

Annex 4.7 - Code of Conduct and Practice in Licensing Procedures and Hearings (including the Gambling Act 2005)

1 Introduction and status of the code

- 1.1 The purpose of this Code is to assist councillors in the discharge of the council's licensing function and to guide applicants and other interested parties. The Code relates to all councillors and not just to those who are members of the licensing and hearing sub-committees ([Constitution](#), Appendix 3), and also to council officers, where appropriate. It should be read in conjunction with the Members' Code of Conduct ([Constitution](#), Appendix 1), and councillors should apply this Code in light of it.

2 Definitions and interpretations

- 2.1 "The (Licensing) Authority" means Epsom and Ewell Borough Council.
- 2.2 "Licensing Objectives" means the four objectives the Licensing Authority must have a view to promoting when carrying out its functions under the Licensing Act 2003. The Licensing Objectives are defined in Part 2, paragraph 4 (2) of the Licensing Act 2003 which are:
- i. The prevention of crime and disorder.
 - ii. Public safety.
 - iii. The prevention of public nuisance.
 - iv. The protection of children from harm.
- 2.3 "Premises" means any vehicle, vessel or moveable structure, or any place or a part of a premises.
- 2.4 "Applicant" means the applicant for the Grant or Variation of a licence, or certificate as defined by section 16 of Licensing Act 2003.
- 2.5 "Application" means any application under the Licensing Act 2003, including:
- i. Grant of a premises licence, club premises certificate or Temporary Event Notice (TEN).
 - ii. Transfer of a premises licence or club premises certificate.
 - iii. Review of a premises licence.
 - iv. Variation of a licence or certificate (including waiver or modification of a licence condition or to extend the licensed area, amend the licensable activities or extend the licensed hours).

- 2.6 "Authorised Person" is defined in Part 3, paragraph 13 (2) of the Licensing Act 2003, and includes bodies empowered by the Act to carry out inspection and enforcement roles. In respect of all premises, these include; Licensing Authority Officers, Fire Authority Inspectors, Environmental Health Officers and inspectors locally responsible for the enforcement of Health and Safety at Work etc Act 1974.
- 2.7 "Responsible Authorities" is defined in Part 3, paragraph 13 (4) of the Licensing Act 2003, and includes public bodies that must be fully notified of applications, and are entitled to make representations to the Authority on applications for the grant, variation or review of a premises licence. These include, The Surrey Chief Officer of Police, Fire and Rescue Service, Environmental Health Officers, Trading standards, the Home Office, Public health authority, the Licensing Authority and inspectors locally responsible for the enforcement of Health and Safety at Work etc. Act 1974, Chief Planning Officer, Surrey Area Child Protection Committee and any Licensing Authority.
- 2.8 "Party to the hearing" means a person to whom notice of the hearing is to be given in accordance with Regulation 6 (1) of the Licensing Act 2003 (Hearings) Regulations 2005, and "party" and "parties" shall be construed accordingly,
- 2.9 "Representation" means any person who has lodged a written objection to an application in accordance with these rules, and as defined in Part 3, paragraph 18 (6) of the Licensing Act 2003.
- 2.10 "Regulations" means Regulations made under the Licensing Act 2003
- 2.11 In these rules, the masculine always includes the feminine.

3 Licensing sub-committees

- 3.1 The Council's Licensing & Planning Policy Committee discharges the Council's functions related to Licensing matters, through two Licensing Sub Committees. The Licensing (Hearings) Sub Committee determines matters specific to the Licensing Act 2003 and the Licensing (General) Sub Committee determines all other licensing matters.
- 3.2 This Code applies to both Licensing Sub Committees, but is specifically directed to the Licensing (Hearings) Sub Committee, in light of the specific requirements of the Licensing Act 2003.
- 3.3 The Licensing (Hearings) Sub Committee must consist of at least three Members. No business shall be transacted unless at least three members are present from those trained members of Licensing and Planning Policy Committee.

