

Licensing Committee

on

6 June 2006

Report Title: **Establishment of Licensing Sub-Committees**

Joint Report of: **Head of Member Services and Head of Legal Services**

Forward Plan ref. no. **N/A**

Wards Affected: **All**

Report: **Non-Key Decision**

1. Purpose

1.1 To establish three Licensing Sub-Committees to conduct the majority of licensing hearings, to provide for the appointment of substitutes and to amend the Local Procedure Rules on the late evening time limits for hearings.

2. Recommendations

- 2.1 To note the terms of reference of the Licensing Committee in Part E.7 of the Council's Constitution attached as Appendix 1 to this report.
- 2.2 That Members agree the establishment of three Licensing Sub-Committees with the membership set out in Appendix 2 to this report.
- 2.3 That Members confirm the terms of reference of the Licensing Sub-Committees in Part E.7 of the Constitution attached as Appendix 3 to this report.
- 2.4 That Members confirm the delegation of power to the Head of Member Services, in consultation with the Chair of the Committee, to appoint a substitute Member of a Licensing Sub-Committee from among the Members of the Committee when the permanent Sub-Committee Member is unable to attend for any reason and request full Council, through the General Purposes Committee, to amend Part F.7 of the Constitution as set out in Appendix 4 to this report.
- 2.5 That Members agree to amend the Local Licensing Procedure Rules so as to provide for late evening time limits for hearings and request full Council, through the General Purposes Committee, to amend Part C.9 of the Constitution as set out in Appendix 5 to this report.
- 2.6 To note that hearings are governed by the Local Licensing Procedure Rules and the relevant Regulations on hearings but the Council Procedure Rules in Part E.8 of the Constitution do not apply.
- 2.7 To note that the other business of the Committee, except for hearings, is governed by the Council's Procedure Rules (Council Standing Orders) but excluding CSO 43(4) on Substitutes.

Report Authorised by:



Yuniea Semambo, Head of Member Services - Davina Fiore, Head of Legal Services

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2 Executive Summary

3.1 Members are recommended to establish three Licensing Sub-Committees and to confirm the existing terms of reference for these bodies. In order to ensure that the Sub-Committees can function with their fixed membership and quorum of three Members, it would be advisable to continue the delegated power to appoint substitute Members. A minor amendment to the Local Procedure Rules is proposed to clarify the late evening time limit for concluding hearings

3 Reasons for any change in policy or for new policy development (if applicable)

N/A

4 Local Government (Access to Information) Act 1985

5.1 The following background papers were used in the preparation of this report:

(i) the Council's Constitution and (ii) Local Licensing Procedure Rules

6. Licensing Committee

6.1 The full Council appoints the membership of the Licensing Committee including its Chair and Vice-Chair. By law there must be at least 10 but no more than 15 appointed Members. The Committee can still meet and undertake its business with a quorum of 4 Members.

6.2 The Council can determine the terms of reference of the Committee. These are currently set out in Part E.7 of the Council's Constitution and attached as Appendix 1 to this report. Members are invited to note the Committee's terms of reference and, in particular, the reference to the Committee of all premises sites or events where 500 or more persons are expected to be present.

7. Establishing the Licensing Sub-Committees

7.1 The Licensing Committee may establish Sub-Committees to assist with holding hearings for the less major cases. Although the membership for these has been reported to Annual Council, legally it should be the Licensing Committee that fixes the Sub-Committees' membership and confirms their terms of reference.

7.2 Last year there were 5 Licensing Sub-Committees to deal with the very large number of contested applications that followed the introduction of the new system under the Licensing Act 2003. It is anticipated that the volume of applications will slow down soon although still at a high level. It is recommended that 3 Licensing

Sub-Committees be appointed and this should be sufficient. The appointed membership of the Sub-Committees is fixed by law at 3 Members. The Council's own Local Licensing Procedure Rules set the quorum for hearings at 3 Members since this promotes better decision-making.

- 7.3 The membership of the 3 Licensing Sub-Committees is set out in Appendix 2 to this report. The "arithmetic" dictates that one Member of the parent Committee cannot be an appointed member of a Sub-Committee but can be shown as "unassigned".
- 7.4 On occasions an appointed Member of a Licensing Sub-Committee cannot take part in the decision on a particular case because of a conflict of interest or because the premises in question lie in the Member's own Ward. In such cases, and any other case where a Member is unexpectedly absent or seriously late, it will be necessary to appoint a substitute Member often at short notice. The Members appointed as substitutes would always be trained Members of the main Committee who were able to make themselves available.
- 7.5 To allow such appointment of substitutes, Members are asked to confirm the existing delegated power to the Head of Member Services to appoint substitute Members of a Licensing Sub-Committee from among the members of the Committee when the permanent Sub-Committee Member is unable to attend for any reason. Full Council will be recommended, through the General Purposes Committee, to include this within the Constitution in Part F.7 and the changes are set out in Appendix 4 to this report.
- 7.6 Members of the Committee are asked to note and confirm the existing terms of reference of the Licensing Sub-Committees. These are currently set out in Part E.7 of the Constitution and attached as Appendix 3 to this report. Members will note that the great majority of hearings will fall to the Sub-Committees but any case of special significance or difficulty can be called up to the parent Committee to decide. Reports on matters of general concern and decisions on general procedural issues will come to the Committee.

