

NORTH EAST LINCOLNSHIRE COUNCIL

LICENSING COMMITTEE AND SUB-COMMITTEE

PROCEDURE FOR ALL HEARINGS HELD UNDER THE LICENSING ACT 2003

INTRODUCTION

1. The Licensing Committee and Sub-Committee has the duty under the Licensing Act 2003 (“the Act”) to determine applications for any Licence under the Act where relevant representations have been made. This also includes reviews, variations and transfers. The Licensing Committee has determined that, subject to the provisions of The Licensing Act 2003 (Hearings) Regulations 2005 (“the regulations”), the procedure to be followed at the hearing will be as set out herein.
2. The majority of determinations will be made by the Licensing Sub-Committee. However in appropriate cases, it may be decided that the Licensing Committee will make a determination. Decisions will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.

NOTICE OF HEARING

3. The Licensing Section shall on behalf of the Licensing Authority give to the parties Notice of the Hearing, in accordance with the regulations. The parties to the hearing include (where relevant) the applicant, the licence holder, the user of the premises, the club, the chief officer of police and the persons making the relevant representations. Notice to the applicant (or licence holder) shall also include copies of the relevant representations which have been made.

DISCLOSURE

4. The Licensing Authority strongly urges all parties involved in any hearing to ensure that there is full advance disclosure between the parties of any additional information (in support of the application or representation) to be put before the Committee hearing and that copies are provided to Law and Democratic Services within 5 working days of the hearing for distribution purposes. Failure to disclose may result in the information not being admitted. If any party produces information at the hearing, where advance disclosure has not taken place, the Committee may not take that information into account unless the other parties consent.

ATTENDANCE AT HEARINGS

5. Any party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. The hearing shall take place in public. The Committee may exclude the public from all or part of a hearing on

public interest grounds. If a party has informed the licensing authority that he does not intend to attend or be represented at a hearing, or fails to attend or be represented, the hearing may proceed in his absence. Where the hearing takes place in the absence of any party the Committee shall consider representations made by that party.

HEARINGS

6. The Chairman will open the Committee and introduce any members and officers present at the hearing. All parties or representatives will be asked to introduce themselves to the Committee. The legal advisor to the Committee will ensure all parties understand the procedure and, if this is not understood, will explain the procedure to the parties.
7. Hearings shall commence in the form of a discussion led by the legal advisor to the Committee. The purpose of the discussion will be to establish any preliminary matters such as:-
 - (a) whether any representations have been withdrawn.
 - (b) whether a hearing is still necessary.
 - (c) whether any person other than a party or person representing a party has the permission of the committee to appear at the hearing.
 - (d) if the licensing authority has sought clarification of any information from any party, whether that party has any further information in response to that request.
 - (e) if any party wishes to produce any further information at the hearing whether the other parties consent to that other information being produced (see 4. above).
 - (f) whether any information produced by any party is relevant to the application, representations or to the promotion of the licensing objectives. Where the licensing authority considers that it is not relevant it shall inform the parties that it shall disregard that information. The legal advisor to the committee will give advice where appropriate.
 - (g) where there are a number of objectors making the same point the Committee may invite such objectors to appoint a spokesperson.
 - (h) whether there should be an adjournment (see 9. below) and if so the Committee will adjourn to a specified date (or additional dates).
 - (i) members of the committee may ask any questions.
 - (j) where any party wishes to address the committee or ask questions of any party appearing at the hearing, the party will seek permission to do so and the committee will consider whether permission is given (and if so the form of the hearing will proceed forthwith on a contested basis).

The time allocated for the preliminary discussion will normally be 10 minutes.

8. Once the “preliminaries” have been addressed the licensing officer will set out the nature and details of the application, review, variation or transfer etc, including the representations being made. The parties may at this stage be asked to confirm or clarify the details of what has just been said. The Committee will then invite the

parties, who have sought to address the Committee, to do so and will follow the order set out in paragraph 10 below.

9. During the contested hearing all parties will be allowed the same amount of time. Some flexibility will be given. Where necessary some extra time will be allowed. If extra time is given the other parties will be asked if there is anything else they wish to add or say. The maximum time allowed is only likely to be enforced if it appears that one party is obtaining an unfair advantage (or the other parties are not receiving a fair hearing) as a consequence of any prolongation. The maximum time may also be enforced in the interests of timeliness, particularly to avoid unnecessary repetition.

Please take the details contained in paragraph 10 as notification of the maximum time to be allowed (UNLESS notified otherwise).

If any party considers that the time to be allowed is not sufficient written representations should be made, at the earliest opportunity, to Law and Democratic Services (to the address specified on the Notice of Hearing) setting out reasons why more time is necessary. Such requests will be accommodated only where necessary and possible. If this is not possible the hearing may be adjourned to another date or may proceed in the allocated time. The Licensing Authority considers that it is the responsibility of the parties to ensure where possible that they can present their cases in the allocated time. The parties are encouraged to put anything which it wishes to address to the Committee in writing, therefore saving time. Adjournments will usually only be granted as a last resort.

10. The normal maximum allocated time and order of play will be as set out below:-
 - i. Applicant has 20 minutes in total to address the Committee in opening speech and call any witnesses in support of their application.
 - ii. Questions by members of the Committee (5 minutes).
 - iii. Responsible Authorities have 20 minutes each in total to address the Committee and call any witnesses in support of their representation.
 - iv. Questions by members of the Committee (5 minutes).
 - v. Interested parties have 20 minutes each in total to address the Committee and call any witnesses in support of their representation.
 - vi. Questions by members of the Committee (5 minutes).
 - vii. Closing speech, to sum up, by any party, if permission given (5 minutes each).

It is a matter for the parties how they decide to divide their allocated time, whether they call any witnesses at all or simply wish to rely on submissions. The parties are asked to consider this themselves before the hearing.

On the basis that there will normally have been full disclosure of information, and that the Committee members will have read all papers before the hearing, the Licensing Authority is of the opinion that opening speeches and evidence in-chief should be brief.

Cross examination will not normally be allowed. In exceptional cases specific questions may be permitted with the prior agreement of the Committee.

DETERMINATIONS

11. Decisions following police objection to a temporary event notice or a review following a closure order will always be made at the conclusion of the hearing. In other cases the Committee must make its determination within 5 working days of the last day of the hearing. However wherever possible the Committee shall endeavour to make its decision at the conclusion of the hearing.

In which case the Committee will retire (or ask the parties to leave the room) and make its determination. The legal advisor may provide advice to the Committee in respect of its decision but will not take part in the decision making. If the Committee needs to seek clarification from any party, Members will return to the meeting.

12. In all cases Law and Democratic Services will confirm the decision of the Committee in writing to all parties, including any conditions and reasons, and will inform them of their right, and time permitted, to appeal the decision.