

## **AGENDA ITEM: 4**

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Meeting	Licensing Committee
Date	21 February 2005
<b>Subject</b>	<b>Supplemental report on Licensing Hearings Procedure – Head of Committee, and Borough Solicitor.</b>

This supplemental paper should be read in conjunction with the report at Agenda Item 4 on the agenda for the meeting of the Licensing Committee on 21 February 2005.

The report circulated with the agenda seeks the Committee's approval to a Procedure to be followed by the Licensing Sub-Committee in the conduct of Hearings under the Licensing Act 2003.

The proposed Procedure, which officers recommend be adopted by the Committee, is attached.

The Committee is invited to consider the proposed Procedure, and the recommendations at Paragraph 1 of the main report.

**LONDON BOROUGH OF BARNET**  
**LICENSING SUB COMMITTEE**

**HEARINGS PROCEDURE**

***General points***

The following procedure is based on Regulations made by the Secretary of State under the Licensing Act 2003 (“the Hearings Regulations”) which may be viewed or downloaded from the website of the Department for Culture, Media and Sport by following links from [www.culture.gov.uk](http://www.culture.gov.uk)

The procedure is intended as a general framework to ensure natural justice and a fair hearing. The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed.

The procedure allows each party a maximum period of 5 minutes in which to present their case (Regulations 16 & 24). At the end of the time allowed, the Chairman will terminate the presentation and the hearing will proceed in the form of a discussion led by the authority to explore points of dispute. The discussion will not be timed

The procedure is subject to periodic review and amendment to reflect best practice and relevant legislative changes. An updated version of this procedure is published as soon as possible following any such amendments.

**Chairman**

- Introduces him/herself and Members of the Committee, and outlines their roles.
- Introduces Licensing, Legal and Democratic Services Officers.
- Explains that Legal and Democratic Services Officers will be present during the Committee’s deliberations to advise only, and that the Licensing Officer will be excluded from deliberations.
- Asks parties present to introduce themselves.
- Outlines procedure to be followed (Regulation 22).
- Asks Democratic Services Officer to distribute copies of the procedure aide memoir.
- Asks all parties to confirm their understanding of the procedure.
- Clarifies any aspect(s) of the procedure where any parties are uncertain or asks Legal or Democratic Services Officer as appropriate to clarify.

## **DSO**

- Informs Committee of absent parties.
- Details persons whom a party is seeking permission to represent them at hearing.
- Panel confer re permission.
- Chairman announces decision re permission.

## **Licensing Officer presents the report to the Committee**

- Is a statement of the facts including details of the application and operating schedule, relevant policy details, detail representations made, a chronology of events and highlights the points on which the Authority requires clarification.

## **Applicant**

- Presents opening submissions and clarifies points raised by Authority in notice of hearing. Time allowed 5 mins.

## **Other parties**

- Presents opening submissions either in person or by spokes person Time allowed 5 mins per interested party.

## **Members question Licensing Officer on Policy**

### **Discussion**

#### **Chairman leads a discussion concentrating on points of dispute:**

Chairman asks Applicant what he disputes in other parties' submissions, and asks other parties to comment.

Chairman proceeds through all objectors dealing with all matters of contention.

When Chairman feels all matters have been thoroughly discussed and all parties have been given a fair and equal opportunity to comment and make representations, she/he closes discussion.

### **Determination**

There are two procedures depending on whether or not determination is to be made at the end of the Hearing or within five working days of the Hearing. This later announcement of determination is permitted in terms of the Legislation for certain types of applications.

**Chairman informs all present that will deliberate, that Legal and DSO will remain to advise but will not be part of decision-making process, and that all others must leave (under Reg. 14).**

- Parties, apart from Legal and Democratic Services Officer, leave the room.
- The Committee deliberates, with advice as required from Legal and Democratic Services Officers, and reaches a conclusion. The Legal officer may assist, as required, in

formulating the wording of the determination.

- Parties return.
- Chairman reads out determination, and advises it will be sent in writing to all parties.
- Opportunity for determination to be clarified by any interested party who is unclear.
- Chairman gives advice about appealing against the determination.
- Democratic Services Officer circulates pre-prepared general information on appealing against the determination.
- Chairman thanks all for attending and closes the meeting.

**...Within five working days of the hearing**

- Chairman explains requirement to determine the Hearing within five working days, and advises that the Committee will proceed to deliberate and announce the determination within that time.
- During deliberations, Legal and Democratic Services Officers remain to advise on law and procedure as required. The Legal Officer may assist, as required, in formulating the wording of the determination. The Licensing Officer plays no part in the determination and withdraws for this part of the proceedings.
- Chairman advises all parties that they will receive written notification of the determination within five working days of the Hearing date, together with general information on how to appeal against the determination.
- Chairman thanks all parties for attending and invites the applicant, objector(s), other party(ies) and the Licensing Officer to leave.

**This version**

**9 February, 2005**