

MEETING

LICENSING COMMITTEE

DATE AND TIME

TUESDAY, 8 MAY 2007

at 7.00 PM

VENUE

THE TOWN HALL, THE BURROUGHS,

HENDON, NW4 4BG

TO: MEMBERS OF THE COMMITTEE (Quorum 4)

Chairman: Councillor Andreas Tambourides

Vice Chairman: Councillor Kate Salinger

Councillors:

Maureen Braun

Kath McGuirk

Ansuya Sodha

Terry Burton

Susette Palmer

Jim Tierney

Claire Farrier

Wendy Prentice

Vacancy

John Hart

Hugh Rayner

Julie Johnson

Joan Scannell

You are requested to attend the above meeting for which an Agenda is attached.

Janet Rawlings, Democratic Services Manager,

Democratic Services contact: Nazyer Choudhury, tel: 020 8359 2031

To view Agenda papers on the website: <http://committeepapers.barnet.gov.uk/democracy>

CORPORATE GOVERNANCE DIRECTORATE

FACILITIES FOR PEOPLE WITH DISABILITIES

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ORDER OF BUSINESS

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1.	MINUTES		-
2.	ABSENCE OF MEMBERS		-
3.	PUBLIC QUESTION TIME		-
4.	DECLARATION OF MEMBERS' PERSONAL AND PREJUDICIAL INTERESTS		-
5.	Gambling Hearings Procedure	HOL & DSM	1-18
6.	ANY OTHER ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT		

Fire/Emergency Evacuation Procedure

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AGENDA ITEM: 5

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Meeting	Licensing Committee
Date	8 May 2007
Subject	Gambling Hearings Procedure
Report of	Head of Legal Democratic Services Manager
Summary	Hearings Regulations under the Gambling Act 2005 require Authorities to agree a procedure which they will follow in conducting Gambling Act Hearings. This report recommends a procedure based on the Regulations.

Officer Contributors	Debra Allday, Senior Solicitor (Advocacy) Katy Lam, Democratic Services Officer
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix A – Hearings Procedure Draft Appendix B – Hearings Regulations
For decision by	Licensing Committee
Function of	Council, acting as Licensing Authority
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

Contact for further information: Katy Lam – Democratic Services Officer on 020 8359 2051

1. RECOMMENDATIONS

- 1.1 That the Committee approve and adopt the draft Hearings Procedure, detailed in Appendix A to this report, as the procedure to be used by this Licensing Authority for the conduct of Hearings under the Gambling Act 2005;**
- 1.3 That the Procedure be reviewed periodically and amended as required to reflect legislative changes and developing best practice; and**
- 1.4 That the Democratic Services Manager be authorised, in consultation and agreement with the Chairman and Vice-Chairman, to make any minor or consequential amendments to the Procedure as might be required.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council, 7 November 2006, adopted the Gambling Policy on the recommendation of the Licensing Committee, 18 October 2006.
- 2.2 Licensing Committee, 21 February 2005 approved the Hearings Procedure for the conduct of hearings under the Licensing Act 2003.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Hearings Procedure will directly support the delivery of the Council's approved Gambling Policy and will enable the Council to discharge its obligations under the Gambling Act 2005.

4. RISK MANAGEMENT ISSUES

- 4.1 Agreement of a procedure to be followed at Gambling Hearings is a requirement of the Legislation. Failure to have a procedure in place by the time the Gambling Hearings begin would breach statutory requirements.
- 4.2 As with all of the Council's activities, over-arching principles of Common Law, Natural Justice and Human Rights apply.
- 4.3 In respect of the Gambling Act 2005 Hearings, the requirements of the Regulations made under that Act to provide on the one hand a hearing in the form of a discussion and, on the other, a maximum period of time for parties to make their case gives rise to a potential risk of challenge.
- 4.4 If the Procedure is too prescriptive in setting rigid time limits, parties may argue that Natural Justice had not been allowed to prevail and that a fair hearing had not taken place. If, however, the Procedure does not specify a time limit, then there would be a technical breach of the Regulations.

- 4.5 The risk which requires to be managed is to develop a procedure which balances the strict letter and spirit of the Regulations with Natural Justice and Human Rights requirements.

5. EQUALITIES AND DIVERSITY

- 5.1 The Hearings Procedure will be undertaken in such a way that the council's obligations to promote race, disability and gender equality are observed.
- 5.2 The Hearing Procedures will be structured to encourage all sections of Barnet residents to participate in the decision making process. Public meetings will be conducted on accessible sites to assure compliance with relevant disability legislation.

6. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 6.1 None within the context of this report.

7. LEGAL ISSUES

- 7.1 None, other than those already addressed in the report.

8. CONSTITUTIONAL POWERS

- 8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including "all functions under the ...Licensing Act 2003, associated Regulations, not otherwise delegated to the Licensing Sub-Committee.

9 BACKGROUND INFORMATION

- 9.1 The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees)(Premises Licence and Provisional Statements(England and Wales) Regulations) 2007 No. 173 came into force on 30 April 2007 (Appendix B).
- 9.2 The Regulations require Licensing Authorities to determine the procedure to be followed at their Gambling Act Hearings.
- 9.3 The Hearings Procedure for Gambling Act Hearings reflect the Licensing Hearings Procedures that were adopted by the Licensing Committee on 21 February 2005, in that they strike a balance that allow parties equal opportunity to put their case within the context of a discussion. The Procedure must balance the technical requirements and the spirit of the Regulations and Act with the wider principles of Natural Justice and Human Rights. Officers have developed a Hearings Procedure which balances these requirements, is in accordance with the Regulations, and which takes account of current guidance and thinking in this area.

It is the same Hearings Procedure adopted for the conduct of hearings under

the Licensing Act 2003.

9.4 The Barnet Council's restructure has seen Licensing moving into the Corporate Governance Directorate. As a result of this restructure a full review of both licensing and gambling procedures is expected within 6 months.

9.5 The Licensing Hearings Procedure is detailed in Appendix A.

10 LIST OF BACKGROUND PAPERS

10.1 None.

Legal: DRA

CFO: CM

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

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.

Appendix A – Hearings Procedure

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.

Note regarding use of video evidence

Video evidence must be in DVD format and will form part of the relevant party's five minutes opening submission. Any party wishing to use video evidence must submit a copy to the Authority along with sufficient, identical extra copies to serve on all the opposing parties – ie, if the applicant is submitting it, there must be enough copies for all parties making representations and if a party making representations is submitting it there must be a copy for the applicant. The recording must be edited down to the highlights, containing only relevant matter which relates to the written representation previously submitted. In addition, a description of how, when and where the video was recorded and what it contains must be submitted. These must be supplied to the Authority at least five working days before the hearing.

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.

Appendix B

2007 No. 173

BETTING, GAMING AND LOTTERIES, ENGLAND AND WALES

The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007

<i>Made</i>	<i>27th January 2007</i>
<i>Laid before Parliament</i>	<i>29th January 2007</i>
<i>Coming into force</i>	<i>30th April 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 9(2) and 197(2) of the Licensing Act 2003[1] an section 154(5) of the Gambling Act 2005[2].

Citation, commencement and extent

1. —(1) These Regulations may be cited as the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 and shall come into force on 30th April 2007.

(2) These Regulations extend to England and Wales only.

Interpretation

2. —(1) In these Regulations—

"the Act" means the Gambling Act 2005;

"applicant" means a person who makes an application;

"application" means an application made under sections 159, 187, 188, 195, 197 or 204;

"relevant committee" means a licensing committee to which functions are delegated by virtue of section 154(1), or a licensing sub-committee empowered to discharge such functions by arrangement under section 1(1) of the Licensing Act 2003;

"notice of hearing" means a notice given to a party in accordance with regulation 5;

"party" means a person to whom a notice of hearing is given in accordance with regulation 5(1);

"representations" means representations made in accordance with regulations under section 161 in relation to an application, or section 19(6) or 200(5) in relation to a review;

"review" means a review under section 201; and

"working day" means a day which is not a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971[3].

(2) For the purposes of these Regulations, a reference to a review being determined is a reference to the licensing committee deciding what, if any, action it proposes to take under section 202 following a review.

(3) A reference in these regulations to a numbered section or subsection is a reference to that section or subsection of the Act so numbered, unless the contrary is indicated.

Scope

3. —(1) These Regulations apply to the proceedings of a relevant committee in relation to the exercise of its functions under the following provisions of the Act—

(a) subsections (1) and (2) of section 162 (which make provision about the circumstances in which a hearing is required to be held in relation to an application); or

(b) section 201(4) (which makes provisions about the circumstances in which a hearing is required to be held in relation to a review).

(2) Subject to the provisions of these Regulations, it is for the relevant committee to determine the procedure to be followed in relation to the functions specified in paragraph (1).