8. Time Limits for Hearings in the Late Evening

- 8.1 Most hearings have taken place in the evening because of the problems faced by Members and the parties in attending during the working day. Regrettably, because of high volumes and the tight timetable for commencing hearings, it has sometimes proved impossible to conclude the business on the agenda before 10.00 p.m. which is the standard finishing time for other Council Committees and other bodies.
- 8.2 On occasions, Members have had to balance the benefits of continuing late beyond 10.00 p.m. to conclude a hearing against the disadvantages of working late when all participants are tired and under pressure to reach a quick decision. This was discussed at the Committee's previous meetings on 21 February and 14 March 2006.
- 8.3 It was then decided in principle that the Local Procedure Rules should be amended to provide that the Chair had to assess the outstanding business at 9.30 p.m. If

there was a good prospect of completing the case in hand by or shortly after 10.00 p.m. then the Sub-Committee should agree to waive the normal Rules to permit the hearing to be concluded. If there was obviously too much business to complete that evening then the case in hand and/or the other business on the agenda should be adjourned until another date to be fixed.

8.4 The amendments necessary to give effect to this have now been drafted as extra paragraphs 63 and 64 in the Local Licensing Procedure Rules. These are set out in Appendix 5 to this report. If agreed by Members these changes will be reported to The General Purposes Committee and full Council for incorporation into the Council's Constitution at Part C.9.

9 Recommendations

9.1 To note the terms of reference of the Licensing Committee in Part E.7 of the Council's Constitution attached as Appendix 1 to this report.

9.2 That Members agree the establishment of three Licensing Sub-Committees with the membership set out in Appendix 2 to this report.

9.3 That Members confirm the terms of reference of the Licensing Sub-Committees in Part E.7 of the Constitution attached as Appendix 3 to this report

9.4 That Members confirm the delegation of power to the Head of Member Services, in consultation with the Chair of the Committee, to appoint a substitute Member of a Licensing Sub-Committee from among the Members of the Committee when the permanent Sub-Committee Member is unable to attend for any reason and request full Council, through the General Purposes Committee, to amend Part F.7 of the Constitution as set out in Appendix 4 to this report.

9.5 That Members agree to amend the Local Licensing Procedure Rules so as to provide for late evening time limits for hearings and request full Council, through the General Purposes Committee, to amend Part C.9 of the Constitution as set out in Appendix 5 to this report.

9.6 To note that hearings are governed by the Local Licensing Procedure Rules and the relevant Regulations on hearings but the Council Procedure Rules in Part E.8 of the Constitution do not apply.

9.7 To note that the other business of the Committee, except for hearings, is governed by the Council's Procedure Rules (Council Standing Orders) but excluding CSO 43(4) on Substitutes.

10 Comments of the Director of Finance

10.1 There are no specific financial implications.

11. Comments of the Head of Legal Services

11.1 The legal implications are set out in the body of this report.

12. Use of Appendices / Tables / Photographs.

12.1 Appendix 1 to this report is the terms of reference of the Licensing Committee

12.2 Appendix 2 to this report is the proposed membership of the three Licensing Sub-Committees

12.3 Appendix 3 to this report is the terms of reference of the Licensing Sub-Committees

12.4 Appendix 4 to this report shows the proposed amendments to section 9 of Part F.7 of the Constitution (Scheme of Delegation to Officers)

12.5 Appendix 5 to this report shows the proposed changes to the Local Licensing Procedure Rules

APPENDIX I

PART E.7 of the Constitution – Terms of Reference of Regulatory and Non-Executive Committees

[this extract from the version of the Constitution updated in June 2005 starts at page 7 of Part E.7 after the reference to the Remuneration Committee]

SECTION 2 - COMMITTEES

6. Licensing Committee

- (1) The Licensing Committee has all the functions referred to it by law under the Licensing Act 2003. These include:
- (a) To be responsible for monitoring the operation of the Act and licensable activities in the Borough;
 - (b) To receive reports on these matters and on the functions delegated to the Licensing Sub-Committees and to officers. To call for a report on any individual case;
 - (c) To be consulted on the review and determination of the Licensing Policy Statement including procedures for Council consultation with external stakeholders;
 - (d) To determine the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;
 - (e) To exercise the functions of the Licensing Sub-Committees in relation to any premises, site or event where 500 or more persons are to be present;
 - (f) To exercise the functions of the Licensing Sub-Committees in any case referred to the Committee by its Chair, or by the Chair of a Licensing Sub-Committee on the grounds of its special significance or difficulty;
 - (g) In a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those Members of the Licensing Committee who are re-elected as Councillors shall meet as the Licensing Committee to exercise any of the functions of the Licensing Sub-Committees, or under (e) above, and shall elect a Chair for the meeting.

- (2) Excluded from the Licensing Committee's terms of reference are:
- (a) The functions statutorily referred to the General Purposes Committee including the review and determination of the Licensing Policy Statement;
 - (b) The functions delegated to the Licensing Sub-Committees, as set out below, except where referred back to the Committee under subparagraph 6(1)(f) above.