- 3.4 Councillors shall not normally hear an application if they represent the Ward in which the applicant's premises are situated, or if they live within the vicinity of the premises.

4 The need for guidance on licensing

- 4.1 Licensing has a special responsibility to safeguard interests and balance conflicts.
- 4.2 Licensing applications are sometimes amongst the most contentious matters with which the Council deals. The successful operation of the licensing system relies amongst other things, upon ensuring that both Officers and Members act in a way that is not only fair and impartial but is also clearly seen to be so. Licensing decisions can affect land and property values, and it is important that decisions are made openly, impartially, with sound judgement and for justifiable reasons.

5 General role and conduct of members in relation to the licensing system

- 5.1 The determination of applications by the Licensing (Hearings) Sub Committee is a quasi-judicial process. The role of members taking licensing decisions has similarities to that of a court of law (and Licensing Justices). Decisions are made after a hearing at which the applicant and objectors are each given an opportunity to put their case. The decision reached must be based upon the evidence heard and a consideration of any relevant Council policies and government advice. The decision should have regard to the Secretary of State guidance issued in accordance with section 182 of the Licensing Act 2003.
- 5.2 Members of the Licensing (Hearings) Sub Committee should not favour any person, group, company or locality, nor put themselves in a position where they appear to do so, as their overriding duty in making decisions on licensing applications is to do so in a fair and impartial manner, in accordance with the Licensing Objectives, and taking into account any relevant Policy or government guidance.
- 5.3 The Licensing (Hearings) Sub Committee must adhere to European Convention of Human Rights. In particular Article 6, the right to fair and public hearing; Article 1 of the First Protocol, the right to peaceful enjoyment of a person's property and possessions; and Article 8, the right to respect for a person's private and family life, home and possessions.

6 Training

- 6.1 No members may sit on a Licensing (Hearings) Sub Committee without having undertaken training in licensing procedures and legislation as specified by the Council.

7 Lobbying

- 7.1 Lobbying is a normal and perfectly proper part of the licensing process provided that it does not affect the impartiality of the decision-making. Those likely to be affected by a licensing application may seek to influence it through an approach to their elected Ward Member or other Councillor, who may make representations to the application in accordance with the Rules of Procedure of the Committee (see paragraph 7.3 below). However, personal lobbying of the Members of a Committee, by anybody, including other Councillors, that is to determine the application in question is not appropriate, and can lead to the impartiality and integrity of a Councillor being called into question with the risk of findings of maladministration by the Ombudsman and/or the decision of the Sub Committee being challenged by way of Judicial Review.
- 7.2 A Member who is lobbied by an applicant or objector in relation to an application which may come before a Sub Committee on which that Member may sit, should (a) inform the person lobbying that such approach should only be made to officers or councillors who are not a member of the Licensing Committee; (b) notify the Monitoring Officer of the fact that such an approach had been made and (c.) declare the fact and nature of such approach at the Sub Committee.
- 7.3 Any Member wishing to rely upon any written material or other evidence which they wish to be considered by a Licensing Sub Committee, must provide such evidence in advance to the relevant officers, and within the timescales prescribed in any Regulations or Council procedures.
- 7.4 Members of any Licensing Sub Committee must make decisions based on the facts of the case. Their decisions must not be predetermined or be subject to a party “whip”. The use of the party whip is considered by the Ombudsman as contrary to the former National Code of Conduct amounting to maladministration if it leads to Members making a particular decision without taking into account all relevant matters.
- 7.5 Should an Officer be subject to lobbying by an applicant, objector, or any Councillor, this will be reported to the Sub Committee determining the application.

8 Gifts and hospitality

- 8.1 Councillors and officers should observe extreme caution in respect of any personal offer of a gift, favour or hospitality from someone who has or is likely to submit a licensing application to the Council. Further guidance on this matter is given in the Council’s Code of Conduct for Members. Even gifts of nominal value should be refused.

