

LICENSING ACT 2003

NORTH TYNESIDE COUNCIL

PROCEDURE FOR HEARING OF AN APPLICATION BEFORE THE LICENSING SUB-COMMITTEE (“the Committee”)

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

- The merits of the application
- The promotion of the crime prevention licensing objective
- The Statement of Licensing Policy of North Tyneside Council
- The guidance issued under Section 182 of the Licensing Act 2003.

The Procedure of the Committee is as follows:

1. The Chair of the Committee will open the hearing and will ask all persons present at the hearing to identify themselves. The Chair 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.
3. The Licensing Officer will present a report to the Committee outlining the application, and the Notice from the Chief Officer of Police and the relevant sections of the Council’s Statement of Licensing Policy and the statutory guidance.
4. The Committee may ask any relevant questions they have of the Licensing Officer.
5. The Applicant or their representative will then be invited to address the Committee to clarify any information arising from the officer’s report, if necessary.

Applicant

6. The Applicant, or their representative, will be invited to address the Committee, as to why they consider granting the application would not undermine the licensing objective concerned with the prevention of crime.

If the Applicant has obtained prior permission to call a particular witness, then they may call that witness.

7. The Committee may ask any relevant questions they have of the representative of the Applicant, the Applicant or their witness(es).

8. The current Premises Licence Holder may ask relevant questions they have of the applicant, their representative or witness(es).
9. The representative of the Chief Officer of Police or their representative, may ask any relevant questions they have of the representative of the Applicant, their representative or their witness(es).

Current Premises Licence Holder

10. The current Premises Licence Holder, or their representative, will be invited to address the Committee.
11. The Committee may ask relevant questions they have of the current Premises Licence Holder, or their representative.
12. The Applicant or their representative may ask relevant questions they have of the current Premises Licence Holder.
13. The representative of the Chief Officer of Police may ask relevant questions of the current Premises Licence Holder.

Police

14. The representative of the Chief Officer of Police will be invited to address the Committee as to why the Police are satisfied that there are exceptional circumstances which mean that granting the application would undermine the licensing objective concerned with the prevention of crime.

If the representative of the Chief Officer of Police has obtained prior permission to call a particular witness, then they may call that witness.

15. The Committee may ask any relevant questions they have of the representative of the Chief Officer of Police, their representative or their witness(es).
16. The representative of the Applicant or Applicant may ask any relevant questions they have of the representative of the Chief Officer of Police, their representative or their witness(es).
17. The current Premises Licence Holder may ask relevant questions they have of the representative of the Chief Officer of Police, their representative or their witness(es).

Summing Up

18. The Chair of the Committee will invite the representative of the Applicant or Applicant to make a brief closing statement.
19. The Chair will invite the Current Premises Licence Holder, or their representative, to make a brief closing statement.

20. The Chair will invite the representative of the Chief Officer of Police to make a brief closing statement.
21. The Chair will ask all parties if they are satisfied that they have said all they wish to.
22. 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.
23. In considering any representations or a notice made by any party, the Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as the case may be) either before the hearing or, with the consent of all the other parties, at the hearing.
24. The Committee shall 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 application or notice; and
 - (ii) the promotion of the crime prevention objective.

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.**

25. The Committee will return to announce its decision. A written notice of the decision will be provided to all parties in accordance with statutory requirements. The decision letter will include the reasons for the decision, and any conditions placed upon the licence (if granted) and the licensing objective(s) they relate to. The notification of decision will include information on a party's right to appeal against the Committee's decision.

General Matters

1. Expectations on parties

The Licensing Authority expects all 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.

All parties will be expected to draw to the Committee's attention any relevant aspects of the National Guidance or local Statement of Licensing Policy which they 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**

A Licensing Authority can dispense with holding a hearing if the Applicant and Chief Officer of Police give notice to the Licensing Authority prior to the hearing date that they consider a hearing is unnecessary.

Where all such persons have given such notice, and the Licensing Authority agrees that a hearing is unnecessary, the Licensing Authority will give notice to the parties that 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 all parties to ask questions of another party present, but this decision will be taken on a case by case basis and in some exceptional circumstances (a reason will be given) cross examination may be prohibited.

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.

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.