




Haringey Council

Report for:	Regulatory Committee	Item Number:	
Title:	New procedure for Review Applications to Licensing Sub Committees		
Report Authorised by:	 Stuart Young, Assistant Chief Executive		
Lead Officer:	Clifford Hart, Democratic Services Manager, x2920		
Ward(s) affected: All	Report for Key/Non Key Decisions: Non-key		

1. Describe the issue under consideration

For the Regulatory Committee to consider and adopt a new procedure for Licensing Sub Committees, specific to Review Applications under the Licensing Act 2003.

2. Cabinet Member introduction

N/A

3. Recommendations

That Members approve and adopt a new procedure for Licensing Sub Committees specifically in relation to Review Applications, as set out at appendix 1 of the report.



4. Other options considered

Remaining without a specific procedure for applications for review. Members have requested a specific procedure, however, as confusion can arise in applying the existing procedure to applications for review.

5. Background information

- 5.1 There are currently two procedure notes for the statutory business of the Licensing Sub Committees, one for applications under the Licensing Act 2003 and one for applications under the Gambling Act 2005.
- 5.2 There is currently no specific procedure note for applications for review under the Licensing Act 2003, and the standard procedures for applications under the Licensing Act 2003 have applied to hearings of review applications.
- 5.3 The application of the standard procedures for review application hearings has led to some confusion, due to the parties for review applications differing from those under other applications under the Licensing Act 2003.
- 5.4 Members have requested that a specific procedure note be produced for review applications, in order to clarify the process to be followed during such hearings.
- 5.5 It is proposed that a new procedure note be produced for review applications by means of adapting the existing procedures for applications under the Licensing Act 2003. The proposed procedure note for review applications, with adaptations from the standard procedure marked in track changes, is attached at appendix 1.

6. Comments of the Chief Finance Officer and financial implications

We are satisfied that the tasks detailed in the Report (updating of the procedures for the Licensing Sub Committees) are 'business as usual' within Democratic Services, with no additional costs expected to be incurred or spend generated. There are therefore no anticipated adverse budgetary implications from the work to be undertaken, other than the normal charging of costs against the Service's budget.

7. Head of Legal Services and legal implications

Under the Regulatory Committee's terms of reference in para 5(1)(d) in Section C, part 3 of the constitution, the committee's functions in its capacity as the statutory licensing committee includes determining the procedures to be followed in handling applications under the Licensing Act 2003. The Licensing Act 2003 (Hearing) Regulations 2005 do not prescribe the precise form for such written procedures. There are therefore subtle variations in the procedures to assist members amongst different local authorities. There are no legal implications arising from this report.



8. Equalities and Community Cohesion Comments

8.1 Policy and Equalities Team have been consulted in the preparation of this report and comment that:

8.2 The general duty contained in section 149 of the Equality Act 2010 requires the Council to have due regard in all its functions to the need to eliminate discrimination, harassment and victimisation against groups who possess the characteristics protected under the Act; advance equality of opportunity for those groups and; foster good relations between groups that possess those characteristic and those that do not.

8.3 The protected characteristics are age, disability, race, sex (formerly gender), sexual orientation, marriage and civil partnership, gender reassignment, religion and belief and pregnancy and maternity.

8.4 Ordinarily, equalities monitoring of licensing applications and outcomes should be taking place to ensure that the Sub-Committee in its functions is not unlawfully discriminating against any of the protected characteristics detailed above.

8.5 The proposals regarding specific procedure notes appear to relate to internal procedural matters designed to enable the Licensing Sub-Committee to discharge its functions more efficiently in regard to applications for review under the Licensing Act 2003. The proposals carry no obvious direct implications for the Council's general equality duty.

8.6. However, Members will be advised in due course, together with recommendations for any corrective actions that might be necessary should adverse implications become evident when applying the specific procedure notes proposed in this report.

9. Head of Procurement Comments

N/A

10. Use of Appendices

Appendix 1: Proposed procedure note for review applications under the Licensing Act 2003, marked in track changes to indicate changes from the current, standard procedure note for applications under the Licensing Act 2003.

