

# CHICHESTER DISTRICT COUNCIL

## THE LICENSING ACT 2003 (THE 'ACT')

### THE LICENSING ACT 2003 HEARING REGULATIONS 2005

#### SUB-COMMITTEE PROTOCOL AND PROCEDURE NOTE

#### A. PROTOCOL

##### 1. The Notice of Meeting

- (a) The Notice of Sub-Committee meeting issued by the Council shall be accompanied by the following:
  - (i) A report of the Licensing Officer which shall include:
    - (a) Conditions the Licensing Officer considers relevant in the event that the application is granted;
    - (b) Any matters which in his opinion require clarification; and
    - (c) Observations on the application in relation to the Licensing Objectives, National Guidance and local policy.
  - (ii) Where relevant, the notices which have been given by the applicant and other parties under the Act.
- (b) The Notice of Meeting shall be served upon:
  - (i) The applicant (together with copies of relevant representations under the Act);
  - (ii) Persons who have made relevant representations under the Act; and
  - (iii) Where appropriate the Chief Officer of Police who has given notice under the Act.

##### 2. Appearances and Submissions

###### (a) Constitution of the Sub Committee

A Member of a Ward in which the premises are located and is the subject of an application shall not be a Member of the Sub-Committee determining such application.

###### (b) Parties entitled to appear

In accordance with the Licensing Act 2003 (Hearings) Regulations 2005 any person making relevant representations, the applicant and the Licensing Officer may attend the hearing and may be assisted or represented by any person whether or not the person is legally qualified.

(c) **At the Hearing**

Any party shall be entitled to:

- (i) Respond to any point in support of their application or representation which the Licensing Authority (the 'Authority') has given notice that it may require further clarification on;
- (ii) Normally to put questions to any other party; and
- (iii) Address the Sub-Committee.

(d) **Consequences of non-attendance**

- (i) The Sub-Committee will normally proceed with a hearing where a party has informed the Authority that it does not intend to attend or be represented at the hearing.
- (ii) Where a party has not so indicated but fails to attend or to be represented at the hearing the Sub-Committee may, at its discretion, where it is considered necessary in the public interest, adjourn the hearing to a later date or hold the hearing in the party's absence subject to, (in the latter case), the Sub-Committee considering the application or representations made by the absent party.

(e) **Submissions to the Sub Committee**

- (i) Subject to each party being given an equal maximum time the Sub-Committee may, at its discretion, where it considers appropriate in the public interest, advise parties that it will impose a time limit on speeches or submissions to be made to it.
- (ii) The Sub-Committee may, at its discretion, request that where a number of relevant representations repeat or in substance repeat a representation, that a representative of those making such representations make submissions to it on behalf of the other parties.
- (iii) The production of draft conditions by the Licensing Officer shall not be construed as influencing the Sub-Committee in advance of hearing representations and are produced for administrative convenience in the event that, following formal determination of the application, the Sub-Committee considers it appropriate to grant consent but with such conditions as it may consider appropriate.
- (iv) The Sub-Committee shall not have regard to any information first produced by a party at the hearing without first obtaining the consent of other parties present at the hearing.

(f) **Conduct at the Hearing**

- (i) The Sub-Committee may, at its discretion, require a person to leave the hearing and refuse to permit that person to return or to return only on such conditions as the Sub-Committee specifies if, in its opinion, that person is behaving in a disruptive manner, provided that such person may submit written evidence in accordance with the Regulations.

- (ii) Any irregularity arising from any failure to accord with this procedure shall not make the hearing void. If any person has clearly been prejudiced the Authority will take appropriate steps to rectify the irregularity before reaching its determination. Clerical mistakes in a document arising from accidental slip or omission may be corrected by the Authority.
- (iii) The public (including any parties or their representatives) may be excluded from part of the hearing where the public interest in so doing outweighs the public interest in the hearing taking place in public.
- (iv) The Sub-Committee may adjourn the hearing to a specified date where it considers it necessary to obtain further information or to facilitate representations or to assess such representation at or in the vicinity of the premises.

## **B. Procedure at the Hearing**

### **1. Order of Presentation**

- (a) The procedure of the Sub-Committee is as follows:
  - (i) Chair opens the meeting, introducing Members of the Sub-Committee and officers present to the applicant and members of the public, explains the nature of the decision to be taken and the procedure to be followed, and shall consider any request made by a party under the Regulations for permission for another person to appear at the Hearing, such permission not to be unreasonably withheld.
  - (ii) The Licensing Officer outlines the application, any relevant representations and relevancies to the local authority licensing policy statement and statutory guidance (optional).
  - (iii) Members to ask any relevant questions of the officer.
  - (iv) Licensing Officer introduces applicant (if present) and invites him or her, or person representing them, to address the committee or clarify any information arising from the officers' outline, if necessary.
  - (v) Licensing Officer to invite those parties making representations to address the Sub-Committee.
  - (vi) Members to ask any relevant questions of those parties making representations.
  - (vii) Applicant or person representing them to ask any relevant questions of those parties making representations.
  - (viii) Applicant or person representing them addresses the Sub-Committee.
  - (ix) Members may ask any relevant questions of the applicant or person representing them.
  - (x) Parties that made representations to ask any relevant questions of the applicant or person representing them.
  - (xi) Chair to invite applicant or those representing them, and any parties making representations, to briefly summarise their points if they wish.

- (xii) Chair invites Licensing Officer to comment on the effect of any evidence submitted in relation to local Licensing Authority's policies.
- (xiii) Chair asks all parties that they are satisfied they have said all they wish to.
- (xiv) Members of the Sub-Committee retire and discuss and make their decision.
- (xv) Chair relays the decision and the reasons given for the decision and any conditions placed upon the licence (if granted) and the licensing objective that they relate to.

**NB (b) Decision**

- (i) The Sub-Committee shall assess the application:

- (a) Against the four Licensing Objectives being

The Prevention of Crime and Disorder;  
Public Safety;  
The prevention of public nuisance;  
The protection of children from harm; and

- (b) Any relevant national guidance and local policy.

- (ii) **Legal Advice**

The Sub-Committee may request the assistance of the Council's legal officer at any time. Where practicable, the legal officer shall ensure that any legal advice given to the Sub-Committee not previously given during the course of hearing, shall be made known to the applicant and those making relevant representations and he shall give them the opportunity of making representations on such advice before the Sub-Committee makes its decision.

- (iii) **Confirming the Decision**

Written confirmation of the decision including any conditions in the event that the application is granted and reasons for the decision and, if relevant conditions, will be given within five working days of the hearing.