APPENDIX 2

MEMBERSHIP OF THE LICENSING SUB-COMMITTEES

Sub-Committee A

Cllr Demirci – Bounds Green
Cllr Patel (Chair) – Woodside
Cllr Vanier – Tottenham Green

Sub-Committee B

Cllr Dobbie – Noel Park
Cllr Mughal – Noel Park
Cllr Peacock (Chair) – Northumberland Park

Sub-Committee C

Cllr Beecham (Chair) – Alexandra
Cllr Lister – Tottenham Green
Cllr Reid – Hornsey

Unassigned Member of Licensing Committee able to sit, if appointed, as a substitute Member on any Licensing Sub-Committee for one hearing or one meeting

Cllr Bloch – Muswell Hill

APPENDIX 3

PART E.7 of the Constitution – Terms of Reference of Regulatory and Non-Executive Committees and Sub-Committees

[this extract starts at page 14 of Part E.7 in the version of the Constitution updated in June 2005]

3. Under Licensing Committee

3.01 Licensing Sub-Committees

- (a) To exercise all the functions listed in sub-paragraphs (c) to (t) below in relation to any premises, site or event where less than 500 persons are to be present;
- (b) The Chair of a Licensing Sub-Committee may, before hearing it, refer any case falling within (a) above to the Licensing Committee on the grounds of its special significance or difficulty;
- (c) To determine applications for premises licences where relevant representations have been made;
- (d) To determine applications for provisional statements where relevant representations have been made;
- (e) To determine applications for variations of premises licences where relevant representations have been made;
- (f) To determine applications to vary designated premises supervisors following police objections;
- (g) To determine applications for transfer of premises licences following police objections;
- (h) To consider police objections made to interim authority notices;
- (i) To determine valid applications for review of premises licences;
- (j) To determine applications for club premises certificates where relevant representations have been made;
- (k) To determine applications to vary club premises certificates where relevant representations have been made;

- (l) To determine valid applications for review of club premises certificates;
- (m) To decide whether to give counter notices following police objections to temporary event notices;
- (n) To determine applications for grants of personal licences following police objections;
- (o) To determine applications for renewals of personal licences following police objections;
- (p) To decide on revocation of personal licences where convictions come to light after grant;
- (q) To determine applications for permits for amusements with prizes gaming machines in accordance with the policy resolution of the Licensing Committee on 6 December 2005
- (r) To determine applications for permits for games or lotteries under section 16 of the Lotteries and Amusements Act 1976
- (s) To determine applications for orders permitting games under section 6 of the Gaming Act 1968
- (t) To decide on any other matter within the licensing functions under the Licensing Act 2003 where it is necessary or desirable for Members to make that decision;
- (u) Licensing Sub-Committees have the power to make final decisions on behalf of the Council on matters within their terms of reference and there is no right of appeal to the Licensing Committee.

APPENDIX 4

[the words recommended for addition or insertion are shown in italics and underlined]

PART F.7 of the Constitution – Scheme of Delegation to Officers

[this extract starts at page 172 of Part F.7 in the version of the Constitution updated in June 2005]

Section 9 Proper Officer and Specified Officer Functions

1.1 Chief Executive

The Chief Executive is appointed Proper Officer and specified officer in relation to:

- (a) Any reference in any enactment, passed before or during the 1971/72 sessions of Parliament (other than the Local Government Act 1972) or in any instrument made before 26th October 1972, to the Clerk of the Council or the Town Clerk of the Borough;
- (b) Any statutory function of a Proper Officer, or other specified officer, in any legislation, whenever made, not otherwise expressly provided for in this Constitution;
- (c) The Local Government Act 1972, Sections 83, 84, 88(2), 89(1)(b), 96, 225 and Schedule 12, Part I, paragraphs 4(2)(b) and 4(3) (notices relating to Members and meetings);
- (d) The Representation of the People Act 1983, Sections 8 (Registration Officer) and 35(3) (Returning Officer at an election of Councillors);
- (e) The Local Government and Housing Act 1989, Sections 4 (Head of Paid Service), and notifications pursuant to sections 15 to 17 and Schedule 1 and Regulations made thereunder (Political Balance);
- (f) Section 234 of the Local Government Act 1972. This authorises the Chief Executive to sign any notices or other documents which the Council is statutorily empowered to give, make or issue. This delegation is in addition to, and does not reduce, the power of individual senior officers to sign such notices or other documents, as provided for elsewhere in this Constitution.

In addition the Chief Executive is empowered:

- (g) To authorise Officers' attendance at any conference/seminar/symposium etc. * after consultation with the appropriate Executive Member, where the conference / seminar / symposium etc. is outside Great Britain;
- (h) To authorise Members' attendance at any conference/ seminar/ symposium etc.* in consultation with the Leader, where the conference / seminar / symposium etc. is outside Great Britain.

1.2 **Director of Finance**

The Director of Finance has been appointed Proper Officer and specified officer in relation to:

- (a) The proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972;
- (b) Sections 115 and 146 of the Local Government Act 1972 (receiving monies due from other officers and certifying changes in name or area of Council);
- (c) Part VIII (sections 111 to 116) of the Local Government Finance Act 1988;
- (d) Responsibility for the overall management of the internal audit function in accordance with the Accounts and Audit Regulations 2003;
- (e) Budget calculations and budget monitoring under Part 2 of the Local Government Act 2003.

1.3 **Head of Legal Services**

The Head of Legal Services has been appointed Proper Officer and specified officer in relation to:

- (a) Sections 229 and 238 of the Local Government Act 1972 (certification of documents);
- (b) Schedule 29, paragraph 41(3) of the Local Government Act 1972 (appointment of interim Registrar of Births, Marriages & Deaths on vacancy);
- (c) Section 30(5) of the Local Government Act 1974 (public notice of Ombudsman's reports);

- (d) Authorising any officer to appear on behalf of the Council in proceedings before a Magistrates Court under Section 223(1) of the Local Government Act 1972 and in proceedings before a County Court under Section 60 of the County Courts Act 1984. This includes the power to certify such authorisation under Section 41(3) of the Local Government (Miscellaneous Provisions) Act 1976;
- (e) Signing on behalf of the Council to certify a contract under the Local Government (Contracts) Act 1997;
- (f) The functions of the Monitoring Officer under sections 5 and 5A of the Local Government and Housing Act 1989 and sections 66 and 81 of the Local Government Act 2000 and Regulations made thereunder.