- 8.2 All offers or receipt of gifts or hospitality must be reported to the Monitoring Officer on the prescribed form and they will be recorded in the register of gifts and hospitality.

9 Declaration of interests

- 9.1 The responsibility for declaring an interest rests with Members. If in doubt, Members should seek advice well in advance of the meeting concerned. Guidance on the declaration of personal and prejudicial interests is contained in the Council's Code of Conduct for Members. Advice is available from the Monitoring Officer.
- 9.2 Where the Member has a Disclosable Pecuniary Interest (DPI) , a personal or prejudicial interest in an item on the agenda, it should, be declared. A Member with a DPI or a prejudicial interest will not be entitled to sit on a Licensing Sub Committee deliberating the application in question. Where a prejudicial interest is declared, the Member concerned is required to leave the meeting, unless the member has made representation in their own right, or, is elected to represent an objector who has made a valid representation. In these circumstances, it will not be possible for the Member to take any part in the decision making process and have no more rights than a member of the public.

10 Licensing applications submitted by councillors and their close associates or licensing applications which may have an impact on councillors, their families or close associates

- 10.1 Councillors will wish to have particular regard to the Members' Code of Conduct ([Constitution](#), Appendix 1), for instance where councillors act as agents for people pursuing licensing issues.
- 10.2 Given the Members' Code of Conduct ([Constitution](#), Appendix 1), councillors who have business or other interests that may bring them into contact with the council's licensing system on a regular basis should not normally sit on the Licensing and Planning Policy Committee or its Sub Committees.

11 Councillor and officer relations

- 11.1 Good administration is dependent upon a successful relationship between councillors and officers, which can only be based upon mutual trust and understanding of each other's roles and responsibilities. This relationship, and the trust which underpins it, should not be abused or compromised. Accordingly, councillors should not attempt in any way to influence the terms of the officers' report or recommendation on any application. Equally, officers should give firm independent advice. Further information on councillor / officer relations is located in the [Council Operating Framework](#) (Annex 2.4).

12 The role of the Licensing Officer

- 12.1 Licensing Officers fulfil two roles at a meeting of a Licensing Sub Committee. Firstly, a role limited to an administrative one, and secondly, a role limited to consideration of the relevant representations from their knowledge of local licensing policy, guidance, statute and good practice.
- 12.2 Licensing Officers do not make recommendations in reports to a Licensing Sub Committee in terms of the outcome of the hearing, but will introduce the Report and provide the Committee only with summary information such as the following:
- i. Summary of the application.
 - ii. Summary of the representations made.
 - iii. Summary of how they view the provisions of the Licensing Policy.
 - iv. Statement, Guidance of the Secretary of State, and the relevant legislation as relating to the application and any relevant representations.
 - v. Summary of any pre-application and pre-decision discussions held with the applicant or bodies making representations.
 - vi. Details of any site visits which took place prior to the application or Committee hearing.
 - vii. Details of any lobbying activities which have been brought to their notice.
- 12.3 Licensing authorities can also make representations about applications or call for reviews. Where it is necessary for a Licensing Officer to act in the role of a responsible authority intending to make representations there should be a separation between this officer and the licensing authority officer processing the application.

13 Licensing (Hearing) sub-committees

13.1 Action following receipt of notice of hearing

- 13.1.1 A party shall give to the Authority, within the period of time prescribed below, a notice stating:
- i. Whether he intends to attend or be represented at the hearing.
 - ii. Whether he considers a hearing to be unnecessary.
- 13.1.2 In the case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief

description of the point or points on which that person may be able to assist the Authority in relation to the application, representations or notice of the party making the request.

13.1.3 In the case of a hearing for cancellation of an interim authority notice following Police objection, or counter notice following Police objection to a TEN, the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.

13.1.4 In the case of a hearing for review of a premises licence following:

- i. A closure order.
- ii. Determination of an application for conversion of an existing licence.
- iii. Determination of application for conversion of existing club certificate.
- iv. Determination of application by holder of justices.
- v. Licence for grant of personal licence.

