

Annex 4.7 - Code of Conduct and Procedure in Licensing Matters

1 Code of conduct

1.1 Introduction

- 1.1.1 The Council's Licensing & Planning Policy Committee discharges the Council's functions related to Licensing matters through two Licensing Sub-Committees – the Licensing (Hearings) Sub-Committee and the Licensing (General) Sub-Committee.
- 1.1.2 The purpose of this Code is to assist Councillors in the discharge of the Council's licensing function and to guide applicants and other interested parties. The Code relates to all Councillors (not just to Members of the Licensing Sub-committees) and also to Council Officers where appropriate.

1.2 Status of the code

- 1.2.1 This Code is complementary to, and should be read in conjunction with, the Members Code of Conduct ([Constitution](#), Appendix 1). Councillors should apply both the general Members Code of Conduct and this Code in dealing with licensing matters. The purpose of this Code is to:
- (i) Help Councillors to:
 - Maintain the Council's high standards of conduct;
 - Make formal licensing decisions that are safe from, and will avoid placing the Council at, risk of legal challenge;
 - Avoid putting any individual Member of a Licensing Sub-Committee at risk of a complaint.
 - (ii) Set the standards of conduct that the Council requires Members and Officers of the Council to follow when dealing with and determining applications and other licensing matters, including consideration of policy and legislation;
 - (iii) Guide the way in which Councillors and Officers of the Council deal with all licensing matters, supporting their respective roles, and protecting their reputation;
 - (iv) Set the standard of conduct which other parties to the process can expect from Councillors and Officers when dealing with all licensing matters;
 - (v) Support Councillors' effective engagement in all aspects of the licensing process and, in this context, to fulfil their democratic role;

- (vi) Ensure transparency and fairness in the way in which decisions are taken and that there are no grounds for suggesting that a decision has in any way been biased, partial or not made on the correct considerations.

A breach of this Code may adversely affect the reputation of the Council.

- 1.2.2 This Code sets out clear guidelines for communications and expectations for each of the parties involved including members of the public and applicants/licence holders.

1.3 Guiding principles for Licensing Sub-Committee Members

- 1.3.1 Where there is an allegation of bias or predetermination against a Member, by section 25 of the Localism Act 2011, they are not automatically taken as having a closed mind simply by having previously indicated the view they took. Notwithstanding this statutory protection members are advised to adopt a cautious approach.
- 1.3.2 To avoid any appearance of bias, Members of the Licensing Sub-Committee should avoid expressing personal opinions prior to a Licensing Sub-Committee hearing. To do so could be taken as indicating that the Member has made up his/her mind before hearing all the evidence and that their decision may not be based upon the relevant licensing considerations, nor the Licensing Authority's Licensing Policy.
- 1.3.3 Members of the Licensing Sub-Committee must not take nor declare a view on the merits of an application nor organise support or opposition in advance of the hearing and must keep an open mind until after they have considered all the guidance and arguments presented.
- 1.3.4 Members of the Licensing Sub-Committee should not form or show bias against or in favour of any particular person, company or group, or any particular site or locality, nor give the impression that they have done so.
- 1.3.5 A Member of the Licensing Sub-Committee may serve on another body that considered a non-licensing application in relation to the same premises (e.g., determination of a planning application). In such cases it is especially important not only to keep an open mind as to the actual licensing considerations, but to demonstrate that this is being done. Members should make it clear that any opinion they formed at the other body was for the limited purposes of that discussion or matter only, and that they preserve an open mind on the licensing considerations.