(3) The Licensing Act 2003 (Hearings) Regulations 2005[4] do not apply to the proceedings of a relevant committee specified in paragraph (1).

Period of time within which a hearing is to be held

4. —(1) Where a hearing is required to be held under section 162(1) or section 201(4) in relation to a procedure listed in column 1 of the table in the Schedule, the relevant committee must arrange for the hearing to be commenced as soon as is reasonably practicable after the expiry of any period for representations prescribed under sections 161(2), 197(6) or 200(5).

(2) In any case where the hearing is to be held on more than one day, the relevant committee must arrange for the hearing to take place on consecutive working days.

Notice of hearing

5. —(1) A relevant committee must give notice of any hearing which is required to be held in relation to a procedure listed in column 1 of the table in the Schedule, to each of the relevant persons listed in column 2 of that table.

(2) A relevant committee must ensure that the notice referred to

in paragraph (1)—

(a) specifies the date on which, the place at which and the time when the hearing is to take place;

(b) states that the relevant committee will make available the documents listed in the relevant entry in column 3 of the table in the Schedule to the following persons if those persons request them—

(i) any person who has made representations (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application), and

(ii) in the case of an application under section 188 for the transfer of a premises licence, the licensee; and

(c) is sent so that, in the ordinary course of events, it is received no later than 10 working days before the first day on which the hearing is to be held (as specified in the notice).

Information and documents to accompany the notice of hearing

6. —(1) The notice of hearing must be accompanied by information in writing explaining the following—

(a) the consequences provided for under regulation 10(1) where a party informs the relevant committee that he does not wish to attend or be represented at the hearing, or fails to inform the relevant committee whether he wishes to attend or be represented at the hearing;

(b) the requirements imposed on the relevant committee in conducting a hearing as set out in regulations 8 and 9;

(c) the consequences provided for in regulation 10(2) where a party has indicated that he wishes to attend or be represented at the hearing, but fails to attend or be represented at the hearing;

(d) the procedure to be followed at the hearing;

(e) the time limit and method, if any, by which a party should inform the relevant committee that he wishes to attend or address the hearing;

(f) the time limit and method, if any, by which a party should inform the relevant committee that he wishes to be assisted or represented by another person;

(g) the time limit and method, if any, by which a party

should inform the licensing authority that he will want to call a witness to give evidence at the hearing, and the matters in relation to which he wishes that witness to give evidence;

(h) the time limit and method, if any, by which a party should inform the relevant committee that he wishes to withdraw any representations;

(i) the time limit and method, if any, by which a party should inform the relevant committee that he is willing to consent to the application being determined without a hearing;

(j) the matters, if any, on which the relevant committee considers at the time that it will want clarification at the hearing from a party.

(2) Where a hearing is required to be held in relation to a procedure listed in column 1 of the table in the Schedule, a relevant committee must send the documents listed in the relevant entry in column 3 of the table in the Schedule—

(a) to the following persons—

(i) the applicant, and

(ii) in the case of a review, the licensee; and

(b) if requested by him, to—

(i) a person who has made representations in relation to the application or review (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application), and

(ii) in the case of an application under section 188 for a premises licence, the licensee.

Power to postpone

7. —(1) A relevant committee may at any time—

(a) postpone a hearing to a specified date, or

(b) arrange for a hearing to be held on a date specified by the committee.

(2) A relevant committee may take the actions specified in paragraph (1) if it considers it necessary—

(a) to enable it to consider any information or documents provided by any party in response to a notice under regulation 6, or at the hearing, or

(b) having regard to the ability of any party, person representing a party or witness to attend the hearing.

(3) Where a relevant committee has adjourned a hearing to a specified date it must, as soon as reasonably practicable, notify the parties of the new date, time and place for the hearing.

(4) Where a relevant committee has arranged for the hearing to be held on a specified additional date it must, as soon as reasonably practicable, notify the parties of the additional date, time and place for the hearing.

Hearings to be public

8.—(1) Subject to paragraph (2), the hearing must take place in public.

(2) A relevant committee may direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to—

(a) any unfairness to a party that is likely to result from a hearing in public; and

(b) the need to protect as far as possible, the commercial or other legitimate interests of a party.

Proceedings of a relevant committee in conducting a hearing

9.—(1) Subject to regulations 8 and 11, a relevant committee must permit a party to attend a hearing and be assisted or represented by any person whether or not that person is legally qualified.

