

## PROCEDURE FOR DETERMINATION OF APPLICATIONS MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 FOR THE REVIEW OF A PREMISES LICENCE

### INTRODUCTION

- Meetings of the Licensing Committee, whether the full committee of 11 members or panels of 3 members drawn from the full committee, shall be held in public unless the Licensing Authority deems that it is not in the public interest to do so. Reasons for exclusion of the public must be given at the hearing by the Chairman of the committee. Determinations will be made in private at conclusion of the hearing but announced in public thereafter.
- All hearings convened will be heard by a panel (but still referred to as the Licensing Committee) of 3 members drawn from the full committee of 11. The quorum of the committee/panel is 3 members. Therefore, 4 members of the Licensing Committee will usually be invited to attend each hearing (i.e. one as a reserve), in case of one of those invited subsequently needing to tender an apology for absence or, on being informed of the details of the application or meeting the applicant or objector (or for some other reason), deciding that s/he possesses a personal and prejudicial interest in the matter that prevents him/her participating in the hearing. At the beginning of each committee/hearing a Chairman will be appointed by those members present unless the Chairman of the whole committee is present.
- Members of the committee shall endeavor to be present throughout an individual hearing. If a member of the committee is required to leave a hearing temporarily, the Chairman shall adjourn the hearing for the duration of the member's absence. If a member is not present for the whole of an item of business they will not be able to debate or vote on that item of business.
- Where a committee undertakes a site visit prior to a hearing, a member shall be precluded from taking part in the hearing if he/she has not attended that site visit.
  - (a) To avoid taking into account "local" factors that could influence improperly his/her judgement, a member cannot serve on the committee undertaking a hearing at which a matter is being discussed that relates to a Premises Licence, Club Premises Certificate, Temporary Events Notice or Personal Licence where either the premises are or the person is resident in the ward which that member represents on Fenland District Council.,

When selecting members to participate in a hearing, the Member Services team will ensure there is compliance with this requirement.

**NOTE:** All questions and statements will be directed through the Chairman.

- (1) The Chairman will, at the beginning of the meeting, welcome all those present and explain both the reason for the hearing and the procedure to be followed. He/she will also inform attendees of any changes to committee membership (if any) since publication of the Notice

of Meeting. He/she will also seek confirmation that everyone present has received this procedure and the “what you need to know” document.

- (2) The Chairman will introduce to all present the members of the committee.
- (3) The Chairman will then introduce and explain the respective roles of
  - (i) the Legal Adviser to the committee
  - (ii) the Clerk to the committee
  - (iii) the officer representing the Licensing Authority (“the Licensing Officer”).
- (4) The Chairman will invite those present to introduce themselves (i.e. to give name and address and explain whether applicant for the premises review, responsible authority representative, premises licence holder, witness or interested party such as a local resident or business owner) and ask them to indicate if they wish to speak during the hearing.
- (5) Each party will be asked by the Chairman for a time estimate for the presentation of his/her/body’s case. After hearing all estimates, the committee will allocate each party an equal amount of time to speak.
- (6) The Licensing Officer will outline the case, by presenting the report which refers to the application for the review of the premises licence and the licensable activities, days and hours of operation, granted on the existing licence.
- (7) The Chairman will invite members of the committee to ask relevant questions to clarify the content of the Licensing Officer’s report.
- (8) The Chairman invites the applicant (or his/her representative) to put the case in support of the application to review the premises licence.
- (9) The applicant to be invited to call any witness(es) (if any) to give evidence in support of his/her case.
- (10) Once the applicant has presented his/her case, the Chairman invites questions to the applicant or his/her representative from
  - (1) the premises licence holder(s) (or their representative);
  - (2) other responsible authorities (or their representatives);
  - (3) interested persons (or their representatives);
  - (4) members of the committee.
- (11) The Chairman will invite questions to the witnesses (if any) from
  - (1) the premises licence holder(s) (or their representative);
  - (2) responsible authorities (or their representatives);
  - (3) interested persons (or their representatives);
  - (4) members of the committee.
  - a. questions must be relevant to the application and written representations already received;**
  - b. no new objections may be raised;**
  - c. repetition will be discouraged by the Chairman; and**
  - d. no supporting evidence may be introduced unless agreed by the Chairman and all parties to the hearing.**

- (12) Each of the interested persons (or their representatives) wishing to address the committee may do so in an order determined by the Chairman, which should **allow the responsible authorities before any local objectors**. They too must be willing to be questioned by other parties in the same order. Local objectors may not, however, question each other.

This will operate as follows:

- each party will present his/her/body's case.
  - each party's witnesses (if any) will give evidence in support of the party's case.
  - firstly, each party and, secondly, their witnesses may be questioned by the other interested parties, prior to questioning by members of the committee.
- (13) The premises licence holder(s) (or their representative) is invited to present his/her/their case and to ask relevant questions of those parties (or the parties' representatives).
- (14) The Chairman then invites the applicant for the review of the premises licence, responsible authorities and interested persons (or their representatives) to sum up their case. They may comment upon what has been said but no new evidence should be introduced. Each party will be allowed 5 minutes to sum up.
- (15) The Chairman then invites the premises licence holder(s) (or their representative) to sum up the case. He/she may comment upon what has been said but no new evidence should be introduced. He/she will be allowed 5 minutes to sum up.
- (16) The Chairman seeks confirmation from all parties that they are satisfied that they have said all that they wished to.
- (17) The Chairman will then thank all those who have spoken and invite the committee to retire in private to determine the application. The committee members will then debate the case presented to them at the hearing and seek to reach a determination. When the committee has reached a proposed determination with reasons or has decided to defer a determination, it shall call in the Legal Adviser to clarify the proposed determination/decision.
- (18) Once a determination/decision has been reached, the committee will return to the room and the Legal Adviser will announce in public any legal advice that he/she has given in private.
- (19) The Chairman will read out the determination and the reasons for such (unless the committee is unable to reach a determination at conclusion of the hearing).
- (20) If the committee is unable to reach a determination at that time, the Chairman will explain that all interested parties will be notified as soon as possible in writing (but within 5 working days) of the determination and the reasons for such.

## NOTES

(A) A decision may be deferred to:

- receive further documentation referred to in the meeting
- enable a site visit to take place
- invite the applicant (or his/her representative) to appear if he/she had not done so at the meeting (only once).

(B) 

- No further debate may be heard on further documentation or at a site visit
- Adjournments should generally be granted if to refuse would deny the applicant a fair hearing.