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.

13.2 **Right to dispense with hearing if all parties agree**

13.2.1 The Authority may dispense with holding a hearing if all persons required by the Act agree that such a hearing is unnecessary and have done so by giving notice to the Authority that they consider a hearing unnecessary. In such circumstances the Authority must give notice to the parties that the hearing has been dispensed with.

13.3 **The committee procedure**

13.3.1 The Licensing Sub Committee is serviced by a number of officers. These include a Committee Services Officer and a Legal Advisor who are responsible for ensuring that the correct procedures are followed and that the discussion and the decisions made are properly recorded. An officer from the Licensing Team acts as a presenting officer: introduces the report and answers Members' questions. In addition, other officers such as Environmental Health Officers may attend to address specific technical matters raised by applications included in the agenda.

13.3.2 The Licensing Sub Committee agenda may comprise a single report, or set of reports concerning specific licensing applications. Applications to be considered by the sub committee will be the subject of a written report from officers. Each report summarises the main issues raised by the application and details the representations received.

13.3.3 At the beginning of the hearing, the Chair shall explain to the parties, the procedure which they propose to follow at the hearing, and shall as

appropriate, consider any request made by a party under regulation 8(2) of the Licensing Act 2003 (Hearings) Regulations 2005 for permission for another person to appear at the hearing.

- 13.3.4 The Licensing (Hearings) Sub Committee shall not permit cross-examination unless it considers it is required for it to consider the representations, application or notice.
- 13.3.5 The Licensing (Hearings) Sub Committee shall allow parties an equal maximum time period in which to support their representation or application.
- 13.3.6 The Chair of a Licensing Sub Committee may require any person attending the hearing who, in their opinion, is behaving in a disruptive manner to leave the meeting and may refuse to permit that person to return, or permit that person to return only on such conditions as the Authority may specify. However, such a person may, before the end of the hearing of their matter, submit to the Authority in writing any information which they would have been entitled to give orally, had they not been required to leave.

13.4 Power to extend time and adjourn hearings

- 13.4.1 The Authority may extend a time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005 for a specified period where it considers this to be necessary in the public interest. In such circumstances, the Authority will issue a notice to the parties stating the period of the extension and the reasons for it.
- 13.4.2 The Authority may adjourn a hearing to a specified date, or arrange for a hearing to be held on specified additional dates where it considers this to be necessary for its consideration of any representations or notice made by a party. The Authority will issue a notice should it decide to use such power.
- 13.4.3 The Authority will not exercise this power in such a way that the effect will be that an application will be treated as granted or rejected under paragraph 4 (4), 7 (3), 16 (4), 19 (3) or 26 (4) of Schedule 8 (transitional provision etc), or; it would fail to reach a determination on the review under section 167 within the specified period.

13.5 Hearing to be public

- 13.5.1 The Authority may exclude the public (which may include any person assisting or representing a party) from all or part of the hearing where it considers that the public interest in doing so outweighs the public interest in the hearing or that part of the hearing, taking place in public.

13.6 Right of attendance, assistance and representation

- 13.6.1 Subject to 14 (2) and 25 of the Licensing Act 2003 (Hearings) Regulations 2005, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

13.7 Councillor representations

13.7.1 Where a councillor wishes to express a view on an application either in their own right in the capacity as an interested party, or in a specific representative capacity, they must do so in accordance with the procedural rules of the committee, and the regulations made under the Licensing Act 2003.

13.7.2 To avoid conflicts of interest, councillors shall not normally hear an application if they represent the Ward in which the applicant's premises are situated, or if they live within the vicinity of the premises. A member of the relevant Licensing Sub Committee who represents or lives in the Ward, which may also be affected by a licensing application, may be in a difficult position if it is a controversial application that has generated opposition. Members in such a situation should therefore not publicly support or oppose a particular outcome unless they are prepared to make their own valid representation. The Member would then become ineligible to take part in the deliberative and decision making process of the Licensing Hearings Sub-Committee concerned with determining that application.

