

Meeting:	Licensing and General Purpose Committee
Date:	7 March 2005
Subject:	Adoption of Hearing Procedures at Panel Hearings
Responsible Officer:	Chief Environmental Health Officer
Contact Officer:	P Sivashankar, Service Manager, ext 5605
Portfolio Holder:	Councillor Philip O'Dell
Key Decision:	No
Status:	Part 1

## **Section 1: Summary**

### **Decision Required**

To receive and agree the amended procedures for hearings at Licensing Panel for hearings under the Licensing Act 2003.

### **Reason for report**

To discharge the new statutory duties under the Licensing Act 2003 and the Hearings Regulations, the Licensing Authority should agree the procedure at it's hearings. This attached schedule provides the procedure to be followed at these hearings.

### **Benefits**

A set procedure will help to keep order in meetings and provides opportunity for all to take part.

### **Cost of Proposals**

None

### **Risks**

Lack of procedures may disadvantage some persons who may have a valid reason for an appeal.

## Implications if recommendations rejected

As discussed before.
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## **Section 2: Report**

### 2.1 Brief History

The Act transfers alcohol licensing from licensing justices to Local Authorities, which are democratically accountable. Responsibility for the licensing of regulated entertainment and late night refreshment will also fall to the Local Authorities. The licensing authorities (with the exception of the Inner and Middle Temples) must establish dedicated licensing committees in order to carry out their functions. This brings six existing licensing regimes under the responsibility of a single authority.

Applications with unresolved representations have to be decided by the Licensing Panel at a public meeting. Most of the procedures regarding time scales for representations and composition of panel are governed by the Regulations. The only area left for the Authorities to decide is about the procedure to be followed at the hearings.

### 2.2 Options considered

The attached procedure gives details of the procedure to be followed at these hearings.

### 2.3 Consultation

N/A

### 2.4 Financial Implications

None

### 2.5 Legal Implications

Are as set out in the body of this Report

### 2.6 Equalities Impact

The Licensing Section is continually monitoring the impact on Licensees and residents in relation to preparation and presentation at Licensing panels. The Licensing Section will prepare a system of supporting applicants and residents who are in need of language services and any other special needs as part of the procedures.

### **Section 3: Supporting Information/ Background Documents**

List information that is on deposit in Group Offices, can be viewed on the web and will be available for inspection at the meeting:

List other background papers that are available on request:

## Appendices

### Licensing Panel – Licensing Act 2003

## Procedure A - Oral Hearing in Public

*This document provides a summary of the Panel's usual procedure for the conduct of an oral hearing in public.*

1. Introduction by chair of:
  - Members
  - Officers and Officers of Responsible Authorities
  - Applicants and Objectors
  - the procedure for the hearing.
2. Presentation of the report by Officers of the Relevant Authority.
3. Presentation by the applicant of their statement. Additional material may be submitted with the agreement of the Panel and the other party, subject to advice by the Council's legal advisor at the time.
4. Questioning of applicant by:
  - each of the objectors
  - the Panel
5. Presentation by the objectors, or their representative of their statements. Additional material may be submitted with the agreement of the Panel and the other party, subject to advice by the Council's legal advisor at the time.
6. Questioning of each objector by:
  - the applicant
  - the Panel
7. Concluding statement(s) by objectors.
8. Concluding statement by applicant.
9. The Panel together with their legal advisor and committee clerk withdraw to consider of the application. Should the Panel wish to clarify any point with any particular party, all sides are recalled for the questions to be asked.
10. The hearing is reconvened for the Panel to announce their decision. Should the application be refused or conditions be placed on the licence the Panel must give reasons for this action.

## NOTES

**WITNESSES:** *Either side may call witnesses to support their case. Witnesses should have submitted written statements before the hearing which they present and on which they may be questioned. Witnesses introduced at short notice may speak with the agreement of the Panel and the other party, subject to advice by the Council's legal advisor at the time.*

**ADJOURNMENT:** *The Panel may at any time adjourn to a later date for the further consideration of an application. The date and time should be agreed with all parties as far as possible*

## **Licensing Panel – Licensing Act 2003**

### **Procedure R - Oral Hearing in Public**

*This document provides a summary of the Panel's procedure for the conduct of this oral hearing in public. This procedure is followed during a REVIEW procedure.*

1. Introduction by chair of:
  - Members
  - Officers and Officers of Responsible Authorities
  - Applicants and Objectors
  - the procedure for the hearing.
2. Presentation of the report by Officers of the Relevant Authority.
3. Introduction by the objector of their case. . Additional material may be submitted with the agreement of the Panel and the other party, subject to advice by the Council's legal advisor at the time.
4. Questioning of each of the objector's witnesses by : the applicant  
the Panel
5. Presentation of the statement by applicant. Additional material may be submitted with the agreement of the Panel and the other party, subject to advice by the Council's legal advisor at the time.
6. Questioning of applicant by : the objector  
the Panel
7. Concluding statementby the applicant.
8. Concluding statement(s) by objector.
9. The Panel together with their legal advisor and committee clerk withdraw to consider of the application. Should the Panel wish to clarify any point with any particular party, all sides are recalled for the questions to be asked.
10. The hearing is reconvened for the Panel to announce their decision. Should the application be refused or conditions be placed on the licence the Panel must give reasons for this action.

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