- 1.3.6 If a Member feels that the task of preserving freedom from appearance of bias is becoming too complicated, or that they run too great a risk of becoming identified with one side of the argument regardless of any safeguards taken, the only appropriate course is to withdraw from the discussion at the other body or from sitting on the Licensing Sub-Committee.
- 1.3.7 To avoid conflicts of interest, Councillors should not normally sit on the Licensing Sub-Committee if a premises on which a matter is being considered at the meeting is: (i) situated within the Ward they represent, or (ii) they live within the vicinity of said premises. As a Member of the Licensing Sub-Committee, such a Councillor may find themselves to be in a difficult position if it is a controversial application that has generated opposition. Councillors in such a situation should therefore not publicly support or oppose a particular outcome unless they are prepared to make their own valid representation – such a Councillor would then become ineligible to sit as a Member of the Sub-Committee concerned with determining that application.
- 1.3.8 In exceptional circumstance only (e.g., if no other suitably trained Councillors are available) Ward Members may sit on a Licensing Sub-Committee hearing an application with respect to premises within their Ward if they are able to avoid any suggestion of bias. They should at the outset disclose that the application is one which refers to persons/premises in this Ward but that they have not taken any interest in the formulation of the application and have kept an open mind until after they have considered all the evidence and arguments presented.
- 1.3.9 Decisions of the Licensing Sub-Committee should be based on relevant licensing considerations and must not be taken in accordance with a political party direction given at a previous party group meeting or otherwise.
- 1.3.10 A Councillor who is not a Member of the Licensing Sub-Committee determining the application may represent one of the other parties or applicant provided they do so strictly in their representative capacity as a Member of the Council. They may not do so in a professional capacity (for example as solicitor or consultant), as a personal friend, or in any other circumstances which will give rise to a disclosable pecuniary or non-pecuniary interest under the Member Code of Conduct. If a Councillor has represented a party, he or she may not sit as a Member on the Licensing Sub-Committee determining the matter in question.

1.4 **Natural justice**

- 1.4.1 Members of the Licensing Sub-Committee must comply with the rules of natural justice, ensuring that parties have an opportunity to be heard, whilst acting honestly and impartially. When making its determinations, the following principles must be considered:

- (i) Free from the appearance of bias – Members must make an objective and impartial determination of the issues based on the evidence and should not make, or give the appearance of making, a biased decision. Bias may include pre-judged ideas based on a Member's own prejudices or political affiliations;
- (ii) Fair hearing – For a hearing to be 'fair' a number of conditions must be satisfied including the right for the individual to know the opposing case; generally, the right to call witnesses; the ability to question witnesses; the right to legal representation; and generally, the right to be given reasons for any decision made.

1.5 Members' interests and licensing applications

- 1.5.1 Members must comply with the Members Code of Conduct with respect to Members' Interests.
- 1.5.2 Members must always declare any disclosable pecuniary interest, or non-pecuniary interest on an item of business.
- 1.5.3 It is accepted that Members of the Licensing Sub-Committee may in their personal lives have visited a licensed premises on which a matter is being considered at the meeting, and that this alone should not give rise to an assumption of interest. However, Members should declare where this amounts to a disclosable pecuniary interest, or a non-pecuniary interest.
- 1.5.4 The declaration of an interest should be made in advance of the hearing (to the Licensing Officer, Democratic Services Officer, and/or Legal Advisor), at the beginning of the hearing, or at the first possible opportunity.
- 1.5.5 Where a Member has a disclosable pecuniary or non-pecuniary interest that could be reasonably be regarded as so significant as to prejudice the Member's judgement of the public interest, it will be 'prejudicial'.
- 1.5.6 Where a Member has such a 'prejudicial' interest they must not sit as part of the Licensing Sub-Committee. If in doubt of his/her position, the Member must consult the Council's Monitoring Officer or a member of the Council's legal staff.

1.6 Gifts and hospitality

- 1.6.1 Councillors and Officers should observe extreme caution in respect of any personal offer of a gift, favour or hospitality from someone who has or is likely to submit a licensing application to the Council. Further guidance on this matter is given in the Council's Code of Conduct for Members. Even gifts of nominal value should be refused.
- 1.6.2 All offers or receipt of gifts or hospitality must be reported to the Monitoring Officer on the prescribed form, and they will be recorded in the register of gifts and hospitality.