13.8 Representations and supporting information

13.8.1 Anonymous representations will not be considered by the Authority.

13.8.2 At the hearing a party shall be entitled to:

- i. In response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d) of the Licensing Act 2003 (Hearings) Regulations 2005, give further information in support of their application, representations or notice (as applicable).
- ii. If given permission by the Authority, question any other party.
- iii. Address the Authority.

13.8.3 Members of the Licensing Hearings Sub Committee may ask any question of any party or other person appearing at the hearing.

13.8.4 In considering any representations or notice made by a party the Authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

13.8.5 The Authority shall disregard any information given by (i) a party, or (ii) any person to whom permission to appear at the hearing is given by the authority, which is not relevant to:

- i. Their application, representations or notice (as applicable) or in the case of another person, the application representations or notice of the party requesting their appearance.

- ii. The promotion of the licensing objectives or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.

13.9 Frivolous, vexatious or repetitious representations

13.9.1 Where the Authority considers that representations are frivolous, vexatious or repetitious, the person making the representation will be notified in writing either:

- i. Five working days before the Licensing (Hearings) Sub Committee is to be held (due to relevant representations being made elsewhere).
- ii. In any other case, before the determination of the application to which the representation relates.

13.10 Failure of parties to attend the hearing

13.10.1 If a party has informed the Authority that they do not intend to attend or be represented at a hearing, the hearing may proceed in their absence.

13.10.2 If a party who has not so indicated fails to attend or be represented at a hearing the Authority may:

- i. Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date.
- ii. Hold the hearing in the party's absence.

13.10.3 Where the Authority holds the hearing in the absence of a party, the Licensing Sub Committee shall consider at the hearing the application, representations or notice made by that party.

13.10.4 Where the Authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

13.11 The committee decision making process

13.11.1 The Licensing Sub Committee shall normally adjourn from the Hearing to deliberate their decision. The Committee may require that the Legal Adviser withdraws with the Sub Committee. In such cases, any advice given by the Legal Adviser shall be relayed in open session once the Sub Committee has reconvened.

13.11.2 The decision on an application should be taken on all of the relevant factors in the case, and in particular the evidence submitted to the Licensing Sub Committee meeting. Each application will be treated on its individual merits. The Sub Committee shall have due regard to, and shall normally follow, any relevant Council approved licensing policies and legislation and regulations that are relevant to the application.

13.11.3 Members may add extra conditions if they are satisfied the imposition of such would go some way to address concerns raised in representations considered valid and pertinent to the application. Due consideration would be given to ensure the imposition of such conditions would be necessary and reasonable.

13.11.4 The Licensing (Hearings) Sub Committee must make its decision at the conclusion of the Hearing for cases under:

- i. Section 105 (2) (a) - counter notice following police objection to TEN.
- ii. Section 167 (5) (a) - review of premises licence following closure order.

In any other cases, the Sub Committee must make its determination within the period of five working days beginning with the day or the last day on which the Hearing was held.

13.11.5 Where a Hearing has been dispensed with in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005, the Authority must make its determination within the period of ten working days beginning with the day the Authority gives notice to the parties under Regulation 9 (2).

13.12 Record of proceedings

13.12.1 Hearings will be recorded in a permanent and intelligible form, and retained for six years from the date of the determination, or, where an appeal is brought against the determination of the Authority, the disposal of the appeal.

14 Code of Conduct and Practice in Licensing Procedures and Hearings – Gambling Act 2005

14.1 Introduction and status of the Code

14.1.1 See paragraph 1.1. above, which applies.

14.2 Definitions and interpretations

14.2.1 “The Act” means the Gambling Act 2005

14.2.2 “The (Licensing) Authority” means Epsom and Ewell Borough Council

14.2.3 “Licensing Objectives” means the three objectives the Licensing Authority must have a view to promoting when carrying out its functions under the Gambling Act 2005. The Licensing Objectives are defined in Part 1, paragraph 1 of the Gambling Act 2005, and are:

- A) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
- B) ensuring that gambling is conducted in a fair and open way, and
- C) protecting children and other vulnerable persons from being harmed

or exploited by gambling.

