



AGENDA ITEM: 9

SUMMARY

Report for:	Licensing, Health & Safety and Enforcement Committee
Date of meeting:	28 July 2015
PART:	I
If Part II, reason:	

Title of report:	Licensing Sub-Committee Procedures
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To agree modified standard procedures for hearings conducted by the two Licensing Sub-Committees
Recommendations	That the revised procedures be adopted for use by the Licensing, Health & Safety and Enforcement Sub-Committee and the Licensing of Alcohol and Gambling Sub-Committee.
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none"> • Performance excellence
Implications:	<u>Financial / Value for Money / Risk / Equalities / Health And Safety Implications</u> None identified
Consultees:	None
Background papers:	Licensing Act 2003 (Hearings) Regulations 2005
Glossary of acronyms and any other abbreviations used in this report:	

1. COMMITTEE STATUS

- 1.1. The Committee is responsible for appointing two sub-committees to determine contested or controversial applications. These are:
 - a) The Licensing of Alcohol and Gambling Sub-Committee, consisting of 3 members drawn from the full Committee membership for each meeting, which is responsible for determining contested applications for alcohol, entertainment, late night refreshment, gambling and sex establishment licences; and
 - b) The Licensing, Health & Safety and Enforcement Sub-Committee, consisting of 7 members appointed annually by the full Committee, which is responsible for all other licensing matters.
- 1.2. The Committee is responsible for regulating the way in which it, and its Sub-Committees, conduct meetings and hearings, subject to compliance with the Council's Committee Rules, and in the case of the Alcohol and Gambling Sub-Committee, the Licensing Act 2003 (Hearings) Regulations 2005.
- 1.3. It is now proposed to amend the standard procedures followed by the Sub-Committees, to update them and ensure consistency in all of the hearings that the Sub-Committees conduct.
- 1.4. As part of this process, it is intended to amend the procedures so that the Alcohol and Gambling Sub-Committee has the discretion to deliberate in a closed session, as the Health & Safety Sub-Committee typically does. This will enable Members to discuss the evidence that they have heard more freely, and will allow Members to compile both their decision and their reasons fully, before announcing these.

2. RECOMMENDATION

- 2.1. That the Committee adopt the revised Sub-Committee procedures attached at Annexes A to D and apply these to all future meetings of the Licensing of Alcohol and Gambling Sub-Committee and the Licensing, Health & Safety and Enforcement Sub-Committee.**

**PROCEDURE FOR HEARINGS CONDUCTED BY THE
LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE
(PREMISES-RELATED APPLICATIONS)**

The Sub-Committee will follow the procedure below when conducting a hearing:

1. The Chairman will open the meeting by:
 - a) Introducing the Members of the Sub-Committee (indicating any substitutions) and the Officers present, to the parties and any other person in attendance, including any representative of the press;
 - b) Stating the nature of the matter to be considered (including a reference to the name of the premises or place concerned); and
 - c) Explaining the procedure to be followed.
2. The Chairman will ask the parties to the hearing who are present to introduce themselves:
 - a) The Chairman will establish whether any parties wish to nominate a spokesman to speak on behalf of several parties;
 - b) The Sub-Committee will consider:
 - i) any prior request made by a party for permission for any other person (witnesses) to address the Sub-Committee; and
 - ii) any request to provide late documentary or other information and will only take the same into account with the consent of all parties.
3. The Chairman will establish whether Members of the Sub-Committee:
 - a) have an interest to declare;
 - b) have visited the premises or place which is the the subject of the application;
 - c) have read the papers before them.
4. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to present the report, highlighting any late withdrawal of applications or representations.
5. Members may ask any relevant question of any Officer.
6. The Chairman will ask the parties to address the Sub-Committee in the following order:
 - a) In the case of a review application:
 - i) The review applicant (or police/council officer, if the review follows a closure order);
 - ii) The licence-holder;
 - iii) Any responsible authority or other person who has made a relevant representation to the application.
 - b) In any other case:
 - i) The applicant;
 - ii) Any responsible authority or other person who has made a relevant representation to the application.
7. Parties may not introduce new issues when addressing the Sub-Committee – they may only speak on and around the matters contained in applications, representations or notices, or on any matter of which the licensing authority has requested clarification.