1.7 Applications submitted by the Local Authority

- 1.7.1 Where the Local Authority applies for a premises licence for open spaces or for buildings that it owns, or where there is a variation application or review in respect of such open spaces or buildings, the Licensing Sub-Committee must hear and determine this application/review in the same manner as other applications/reviews. The Licensing Sub-Committee must give no regard to the interests of the Council itself, aside from receiving relevant representations on this issue.
- 1.7.2 Councillors who have participated in the authority's decision to apply for the licence, or who express a view in respect of hearing the application, should not also sit as Members of the Licensing Sub-Committee hearing the application.
- 1.7.3 Members of the Licensing Sub-Committee must be aware of any potential appearance of bias.

1.8 Lobbying of Licensing Sub-Committee Members

- 1.8.1 If a Member who sits on the Licensing Sub-Committee is approached by persons wishing to lobby them as regards the licence application then that Member must (a) inform the person lobbying that such approach should only be made to Licensing Officers or Councillors who are not a Member of the Licensing Sub-Committee; (b) notify the Monitoring Officer of the fact that such an approach has been made and (c.) declare the fact and nature of such approach at the Sub-Committee meeting and confirm that they have kept an open mind until after they have considered all the evidence and arguments presented.
- 1.8.2 Any written representations received by a Member of the Licensing Sub-Committee should be passed to the Licensing Officer. Any such approach received in time should also be reported at the hearing at which the application is being determined.
- 1.8.3 Requests for procedural advice with regard to licensing applications should be referred to Council Officers for advice and information.

1.9 Lobbying by non-Committee Members

- 1.9.1 Other Councillors must not lobby Members who sit on the Licensing Sub-Committee, directly or indirectly, in writing or otherwise, in respect of items to be decided by the Licensing Sub-Committee with a view to influencing their decision. Any representation by other Councillors, on behalf of another person, should be sent to the Licensing Officer for inclusion in their report.

1.10 Councillor representation or representing of other parties

- 1.10.1 A Councillor has the same right as a member of the public to make representations during the consultation period. Councillors may make representations:
- (i) In their capacity as a private individual;
 - (ii) As a Ward Councillor;
 - (iii) On behalf of local residents or organisations.
- 1.10.2 A Councillor may attend the meeting in order to speak to their representations or may be asked to speak on behalf of someone else who has made a representation. It is for individual Councillors to decide whether to agree to such requests, having considered the application, the relevant licensing considerations, and the general interests of their Ward.
- 1.10.3 Councillors should remember that to be effective in representing the views of interested parties, and not mislead them about the licensing decision process, they should be fair in their representations and not simply act as an advocate for one point of view without considering the broader licensing context or the licensing objectives. They should advise that local opposition to, or support for, a licence application is not in itself a ground for refusing or granting the licence and that consideration must be given to the relevant licensing considerations. Where opposition to/support for a licensing application is not founded upon relevant licensing considerations they should avoid giving the impression that such representations can be given weight and be careful about promoting that opposition/support both before and at the licensing hearing. To do so may raise false expectations of a decision which cannot be justified when it comes to objective formal consideration, potentially resulting in disillusionment and confusion over both the decision process and the role of that Member.

1.11 Site visits

- 1.11.1 Site visits are generally unnecessary and can risk putting the Members of the Licensing Sub-Committee and the Licensing Authority at risk of accusations of bias.
- 1.11.2 In special circumstances, the Licensing Officer may make a recommendation that the Licensing Sub-Committee visits the premises prior to the hearing. In such cases, the Licensing Officer must provide full written reasons justifying the visit and this must be provided to the applicant and any other parties making representations.

- 1.11.3 Members of the Licensing Sub-Committee may adjourn the hearing in special circumstances, part way through hearing any application, to undertake a site visit. The Chair of the Licensing Sub-Committee must give oral reasons justifying the need for the site visit. The assessment as to whether special justification exists for an adjournment should take into account in general terms the delay, inconvenience, and expense of carrying out a visit to all involved, including the applicant.
- 1.11.4 The following procedures should be observed where a site visit by the Licensing Sub-Committee is deemed necessary:
- (i) The visit should be undertaken as a group visit attended by all Members of the Licensing Sub-Committee and its purpose should be confined to that indicated by the Licensing Officer or the Chair;
 - (ii) The visit should be attended by a Licensing Officer who may be asked factual questions by the Members;
 - (iii) No indication of the likely outcome of the application should be given on the visit;
 - (iv) No representation from the applicant or from those making representations should be heard or accepted on the visit;
 - (v) The Licensing Sub-Committee should keep together as a group and not engage individually with any parties;
 - (vi) The visit may be attended by a Democratic Services Officer to record details of those attending the visit, questions asked, and answers given.