- 14.2.4 "Gambling" means gaming (within the meaning of section 6); betting (within the meaning of section 9) and; participating in a lottery (within the meaning of section 14 and subject to section 15).
- 14.2.5 "Application" means an application to the Licensing Authority under the Gambling Act 2005, including:
- i. Premises Licence namely: Casino Premises, Licence, Bingo Premises Licence, Adult Gaming Centre Premises Licence, Family Entertainment Centre Premises Licence and Betting Premises Licence, Conversion of an existing licence or registration.
 - ii. Club Gaming Permit and Club Machine Permit.
 - iii. Small Lottery Registration Permit.
 - iv. Prize Gaming Permits.
 - v. Temporary Use Notice (TUN) and Occasional Use Notice (OUN).
- 14.2.6 "Authorised Person" is defined in Part 15, of the Gambling Act 2005, and includes bodies empowered by the Act to carry out inspection and enforcement roles. In respect of all premises, these include; Licensing Authority Officers, an Inspector appointed under section 18 of the Fire Precautions Act 1971, an Inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974, Environmental Health Officers, and a person who is within a class prescribed by the Secretary of State by Regulations.
- 14.2.7 "Interested Parties" is defined in Part 8, Section 158 of the Gambling Act 2005, and includes persons who (in the opinion of the Licensing Authority) live:
- i. Sufficiently close to the premises to be likely to be affected by the authorised activities.
 - ii. Has business interests that might be affected by the authorised activities.
 - iii. Represents persons who satisfy paragraph 14.2.7 (i) or (ii).
- 14.2.8 "Responsible Authorities" is defined in Part 8, Section 157 of the Gambling Act 2005, and includes:
- i. The Licensing Authority.
 - ii. The Gambling Commission.
 - iii. The Surrey Chief Officer of Police.

- iv. Surrey Fire and Rescue Service.
 - v. Chief Planning Officer.
 - vi. Environmental Health.
 - vii. Surrey Area Child Protection Committee (or other body designated in writing to advise the Authority about the protection of children from harm).
 - viii. HM Revenue & Customs.
 - ix. Any other person prescribed under Regulations made by the Secretary of State.
- 14.2.9 "Representation" means any Interested Party or Responsible Authority person who has lodged a written objection to an application in accordance with these rules, and as defined in the Regulations.
- 14.2.10 "Regulations" means Regulations made under the Gambling Act 2005
- 14.2.11 In these rules, the masculine always includes the feminine.
- 14.3 **Composition of the Licensing General Sub-Committee**
- 14.3.1 The Licensing General Sub Committee shall consist of three Members. No business shall be transacted unless at least three Members are present.
- 14.3.2 Councillors shall not normally hear an application if they represent the Ward in which the applicant's premises are situated, or if they live within the vicinity of the premises.
- 14.4 **The need for guidance on licensing**
- 14.4.1 See Section 4 above, which applies.
- 14.5 **General role and conduct of councillors in relation to the licensing system**
- 14.5.1 The determination of applications is a quasi-judicial process. The role of Councillors taking licensing decisions has similarities to that of a court of law (and Licensing Justices). Decisions are made after a hearing at which the applicant and objectors are each given an opportunity to be heard and to put their case. The decision reached must be based upon the evidence heard and a consideration of any relevant Council policies and current government advice. The Committee must have regard to guidance to local authorities issued by the Gambling Commission.
- 14.5.2 Members should not favour any person, group, company or locality, nor put themselves in a position where they appear to do so, as their overriding duty in making decisions on licensing applications is to do so in

a fair and impartial manner, in accordance with the Licensing Objectives, and taking into account any relevant Policy.