11. Local Government (Access to Information) Act 1985

Committee procedure – Gambling Act 2005 – hearings regulations SI 2007 / 173 (August 2007)



Haringey Council

Licensing Sub-Committee Hearings Procedure Summary 2007

LICENSING SUB-COMMITTEE HEARINGS PROCEDURE SUMMARY	
INTRODUCTION	
1.	The Chair introduces himself and invites other Members, Council officers, the Premises Licence Holder, representatives of responsible authorities, interested parties and the Review Applicant to do the same.
2.	The Chair invites Members to disclose any prior contacts (before the hearing) with the parties or representations received by them
3.	The Chair explains the procedure to be followed by reference to this summary which will be distributed.
NON-ATTENDANCE BY PARTY OR PARTIES	
4.	If one or both of the parties fails to attend, the Chair decides whether to: <ul style="list-style-type: none"> (i) grant an adjournment to another date, or (ii) proceed in the absence of the non-attending party. Normally, an absent party will be given one further chance to attend.
TOPIC HEADINGS	
5.	The Chair suggests the "topic headings" for the hearing. In the case of the majority of applications for variation of hours, or other terms and conditions, the main topic is: <p>Whether the extensions of hours etc. applied for would conflict with the four licensing objectives i.e.</p> <ul style="list-style-type: none"> (i) the prevention of crime and disorder, (ii) public safety, (iii) the prevention of public nuisance, and (iv) the protection of children from harm.
6.	The Chair invites comments from the parties on the suggested topic headings and decides whether to confirm or vary them.
WITNESSES	
7.	The Chair asks whether there are any requests by a party to call a witness and decides any such request.
8.	Only if a witness is to be called, the Chair then asks if there is a request by an opposing party to "cross-examine" the witness. The Chair then decides any such request.
DOCUMENTARY EVIDENCE	
9.	The Chair asks whether there are any requests by any party to introduce late documentary evidence.
10.	If so, the Chair will ask the other party if they object to the admission of the late documents.
11.	If the other party do object to the admission of documents which have only been produced by the first party at the hearing, then the documents shall not be admitted.

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12.	If the other party object to documents produced late but before the hearing, the following criteria shall be taken into account when the Chair decides whether or not to admit the late documents:	
(i)	What is the reason for the documents being late?	
(ii)	Will the other party be unfairly taken by surprise by the late documents?	
(iii)	Will the party seeking to admit late documents be put at a major disadvantage if admission of the documents is refused?	
(iv)	Is the late evidence really important?	
(v)	Would it be better and fairer to adjourn to a later date?	
THE LICENSING OFFICER'S INTRODUCTION		
13.	The Licensing Officer introduces the report explaining, for example, the existing hours, the hours <u>sought to be varied</u> and the comments of the other Council Services or outside official bodies. This should be as "neutral" as possible between the parties.	Deleted: applied for
14.	The Licensing Officer can be questioned by Members and then by the parties.	
THE HEARING		
15.	This takes the form of a discussion led by the Chair. The Chair can vary the order as appropriate but it should include:	
(i)	an introduction by the <u>Review Applicant's</u> main representative	Deleted: Objectors'
(ii)	an introduction by the <u>Premises Licence Holder</u> or representative	Deleted: Applicant
(iii)	questions put by Members to the <u>Review Applicant</u>	Deleted: Objectors
(iv)	questions put by Members to the <u>Premises Licence Holder</u>	Deleted: Applicant
(v)	questions put by the <u>Review Applicant</u> to the <u>Premises Licence Holder</u>	Deleted: Objectors
(vi)	questions put by the <u>Premises Licence Holder</u> to the <u>Review Applicant</u>	Deleted: Applicant
		Deleted: Applicant
		Deleted: Objectors
CLOSING ADRESSES		
16.	The Chair asks each party how much time is needed for their closing address, if they need to make one.	
17.	Generally, the <u>Review Applicant</u> makes their closing address before the <u>Premises Licence Holder</u> , who has the right to the final closing address.	Deleted: Objectors
		Deleted: Applicant
THE DECISION		
18.	Members retire with the Committee Clerk and legal representative to consider their decision including the imposition of conditions.	
19.	The decision is put in writing and read out in public by the Committee Clerk once Members have returned to the meeting.	Deleted: S:\OD\MembDemc\Council\SrvF\AIF\RepMan\Regulatory Committee\Regulatory Committee\2012\2 - 12 April\Draft reports\Sub-Committee REVIEW Procedure check list v3.doc