1.12 Conduct at hearings

- 1.12.1 Members of the Licensing Sub-Committee should not discuss the application directly with the applicant, other persons, or the responsible authority either immediately prior to the hearing, during the hearing, or after the hearing, other than publicly through the Chair.
- 1.12.2 Licensing Sub-Committee Members' questioning of speakers is to clarify arguments and views. Care should be taken that questioning does not express a view at that stage, nor intimidate speakers.
- 1.12.3 Members should comply with the Rules of Procedure as set out at paragraph 2.14 below.

1.13 Councillor and Officer relations

- 1.13.1 Good administration is dependent upon a successful relationship between Councillors and Officers, which can only be based upon mutual trust and understanding of each other's roles and responsibilities. This relationship, and the trust which underpins it, should not be abused or compromised.

- 1.13.2 Accordingly, Councillors should not attempt in any way to influence the terms of the Officers' report or recommendation on any licensing matter. Equally, Officers should give firm independent advice.

1.14 Training

- 1.14.1 To sit on the Licensing Sub-Committee, a Member must have undertaken the appropriate training.
- 1.14.2 Two annual training sessions will be held, one for each of the Licensing Sub-Committees. These sessions provide an overview of the licensing function of the Council and of the role Councillors play in the licensing process, with respect to each Sub-Committee's responsibilities. These training sessions will usually be held once the membership of the Licensing and Planning Policy Committee and the Licensing Panel have been confirmed at Annual Council. Each training session should be attended by all Councillors eligible to sit on the Licensing Sub-Committee to which the training session relates.
- 1.14.3 If a Councillor has not attended the most recent annual training session they will be ineligible to sit as part of that Sub-Committee until they have received further training.
- 1.14.4 Further training sessions will be provided as necessary on new Council and Government policy and legislation, or other licensing issues that are requested by Councillors or Officers. All Councillors eligible to sit on the Licensing Sub-Committee(s) to which the training relates must attend such sessions. If they do not attend, they will be ineligible to sit as part of the relevant Sub-Committee until they have received further training.

2 Rules of Procedure

2.1 General information

- 2.1.1 The Licensing (Hearings) Sub-Committee rules of procedure are subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 and The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007. Where appropriate the provisions of the regulations have been incorporated into these rules.
- 2.1.2 The Licensing (General) Sub-Committee is not subject to specific regulations on how they should be conducted. Where appropriate though these Sub-Committees will be arranged and conducted (in terms of notification requirements, rights of parties to attend hearings etc,) the same as Licensing Act 2003 hearings. For Licensing (General) Sub-Committees considering matters relating to individual it may the case, for example, that there are no representations, or interest parties, in which case reference to such matters can be disregarded, whilst retaining the general principles and procedures for those hearings.

2.2 Quorum and composition

- 2.2.1 The Membership of the Licensing Sub-Committees is set out in their Terms of Reference ([Constitution](#), Appendix 3).
- 2.2.2 The three Members appointed to the Sub-Committee shall constitute a quorum. No business shall be transacted at any meeting if a quorum be not present. Any matters that are unable to be considered at the meeting due to a meeting becoming inquorate will need to be adjourned to a future meeting of the Sub-Committee.
- 2.2.3 Provisions for the appointment of Substitutes ([Constitution](#), Appendix 5) do not apply to meetings of the Licensing Sub-Committees.
- 2.2.4 The Chair of the Licensing Sub-Committee shall be elected at the meeting by a simple majority vote, as the first order of business.