(2) At the beginning of the hearing the relevant committee must explain the procedure that it proposes to follow in conducting the hearing.

(3) In conducting a hearing the relevant committee must ensure that each party is given the opportunity to—

(a) address the relevant committee on any matter that is relevant to the application or review, or any representations made on the application or review;

(b) call witnesses to give evidence on any matter that is relevant to the application or review, or any representations made on the application or review;

(c) provide further information on, or explanation of, any matter on which the relevant committee has indicated that it will want further clarification under regulation 6(1)(j).

(4) In conducting a hearing the relevant committee must also—

(a) permit any party to question any other party or person representing a party on any matter that is relevant to the application or review, or any representations made on the application or review, where the relevant committee considers that in all the circumstances it is appropriate to do so; and

(b) take into consideration documentary or other information in support of the application or representations produced by a party—

(i) before the hearing; or

(ii) at the hearing, with the consent of all the other parties attending the hearing.

(5) Without prejudice to paragraphs (3) and (4), a hearing must be conducted so that it takes the form of a discussion led by the relevant committee, and the committee must not permit any cross-examination unless it considers that cross-examination is required for it properly to consider the application or representations made by any party.

Failure of parties to attend the hearing

10.—(1) A relevant committee may proceed with a hearing in the absence of a party or a party's representative if the party has—

(a) informed the committee that he does not intend to attend or be represented at the hearing (and has not subsequently advised the committee otherwise);

(b) failed to inform the committee whether he intends to attend or be represented at the hearing; or

(c) left the hearing in circumstances enabling the committee reasonably to conclude that he does not intend to participate further.

(2) If a party has indicated that he does intend to attend or be represented at the hearing, but fails to so attend or be so represented, the relevant committee may—

(a) adjourn the hearing to a specified date if it considers it to be in the public interest, or

(b) proceed with the hearing in the party's absence.

(3) Where the hearing proceeds in the absence of a party, the relevant committee must consider at the hearing the application or representations made by that party.

(4) Where, under this Regulation, the relevant committee adjourns the hearing to a specified date it must, as soon as reasonably practicable, notify the parties of the date, time and

place to which the hearing has been adjourned.

Exclusion of disruptive persons

11. —(1) The relevant committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner, or in breach of conditions specified under this paragraph, to leave the hearing and may—

- (a) refuse to permit him to return, or
- (b) permit him to return only on such conditions as the relevant committee may specify.

(2) The relevant committee may allow a person who is attending the hearing and in their opinion is behaving in a disruptive manner, or in breach of conditions specified under paragraph (1), to remain at the hearing only on such conditions as the committee may specify.

(3) Where a person is required to leave the hearing in accordance with paragraph (1), the relevant committee must—

- (a) permit him to submit in writing, before the end of the hearing, any information which he would have been entitled to give orally had he not been required to leave; and
- (b) take into account that information in reaching a determination of the application or review.

Procedure where a hearing is not to take place

12. Where the parties have notified the relevant committee that they consent to the application or review being determined without a hearing under sections 162(2) or 201(4)(a), the relevant committee must, as soon as reasonably practicable—

- (a) notify all the parties that the hearing has been dispensed with, and
- (b) determine the application or review.

Determination of an application or a review

13. Following a hearing under section 162(1) or 201(4), a relevant committee must determine the application or review before the end of the period of 5 working days starting with the day after the last day of the hearing.

Power to extend time

14. —(1) A relevant committee may extend the time limit provided for in regulation 13 for a specified period where it considers an extension to be in the public interest.

(2) Where the relevant committee has extended the time limit in accordance with paragraph (1), it must, as soon as reasonably practicable, give a notice of the extension to the parties stating the

period of the extension and the reasons for it.

Record of proceedings

15. —(1) The relevant committee must ensure that a record of the hearing is taken in a permanent and intelligible form.

(2) The relevant committee must ensure that any such record is kept for a period of six years from the date that the application or review is finally determined (including, in either case, any appeal or judicial review).

Irregularities

16. —(1) Subject to paragraph (2), a relevant committee may disregard any irregularity resulting from a failure to comply with a provision of these Regulations, or with a procedure otherwise determined by the relevant committee in accordance with regulation 3 (2), where that irregularity comes to its attention prior to it making a determination of the application or review.

(2) If the relevant committee considers that any person may have been prejudiced by any such irregularity, it must take such steps that it considers necessary to remedy the consequences of the irregularity, before reaching its determination.

