

LICENSING ACT 2003

NORTH TYNESIDE COUNCIL

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

The four licensing objectives, as set out in the Licensing Act 2003, are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm.

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 four licensing objectives
- 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 involved in the hearing to identify themselves. The Chair or Legal Adviser 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, any relevant representations 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 of the Committee
 - b) the Applicant
 - c) Responsible Authorities
 - d) Other Persons
 - e) Licence/Certificate Holder.
5. The Applicant will be invited to address the Committee about the application for review, indicating why they consider the issues they have raised to be relevant to one or more of the licensing objectives and sufficient to warrant a review of the premises licence/certificate.

6. If an Applicant has obtained prior permission to call a particular witness, then they may call that witness.
7. Relevant questions of the Applicant may be asked by:
 - a) Members of the Committee
 - b) Responsible Authorities
 - c) Other Persons
 - d) Licence/Certificate Holder.
8. Responsible Authorities will be invited to address the Committee, indicating why they consider the issues raised to be relevant to one or more of the licensing objectives and sufficient to support the application for a review of the premises licence/certificate. If a Responsible Authority has obtained prior permission to call a particular witness, then they may call that witness.
11. Relevant questions of the Responsible Authority may be asked by:
 - a) Members of the Committee
 - b) Applicant
 - c) Other Responsible Authorities
 - d) Other Persons
 - e) Licence/Certificate Holder.
12. Each of the Other Persons who have made representations will be invited to address the Committee about the application, indicating why they consider the issues raised to be relevant to one or more of the licensing objectives and sufficient to support the application for a review of the premises licence/certificate.
13. If any of the Other Persons have obtained prior permission to call a particular witness, then they may call that witness.

Note: In order to avoid repetition and to expedite proceedings at the hearing, objectors within the same group of Other Persons are encouraged to appoint an agreed spokesperson to address the Committee.

14. Relevant questions of the Other Person may be asked by:
 - a) Members of the Committee
 - b) Applicant
 - c) Responsible Authorities
 - d) Other Persons
 - e) Licence/Certificate Holder.

15. The Licence/Certificate Holder or their representative will be invited to address the Committee.
16. If the Licence/Certificate Holder has obtained prior permission to call a particular witness, then they may call that witness.
17. Relevant questions of the Licence/Certificate Holder may be asked by:
 - a) Members of the Committee
 - b) Applicant
 - c) Responsible Authorities
 - d) Other Persons
18. The Chair will invite each party to make a brief closing statement. Parties should ideally take no longer than 10 minutes to make their closing statement. Parties will be invited to sum up in the following order:
 - a) Applicant
 - b) Responsible Authorities
 - c) Other Persons
 - d) Licence/Certificate Holder.
20. The Chair will ask all parties if they are satisfied that they have said all they wish to.
21. 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.
- 22.1 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.
- 22.2 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, representations or a notice (as the case may be) or, in the case of another person, the application, representations or notice of the party requesting their attendance; and
 - (ii) the promotion of the licensing objectives or, in relation to a hearing to consider a notice given by a chief officer of police, the prevention of crime and disorder licensing 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.**

23. The parties to be advised of the Committee's decision, including reasons for the decision in writing in accordance with statutory requirements. The decision letter will include the reasons for the decision, and any conditions placed upon the licence 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

(a) 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.

(b) All parties will be expected to:

- (i) demonstrate which of the four licensing objectives are addressed in relation to each of the issues they wish to raise at the hearing;
- (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

A Licensing Authority can dispense with holding a hearing if all persons concerned (Applicants and parties raising a representation) give notice to the Licensing Authority prior to the hearing date that they consider it 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) questioning 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.