1.4 Head of Members' and Democratic Services

The Head of Members and Democratic Services has been appointed Proper Officer and specified officer in relation to:

- (a) Part VA and Schedule 12A of the Local Government Act 1972 (Access to Information) and the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000-2002 (Access to Information);
- (b) Except as provided in 1.6 below, section 191 (information to assist Ordnance Survey) of the Local Government Act 1972;
- (c) Sections 225 and 229 and Schedule 14, Part II, Paragraph 25 (7) of the Local Government Act 1972, and Section 41(1) of the Local Government (Miscellaneous Provisions) Act 1976 (custody of, and certifying, documents);
- (d) The Local Government and Housing Act 1989, Section 2(2) (Maintenance of list of politically restricted posts);
- (e) Section 19 of the Local Government & Housing Act 1989 and Regulations made thereunder (Members' Interests Regulations);
- (f) Section 8 of the Representation of the People Act 1983, as the officer who will act as Deputy to the Electoral Registration Officer in the event of the latter's incapacity or a vacancy arising.

In addition the Head of Members' and Democratic Services is empowered:

- (g) To determine the appointment of outside members to the "pool" from which the membership of School Admissions Appeals Panels and School Exclusions Appeals Panels are drawn;

- (h) To determine the membership of individual Appeals Panels (under (g) above) and the selection of Chairs of these Panels;
- (i) To make appointments of representative School Governors as notified by the Executive Member for Education or the Opposition Spokesperson, as appropriate;*
- (j) To make appointments to vacancies on the Standing Advisory Council on Religious Education and Conference Committees;
- (k) *In consultation with the Chair of the Licensing Committee, to appoint substitute Members to Licensing Sub-Committees for one hearing or one meeting from among the membership of the parent Licensing Committee when any permanent Sub-Committee Member is unable to attend for any reason.*

1.5 **Head of Personnel**

The Head of Personnel is authorised to provide the “Certificate of Opinion” for employees on SCP44 or above making application for exemption from political restriction under section 3 of the Local Government and Housing Act 1989 – (Politically Restricted Posts).

1.6 **Director of Environmental Services**

The Director of Environmental Services is appointed the Proper Officer in relation to the functions of his Services for the purposes of Sections 191 Local Government Act 1972 (information to assist Ordnance Survey), Section 78(8) Building Act 1984 (urgent action on dangerous buildings) and section 205 of the Highways Act 1980 (certification under the private street works code).

1.7 **Director of Housing Services**

The Director of Housing Services is appointed the Proper Officer for the purposes of section 606 of the Housing Act 1985 (reports on unfit houses).

1.8 **Director of Social Services**

The Director of Social Services is authorised to appoint Review Panels to consider Stage 3 complaints in Social Services that fall within the National Health Service and Community Care Act 1990.

1.9 **General Provisions**

- (a) All Chief Officers have been appointed Proper Officers in relation to the functions of their respective Services for the purposes of section 234 of the Local Government Act 1972 (signing or authenticating any notice, order or other document which the Council are authorised or required to issue under any enactment);
- (b) Any reference to the function of a Proper Officer in relation to any legislation is to be taken as including subordinate legislation and any enactment for the time being amending or replacing such legislation;
- (c) If the office of any of the officers referred to above is vacant or the officer is absent or otherwise unable to act, his/her deputy, or, failing that deputy, the most suitable senior officer, is hereby authorised to act as the Proper Officer.

1.10 **Attestation of Seal**

The Seal on documents shall be attested by any one of the following officers:

Chief Executive, Director of Finance, Head of Legal Services, Deputy Head of Legal Services or any officer authorised by the Head of Legal Services either in relation to a specific document or particular categories of documents.

[the words recommended for addition or insertion are shown in italics and underlined]

Part C.9 of the Constitution

HARINGEY COUNCIL – LOCAL LICENSING PROCEDURE RULES FOR HEARINGS UNDER THE LICENSING ACT 2003

Interpretation

I. “Act” means the Licensing Act 2003

“Applicant” means a natural person or other legal entity making any application or giving any notice for any form of licence, certificate, consent or determination in accordance with the Act

“Application” means any type of application or notice for any form of licence, certificate, consent or determination for which provision is made under the Act

“Chair” means the Chair of the Licensing Committee or Licensing Sub-Committee determining the relevant application

“Committee clerk” means the officer(s) instructed by the Head of Members’ Services to attend Licensing Sub-Committee meetings to take the minutes and assist with the proper running of the meetings

“Council” means the Council of the London Borough of Haringey

“Hearings Regulations” means The Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005 no. 44)

“Interested party” has the meaning prescribed in the Act

“Legal representative” means the officer(s) instructed by the Head of Legal Services to attend Licensing Sub-Committee meetings to advise on matters of law and procedure

“Licensing Committee” means the Council’s statutory Committee under the Act

“Licensing representative” means the officer(s) instructed by the Assistant Director, Enforcement to administer application procedures and to attend Licensing Sub-Committee meetings to advise on licensing matters

“Licensing Service” means the Service under the Assistant Director, Enforcement responsible for administering the Council’s functions under the Act

“Member” means Haringey Councillor appointed to serve as a Member of the Licensing Committee or a Licensing Sub-Committee as the context requires

“Notice” means any notice made in accordance with the Act, or Regulations made thereunder, in relation to an application

“Objector” means each interested party, responsible authority, other natural person or legal entity who/which has made relevant representations or given any notice in relation to any application

“Party/Parties” means the applicant(s) and/or the objector(s) in relation to any particular application

“Premises” means any premises or land in respect of which an application is made

“Relevant Representation” means any relevant representation made in accordance with the Act, or Regulations made thereunder, in relation to an application

“Responsible authority” has the meaning prescribed in the Act

“Sub-Committee” means a Licensing Sub-Committee to which the Licensing Committee of the Council has delegated powers to determine applications. Unless the context otherwise requires, this shall be interpreted to include the Council’s Licensing Committee when that Committee is hearing an application within its terms of reference.

