

# Licensing Protocol

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## Introduction

1. This document sets out the procedures for the Licensing Committee in relation to its functions on behalf of the City of London Corporation as Licensing Authority for the City.
2. The procedures aim to give effect to the recommendation of the Nolan Committee on Standards of Conduct in Local Government that all local authorities should have well-documented practices and procedures designed to avoid grounds for allegations of impropriety.
3. The procedures also take account of the requirements of the Members' and Officers' Codes of Conduct.
4. The main purposes of the procedures are to ensure that the Committee acts reasonably and openly in dealing with licensing matters and to protect the Court of Common Council and individual Members from allegations of unfairness, finds of maladministration and legal challenge.

## Part 1 – Licensing Committee

### The Committee

1. The Licensing Committee is responsible for carrying out the functions of the Court of Common Council as Licensing Authority for the City of London.
2. The licensing functions arise from the following legislation:-
  - a. The Licensing Act 2003 and relate to the issue of licenses for the following:-
    - the sale of alcohol
    - the provision of regulated entertainment
    - the provision of late night refreshment
    - the exhibition of films
  - b. The Gambling Act 2005 and relate to the issue of relevant gaming permits and licenses relating to the use of premises for the following:-
    - the conduct of gambling activities
    - the presence of gaming machines

- the holding of small society lotteries (i.e. below prescribed thresholds)

**(N.B. This Protocol will be updated in due course in response to statutory legislation governing the application of the provisions of the Gambling Act 2005. We may also draw up a separate policy in relation to the licensing of sexual entertainment venues.)**

3. The Committee is a non-Ward Committee, comprising 15 Members of the Court of Common Council.
4. The full Committee deals primarily with matters of policy. The determination of applications for licences, variations and reviews at public hearings is the responsibility of Licensing Sub Committees.
5. The technical issues relating to licensing are complex and are not always straightforward. Appointment to the Licensing Committee, therefore, carries a requirement for Members to undertake training both on appointment and periodically thereafter. Members are advised not to accept nomination for appointment on the Committee unless they are prepared to take on this responsibility. Members should also familiarise themselves with the provisions of this Protocol.

## **Part 2 – Public Hearings**

(Hearings are held in accordance with the Licensing Act 2003 (Hearings) Regulations 2005)

### **Licensing Sub Committees**

A Licensing Sub Committee comprises three Members of the Licensing Committee with the proviso that Members do not serve on the Sub Committee if the application to be considered relates to premises within the Ward they represent.

### **Prior to the Hearing**

1. Representations, including objections, about licensing applications are admissible from individuals and businesses living or working in the vicinity of the premises for which a licence is being sought or bodies representing them, or from Members of the Court of Common Council.
2. Members of the Court of Common Council may submit objections to any application for a premises in the City of London and may also do so when acting as a representative of other interested parties.

3. When a licensing application is opposed, the City Corporation will, if practicable, try to assist the applicant and the objector(s) to reach agreement in order to avoid the need for a Licensing Sub Committee to decide the issues between the parties. Copies of representations received will be made available to the applicant.
4. If an objection is pursued, the application will be determined by a Licensing Sub Committee at a public hearing.
5. A Licensing Sub Committee may deal with an opposed application without a hearing if all the parties agree.
6. Site visits may be arranged to premises which are the subject of licence applications to enable Sub Committee Members to become familiar with the issues to be considered. During the visits, Members will be accompanied by a licensing officer(s) and they should only enquire about and discuss factual matters, avoiding the temptation to put forward their own opinions. They will not, under any circumstances, accept refreshments on the premises or any other gift or offer of hospitality.
7. Applications must be heard within 20 working days of the closing date for the receipt of representations. For the purpose of calculating 20 days, the day following the date for the receipt of representations counts as day one.
8. The applicant, objector(s) and Members of the Sub Committee are informed of the date and time of the public hearing well in advance of the meeting (within 10 working days). All parties are sent copies of the agenda and supporting papers at least five working days before the meeting and the applicant and objectors are given times to attend. Additional supporting papers can be submitted to the Town Clerk at any point before the hearing begins.
9. In considering applications, Members are required to sit in a quasi-judicial manner. The hearing has a degree of formality, although the strict rules of evidence do not apply and evidence is not given on oath.
10. A Licensing Sub Committee is required to consider applications in the context of the licensing objectives set out in the legislation as follows:-

#### Licensing Act 2003

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance

- the protection of children from harm

#### Gambling Act 2005

- the prevention of crime or disorder
- to ensure gambling is conducted in a fair and open way
- the protection of children and other vulnerable persons from harm or exploitation through gambling

