



NORWICH City Council

Committee name: Council

Committee date: 14 March 2023

Report title: Constitutional Amendments: Terms of Reference for the Licensing and Regulatory Committees and Sub-Committees

Portfolio: Councillor Kendrick, cabinet member for resources (constitution); Councillor Jones, cabinet member for safe, strong and inclusive neighbourhoods (licensing)

Report from: Head of legal and procurement and Head of Planning and Regulatory Services

Wards: All wards

OPEN PUBLIC ITEM

Purpose

The purpose of this report is to seek Council approval to proposed changes to the terms of reference for the licensing and regulatory committees and sub-committees

Recommendation:

It is recommended that Council agrees to:

- 1) Establish the Regulatory Committee;
- 2) Agrees to the terms of reference for the Regulatory Committee, and to amend the terms of reference for the Licensing Committee, Licensing Sub-Committee and Regulatory Sub-Committee as attached at Appendices A-D of this report
- 3) That the Constitutional changes shall have effect from the date of 23 May 2023, being the Council's Annual General Meeting;
- 4) The principle that the membership of the Regulatory and Licensing Committees should be the same Councillors, and that the Chair and Vice-Chair of both Committees should be the same

And:

- 5) Amend Council Procedure Rule paragraph 82 to state that "Amendments to motions set out in the council agenda shall only be considered if they have been delivered in writing to Democratic Services **and the proposer of the motion** by 5pm on the day before the meeting."

Policy framework

The council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

This report meets the Norwich City Council is in good shape to serve the city priority

Report details

1. The regulatory services have been undertaking a service review to assess how the service operates to most effectively licence businesses and operators in Norwich. This was supported by a specific peer review of the service that took place in 2022. The peer review recommended that the terms of reference and operation of the licensing and regulatory committee and sub-committees were reviewed to reflect good practice.
2. At present, the Constitution sets out the following structure:
 - a. A Licensing and Regulatory Committee, which has specific terms of reference. Its remit is to review licensing and regulatory related policies (albeit such policies usually require cabinet or council approval) and to appoint sub-committees to consider licence applications and variations.
 - b. A licensing sub-committee, which reviews applications and variations under the 2003 Licensing Act. The sub-committee is stated as operating in line with the 2005 Licensing Act Hearing Regulations
 - c. A regulatory sub-committee, which reviews applications and variations under all other relevant legal frameworks. There are no formal terms of reference albeit there are established working practices

Licensing and Regulatory Committee

3. In reviewing the way forward, the Council's legal team at nplaw were engaged. They highlighted previous counsel's opinion provided to local authorities regarding the status of licensing committees. In principle, the licensing committee itself should only consider matters related to the licensing act and all other regulatory matters should be considered by a separate regulatory committee.
4. With this in mind, it is proposed to establish both a licensing committee and a separate regulatory committee. Recognising the synergies between the committees, it is recommended that the membership of both committees

should be the same, and that they would share a chair and vice-chair. However, when reviewing policies relevant to the licensing act, they would meet as the licensing committee, but if reviewing policies related to matters such as taxi licensing, they would meet as the regulatory committee. The terms of reference for both committees would mirror each other.

Sub-Committees

5. It is proposed to continue to operate with two sub-committees as at present. Nonetheless, it was felt helpful to review the terms of reference for the sub-committees.
6. At present, the constitution does not clearly set out which applications can be determined by officers, and which applications need to be referred to committee. The new procedures include schedules, based on the legal framework, as to the circumstances in which decisions are determined by committee.
7. As above, the licensing sub-committee operates to the 2005 hearing regulations. These regulations set out the legal framework, such as the number of members that must sit on a committee, and the dates by which notifications of meetings must be given. However, they do not get into the more detailed mechanics of how hearings operate.
8. The regulatory sub-committees seemingly do not have formal procedures at present. Clearly, it would be beneficial to review this to ensure that meetings operated in a consistent way. In reviewing procedures, officers have sought legal advice and reviewed examples from other authorities.
9. First, the procedures will provide opportunity to dispense with hearings in two specific circumstances:
 - a. Providing clear delegation to Heads of Service to dispense with a hearing where all parties agree (there has sometimes been confusion over authority to do so in the past)
 - b. Providing a “beyond reasonable doubt” ability for officers to determine an application that would ordinarily be referred to the committee but there is no reasonable prospect of the licence being granted. In such situations, officers would consult with the Chair and Vice-Chair of the Licensing and Regulatory Committees for their thoughts on the application and whether it should be referred to Committee. An example of this is where applicants have failed to provide paperwork that is critical for determining the application despite a number of chasers to do so. This would not apply where there is a statutory requirement for a hearing.
10. The new procedures introduce clear pre-hearing processes. This will encourage applicants and relevant representatives to engage with the Council before the hearing as to whether they will be present, whether they wish to present additional material or bring witnesses. The Council will then be able to brief committee members and manage expectations relating to material and timings of meetings.