“Ward Councillor” means a Haringey Councillor representing a Ward within which are located any premises that are the subject of an application.

Scope and Application

2. These Rules apply to all applications made in accordance with the Act, or Regulations made thereunder.
3. These Rules should be read and interpreted in conjunction the Hearings Regulations and the Act.

Pre-Hearing Procedure

4. The Licensing Service will notify the relevant Ward Councillors of each application, notice or relevant representation relating to premises within their Ward within 2 working days of receiving such application, notice or

relevant representation. This requirement is in addition to any requirement arising under the Hearings Regulations.

5. The Licensing Service may seek to mediate between the parties to an application with a view to securing: -
 - (a) the withdrawal of any relevant representation or notice, or
 - (b) the agreement of the parties that a hearing is unnecessary.
6. If, in any case, the parties agree that a hearing is unnecessary, the Licensing representative, in consultation with the Chair, shall decide whether the Council consider that a hearing is unnecessary to determine the application and shall give notice of that decision to the parties forthwith.
7. In any case where it has been decided that a hearing is unnecessary, the Sub-Committee shall consider the application at an ordinary meeting. In reaching its decision, the Sub-Committee shall take into account the form of application and accompanying documents, any written relevant representations and notices that have not been withdrawn and any report or other documents that appear to be relevant.

Membership and Quorum for Hearings

8. Where an application relates to premises within a Ward, then a Ward Councillor shall not take part in the decision upon that application as a Member.
9. So far as practicable, hearings will be arranged so that the Sub-Committee determining the application does not include Members representing any Ward in which premises affected by the application are located
10. The quorum for any hearing of a Sub-Committee shall be three Members and the quorum for any hearing by the Licensing Committee shall be four Members.
11. Any Member arriving after the commencement of a hearing, or leaving during the course of a hearing, shall take no part, or no further part, in the conduct of that hearing or the decision on the application in question.

Councillors' Participation in Hearings

12. A Councillor, who is not a Member of the Sub-Committee determining the application in question, may participate in the hearing but only if the Councillor is an objector who has made relevant representations in accordance with the Hearings Regulations and the Act, or if the Councillor has been asked to attend by a party in order to act as a witness or a representative for that party.
13. A Councillor, who is a Member of the Sub-Committee determining the application in question, will have a prejudicial interest in that application if the

he/she makes a relevant representation by way of objection to it and may well have a prejudicial interest if he/she has otherwise been involved in supporting or opposing the application. Any Member of a Sub-Committee who has a prejudicial interest for these or other reasons must not participate in the decision upon the application and must not be present at the hearing in any capacity or at all.

14. Any Member of a Sub-Committee who has made a relevant representation by way of objection to an application on behalf of his/her constituents and who cannot attend the hearing personally by reason of Rule 13, should arrange to be represented by an agent or a fellow Ward Councillor who is not a Member of the Sub-Committee.
15. A Councillor will have a personal interest in an application if it might reasonably be regarded as affecting that Councillor (or his/her spouse/partner, relatives, friends, employer or business) to a greater extent than other residents in the area. A Councillor with a personal interest shall not participate in decision-making on the application in question as a Member of the relevant Sub-Committee. This is in order to avoid any possible allegation of bias.
16. Whenever a Councillor, who is not a Member of the Sub-Committee, intends to participate in a hearing in accordance with Rule 12, the Councillor must consider whether he/she has a personal or a prejudicial interest before the hearing. A Councillor with a personal interest, who is not a Member of the Sub-Committee determining the application, may participate in a hearing in accordance with Rule 12 but must disclose such an interest first. A Councillor with a prejudicial interest, who is not a Member of the Sub-Committee determining the application, must not be present at the hearing in any capacity or at all. Members must be aware that their Code of Conduct applies to all Councillors at all times in whatever capacity they attend a hearing.
17. Where a Member of a Sub-Committee has had any form of personal or business involvement with a party to an application, which is to be determined by the Sub-Committee, or with any person connected to a party, then the Member must consider whether such involvement could amount to a personal or a prejudicial interest or whether such an interest could exist for any other reason. If there is any doubt on this matter, the Member must seek the advice of the Monitoring Officer or the legal representative.
18. A Councillor who has participated in a decision by the Council to make any application, or to support or assist an application made by another person, shall not participate in decision-making on the application in question as a Member of the relevant Sub-Committee.

Lobbying of Members and Expressions of Opinion by Members

19. If a Member of a Sub-Committee is approached by a party or a lobbyist for or against an application to be determined by that Sub-Committee, then the Member must: -
 - (a) explain that he/she cannot discuss the matter, and
 - (b) refer the lobbyist to another Councillor who is not a Member of the Sub-Committee or to the Licensing Service who can give further information on the process of dealing with the application, and
 - (c) keep an adequate written record of the approach, and
 - (d) disclose the fact of the approach before the hearing in accordance with Rule 51(c).
20. If a Member of a Sub-Committee receives any written representation either supporting or opposing an application to be determined by that Sub-Committee, then the Member shall pass the representation to the Licensing Service for appropriate action.
21. A Member of a Sub-Committee must avoid expressing any personal opinion about the merits of an application to be determined by that Sub-Committee and must not take any action that would bring into question the Member's capacity to consider the application objectively.
22. A Member of a Sub-Committee must not accept any gift, favour or free hospitality that could be seen as connected to any application to be determined by that Sub-Committee.
23. Members of Sub-Committees are not to be influenced by party political factors or pressures when determining any application.