14.6 Training

14.6.1 Members appointed to the Licensing Sub Committee will undertake a period of training in Gambling Act procedures and legislation as specified by the Council, with additional training as necessary.

14.7 Lobbying

14.7.1 See Section 7 above, which applies.

14.8 Gifts and hospitality

14.8.1 See Section 8 above, which applies.

14.9 Declaration of interests

14.9.1 See Section 9 above, which applies.

14.10 Licensing applications submitted by councillors and their close associates, or licensing applications which may have an impact on councillors, their families or close associates

14.10.1 See Section 10 above, which applies.

14.11 Councillor and officer relations

14.11.1 See Section 11 above, which applies.

14.12 The role of the Licensing Officer

14.12.1 See Section 12 above, which applies.

14.13 Period of time in which hearing to be held

14.13.1 The Authority shall arrange for a Hearing to be scheduled as soon as reasonably practicable following the day after the end of the period for people to make representations. Typically, applications for Premises Licences and Permits will be scheduled for a Hearing no more than 20 working days after the end of the representation period. Typically, 10 days' notice will be given to the applicant and objector(s).

14.14 Notice of Hearing

14.14.1 In the case of a hearing for an Application for a Temporary Use Notice (TUN) which has been subject to representation, the Authority will arrange for a Hearing to take place no later than six weeks from the date the Authority received the TUN. The Authority shall give notice of the hearing no later than ten working days before the day or the first day on which the hearing is to be held.

- 14.14.2 In the case of a hearing for all applications for Premises Licences, Application for variation, Application for Transfer, Application for reinstatement or Application for Review other cases, the Authority will arrange for a Hearing to take place as soon as reasonably practicable following the day after the end of the period during which representations may be made. The Authority shall give notice of the hearing no later than ten working days before the day or the first day on which the hearing is to be held.
- 14.15 **Action following Receipt of Notice of Hearing**
- 14.15.1 A party shall give (no later than five working days before the hearing) notice to the Authority stating:
- i. Whether they intend to attend or be represented at the hearing.
 - ii. Whether they intend to call any witnesses at the hearing and their names and addresses.
 - iii. Whether they consider a hearing to be unnecessary.
- 14.15.2 In the case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the Authority in relation to the application, representations or notice of the party making the request.
- 14.16 **Right to dispense with hearing if all parties agree**
- 14.16.1 The Authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary and have done so by giving notice to the Authority that they consider a hearing unnecessary. In such circumstances the Authority must give notice to the parties that the hearing has been dispensed with.
- 14.17 **Withdrawal of representations**
- 14.17.1 A party who wishes to withdraw any representations they have made may do so by giving notice to the Authority no later than 24 hours before the day or the first day on which the hearing is to be held, or; orally at the hearing.
- 14.18 **The committee procedure**
- 14.18.1 The Licensing Sub Committee is serviced by a number of officers. These include the Committee Officer and a Legal Advisor who are responsible for ensuring that the correct procedures are followed, and that the discussion and the decisions made are properly recorded. An officer from

the Licensing Team acts as a presenting officer, introduces the report and answers Members' questions. In addition, other officers such as Gambling Commission Officers may attend to address specific technical matters raised by applications included in the agenda.