8. After each party has spoken, Members of the Sub-Committee may ask relevant questions of that party.
9. Requests from a party to question or cross-examine another party will be considered individually by the Sub-Committee, and will be permitted only if the Sub-Committee is of the view that it is required in order for Members to consider the representations, application or notice.
10. The Chairman will invite any party who has previously spoken to summarise their points if they wish to do so, in the reverse order to that followed previously.
11. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision. The Chairman may request that all persons other than the Members of the Sub-Committee and their legal adviser withdraw from the meeting room during this process – if any further clarification or information is required from any person, all parties will be recalled.
12. The legal adviser shall inform the hearing of any advice that they have given the Sub-Committee during their deliberations.
13. The Chairman will confirm the decision reached by the Sub-Committee, including any additional conditions imposed upon the licence, and the reasons for the decision. Written confirmation of the decision will be sent by the licensing authority to all parties after the hearing.

Absent parties

If a party is not present at the hearing, and the Sub-Committee proceed to hear the matter in their absence, the Sub-Committee will consider the written application, representation or notice given by that party, when determining the matter.

Time limits

The Sub-Committee will not generally limit the speaking time allowed to parties at a hearing, although it will be stressed that repetition or speaking about unrelated or irrelevant matters are not acceptable. However, in cases with a large number of parties in attendance and wishing to address the hearing, the Chairman may impose a maximum time limit applying equally to each individual party to the hearing. This will be discussed with the parties at the commencement of the hearing.

Exclusion

At any point during the hearing, the Sub-Committee may resolve to:

- exclude the public and press from all or part of the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information (a party to the hearing and any person assisting or representing a party can be treated as a member of the public for this purpose); or
- require any person who is being disruptive to be excluded from the hearing and not return, or only be permitted to return on such conditions as the Committee may specify. Such an excluded person may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give verbally had they not been required to leave.

**PROCEDURE FOR HEARINGS CONDUCTED BY THE
LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE
(PERSONAL LICENCE APPLICATIONS)**

The Sub-Committee will follow the procedure below when conducting a hearing:

N.B. Hearings relating to personal licences will typically be conducted under Part 2 rules. The Sub-Committee should resolve at the beginning of the meeting to exclude the public and press from the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information.

1. The Chairman will open the meeting by:
 - a) Introducing the Members of the Sub-Committee (indicating any substitutions) and the Officers present, to the parties and any other person in attendance, including any representative of the press;
 - b) Stating the nature of the matter to be considered (including a reference to the name of the individual concerned); and
 - c) Explaining the procedure to be followed.
2. The Chairman will ask the parties to the hearing who are present to introduce themselves:
3. The Sub-Committee will consider:
 - a) any prior request made by a party for permission for any other person (witnesses) to address the Sub-Committee; and
 - b) any request to provide late documentary or other information and will only take the same into account with the consent of all parties.
4. The Chairman will establish whether Members of the Sub-Committee:
 - a) have an interest to declare;
 - b) have read the papers before them.
5. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to present the report, highlighting any late withdrawal of applications or representations.
6. Members may ask any relevant question of any Officer.
7. The Chairman will ask the parties to address the Sub-Committee in the following order:
 - a) The personal licence applicant;
 - b) The police
8. Parties may not introduce new issues when addressing the Sub-Committee – they may only speak on and around the matters contained in applications, representations or notices, or on any matter of which the licensing authority has requested clarification.
9. After each party has spoken, Members of the Sub-Committee may ask relevant questions of that party.

10. Requests from a party to question or cross-examine another party will be considered individually by the Sub-Committee, and will be permitted only if the Sub-Committee is of the view that it is required in order for Members to consider the representations, application or notice.
11. The Chairman will invite any party who has previously spoken to summarise their points if they wish to do so, in the reverse order to that followed previously.
12. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision. The Chairman may request that all persons other than the Members of the Sub-Committee and their legal adviser withdraw from the meeting room during this process – if any further clarification or information is required from any person, all parties will be recalled.
13. The legal adviser shall inform the hearing of any advice that they have given the Sub-Committee during their deliberations.
14. The Chairman will confirm the decision reached by the Sub-Committee, including any additional conditions imposed upon the licence, and the reasons for the decision. Written confirmation of the decision will be sent by the licensing authority to all parties after the hearing.