2.3 Notice of hearing

- 2.3.1 The licensing authority shall give to the parties a notice stating the date and time and place at which the hearing is to be held (the 'notice of hearing').
- 2.3.2 The notice of hearing shall be accompanied by information regarding the following:
- (i) Their rights of attendance, assistance and representation, as at paragraph 2.4;
 - (ii) The consequences if a party does not attend or is not represented at the hearing;
 - (iii) The procedure to be followed at the hearing;
 - (iv) Any particular points on which the licensing authority considers that it will want clarification at the hearing from a party;
 - (v) Whether the hearing is likely to be public or private

2.4 Right of attendance, assistance and representation

- 2.4.1 Anonymous representations will not be considered by the Authority.
- 2.4.2 Subject to paragraphs 2.4.1 and 2.4.3 and in accordance with any relevant regulations, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- 2.4.3 Upon receipt of the notice of hearing and within the period of time specified in that notice, each party shall give to the licensing authority a notice stating:

- (i) Whether they intend to attend or be represented at the hearing;
- (ii) Whether they consider a hearing unnecessary.

2.4.4 In a case where a party wishes any other person (other than the person they intend to represent them at the hearing) to appear at the hearing, the notice referred to in paragraph 2.3 above shall contain a request for permission for such other person to attend the hearing, accompanied by the 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.

2.4.5 A party who wishes to withdraw any representations they have made may do so by giving notice to the Council's Licensing Section no later than 24 hours before the day or the first day on which the hearing is to be held; or orally at the hearing.

2.5 Right to dispense with hearing if all parties agree

2.5.1 The licensing authority may dispense with holding a Licensing (Hearings) Sub-Committee if all persons required by the relevant Act to agree that such a hearing is unnecessary, other than the licensing authority itself, have done so by giving notice to the authority that they consider a hearing to be unnecessary.

2.5.2 Where all the persons required by the relevant Act to agree that a hearing is unnecessary have done so in accordance with paragraph 2.5.1, the licensing authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the parties that the hearing has been dispensed with.

2.5.3 Licensing (General) Sub-Committees will generally follow the principles above, however hearings that do not include interested parties or objectors may be dispensed with by agreement of the Chair of the Sub-Committee following a request of the Licensing Officer, in consultation with Legal Officers if appropriate.

2.6 Hearing in relation to business premises to be in public

2.6.1 Subject to paragraph 2.6.2 below, the hearing shall take place in public.

2.6.2 The Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

2.6.3 For the purposes of paragraph 2.6.2, a party and any person assisting or representing a party may be treated as a member of the public.

2.7 Hearings in relation to Sex Establishment Venues

- 2.7.1 Where relevant objection has been received to a Sex Establishment Venues the licensing authority will offer an oral hearing to objectors. As the Licensing authority cannot without the consent of the person making the objection reveal their name or address to the applicant, it will be allowed for objectors to speak anonymously at the hearing if they wish.

2.8 Hearing in relation to individual matters to be private

- 2.8.1 At Licensing Sub-Committees hearings relating to an individual licence holder, the officer's report and applicant's/licence holder's submissions will normally include confidential or exempt information. In these cases, the substantive hearing will usually be held as a Part II meeting, with the press and members of the public excluded.
- 2.8.2 The Sub-Committee may decide to hold the hearing in public with the consent of the applicant and the other individuals attending and participating.

2.9 Disruptive behaviour from parties

- 2.9.1 The Sub-Committee may require any person attending the hearing who is, in their reasonable opinion, behaving in a disruptive manner to leave the hearing and may:
- (a) Refuse to permit that person to return;
 - (b) Permit them to return only on such conditions as the Sub-Committee may specify.

But such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

2.10 Officer report

- 2.10.1 The Licensing Officer shall prepare a report for consideration by the Sub-Committee including:
- (i) A brief summary of the application;
 - (ii) A brief summary of representations by responsible authorities and Interested Parties; including a summary of any judgement that resulted in representations being determined as not relevant, frivolous or vexatious.
 - (iii) Relevant aspects of the Council's Licensing Policy and National Guidance; and
 - (iv) Other information as appropriate and as included in the Council's standard report format.