Clerical mistakes

17. A relevant committee may correct clerical mistakes in any document recording a determination of the committee, or errors arising in such a document from an accidental slip or omission.

Notices etc.

18. Except where otherwise provided, a requirement under these Regulations to give a notice (or to notify) is a requirement to give notice in writing; and for that purpose, a message sent by facsimile transmission or electronic mail must be treated as a notice given in writing.

Richard Caborn

Minister of State Department for Culture, Media and Sport

27th January 2007

SCHEDULE 1

Regulations 4(1), 5(1), 6(2)

Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Procedure in relation to which a	Persons to whom notice must be given	Copies of documents to accompany the notice of hearing

hearing is required to be held		
Application for a premises licence under section 159	(1) The applicant (2) Any person who has made (and not withdrawn) representations about the application	Representations made in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Application to vary a premises licence under section 187	(1) The applicant (2) Any person who has made (and not withdrawn) representations about the application	Representations made in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Application for a premises licence to be transferred under sections 188 and 189	(1) The applicant (2) Any person who has made (and not withdrawn) representations about the application (3) The licensee	Representations made in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Application for a licence to be reinstated under sections 195 and 196	(1) The applicant (2) Any person who has made (and not withdrawn) representations about the application	Representations made in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)
Application for a provisional statement under section 204	(1) The applicant (2) Any person who has made (and not withdrawn) representations about the application	Representations in relation to the application (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application)

Review of a premises licence under section 201	(1) The applicant (2) Any person who has made (and not withdrawn) representations about the review (3) The licensee	Representations made in relation to the review (unless the relevant committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the review)
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EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations come into force on 30 April 2007 and make provision for the proceedings of licensing committees and subcommittees ('relevant committees'), where they are required to hold a hearing in respect of applications relating to premises licences under Part 8 of the Gambling Act 2005 (the Act).

Under Part 8 of the Act, applications may be made for a premises licence, to vary, transfer or reinstate a premises licence, for a provisional statement, and for a review of a premises licence. Sections 162(1) and 201(4) of the Act require licensing authorities to hold a hearing in specified circumstances to consider such applications.

Section 154(1) of the Act delegates the functions of a licensing authority in England and Wales under Part 8 of the Act to the authority's licensing committee. Section 154(3) of the Act applies sections 7(9) (referral back to licensing authority) and section 10 (sub-delegation) of the Licensing Act 2003 in relation to a function delegated to a licensing committee. Section 10(1) of the Licensing Act allows a licensing committee to delegate its functions to a sub-committee or to an officer of the licensing committee.

Regulation 4 requires committees to hold hearings as soon as reasonably practicable after the deadline for making representations.

Regulation 5 requires committees to give notice of any hearing to relevant persons listed in the Schedule, and for the notice to contain specified information.

Regulation 6 sets out further information and documents that must accompany the notice.

Regulation 7 allows a committee to postpone hearings either where it needs to consider information or documents, or if a party, witness or person representing a party, is unable to attend.

Regulation 8 requires hearings to be held in public, but allows

committees to hold them in private if they consider it necessary.

Regulation 9 sets out how a committee is required to conduct the hearing, and the circumstances in which it may allow parties to attend, question and cross-examine persons at the hearing.

Regulation 10 makes provision in cases where a party does not attend the hearing, and allows committees to adjourn the hearing or proceed in a party's absence.

Regulation 11 allows relevant committees to exclude persons who are disrupting the hearing or set conditions on their attendance; if a person is excluded, the committee must allow him to make written submissions which it is obliged to take into account.

Regulation 12 requires a committee to notify the parties if, with their consent, it has dispensed with a hearing. In these circumstances, the committee is to make a decision on the application or review.

Under regulations 13 and 14 committees are required to determine the application or review within five working days after the last day of the hearing, but may extend this time limit if it is in the public interest.

Regulation 15 requires committees to ensure that a record of the hearing is taken and kept for six years after the hearing.

Regulations 16 and 17 allow committees to disregard or remedy the consequences of any irregularities that result from a failure to comply with a procedural requirement, and to correct accidental slips or omissions in any record of their decision.

A full Regulatory Impact Assessment of the costs and benefits of these Regulations is available from the Premises Licences Team, Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH, telephone 020 7211 6528.

Notes:

[1] 2003 c.17[back](#)

[2] 2005 c.19[back](#)

[3] 1971 c. 80.[back](#)

[4] SI 2005/44.[back](#)

ISBN 978 0 11 075709 4