Absent parties

If a party is not present at the hearing, and the Sub-Committee proceed to hear the matter in their absence, the Sub-Committee will consider the written application, representation or notice given by that party, when determining the matter.

Time limits

The Sub-Committee will not generally limit the speaking time allowed to parties at a hearing, although it will be stressed that repetition or speaking about unrelated or irrelevant matters are not acceptable. However, in cases with a large number of parties in attendance and wishing to address the hearing, the Chairman may impose a maximum time limit applying equally to each individual party to the hearing. This will be discussed with the parties at the commencement of the hearing.

Exclusion

At any point during the hearing, the Sub-Committee may resolve to:

- exclude the public and press from all or part of the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information (a party to the hearing and any person assisting or representing a party can be treated as a member of the public for this purpose); or
- require any person who is being disruptive to be excluded from the hearing and not return, or only be permitted to return on such conditions as the Committee may specify. Such an excluded person may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give verbally had they not been required to leave.

**PROCEDURE FOR HEARINGS CONDUCTED BY THE
LICENSING, HEALTH & SAFETY AND ENFORCEMENT SUB-COMMITTEE
(PREMISES-RELATED APPLICATIONS)**

The Sub-Committee will follow the procedure below when conducting a hearing:

1. The Chairman will open the meeting by:
 - a) Introducing the Members of the Sub-Committee (indicating any substitutions) and the Officers present, to the parties and any other person in attendance, including any representative of the press;
 - b) Stating the nature of the matter to be considered (including a reference to the name of the individual concerned); and
 - c) Explaining the procedure to be followed.
2. The Chairman will ask the parties to the hearing who are present to introduce themselves:
 - a) The Chairman will establish whether any parties wish to nominate a spokesman to speak on behalf of several parties;
 - b) The Sub-Committee will consider:
 - i) any prior request made by a party for permission for any other person (witnesses) to address the Sub-Committee; and
 - ii) any request to provide late documentary or other information and will only take the same into account with the consent of all parties.
3. The Chairman will establish whether Members of the Sub-Committee:
 - a) have an interest to declare;
 - b) have visited the premises or place which is the the subject of the application;
 - c) have read the papers before them.
4. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to present the report, highlighting any late withdrawal of applications or representations.
5. Members may ask any relevant question of any Officer.
6. The Chairman will ask the parties to address the Sub-Committee in the following order:
 - a) The applicant;
 - b) Any other person who has made a relevant representation to the application.
7. Parties may not introduce new issues when addressing the Sub-Committee – they may only speak on and around the matters contained in applications, representations or notices, or on any matter of which the licensing authority has requested clarification.
8. After each party has spoken, Members of the Sub-Committee may ask relevant questions of that party.
9. Requests from a party to question or cross-examine another party will be considered individually by the Sub-Committee, and will be permitted only if the Sub-Committee is of the view that it this required in order for Members to consider the representations, application or notice.

10. The Chairman will invite any party who has previously spoken to summarise their points if they wish to do so, in the reverse order to that followed previously.
11. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision. The Chairman may request that all persons other than the Members of the Sub-Committee and their legal adviser withdraw from the meeting room during this process – if any further clarification or information is required from any person, all parties will be recalled.
12. The legal adviser shall inform the hearing of any advice that they have given the Sub-Committee during their deliberations.
13. The Chairman will confirm the decision reached by the Sub-Committee, including any additional conditions imposed upon the licence, and the reasons for the decision. Written confirmation of the decision will be sent by the legal advisor to all parties after the hearing.

Absent parties

If a party is not present at the hearing, and the Sub-Committee proceed to hear the matter in their absence, the Sub-Committee will consider the written application, representation or notice given by that party, when determining the matter.

Time limits

The Sub-Committee will not generally limit the speaking time allowed to parties at a hearing, although it will be stressed that repetition or speaking about unrelated or irrelevant matters are not acceptable. However, in cases with a large number of parties in attendance and wishing to address the hearing, the Chairman may impose a maximum time limit applying equally to each individual party to the hearing. This will be discussed with the parties at the commencement of the hearing.