2.10.2 The Licensing Officer's report shall be sent to the relevant parties in advance of the hearing.

2.11 Failure of parties to attend the hearing

2.11.1 If a party has informed the Authority that they do not intend to attend or be represented at a hearing, the hearing may proceed in their absence.

2.11.2 If a party who has not so indicated fails to attend or be represented at a hearing the Authority may:

(i) Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date.

(ii) Hold the hearing in the party's absence.

2.11.3 Where the Authority holds a hearing in the absence of a party, the Licensing Sub-Committee shall consider at the hearing the application, representations or notice made by that party.

2.12 Adjournments

2.12.1 Subject to the provisions of the regulations, the Sub-Committee may:

(i) Adjourn the hearing to a specified date.

(ii) Arrange for a hearing to be held on specified additional dates where it considers it necessary for its consideration of any representations or notice made by a party.

2.12.2 Where the Sub-Committee adjourns the hearing to a specified date it shall forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

2.12.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date it shall forthwith notify the parties of the additional date on which and time and place at which the hearing is to be held.

2.13 Late supporting evidence

2.13.1 Representations can be supported with any other relevant material and can be provided at any time up to 24 hours before the hearing. If material is provided at the hearing, it must be with the consent of all the parties present at the hearing, to avoid a party being ambushed with material they might not be able to respond to.

2.13.2 It is at the Sub-Committee's discretion whether they will consent to late evidence. In deciding whether to allow the late evidence they should consider;

(i) length, content, complexity and impact of the document

- (ii) explanation for any delay
- (iii) prejudice to other parties
- (iv) whether an adjournment (even to later the same day) would assist the parties to assess the material.

2.14 Procedure at hearing

- 2.14.1 A standard hearing procedure is set out at 2.14.17 below – however, the procedure should not be considered totally inflexible, and the Chair may choose to vary the order of proceedings if this would facilitate proper consideration of the matter.
- 2.14.2 The Chair shall, at the beginning of the hearing, introduce the Members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.
- 2.14.3 The Chair shall ask a representative of the licensing authority to introduce the report and outline the matter before the Sub-Committee.
- 2.14.4 All parties shall be entitled to:
- (i) In response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 2.3.2 (iv), give further information in support of their application, representations, or notice (as applicable)
 - (ii) If given permission by the Sub-Committee, question any other party, but cross-examination shall not normally be permitted
 - (iii) Address the Sub-Committee
- 2.14.5 The parties will normally be invited to address the Sub-Committee in the following order:
- (i) Applicant
 - (ii) Responsible Authorities
 - (iii) Other Persons who have made representations.

Where the applicant is not the licence holder (e.g. review applications), the licence holder will normally be invited to speak last.

- 2.14.6 After each party has addressed the Sub-Committee, the other parties present will be asked by the Chair if they have any questions of clarification before the next party is invited to address the Sub-Committee.

