

## APPENDIX A

### LICENSING COMMITTEE & SUB-COMMITTEE

#### Procedure for meetings considering applications arising from the Licensing Act 2003.

This procedure note is subject to the Licensing Act 2003 (Hearings) Regulations 2005 (as amended).

#### RESPONSIBILITY FOR DECISIONS

1. Decision making is administered by a licensing committee, which was established by Southwark's council assembly on December 8 2004. The report that led to this decision can be viewed at:

<http://www.southwark.gov.uk/YourCouncil/AgendasMinutes/AssembMeet/CouncilAssemblyReports.html>

The minutes containing the council assembly decision can be seen at:

<http://www.southwark.gov.uk/YourCouncil/AgendasMinutes/AssembMeet/AMCouncilAssembly.html>

2. Decisions are taken by one of the following decision-makers:
  - Licensing committee – comprising 15 councillors.
  - Licensing sub-committees – comprising any 3 councillors already members of the licensing committee.
  - Council officers acting under specific powers delegated to them by councillors.

The division of responsibility is shown in the council's constitution at the following address:

<http://www.southwark.gov.uk/YourCouncil/HowTheCouncilWorks/councilconstitution.html>

#### PRE-HEARING ARRANGEMENTS

3. The Licensing Act 2003 sets out timescales specifying a maximum period for the determination of the various types of applications once received by the council and the notice period for meetings. A schedule of the types of hearing and the notice periods involved can be found in Schedule 1 of the Licensing Act 2003 (Hearings) Regulations 2005 <https://www.legislation.gov.uk/uksi/2005/44/schedule/1/made><sup>1</sup> is detailed in the timetable of hearings detailed at the end of this Appendix.
4. Notices of hearings will always include details of:

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<sup>1</sup> <https://www.legislation.gov.uk/uksi/2005/44/schedule/1/made>

- The rights of parties to attend the hearing and nominate legal or other representatives to present their case.
  - Parties' abilities to address the committee/sub-committee, to give information and call witnesses.
  - The consequences of non-attendance.
  - This hearings procedure.
  - A separate schedule detailing points about which the licensing authority requires clarification.
  - The requirement that all parties notify the licensing authority:
    - If they are attending or will be represented at the hearing
    - If they consider the hearing to be unnecessary
    - Of any request for permission for a witness to appear at the hearing, the name of the witness, and a brief description of the point or points on which that person will be able to assist the hearing.
  - The time frame for notification (detailed in the timetable of hearings detailed at the end of this Appendix).
  - Any information to accompany the notice will be sent out in accordance with the regulations.
5. Parties will be notified of hearings in accordance with the notice periods required by the Licensing Act 2003. Committee agenda papers will be accessible online only (at <http://moderngov.southwark.gov.uk/ieListMeetings.aspx?Committeeld=172>) at least five working days prior to a hearing (except where regulatory time frames make this impracticable).
6. Hearings will be dispensed with if all parties making relevant representations agree a hearing is unnecessary. In such circumstances a decision will be taken under delegated authority.

## **HEARING PROCEDURES**

7. Hearings will normally be held in public. The committee may exclude the public from all or part of a 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.
8. In this context a party and a person representing the party may be treated as a member of the public.
9. The committee will hold its deliberations in private accompanied by the clerk and legal officer.

## **Time Frames**

10. In relation to the virtual hearings that will be held remotely, parties are requested to submit written submissions by email, at least 24 hours before the hearing is due to start, summarising the points they wish to make at the hearing and any outstanding issues. Although voluntary, these written submissions will assist the committee in the conduct of the remote hearing and the decision-making process.

11. Virtual hearings will take place via Microsoft Teams. All parties who wish to participate will need to ensure that they are set up to use Microsoft Teams. This includes members of the public who wish to observe. Prior to the meeting a link will be sent by the licensing officer to all parties to enable those parties to attend the virtual hearing. There shall be a note on the website for members of the public who wish to observe the meeting to email the clerk for a link to the meeting. Please note that the virtual licensing sub-committee meetings will be recorded for the council's own records. However, they will not be published on the internet.
12. Guidance on how to join a virtual meeting (in a document named 'Guide For Guests to Join Southwark Council Virtual Committee Meetings') along with the licensing hearing guidance will be emailed to all parties.
13. Parties are required to log-in 10 to 15 minutes before the start of a hearing. The clerk to the meeting (Andrew Weir) may be contacted on 0207 525 7222 in case of technical difficulties.
14. The chair will require all parties at the hearing to be focussed and succinct, avoiding repetition and matters irrelevant to the matter before the committee.
15. As a general rule, each party will be given a maximum of 10 minutes to present their case. This time period will include the calling of witnesses.
16. Parties may at the commencement of the hearing request an alteration of maximum time periods (to provide for more or less time). Any alteration agreed will apply equally to all parties.
17. In addition, the licensing authority may at any stage vary the maximum time periods for representations, where it considers that it is necessary to do so in the interests of natural justice and/or to enable a fair hearing to take place.
18. To ensure that the meeting runs smoothly only one individual shall be allowed to speak at a time. Any person speaking must be permitted to finish what they are saying without interruption. The chair shall direct specifically who is speaking (possibly by name) at any time and that if the chair requests that an individual stops speaking they should do so immediately.