- 14.18.2 The Licensing Sub Committee agenda may comprise a single report, or set of reports concerning specific licensing applications. Each report summarises the main issues raised by the application and details the representations received. Applications to be considered by the Sub Committee will be the subject of a written report from officers.
- 14.18.3 At the beginning of the hearing, the Chair shall explain to the parties, the procedure which they propose to follow at the hearing, and shall consider any request made by a party for permission for another person to appear at the hearing.
- 14.18.4 The Licensing Hearings Sub Committee shall not permit cross-examination unless it considers it is required for it to consider the representations, application or notice.
- 14.18.5 The Licensing Sub Committee shall allow parties an equal maximum time period in which to support their representation or application.
- 14.18.6 The Chair of the Licensing Sub Committee may require any person attending the hearing who, in their opinion, is behaving in a disruptive manner to leave the meeting, and may refuse to permit that person to return, or permit that person to return only on such conditions as the Authority may specify. However, such a person may, before the end of the Hearing, submit to the Authority in writing any information which they would have been entitled to give orally, had they not been required to leave.
- 14.19 **Power to adjourn hearings**
- 14.19.1 The Authority may adjourn a hearing to a specified date, or arrange for a hearing to be held on specified additional dates where it considers this to be necessary for its consideration of any representations or notice made by a party. The Authority will issue a notice should it decide to use such power.
- 14.20 **Hearing to be public**
- 14.20.1 See Section 13.5 above, which applies.
- 14.21 **Councillor representations**
- 14.21.1 Where a Councillor wishes to express a view on an application either in their own right in the capacity as an interested party, or in a specific representative capacity, they must do so in accordance with the

procedural rules of the Sub Committee, and the Regulations.

- 14.21.2 To avoid conflicts of interest, councillors shall not normally hear an application if they represent the Ward in which the applicant's premises are situated, or if they live within the vicinity of the premises. A member of the relevant Licensing Sub Committee who represents or lives in the Ward, which may also be affected by a licensing application, may be in a difficult position if it is a controversial application that has generated opposition. Members in such a situation should therefore not publicly support or oppose a particular outcome unless they are prepared to make their own valid representation. The Member would then become ineligible to take part in the deliberative and decision making process of the Licensing Hearings Sub Committee concerned with determining that application.

14.22 **Representations and supporting information**

- 14.22.1 Anonymous representations **will not** be considered by the Authority.
- 14.22.2 Letters of support of an application may be made at any time in writing, up to and including, 20 working days after the day on which the application for a Premises Licence was given to the authority by the applicant.
- 14.22.3 The Sub Committee will disregard any evidence produced by parties or witnesses which is not relevant.
- 14.22.4 The Sub Committee will have discretion as to whether they wish to take into account any documentary or other evidence produced by a party in support of their application, representation or notice (as applicable), either before the hearing, or, with the consent of all the other parties, at the hearing.
- 14.22.5 Members of the Licensing Sub Committee may ask any question of any party or other person appearing at the hearing.

14.23 **Vexatious and frivolous representations, and representations which will not influence the Authority's determination of the application**

- 14.23.1 Where the Authority considers that representations are vexatious, frivolous, would certainly not influence the Authority's determination of an application, or are repetitious, the person making the representation will be notified in writing typically, five working days before the Sub Committee is to be held (due to relevant representations being made elsewhere), or, before the determination of the application to which the representation relates.

14.24 **Failure of parties to attend the hearing**

- 14.24.1 See Section 13.10 above, which applies.

14.25 The committee decision making process

- 14.25.1 The Sub Committee shall normally adjourn from the Hearing to deliberate their decision. The Sub Committee may require that the Legal Adviser withdraws with the Sub Committee. In such cases, any advice given by the Legal Adviser shall be relayed in open session.
- 14.25.2 The decision on an application should be taken on all of the relevant factors in the case and in particular the evidence submitted to the Sub Committee. Each application will be treated on its individual merits. The Sub Committee shall have due regard to, and shall normally follow, any relevant Council approved licensing policies and legislation and regulations that are relevant to the application.
- 14.25.3 Members may add or remove conditions if they are satisfied the imposition of such would go some way to address concerns raised in representations considered valid and pertinent to the application. Due consideration would be given to ensure the imposition or removal of such conditions would be necessary and reasonable.
- 14.25.4 The Sub Committee will usually make its decision at the conclusion of the Hearing, or within 5 working days following the last day on which then hearing was held.

14.26 Record of proceedings

- 14.26.1 See Section 13.12 above, which applies.