Non-Attendance at Hearings

24. Where a party has not notified the Council that he/she does not intend to attend or to be represented at a hearing, and that party fails to attend the hearing then the Sub-Committee may either: -
 - (a) adjourn the hearing to a specified date where it considers this to be necessary in the public interest, or
 - (b) hold the hearing in the party's absence.
25. Normally, a party who fails to attend a hearing in the circumstances described in Rule 24 above, will be allowed one further opportunity to attend the hearing adjourned to a specified date.
26. Where an adjournment is granted, the Licensing representative shall make every reasonable endeavour to contact the party who failed to attend by telephone or in person in order to warn them of the new date for the adjourned hearing and the likelihood that the application will be determined in that party's absence in the event of further failure to attend.

Calling Witnesses

27. Where a party wishes to call a witness to give evidence at a hearing that party must give written notice to the Licensing Service of this intention no later than ten working days before the date of the hearing stating: -
- (a) the name of the witness, and
 - (b) a brief description of the point or points upon which the witness' evidence may assist the Sub-Committee in making its decision on the application
28. Where a party has given notice under Rule 27, the Licensing Service shall forthwith communicate this notice to the other party/parties, if possible by electronic means or by the most rapid practicable alternative means.
29. Where a party has given notice under Rule 27, the Sub-Committee shall consider at the commencement of the hearing whether it will permit the party to call the witness for the purpose(s) notified. Such permission shall not be unreasonably withheld.

Documentary Evidence

30. Where a party wishes to rely upon documentary evidence at a hearing that party must give written notice to the Licensing Service of this intention no later than ten working days before the date of the hearing. This notice shall be accompanied by six copies for the Council and sufficient additional copies of all the relevant documentary evidence for each other party made known to the notifying party. Compliance with this Rule is especially important in relation to documents that are not easy to photocopy because, for example, they are coloured or not A4 size.
31. Where a party has given notice under Rule 30, the Licensing Service shall forthwith communicate all the relevant documentary evidence to the other party/parties if possible by electronic means or by the most rapid practicable alternative means.
32. Where a party has complied fully with Rule 30, that party shall have the right to have the relevant documentary evidence admitted and, subject to the provisions of the Hearings Regulations, the Sub-Committee shall take such evidence into account in making its decision.
33. In any case where a party wishes to rely upon documentary evidence but has not fully complied with Rule 30, then at the commencement of the hearing the Sub-Committee shall follow this procedure: -
- (a) the Chair shall establish whether the other party/parties consent to the documentary evidence being admitted, and
 - (b) if all the other parties so consent, then the documentary evidence shall be treated as if Rule 32 applied to it, or

- (c) if any party does not so consent, then the Sub-Committee shall decide whether to admit the documentary evidence nonetheless
 - (d) in making its decision under Rule 33(c), the Sub-Committee shall have regard to any reasons given for the late production of the documentary evidence, or other non-compliance with Rule 30.
 - (e) in making its decision under Rule 33(c), the Sub-Committee shall consider how far any other party may be prejudiced by the late production of the documentary evidence, or other non-compliance with Rule 30, and also the extent of the prejudice to the party seeking to rely upon the evidence if its admission is refused.
 - (f) in making its decision under Rule 33(c), the Sub-Committee shall consider whether it would be desirable in the public interest to adjourn the hearing for any period of time, or to another date, in order to allow any other party a reasonable opportunity to consider the documentary evidence.
 - (g) in making its decisions under Rules 33(c) and 33(f) above, the Sub-Committee shall consider any representations by the parties and the advice of its legal representative.
34. Where a party wishes to rely upon documentary evidence at a hearing but considers that any details of that evidence should be treated as confidential, for example the name or address of the signatory of a letter, then the party may exclude such confidential details from any documentary evidence sent to the Licensing Service under Rule 30. This Rule does not apply to any notice given or relevant representation made, since the originator must state his/her name and address in order for it to be valid.
35. In any case where confidential details are excluded under Rule 34, the Licensing Service must be informed that a request will be made by the party under Rule 42. If permission is refused under Rule 43, the whole or part of the relevant documentary evidence may be excluded from consideration. If permission is granted to exclude any confidential details, this may affect the weight to be given to the rest of the related evidence under Rule 58.
36. Where a party wishes to rely upon a model, or any form of evidence that cannot be photocopied, at a hearing that party must give written notice to the Licensing Service of this intention no later than ten working days before the date of the hearing. The party seeking to rely upon such evidence shall indicate in the notice, so far as practicable, the nature of that evidence and the purpose(s) of producing it.
37. Where a party has given notice under Rule 36, the Licensing Service shall forthwith communicate all relevant information about the evidence to the other party/parties if possible by electronic means or the most rapid practicable alternative means.
38. Rules 30 to 33 shall be applied flexibly to evidence of the type described in Rule 36 with a presumption that such evidence will be admitted if it materially helps the Sub-Committee to understand relevant issues between the parties at the hearing.

