

**Report of the Director of Resilient Communities to the
Licensing and Safety Committee**

14 October 2022

**Timeframe for supporting documents to be accepted under the
Licensing Act 2003**

1.0 Summary of Report

- 1.1 Agree to a time frame in relation to when it is acceptable for the Licensing Authority to receive supporting information from 3rd parties or responsible authorities prior to the date of committee.
- 1.2 The council's role is to ensure that a fair hearing takes place and all parties have had a fair chance to consider and respond to any concerns raised through representations and supporting information submitted.

2.0 Recommendation

- 2.1 That the Licensing Authority recommends that any further information submitted from any party is to be supplied at least 10 clear working days before the date on when the hearing is to take place for any applications other than Temporary Event Notice (TEN), where supporting information is to be provided 5 clear working days prior to the date of committee.
- 2.2 That introduction of late evidence is only likely to be permitted if there is:
 - a) good reason for its late submission and
 - b) its admission will not undermine the fairness of proceedings

3.0 Background

- 3.1 Over the past few years, Walsall Council has held a number of Licensing Sub-Committees to deal with Licensing Act 2003 application, whether it be a new premises application or a review of the licence. However the Licensing Authority has noted that there has been an emerging pattern of supporting information from Responsible Authorities being submitted at the 11th hour. The lateness of that submitted, has the potential to compromise the rule of natural justice in that it risks inadequate time being available for both the applicant(s) and members of the committee to properly consider the supporting information and prepare for the hearing as appropriate.

3.2 Where supporting information is provided at short notice and those hearings proceed, the council may be exposed to an increased risk of challenge and criticism of those committee decisions made under such circumstances.

3.3 Section 18 of the Hearing regulations 2005 state:

“In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing”.

3.4 The Licensing Authority moving forward would also include a written statement in their acknowledgement of representations on the time frame by when supporting documents must be provided.

4.0 Resource Considerations

4.1 **Financial:** Where there is concerns around the fairness to a committee, the council will leave itself open to challenge and judicial appeals.

4.2 **Legal:** The Council can exercise its functions by way of committees or officers. When exercising delegated authority, in addition to any policies the Council may have, both committees and officers are bound by natural justice, human rights, the legal framework, and relevant and statutory guidance.

4.3 182 Guidance issued under the Licensing Act 2003 states:

9.34 - “The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful”

9.37 – “As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits”

5.0 Staffing issues:

None

6.0 Citizen Impact

None

7.0 Community Safety

None.

8.0 Environmental Impact

None

9.0 Performance and Risk Management Issues

Decisions by the committee must be compliant with all relevant legislation. One of the overwhelming priorities of the Licensing Authority is to ensure fairness in its decision making process.

10.0 Equality Implications

Nothing arising from this report.

11.0 Consultation

None required.

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