

LICENSING ACT 2003

NORTH TYNESIDE COUNCIL

PROCEDURE FOR A HEARING AFTER AN OBJECTION NOTICE IS GIVEN BY THE POLICE IN RESPECT OF A TEMPORARY EVENT NOTICE BEFORE THE LICENSING SUB-COMMITTEE ("the Committee")

The Sub-Committee is concerned with the promotion of the licensing objectives and any decision has to be considered appropriate to promote those licensing objectives.

Each application that comes before the Committee will be treated on its own merits, and the Licensing Authority will take its decision based upon:

- The merits of the Application
- The promotion of the licensing objective concerned with the prevention of crime and disorder
- The statement of Licensing Policy of North Tyneside Council
- The guidance issued by the Secretary of State for Culture, Media and Sport on under Section 182 of the Licensing Act 2003.

The Procedure of the Committee is as follows:-

1. The Chair will open the hearing and will ask all persons present at the hearing to identify themselves. The Chair or Legal Adviser to the Committee will then explain the procedure to be followed at the hearing.
2. The Committee will then consider any request made by a party under Regulation 8(2) of the Licensing Act 2003 (Hearings) Regulations 2005 for permission for a person to attend as a witness on his/her behalf and any other preliminary matters.
3. The Licensing Officer will present a report to the Committee outlining the temporary event notice given to the Licensing Authority and the objection notice given by the Chief Officer of Police and/or the Environmental Health Officer and the relevant sections of the Council's Statement of Licensing Policy and the statutory guidance.
4. Clarification on any aspect of the report may be sought by:
 - a) Members
 - b) the Police Representative
 - c) the Environmental Health Officer
 - d) the Premises User

5. The representative from the Chief Officer of Police will be invited to address the Committee about the objection notice and why the event if permitted will be contrary to the licensing objectives.
6. If the Representative from the Chief Officer of Police has obtained prior permission to call a particular witness then they may call that witness.
7. The representative from the Chief Officer of Police should ideally take no longer than 10 minutes to make all relevant statements.
8. Relevant questions of the Representative from the Chief Officer of Police may be asked by:
 - a) Members
 - b) Environmental Health Officer
 - b) Premises User
9. The Environmental Health Officer will be invited to address the Committee about the objection notice and why the event if permitted will be contrary to the licensing objectives.
10. If the Environmental Health Officer has obtained prior permission to call a particular witness then they may call that witness.
11. The Environmental Health Officer should ideally take no longer than 10 minutes to make all relevant statements.
12. Relevant questions of the Environmental Health Officer may be asked by:
 - a) Members
 - b) Police Representative
 - c) Premises User
12. The Premises User will be invited to address the Committee, indicating why they believe that the event if permitted would not be contrary to the licensing objectives and why a Counter Notice should not be issued by the Licensing Authority.
13. If the Premises User has obtained prior permission to call a particular witness then they may call that witness.
14. Relevant questions of the Premises User may be asked by:
 - a) Members
 - b) Representative from the Chief Officer of Police
 - c) Environmental Health Officer

15. The Chair will invite all parties to make a brief closing statement. The parties should ideally take no longer than 10 minutes to make their closing statement. The parties will be invited to sum up in the following order:
 - a) Representative from the Chief Officer of Police
 - b) Environmental Health Officer
 - b) Premises User
 16. The Chair will ask the parties if they are satisfied that they have said all they wish to.
 17. The Committee will retire in private to consider the Application and make its determination. The Legal Adviser will be present to ensure that all matters of law, evidence and procedure are adhered to appropriately but will not take part in the decision.
 18. In considering any representations or notice made by any party, the Committee may take into account documentary or other information produced by a party in support of their representations and notice (as the case may be) either before the hearing or, with the consent of the other party, at the hearing.
 19. The Committee will disregard any information given by a party or by any person to whom permission to appear at the hearing is given by the Committee, which is not relevant to:
 - (i) their notice or, in the case of another person, the representations or notice of the party requesting their attendance; and
 - (ii) the promotion of the licensing objectives.
- NB** Parties are reminded that any documentary or other information or evidence they wish to produce in support of their application or representation must have been disclosed to all parties prior to the hearing taking place. **Late representations, documents or evidence will only be considered with the agreement of all parties present.**
20. The parties to be advised of the Committee's decision, including reasons for the decision and the decision will be followed up in writing in accordance with statutory requirements. Any counter notice will accompany the reasons for the decision. The notification of the decision will include information on a party's right to appeal against the Committee's decision.

General Matters

1. **Expectations on parties**

- (a) The Licensing Authority expects the parties to a hearing to endeavour to address any issues openly and to work towards an amicable resolution, if at all possible, prior to the hearing taking place.
- (b) The parties will be expected to:
 - (i) demonstrate that the issue they are raising at the hearing relates to the licensing objectives
 - (ii) draw to the Committee's attention any relevant aspects of the National Guidance or local Statement of Licensing Policy which they also consider are particularly relevant to the Committee's consideration of the issues the party(ies) has/have raised.

2. Agreement that a hearing is unnecessary

The Licensing Authority can dispense with the holding of a hearing if all parties concerned (representative from the Chief Officer of Police, Environmental Health Officer and premises user) give notice to the Licensing Authority prior to the hearing date that they consider it unnecessary.

Where all parties have given such notice, and the Licensing Authority agrees that the hearing is unnecessary, the Licensing Authority will give notice to the parties the hearing has been dispensed with.

3. Failure of parties to attend

The hearing may proceed in the absence of any party who has informed the Licensing Authority that they do not intend to attend or be represented at the hearing.

If a party fails to attend or be represented at a hearing without notifying the Licensing Authority, the Committee may adjourn the hearing to a specific date if it considers it to be in the public interest to do so, or alternatively may proceed with the hearing in the party's absence. In the interests of the other parties, costs and efficiency, hearings will generally proceed notwithstanding the absence of any party (including the Applicant).

Where it is decided to proceed in a party's absence, all notices and representations received from the absent party will be considered by the Committee.

If, in exceptional circumstances, a decision is made to adjourn a hearing all parties will be advised of the date, time and venue to which the hearing has been adjourned.

4. Questioning of parties

The Licensing Authority will generally allow the parties to ask questions of each other, but this decision will be taken on a case by case basis and in some exceptional circumstances (a reason will be given) questioning may be prohibited.

Any party who is granted permission to ask questions of any other party shall be entitled to do so ideally for no longer than 5 minutes.

5. Further clarification

When addressing the Committee each party shall respond specifically to any points of which it received notice (with the Notice of Hearing) upon which the Committee was seeking clarification.

Any party providing such clarification shall ideally take no longer than 5 minutes when addressing the matter requiring clarification.

6. Questioning by Legal Adviser

The Legal Adviser to the Committee may ask questions on behalf of, or in addition to, the Committee Members themselves.

7. Hearsay evidence

Hearsay evidence will be admissible provided that it is relevant. The weight to be attributed to hearsay evidence will be a matter for the Committee.

8. Persons behaving in a disruptive manner

The Committee has the right to exclude any person disrupting the hearing, at their discretion. The Committee can refuse to allow that person to return or, alternatively, may permit him/her to return on such conditions as the Committee may decide. Any person required to leave the hearing may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

9. No decision-making by Ward Members

A Member of the Licensing Committee shall not be entitled to participate in any decision-making in relation to any licensing application concerning premises in the Ward for which he/she serves as Councillor.