Petitions

39. Petitions shall on each page state their purpose and contain a warning to potential signatories that they are liable to be made public and that a copy will be supplied to other parties to the application. Each person signing should print their name and address legibly. At the end a petition must state the name(s) and address(es) of the persons circulating the petition and the dates on which this took place.
40. A petition must comply with Rule 39 unless the Sub-Committee decide to waive compliance with any requirement(s) for a good reason. A petition shall also be treated as documentary evidence and Rules 30 to 33 shall apply.

Private Hearings and Confidential Evidence

41. In accordance with the Hearings Regulations, hearings shall take place in public unless a decision to the contrary is made under Rule 43 in any case.
42. Where a party or a witness consider that any giving of evidence, or part of any evidence, or part of a hearing, should be held in private, then the party or their witness shall make such request to the Chair at the commencement of the hearing.
43. The Sub-Committee may decide to exclude members of the public from any part of a hearing and/or treat any evidence as confidential where the Sub-Committee consider that the public interest in preserving the confidentiality of any evidence outweighs the public interest in that part of the hearing taking place in public.
44. For the purposes of Rule 43, a party, a witness and any person assisting or representing a party, may be excluded from any part of a hearing or from hearing or seeing any particular evidence. Where the Sub-Committee decide to hold part of a hearing in private, a party and/or his/her representative shall not be excluded except for very special reasons.
45. Where the Sub-Committee decide to hold part of a hearing in private, the officers of the Licensing Service will not be excluded except for very special reasons. The Committee Clerk and legal representative shall not be excluded.
46. Before making any decision under Rules 43 or 45, the Sub-Committee shall consider the advice of its legal representative.
47. Where any part of a hearing takes place in private, the hearing will be adjourned immediately thereafter for a period of time sufficient to enable the Committee clerk to prepare a fair summary of the evidence and proceedings heard in private. This summary will exclude all details that the Sub-Committee, acting with the advice of its legal representative, consider should

remain confidential. Upon the resumption of the hearing, the summary will be read out publicly in the presence of all the parties.

48. Rules 41 to 47 shall apply as nearly as may be practicable to documentary evidence where, with the consent of the Sub-Committee, confidential details may be disclosed to the Sub-Committee but excluded from disclosure to the public or persons mentioned in Rule 44.
49. Rules 41 to 47 shall apply, as nearly as may be practicable, where a witness wishes to disclose his/her name and/or address or other details only to the Sub-Committee and Council officers but not to the public or persons mentioned in Rule 44.
50. Whenever any evidence or information has been treated as confidential under Rules 41 to 49, the Sub-Committee shall consider whether to alter the weight given to that evidence in accordance with Rule 58.

Commencement of the Hearing

51. At the commencement of each hearing the Sub-Committee shall follow this procedure but may omit or abridge any step or Rule as appropriate -
 - (a) The Chair will introduce him/herself and invite the Members and officers to introduce themselves
 - (b) The Chair will invite the parties to introduce themselves and their representatives (if any)
 - (c) The Chair will invite Members to disclose any contacts they may have had before the hearing with the parties or lobbyists for them.
 - (d) If any party fails to attend the hearing, the Sub-Committee shall decide whether to proceed with the hearing in the absence of that party or whether to adjourn the hearing to another date. The Sub-Committee shall have regard to Rules 24 and 25 and Regulations 12 and 20 of the Hearings Regulations in making such decisions.
 - (e) The Chair will explain the procedure to be followed by reference to these Rules.
 - (f) The Chair will suggest the order of the topic headings for discussion at the hearing and will then invite the comments of the parties. In the light of such comments the Sub-Committee will confirm the order of the topic headings or amend them.
 - (g) The Chair will ascertain whether there are any requests by any of the parties to call a witness and the Sub-Committee will then determine any such request under Rule 29.
 - (h) The Chair will ascertain whether there is likely to be a request from any of the parties to cross-examine a witness called by another party and, if so, the reasons given for seeking a cross-examination. The Sub-Committee will then determine whether to allow such cross-examination in the interests of establishing relevant facts.
 - (i) The Chair will ascertain whether there are any requests by any of the parties to produce documentary evidence, including models etc., and whether there has been full compliance with Rules 30 to 37. In the

event of any non-compliance these Rules, the Sub-Committee shall decide whether to admit the evidence and/or adjourn the hearing under Rules 33 and 38.

- (j) The Chair will ascertain whether there are any requests by any of the parties to treat any evidence as confidential or to hear any of the evidence, or hold any part of the hearing, in private. If so, the Sub-Committee shall decide the request under Rules 43 to 49.
- (k) In any case where the Licensing Service has informed a party that there are particular points on which the Sub-Committee will need clarification, the Chair will then invite the party to provide such clarification.

Procedure and Evidence at Hearing

- 52. In accordance with Hearings Regulations, the hearing shall take the form of a discussion led by the Chair. With permission of the Chair the other Members of the Sub-Committee may ask questions of the parties, their representatives and witnesses and may lead the discussion on specific topics or points.
- 53. The hearing shall follow the order of the topic headings determined under Rule 51(f) unless there is a good reason to depart from this agreed by the Sub-Committee.
- 54. The Chair, or Member leading the discussion, shall endeavour to ensure that each party has a reasonable opportunity to explain their case under each topic heading. The parties, their representatives and witnesses have a duty to make their evidence and comments succinct and relevant to the issues under discussion.
- 55. A party shall not be permitted to cross-examine another party or their witness unless this has been allowed under Rule 51(h). If a party has concerns relating to the evidence or comments of another party or their witness, this should be explained to the Sub-Committee so that the Chair can question the other party/witness about these concerns before completing that topic heading.
- 56. Where permission has been given to a party to call a witness, that witness may give evidence in one or more stages when the discussion covers the appropriate topic heading(s). Normally, a witness will be invited by the Chair to make a statement. The witness will then be subject to cross-examination by the other party/parties if this has been allowed under Rule 51(h). Then the Sub-Committee may question the witness. A party shall not re-examine his/her own witness except with the consent of the Chair to clarify a significant point in earlier evidence.
- 57. At the end of each topic heading the Chair shall invite the Licensing Service or legal representative to make any comments that they may consider necessary. With the consent of the Chair, these officers may question parties or witnesses directly or put their questions through the Chair.

