minutes in which to address the sub-committee and call witness(es) on his behalf.

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.

The Chair will then invite in sequence each of the parties at the hearing or their representative(s) 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 of twenty minutes in which to address the sub-committee and call witness(es) on its behalf. The sequence in which each of the parties will be invited to address the sub-committee will be at the discretion of the Chair 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.

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.

The party or his representatives will then be given final opportunity to ask any further questions of witnesses in order to clarify any points raised earlier during questioning.

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 chair 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.

The chair may enquire of the Applicant as to whether or not, in the light of the information heard, he wishes to amend his application as, when they retire, the members of the sub-committee will only consider the information which has been placed before them.

If the application is to be amended then those who made representations will be given the opportunity to comment upon the amended application.

Where appropriate, the chair 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 chair 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 chair, a party is being repetitious, vexatious or slanderous in his remarks, the chair may first warn the party and may then advise the party that he will no longer be heard. The ruling of the Chair shall be final in such circumstances.

The chair 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 his agreeing to comply with such conditions as the chair may require. However any person excluded may submit any such information that they proposed to give orally, in writing, provided that they do so before the end of the hearing. Such written information will be taken into account by the sub-committee.

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 chair to sum up his application for a time not exceeding two minutes but without introducing any new evidence to the proceedings.

(w) Procedure in cases relating to an application for a review of a premises licence on removal of gaming exceptions from premises on the cancellation of permits.

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.

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.

There shall be no right of reply for the applicant for a review of the licence or the licensing authority.

(x) Determination of Applications

At the conclusion of the hearing, the sub-committee will determine the application, remove the exemption or cancel 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 is practicable after the hearing ends.

Where a hearing has been dispensed with in accordance with paragraph 5.3 above, the application, removal of an exemption or cancellation of a 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.

The licensing authority will notify the applicant and parties of its decision forthwith upon the making of the decision.

A record shall be taken of the hearing by the licensing authority which shall be retained for six years from the date of the determination of the hearing or the disposal of any appeal or judicial review.

**Note: Human Rights**

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right. The sub-committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions:

Article 6 - In the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 - Everyone has the right to respect for his/her home and private and family life.

Article 1 of the First Protocol - Everyone is entitled to the peaceful enjoyment of his/her possessions.

## **6.0 Licensing Committee Member Training**

If you are a member of a Licensing Committee you must during the period of your membership of the Licensing Committee participate in a programme of training on the licensing system. The programme will consist of compulsory and discretionary modules.

If you are a member of the Licensing Committee and you do not attend all of the compulsory modules at least once every other municipal year and at least half of all of the training sessions (from whichever module) organised during any municipal year then this may result in you being asked to stand down as a member of Licensing Committee.

You should be aware that:

- Training is particularly important for members who are new to Licensing Committee and for members who have not availed themselves of training opportunities in the past, and
- Where you have genuine difficulty in attending any particular training session, officers will try where practicable to accommodate a request for an individual or repeat session.

Details of Licensing Training modules will be forwarded to Members of the Committee when appropriate.