11. The procedures also set out how the committee will expect to operate. Whilst this reflects current operational practices, it should assist in providing applicants and representatives a clearer understanding of process. Tables are included to outline the relevant notification time limits as reflected in legislation.
12. Finally, the procedures introduce guidance to applicants and representatives regarding speaking times. It has been provisionally suggested that applicants and representatives should expect to present their case in relation to the application for no more than 15 minutes, with the provision that this may be varied either in more complex cases or to support reasonable adjustments in cases where individuals have protected characteristics. We have not proposed any limits with respect to the amount of time available for questioning or cross-examination.
13. The revised procedures are attached to this report as follows:
 - a. **Appendix A** the terms of reference for the licensing and hearing committees;
 - b. **Appendix B** Licensing committee procedures, which set out the scheme of delegation for licensing decisions and pre-hearing process;
 - c. **Appendix C** Regulatory committee procedures, which set out the scheme of delegation for regulatory decisions and pre-hearing process
 - d. **Appendix D** Licensing and Regulatory hearing procedures, which set out how hearings should operate

Bringing the changes into effect

14. From a practical perspective, the Council will shortly be entering into a pre-election period albeit regulatory and licensing decisions may still be made in this time. Nonetheless, the Council's Annual General Meeting (AGM), which is approaching in May, provides the practical opportunity to bring these changes into effect.
15. As a result, the recommendations in this report seek to bring these into effect on the day of the Council's AGM. This will then allow Council to make appointments to the Committee when considering its political balance.
16. Given this, Council is being asked to specifically support the principle that the membership, Chair and Vice-Chair of both licensing and regulatory committees are drawn from amongst the same members (as referenced in paragraph 4 above). This will assist officers in preparing the political balance report for Council.

Amendment to Council procedure rules

17. The constitution working party were asked to consider an amendment to the Council procedure rules. If an amendment is proposed to a motion, it has to be delivered to Democratic Services by 5pm the day before Council. It has been suggested that as well as Democratic Services, the proposer of the motion should also be informed of any amendments.

18. The constitution working party were unanimous in their support for this proposal, recognising it as an eminently sensible change as it may reduce unnecessary passing of e-mails between officers and members.

Consultation

19. Ahead of the Constitution Working Party, the Portfolio Holder and Chair of the Licensing and Regulatory Committee were both briefed on the proposals relating to licensing and regulation and were supportive of them. The Constitution Working Party considered the proposals at their meeting in February 2023 and have agreed to recommend these to Council.
20. A key matter of debate at the Constitution Working Party related to whether there needed to be further clarity given to relevant representations “in the vicinity” of the premises. However, on balance, the Constitution Working Party accepted that the legislation deliberately allowed discretion to be applied on this matter given that different types of licenses and venues can have a different scale of impact on the local vicinity.

Implications

Financial and resources

21. Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council’s stated priorities, as set out in its Corporate Plan 2022-26 and budget.
22. The proposals in this report do not have any financial consequences.

Legal

23. The proposals in this report have been developed in consultation with nplaw and taken into account the various licensing and regulatory requirements including the Licensing Act 2003; Gambling Act 2005, the Licensing Hearing Regulations 2005 and the Miscellaneous Provisions Act 1976
24. Statutory considerations

Consideration	Details of any implications and proposed measures to address:
Equality and diversity	The purpose behind these changes are to ensure that there is clarity on the procedures followed. To ensure there is not adverse impacts, the pre-hearing process will ask applicants to make the Council aware of protected characteristics so that their needs can be accommodated into the specific hearing procedure.
Health, social and economic impact	None
Crime and disorder	Whilst effective regulation reduces the risk of crime and disorder, the proposals in this report do not specifically impact.

Consideration	Details of any implications and proposed measures to address:
Children and adults safeguarding	None
Environmental impact	None

Risk management

Risk	Consequence	Controls required
Failure to ensure hearings take place in a manner that is consistent, fair and transparent could lead to increased risk of challenge to decisions	The Council's decisions are overturned at appeal stages	Introducing clearer procedures to support licensing and regulatory hearings can help to ensure consistency and clarity of approach

Other options considered

25. The procedures have been developed with regards to approaches taken by other authorities and current practices in Norwich. There is scope to make further amendments (in the expectation that any such amendments would still need to be compliant with applicable regulations and the principles of fairness and transparency in decision making).