### **The Hearing**

1. Hearings are held in public and normally finish on the same day. Both the applicant and the objectors can call witnesses and produce documents. Objectors and witnesses may leave, if they wish, once they have addressed the Sub Committee.
2. The Procedure adopted at licensing hearings is in the discretion of the Sub Committee, but will generally follow the pattern set out in the Procedure for Public Hearings on page 7.
3. Copies of this Protocol and the Procedure for the hearing will be supplied to anyone who requests them. They can also be viewed and/or downloaded at the City Corporation's [website](#).
4. The decision of the Licensing Sub Committee will be announced at the conclusion of the hearing, other than in exceptional circumstances when the Sub Committee will make its decision within five working days. In all cases, the decision will be communicated in writing to the applicant and the objector(s), or their legal representatives as appropriate, as soon as practicable following the hearing.

### **Members of the Court of Common Council who are not Members of the Licensing Sub Committee**

The following shall apply to Members of the Court of Common Council who are not Members of the Licensing Sub Committee:-

1. A Member may speak at a licensing hearing in any of the following capacities:-
  - a. as an applicant or an objector;
  - b. as a representative of the applicant or the objector(s).

2. If attending a hearing to support or object to an application, a Member:-
  - a. should be aware of his/her responsibilities under the Code of Conduct;
  - b. should be invited to identify himself/herself;
  - c. should disclose any interest he/she may have, including the fact that he/she has been in contact with objectors, the applicant, an interested party or a relevant authority in this case and whether he/she is speaking on behalf of such persons or any particular interest;
  - d. should not communicate with Members of the Sub Committee before the hearing or pass papers or documents to them before or during the hearing;
  - e. may not attend briefings or accompany the Sub Committee when it retires to deliberate in private.

## Appeals

1. Applicants and/or objectors aggrieved by a decision of the Licensing Sub Committee have a right of appeal to the Magistrates' Court.
2. The appeal must be lodged within 21 days of the date on which the decision letter was despatched to the applicant and the objector(s), or their legal representatives.
3. The Magistrates Court has the power to award costs against any party to an appeal as it thinks fit.

## Licensing Sub Committee

### Procedure for Public Hearings

1. This procedure shall apply to all public hearings conducted under the provisions of the Licensing Act 2003.
2. Public hearings conducted under the provisions of the Licensing Act 2003 shall take the form of a discussion led by the licensing authority. Cross-examination will be permitted when the Sub Committee considers it to be required. The conduct of hearings shall be broadly based, subject to the discretion of the Sub Committee, on the points set out below.
3. At the start of the hearing the Chairman of the Sub Committee will introduce himself and other Members of the Sub Committee as well as the City Corporation officers present. Anyone making representations will then be asked to introduce themselves and anyone accompanying them. The applicant will then do likewise.\*
4. The Chairman will then explain the purpose of the hearing and the procedure to be followed at the hearing. The Sub Committee will then make any rulings necessary in respect of requests for witnesses to be heard in support of any of the parties making representations or the applicant.
5. Those making representations will then be invited to present their case. Repetition will not be permitted. Equal time will be offered to the applicant and those making representations. Where there is more than one party making representations and/or calling witnesses in support consideration should be given to having one spokesman on behalf of all parties so as to avoid repetition. Although the use of a spokesman will be encouraged by the Sub Committee, the decision rests with those parties making representations.
6. In the event of disorder or persistent disregard of the authority of the Chair, the Chairman may suspend or adjourn the hearing, or require that the person(s) causing or showing disregard leave the hearing.

\* In hearings where a licence is being reviewed, references in this procedure to 'applicant' should be read as references to the licence holder and references to 'those making representations' should be read as references to those applying for the review.

7. In the event that the Sub Committee has decided that cross-examination will be permitted, the applicant will be invited to ask questions of the party(s) making representations and their witnesses (if any). The party(s) making representations and any witnesses giving evidence in support will then answer any questions put to them by the Sub Committee.
8. The applicant will then be invited to present their case and call any witnesses in support of their application. The applicant will be entitled to the same period of time to present his case as those making representations were afforded.
9. In the event that the Sub Committee has decided that cross-examination will be permitted, those making representations will be invited to ask questions of the applicant and their witnesses (if any). The applicant and any witnesses giving evidence in support will then answer any questions put to them by members of the Sub Committee.
10. The Chairman will ask all parties if there is anything else they would like to add in support of their respective cases.
11. Those making representations will then be invited to make closing submissions followed by the applicant.
12. The Sub Committee will then retire to consider their decision. They may call for assistance by the representatives of the Town Clerk and/or the Comptroller & City Solicitor but those persons will play no part in the decision-making process.
13. In due course, the Sub Committee will return to announce their decision or to inform those present when the decision will be given.