58. Strict legal rules of evidence shall not apply. However, in considering what weight to place on the evidence or comments of any party or witness, the Sub-Committee shall have regard to the extent to which information was: -
- (a) within a witness' direct knowledge, and
 - (b) clearly and specifically related to the points at issue in the hearing, and
 - (c) tested by questioning.
59. The Chair shall be responsible for the orderly conduct of the hearing. The Chair may require any person to be silent and may regulate the order in which persons speak at the hearing. The Chair will endeavour to prevent remarks which are repetitious or irrelevant or which amount to unsubstantiated offensive allegations against any person, present or not.
60. The Chair on his/her own motion may indicate the decision of the Sub-Committee on any procedural matter within the scope of these Rules notwithstanding that the decision is stated in these Rules to be that of the Sub-Committee. This is subject to the right of any Member, who makes an immediate request, to have the matter put to the vote of the Sub-Committee as a whole. Rule 66 will apply to such a vote.
61. In accordance with the Hearings Regulations, each party has the right to make a closing address to the Sub-Committee in order to summarise his/her case at the end of the hearing. Unless the applicant consents to a different order, the applicant shall have the right to make the final address.
62. Each party must be allowed an equal maximum period of time to make a closing address. Normally, the Chair will invite each party to state how much time that party will require. However, the Sub-Committee may fix a greater or lesser maximum time for each closing address provided that this is reasonable in relation to the weight and complexity of the issues at the hearing.

Time Limit for Hearings

63. At 9.30 p.m. the Chair must ask the Sub-Committee to agree –
- (a) to continue the hearing in hand and, if necessary, to suspend these Rules so as to allow it to continue for a reasonable time beyond 10.00 p.m. when this is necessary to complete the hearing and advisable in the interests of fairness, and/or
 - (b) to adjourn the hearing and/or any other unfinished business on the agenda until a date to be fixed.
64. Hearings shall not normally continue later than 10.00 p.m. and no new hearing shall be commenced after 10.00 p.m.

Decision Making

65. At the end of a hearing the Sub-Committee may confer publicly and announce its decision on the application(s) immediately.
66. Alternatively, the Sub-Committee may defer reaching its decision until a later time or date, in so far as this accords with the Hearings Regulations.
67. In any case, and whether or not Rule 66 applies, the Sub-Committee may retire with the Committee clerk and legal representative to another room to deliberate in private.
68. The Sub-Committee, if making a decision at that time, must reach their decision by a majority vote. The Licensing Committee, if making a decision at that time, must reach their decision by a majority vote but, in the event of an equality of votes, the Chair shall have a second, or casting, vote.
69. The decision(s) will then be summarised in writing and the Sub-Committee will return to the public meeting so that the Committee clerk can read out the decision(s) in the presence of all the parties and their representatives.
70. If the Sub-Committee require any clarification of matters of fact before reaching their decision(s), the Sub-Committee shall return to the public meeting and put questions to the parties, their witnesses or the Licensing representative in the presence of all the parties and their representatives.
71. If the legal representative gives legal advice on any point(s) material to the Sub-Committee's decision(s), this advice will be summarised and read out by the legal representative in public before the Committee Clerk reads out the decision(s).

Waivers and Irregularities

72. The Chair may agree to waive any of these Rules, including any time limit, in the case of any individual application where he/she considers that there is good reason to do so. Excepted from this power to waive are Rules 8 to 23 (inclusive). Any permanent variation of these Rules must be decided by the Licensing Committee.
73. Any irregularity arising from any failure to comply with any provision of these Rules before the Sub-Committee has made a determination shall not of itself render the proceedings void.
74. In any case of such an irregularity the Sub-Committee shall, if Members consider that any person may have been prejudiced as a result of the irregularity, take such steps as Members think fit to cure the irregularity before reaching a determination of the application(s). In any such case the Sub-Committee shall consult the legal representative before deciding upon any steps to cure the irregularity.

75. In any case where it appears after the Sub-Committee's determination that the decision has been vitiated by incorrect information or any procedural or legal error, the Legal Representative shall advise the Chair of this and of the steps necessary to remedy the problem. With the consent of the Chair, the Sub-Committee may reconvene to take the steps advised and/or to amend its decision. With the consent of the Chair in an appropriate case, the Members of the Sub-Committee may signify their consent to any steps advised and/or any amended decision without reconvening in person. When the legal representative so advises, the parties affected shall be invited to a reconvened hearing or, where appropriate, to signify their consent to any steps proposed without attending in person.

Cases Remitted by the Magistrates on Appeal

76. On an appeal to the Magistrates Court, the Court may remit the case to the Council for it to determine in accordance with the Direction of the Court. The Chair of the Licensing Committee on legal advice may wish the Council to contest that Direction by further legal proceedings. If not, the Chair will receive advice from the Head of Legal Services on how to comply with the Direction of the Court and will be requested to agree the appropriate procedure. So far as possible, these Rules will apply to any further hearing with such modifications as are advised to secure compliance with the Direction of the Court.