### **Questioning**

19. Members of the committee may ask any question of any party or other person appearing at the hearing.
20. With the permission of the committee, a party may question any other party. The right to ask questions is not automatic. If permitted, such question time will usually be limited to 5 minutes (subject to the authority's discretion at paragraph 13 above)

### **Information given at the hearing**

21. At the hearing a party is entitled to:

- Provide further information in support of their application or representation or notice in response to a point upon which the licensing authority has given notice to the party that it will want clarification
  - Address the committee
  - With the permission of the committee, ask questions of another party
  - With the consent of all other parties, provide additional documentary or other information
22. In considering any application or representations or notice made by a party the committee may take into account documentary or other information produced by a party in support of their application or representation or notice, either before the hearing or, with the consent of all the other parties, at the hearing.
23. In coming to a decision the committee shall disregard any information given by a party or witness which is not relevant to the matter before the committee, or to the relevant licensing objective(s) under consideration.
24. Should a party notify the licensing authority it does not intend to attend a hearing or fails to attend without giving adequate notice, the hearing will be conducted in the party's absence unless the licensing authority considers it to be in the public interest to adjourn the hearing.<sup>2</sup>

### **Adjournments**

25. The committee may adjourn a hearing to a specified date, or arrange for it to be held on specified additional dates, when it considers this to be necessary for its consideration of any representations or notice made by a party, but will not exercise its powers to do so if the effect would be that the application would be automatically treated as granted or rejected

### **Conduct of hearings**

26. Hearings will normally be conducted in accordance with the order of business attached as Appendix B (Protocol on Licensing Sub-Committees).
27. The chair shall decide, having taken the advice of the legal officer, all matters of relevancy all matters of order and the interpretation of these procedures.

### **AFTER THE HEARING**

28. The licensing authority shall produce minutes of each hearing that will be agreed and signed as a correct record at a subsequent meeting of the committee.
29. Any failure to comply with this procedure or the Licensing Act 2003 Hearing Regulations prior to a panel making a determination shall not render the proceedings void. The panel will be entitled to remedy any irregularities prior to

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<sup>2</sup> Time limits are imposed upon the council for determination of applications (i.e. 2 months for conversions and variations and 3 months for personal licenses). On matters of adjournment, a decision to adjourn meetings, which takes the application outside of these limits, would result in automatic approval (conversions) or refusal (variations). In reaching such a decision, members need to be mindful of the implications of any adjournment.

making a determination should any party be prejudiced by a failure to take action.

**LICENSING ACT 2003 TIMETABLE FOR HEARINGS**

| <b>Type of hearing</b>         | <b>Licensing Act section</b> | <b>Working days within which hearing must be held</b> | <b>Working days within which interested parties must be notified of hearing</b> | <b>Working days within which parties must notify authority if attending/ and witness details</b> | <b>Persons to whom notice must be given</b>   | <b>Minimum additionally required documentation for the hearing*</b> |
|--------------------------------|------------------------------|---|---|--|---|---|
| Premises license               | 18 (3) (a)                   | 20  | 10  | 5  | a) applicant<br>b) all persons making relevant representations  | Applicant receives all relevant representations                     |
| Provisional statement          | 31 (3) (a)                   | 20  | 10  | 5  | a) applicant<br>b) all persons making relevant representations  | Applicant receives all relevant representations                     |
| Premises license variation     | 35 (3) (a)                   | 20  | 10  | 5  | a) applicant<br>b) all persons making relevant representations  | Applicant receives all relevant representations                     |
| Designated premises supervisor | 39 (3) (a)                   | 20  | 10  | 5  | a) the holder of the premises license<br>b) Police<br>c) the individual proposed to be the designated premises supervisor | Police objection notice   |
| Premises license transfer      | 44 (5) (a)                   | 20  | 10  | 5  | a) applicant<br>b) Police   | Police objection Notice   |
| Cancellation of                | 48 (3) (a)                   | 5   | 2   | 1  | a) any person with  | Police objection  |

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|--|-----------------------|--|--|---|--|--|
| interim authority notice               |                       |  |  |   | a prescribed 5 interest in the premises or is connected to the former                                  | notice   |
| Review of premises license             | 52 (2)                | 20   | 10   | 5   | a) the premises license holder<br>b) all persons making relevant representations<br>c) applicant       | Applicant receives all relevant representations              |
| Grant of a club premises certificate   | 72 (3) (a)            | 20   | 10   | 5   | a) the applicant club<br>b) all persons making relevant representations                                | Applicant receives all relevant representations              |
| Variation of club premises certificate | 85 (3) (a)            | 20   | 10   | 5   | a) the applicant club<br>b) all persons making relevant representations                                | Applicant receives all relevant representations              |
| Review of club premises certificate    | 88 (2)                | 20   | 10   | 5   | a) the club holding the certificate<br>b) all persons making relevant representations<br>c) the person | Applicant receives all relevant representations              |