Exclusion

At any point during the hearing, the Sub-Committee may resolve to:

- exclude the public and press from all or part of the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information (a party to the hearing and any person assisting or representing a party can be treated as a member of the public for this purpose); or
- require any person who is being disruptive to be excluded from the hearing and not return, or only be permitted to return on such conditions as the Committee may specify. Such an excluded person may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give verbally had they not been required to leave.

**PROCEDURE FOR HEARINGS CONDUCTED BY THE
LICENSING, HEALTH & SAFETY AND ENFORCEMENT SUB-COMMITTEE
(INDIVIDUAL LICENCE APPLICATIONS)**

The Sub-Committee will follow the procedure below when conducting a hearing:

N.B. Hearings relating to licences for individuals will typically be conducted under Part 2 rules. The Sub-Committee should resolve at the beginning of the meeting to exclude the public and press from the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information.

1. The Chairman will open the meeting by:
 - a) Introducing the Members of the Sub-Committee (indicating any substitutions) and the Officers present, to the parties and any other person in attendance, including any representative of the press;
 - b) Stating the nature of the matter to be considered (including a reference to the name of the individual concerned); and
 - c) Explaining the procedure to be followed.
2. The Chairman will ask the parties to the hearing who are present to introduce themselves:
3. The Sub-Committee will consider:
 - a) any prior request made by a party for permission for any other person (witnesses) to address the Sub-Committee; and
 - b) any request to provide late documentary or other information and will only take the same into account with the consent of all parties.
4. The Chairman will establish whether Members of the Sub-Committee:
 - a) have an interest to declare;
 - b) have read the papers before them.
5. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to present the report, highlighting any late withdrawal of applications or representations.
6. Members may ask any relevant question of any Officer.
7. The Chairman will ask the parties to address the Sub-Committee in the following order:
 - a) The applicant (or licence-holder, if suspension or revocation is proposed);
 - b) Any other person who has made a relevant representation to the application.
8. Parties may not introduce new issues when addressing the Sub-Committee – they may only speak on and around the matters contained in applications, representations or notices, or on any matter of which the licensing authority has requested clarification.
9. After each party has spoken, Members of the Sub-Committee may ask relevant questions of that party.

10. Requests from a party to question or cross-examine another party will be considered individually by the Sub-Committee, and will be permitted only if the Sub-Committee is of the view that it is required in order for Members to consider the representations, application or notice.
11. The Chairman will invite any party who has previously spoken to summarise their points if they wish to do so, in the reverse order to that followed previously.
12. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision. The Chairman may request that all persons other than the Members of the Sub-Committee and their legal adviser withdraw from the meeting room during this process – if any further clarification or information is required from any person, all parties will be recalled.
13. The legal adviser shall inform the hearing of any advice that they have given the Sub-Committee during their deliberations.
14. The Chairman will confirm the decision reached by the Sub-Committee, including any additional conditions imposed upon the licence, and the reasons for the decision. Written confirmation of the decision will be sent by the legal advisor to all parties after the hearing.

Absent parties

If a party is not present at the hearing, and the Sub-Committee proceed to hear the matter in their absence, the Sub-Committee will consider the written application, representation or notice given by that party, when determining the matter.

Time limits

The Sub-Committee will not generally limit the speaking time allowed to parties at a hearing, although it will be stressed that repetition or speaking about unrelated or irrelevant matters are not acceptable. However, in cases with a large number of parties in attendance and wishing to address the hearing, the Chairman may impose a maximum time limit applying equally to each individual party to the hearing. This will be discussed with the parties at the commencement of the hearing.

Exclusion

At any point during the hearing, the Sub-Committee may resolve to:

- exclude the public and press from all or part of the hearing under section 100A(4) of the Local Government Act 1972 on the basis that, in view of the nature of the proceedings or the nature of the business to be transacted, if members of the public were present during that item there would be disclosure to them of exempt information (a party to the hearing and any person assisting or representing a party can be treated as a member of the public for this purpose); or
- require any person who is being disruptive to be excluded from the hearing and not return, or only be permitted to return on such conditions as the Committee may specify. Such an excluded person may, before the end of the hearing, submit to the Committee in writing any information which they would have been entitled to give verbally had they not been required to leave.