

**Information to accompany notice of hearing**

**Rights of a Party**

- Subject to Regulations 14(2) and 25 \*, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- At the hearing, a party shall be entitled to -
  - (a) in response to a point upon which the Authority has given notice to a party that it will want clarification, give further information in support of their application, representations or notice (as applicable);
  - (b) if given permission by the Authority, question any other party; and
  - (c) address the Authority.

(\* Regulation 14(2) states “The Licensing Authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.” Regulation 25 states “The Authority may require any person attending the hearing who, in their opinion, is behaving in a disruptive manner to leave the hearing and may -

- (a) refuse to permit that person to return; or
- (b) permit him to return only on such conditions as the Authority may specify.

but such person may, before the end of the hearing, submit to the Authority in writing any information which they would have been entitled to give orally had they not been required to leave”).

**Non-attendance of a party at the hearing**

- (1) If a party has informed the Authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.
- (2) If a party who has not so indicated, fails to attend or be represented at a hearing, the Authority may -
  - (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
  - (b) hold the hearing in the party’s absence.

- (3) Where the Authority holds the hearing in the absence of a party, the Authority shall consider at the hearing the application, representations or notice made by that party.
- (4) Where the Authority adjourns the hearing to a specified date, it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

## **Procedure to be followed at the hearing**

- At the beginning of the hearing, the Authority shall explain to the parties the procedure that will be followed and shall consider any request by a party for permission for another person to appear at the hearing.
- The hearing will usually be conducted in public, although the Sub-Committee may exclude the public from all or part of a hearing where it is considered expedient.
- The hearing will take the form of a discussion led by the Authority and cross-examination will not normally be permitted unless the Authority considers that cross-examination is required for it to consider the representations, application, or notice, as the case may require.
- The hearing will proceed as follows:-
  1. The Chair to open the meeting, introducing Members and officers to all parties, members of the public, explain the nature of the application and the procedure to be followed.
  2. The applicant or their representative; relevant Authorities or their representatives; objectors or their representative to introduce themselves to the Sub-Committee.
  3. The Chair to ensure everyone has a full copy of documents for the hearing and to deal with any preliminary issues that may affect the hearing, for example, an application for an adjournment to consider fresh or late evidence.
  4. The Licensing Officer to tender a report to the Sub-Committee, outlining the application, any relevant representations and relevancies to the Local Authority licensing policy statement and statutory guidance.
  5. The Sub-Committee or other parties to seek points of clarification from the Licensing Officer on his report, if necessary.
  6. The responsible Authorities, or their representatives, to make relevant representations in relation to the application.
  7. The applicant and other interested parties to ask questions of the responsible Authorities in relation to their representations.
  8. Sub-Committee Members to ask relevant questions of the responsible Authorities in relation to their representations.
  9. Interested parties to be invited, if they wish to, to make relevant representations to the Sub-Committee.
  10. The applicant or person representing them to ask questions of the interested parties in relation to their representations.

11. Sub-Committee Members to ask relevant questions of the interested parties in relation to their representations.
12. The applicant, or their representative, to present their case to the Sub-Committee.
13. The responsible Authorities, or their representatives, to ask questions of the applicant.
14. The interested parties, or their representative, to ask questions of the applicant.
15. The Sub-Committee to ask questions of the applicant.
16. The Chair to invite any parties making representations, and the applicant, to briefly summarise their case, if they wish.
17. The Chair will check that the parties have said all that they wish to.
18. The Sub-Committee will then decide on the matter in private and all persons, except the legal advisor and the Committee administrator, will withdraw from the hearing.
19. All the parties will then be recalled and the decision of the Sub-Committee will be delivered, including any conditions placed on the licence (if granted) and the licensing objective that they relate to.

### **Determinations**

- In most cases, the Sub-Committee will make a determination at the conclusion of the hearing. In all cases, the determination will be in writing, giving reasons for the decision.
- The Sub-Committee will consider its final decision in private, accompanied by the Legal Officer and the Committee Clerk. Any legal advice given to Members of the Sub-Committee will be repeated by the Legal Officer to the parties when the decision is announced publicly.

**Action following receipt of notice of hearing**

- (1) A party shall give to the Authority, within the period of time provided for in the following provisions of this Regulation, a notice stating -
  - (a) whether he intends to attend or be represented at the hearing;
  - (b) whether he considers a hearing to be unnecessary.
- (2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in Paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the Authority in relation to the application, representations or notice of the party making the request.
- (3) In the case of a hearing under -
  - (a) Section 48(3)(a) (cancellation of interim authority notice following police objection); or
  - (b) Section 105(2)(a) (counter notice following police objection to temporary event notice),

the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
- (4) In the case of a hearing under -
  - (a) Section 167(5)(a) (review of Premises Licence following Closure Order);
  - (b) Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence);
  - (c) Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing Club Certificate); or
  - (d) Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of Justices Licence for grant of Personal Licence),

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
- (5) In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

### **Right to dispense with hearing if all parties agree**

- (1) An Authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the Authority itself, have done so by giving notice to the Authority that they consider a hearing to be unnecessary.
- (2) Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with Paragraph (1), the Authority, if it agrees that a hearing is unnecessary, must forthwith give notice to the parties that the hearing has been dispensed with.

### **Withdrawal of representations**

A party who wishes to withdraw any representations they have made may do so -

- (a) by giving notice to the Authority no later than 24 hours before the day or the first day on which the hearing is to be held; or
- (b) orally at the hearing.

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