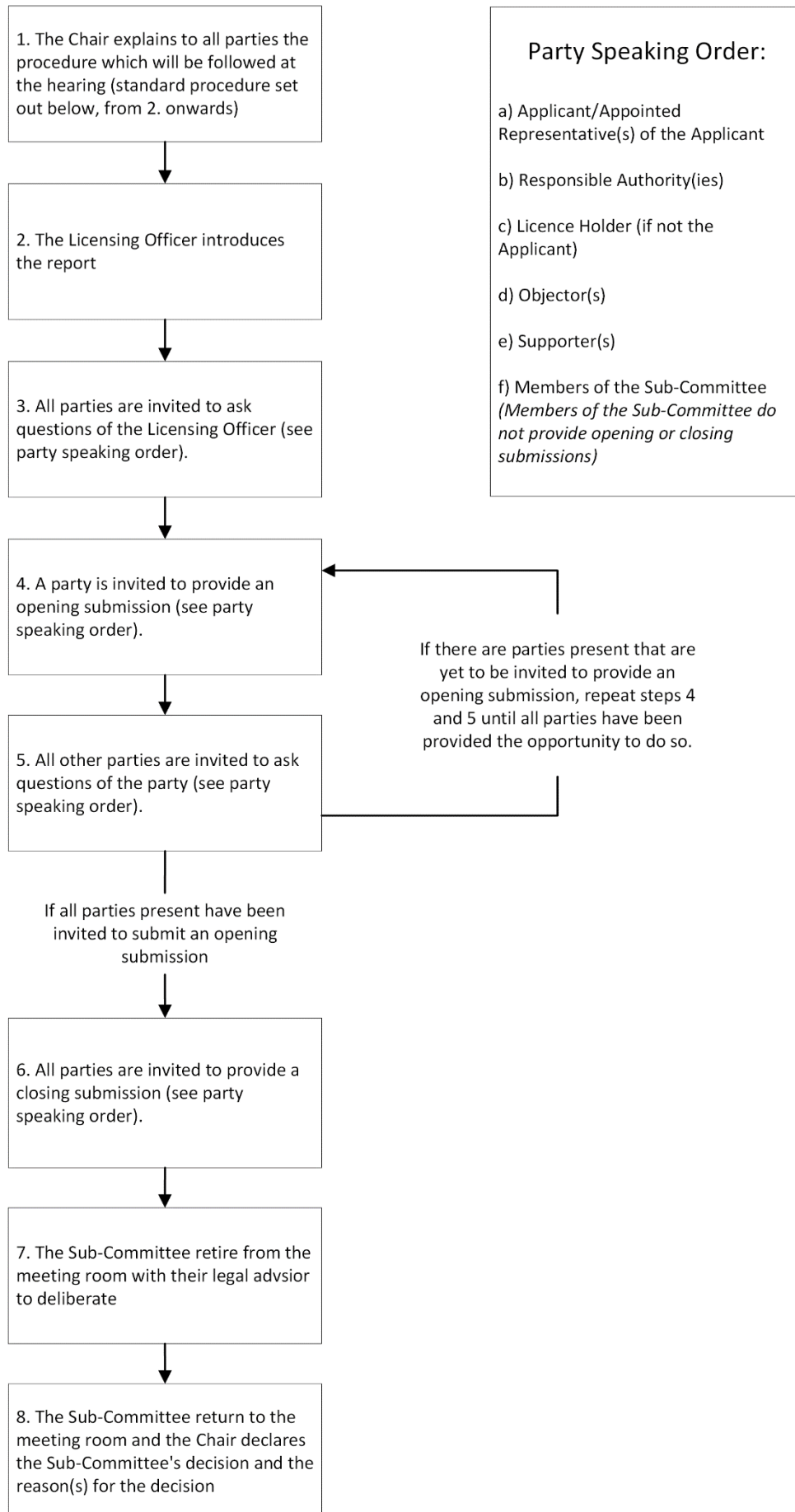
- 2.14.7 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing at any time.
- 2.14.8 Where there is more than one representation raising the same or similar grounds, the Sub-Committee will request that only one party address them on behalf of the parties who have made the representations in question.
- 2.14.9 In considering any representations or notice made by a party, the Sub-Committee 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.
- 2.14.10 The Sub-Committee shall disregard any information given or evidence produced by a party or any person to whom permission is given to appear at the hearing by the licensing authority which is not relevant to:
- (i) Their application, representations or notice (as applicable) or in the case of another person, the application, representations or notice of the party requesting their appearance, and
 - (ii) The relevant licensing considerations.
- 2.14.11 Hearsay evidence may be admitted before the Sub-Committee, but consideration will always be given to the weight, if any, to be attached to such evidence, depending upon the circumstances in which it arises.
- 2.14.12 The parties shall be entitled to make closing submissions. The closing submissions of any applicant (or in cases of a review application, the licence holder) shall follow the closing submissions of any other person or responsible authority.
- 2.14.13 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 2.14.4, 2.14.6 and 2.14.12 above. All parties shall be allowed an equal maximum period of time.
- 2.14.14 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations or alternatively, may ask all parties and the public to leave the room.
- 2.14.15 No Officers other than the Legal Advisor and the Democratic Services Officer are permitted to withdraw from the meeting room with the Sub-Committee. Should the Sub-Committee wish to ask any further questions of the Licensing Officer, or any other party at the hearing, the Sub-Committee must return to the meeting room, and the Chair resume the hearing, in order for the Sub-Committee to ask its questions.