| Type of hearing   | Licensing Act section      | Working days within which hearing must be held | Working days within which interested parties must be notified of hearing | Working days within which parties must notify authority if attending/ and witness details | Persons to whom notice must be given   | Minimum additionally required documentation for the hearing* |
|---|----------------------------|--|--|---|--|--|
|   |                            |  |  |   | requesting the review  |  |
| Counter notice following Police objection                         | 105 (2) (a)                | 7  | 2  | 1   | a) premises user<br>b) Police  |  |
| Personal license  | 120 (7) (a)                | 20   | 10   | 5   | a) applicant<br>b) Police  | Police objection notice                                      |
| Personal license renewal  | 121 (6) (a)                | 20   | 10   | 5   | a) applicant<br>b) Police  | Police objection notice                                      |
| Convictions discovered after grant or renewal of personal license | 124 (4) (a)                | 20   | 10   | 5   | a) the license holder<br>b) Police   | Police objection notice                                      |
| Review of premise license following closure order                 | 167 (5) (a)                | 10   | 5  | 2   | a) the premises license holder<br>b) all persons making relevant representations | Applicant receives all relevant representations              |
| Conversion of existing license                                    | Schedule 8 para 4(3) (a)   | 10   | 5  | 2   | a) applicant<br>b) Police  |  |
| Conversion of existing club certificates                          | Schedule 8 para 16 (3) (a) | 10   | 5  | 2   | a) applicant club<br>b) Police   |  |
| Personal license for holders of a justices license                | Schedule 8 para 26 (3) (a) | 10   | 5  | 2   | a) applicant<br>b) Police  |  |

\* The Licensing Act 2003 (Hearings) Regulations 2005 (Regulation 7) require all hearing notices to explain:



- The rights of a party to attend, be assisted or represented (Regulation 15)
- The party's rights at the hearing (Regulation 16)
- The consequences if a party does not attend or is not represented (Regulation 20)
- The procedures to be followed at the hearing
- Any particular points on which the authority considers that it will want clarification at the hearing from a party

## LICENSING COMMITTEE/SUB-COMMITTEE

### ORDER OF BUSINESS

1. **Election of chair** (*sub-committees only*)

At sub-committees constituted without the chair or the vice-chair as members, the clerk will invite those present to elect a chair for the duration of the meeting.

2. **Apologies for absence**

This will include all notifications of non-attendance from interested parties.

3. **Declarations of interest**

Committee members to make any declarations (if any).

4. **Minutes**

To approve the minutes of any previous meetings.

5. **Meeting Procedures**

The clerk to explain the order of business and the procedures to be followed

6. **Introductions**

The chair will invite all present to introduce themselves.

7. **Additional documentation and other preliminary issues**

The chair will invite parties to make representations for the inclusion of additional documentation. Any additional documentation agreed by all parties will be distributed and those present given sufficient time to consider the contents. Should extensive additional documentation be tabled, the licensing authority will adjourn the meeting if it considers the principles of natural justice and the public interest would be better served.

The parties shall identify any witnesses notified to the licensing authority. The committee will consider any requests to hear any witnesses.

8. **Licensing authority presentation**

A council officer, who is not designated as a relevant authority, will present the written report and give any available updates. This will normally be the responsibility of the licensing officer.

9. **Applicant's presentation**

The applicant or a nominated representative will present their case calling any witnesses notified to all parties in advance.

10. **Follow-up to applicant's presentation**

The chair will invite members of the committee to clarify any points in the applicant's presentation. However other parties to the application do not have an automatic right to ask questions of other parties and their witnesses. These parties may request permission to do so but must be direct and to the point and not a substitute for presentations. If the chair does give permission the order will be as follows:

- (a) Other parties.
- (b) Members of the licensing committee

**11. Presentation(s) by other parties**

All parties making relevant representations will be invited to present their case calling any witnesses notified to all parties in advance. In cases where two or more parties have made a similar representation, the chair will invite them to appoint a single spokesperson.

**12. Follow-up to presentations by other parties**

The chair will invite members of the committee to clarify any points in the presentation by other parties. However the applicant and any other parties to the application do not have an automatic right to ask questions of other parties and their witnesses. These parties may request permission to do so but must be direct and to the point and not a substitute for presentations. If the chair does give permission the order will be as follows:

- By the applicant
- By other parties
- By members of the licensing committee

**13. Other parties closing statement**

The other parties will be given a maximum of 5 minutes to sum up their representation(s).

**14. Applicant's closing statement**

The applicant will be given a maximum of 5 minutes to sum up their representation.

**15. Decision notification**

The committee will normally hold its deliberations in private when reaching a decision. During virtual meetings all parties will be asked to leave the virtual meeting and return after 30 minutes. If more time is required all parties will be advised. The chair will read out the summary of the decision.

A full decision, including the reasons for the decision will be emailed to all parties as soon as practicable after the end of the hearing and confirmed in writing within 5 working days (or sooner where applicable). This full decision shall be sent to all parties by officers of the licensing authority.