2.14.16 Upon the determination of its decision, the Sub-Committee shall return to the meeting room and the Chair shall resume the hearing. The Chair shall relay the decision of the Sub-Committee, along with the reasons for its decision, orally to all parties at the hearing, and advise them of any rights of appeal. The Sub-Committee's decision and reasons for its decision shall also be recorded in writing by the Chair.

2.14.17 A chart showing the Standard hearing procedure is provided below;

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Date of issue: 12/12/2023



2.15 Role of the Licensing Officer

- 2.15.1 Prior to the Sub-Committee meeting, the Licensing Officer should make a judgement as to whether representations are frivolous or vexatious. Any decisions in this regard will be summarised in the report.
- 2.15.2 When dealing with unusually complex cases, Members of the Sub-Committee may request a briefing before the start of the hearing which will be delivered by the Licensing Officer. This must be solely confined to procedural matters. The merits of any material or the application before the Sub-Committee must not be discussed.
- 2.15.3 At the start of the Sub-Committee, the Licensing Officer will outline the background to the case and provide a summary of any updates or late supporting evidence received since the publication of the committee report, with each party then asked to confirm that this summary is correct.
- 2.15.4 During the Sub-Committee the licensing officer may clarify factual matters as and when they arise and advise on licensing matter arising not covered in the report.
- 2.15.5 After having heard the representations and prior to retiring to make its decision, the Licensing Sub-Committee may, if it wishes, seek the guidance of the Licensing Officer regarding possible suitable conditions in respect of any particular application.
- 2.15.6 The Licensing Officer must not accompany Members of the Sub-Committee when they retire to make their deliberations.
- 2.15.7 Licensing authorities can also make representations about applications or call for reviews. Where it is necessary for a Licensing Officer to act in the role of a responsible authority intending to make representations there should be a separation between this Officer and the licensing authority Officer processing the application, they should be treated in the same way as other parties to the hearing.

2.16 Role of the Legal Advisor

- 2.16.1 The legal adviser's role is to guide and provide advice to the Sub-Committee, whether or not it is requested. Advice may include, for example:
 - (i) Questions of law – interpreting any legislation
 - (ii) Matters of practice/procedure
 - (iii) Admissibility of evidence
 - (iv) Range of options available to the Sub-Committee
 - (v) Any relevant higher court decisions

(vi) Drafting and formulation of conditions

(vii) What the Section 182 guidance says

- 2.16.2 The advisor may not take part in findings of fact or decision making, and Members should not invite the advisor's views on the same.
- 2.16.3 Legal advisors have an important but limited role to assist in the formulation and recording of reasons, but not the underlying decision.
- 2.16.4 The legal advisor should advise the Sub-Committee on the law and, where necessary, steer the Sub-Committee procedurally to ensure that matters progress fairly and impartially.
- 2.16.5 Any legal advice given that was not raised during the hearing should be repeated to all parties before a decision is announced so that any contrary arguments to be taken into account can be made.
- 2.16.6 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matters from the legal advisor at any time during the course of the hearing.
- 2.16.7 The legal advisor will accompany Members of the Sub-Committee when they retire to make their deliberations.
- 2.16.8 Any advice given by the legal advisor to Members of the Sub-Committee will be reflected in the Notification of Decision.

2.17 Role of the Democratic Services Officer

- 2.17.1 The role of the Democratic Services Officer is to facilitate efficient administration of the meeting.
- 2.17.2 The Democratic Services officer present is responsible for recording attendance at the meeting.
- 2.17.3 The Democratic Services Officer shall record the meeting's proceedings and the decisions of the Sub-Committee.
- 2.17.4 Democratic Services shall keep a record of the decisions taken.