Reasons for the decision/recommendation

26. At present, the Council's constitution is limited in the information it provides as to how licensing and regulatory committees should operate. Further, concern has been raised as to the current meetings of the main licensing committee and the need to separate this into two meetings.

27. The constitution working party is therefore requested to review the proposals in this report and appendices to present their recommendations to Council.

Appendices:

Appendix A the terms of reference for the licensing and hearing committees;

Appendix B Licensing committee procedures, which set out the scheme of delegation for licensing decisions and pre-hearing process;

Appendix C Regulatory committee procedures, which set out the scheme of delegation for regulatory decisions and pre-hearing process

Appendix D Licensing and Regulatory hearing procedures, which set out how hearings should operate

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Appendix A: Licensing and Regulatory Committees

Licensing Committee

Within the policies laid down by the council, scheme of delegations and within the Corporate Plan to exercise the following powers of the council:

Licensing Act 2003

1. issue Premises Licences under the Licensing Act 2003
2. issue Club Premises Certificates under the Licensing Act 2003
3. issue Counter Notices (Temporary Event Notice) under the Licensing Act 2003
4. issue Personal Licences under Licensing Act 2003
5. take enforcement proceedings under the Licensing Act 2003

The election of the chair is made at the Annual Council meeting. The Annual Council meeting also determines the number of members on the committee, which may vary from year to year. It is expected that the membership and Chair of the Committee shall be the same members and Chair as appointed to the Regulatory Committee.

Gambling Act 2005

1. All powers under the Gambling Act 2005 other than those reserved to the council

Licensing Sub-committee

Determines licensing functions in accordance with the council's Licensing Policy and as set out in the licensing procedures in this constitution

Applications considered by the Licensing Sub-Committee are subject to the Licensing Act 2003 (Hearings) Regulations 2005.

Three members from the pool of Licensing Committee members are appointed to the Licensing Sub-Committee.

The sub-committee meets on an ad-hoc basis and must comply with the statutory hearing regulations and the hearing procedures in this constitution.

Regulatory Committee

Within the policies laid down by the council, scheme of delegations and within the Corporate Plan to exercise the following powers of the council:

2. issue licenses authorising the use of land as a caravan site (site licences)

3. license the use of moveable dwellings and camping sites
4. license hackney carriages and drivers and private hire vehicles and drivers and private hire operators
5. issue permits for the operation of minibuses
6. register pool promoters
7. grant track betting licences
8. license inter-track betting schemes
9. register societies wishing to promote lotteries
10. license sex establishments
11. license performances of hypnotism
12. license premises for acupuncture, tattooing, ear piercing and electrolysis
13. license pleasure boats and pleasure vessels
14. license market and street trading
15. license dealers in game and the killing and selling of game
16. register and license premises for the preparation of food
17. to grant or renew a licence for a licensable activity under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs or keeping or training animals for exhibition).
18. license zoos
19. license dangerous wild animals
20. license guard dogs
21. license slaughter houses and knackery yards
22. license houses in multiple occupation (HMOs)
23. license to collect for charitable and other causes
24. functions under any "relevant statutory provision" within the meaning of Part 1 (Health, Safety, and Welfare in Connection with Work, and Control of Dangerous Substances) of the Health and Safety at Work, etc, Act 1974
25. Any function relating to contaminated land

26. control pollution
27. protect important hedgerows
28. serve abatement notice in respect of statutory nuisance
29. resolve that Schedule 2 to the Noise and Statutory Notice Act 1993 is to apply in the authority's area
30. inspect area to detect statutory nuisance
31. investigate statutory nuisance complaints
32. grant consent for the operation of a loudspeaker
33. issue street litter control notices
34. enforcement of legislation relating to straw and stubble burning, etc
35. license the placing of facilities on the highway for recreation or refreshment

The election of the chair is made at the Annual Council meeting. The Annual Council meeting also determines the number of members on the committee, which may vary from year to year. It is expected that the membership and Chair of the Committee shall be the same members and Chair as appointed to the Regulatory Committee.

Regulatory Sub-Committee

Determines consideration of licences or the issue of permits in relation to Hackney and private drivers' vehicles and licences, Statement of Gambling Policy and Statement of Sex Establishments, and other regulatory functions under the terms of such as structures on the highway and charitable collections and as set out in the hearing procedures in this constitution

Five members from the pool of Regulatory Committee members are appointed to the sub-committee on rotation.

The sub-committee meets monthly and must comply with the hearing procedures in this constitution

Appendix B: LICENSING COMMITTEE PROCEDURE RULES

Terms of Reference

1. The terms of reference for the licensing committee are set out in Part 2 ,Section 8 of the council's constitution.

Scheme of Delegation

2. The committee's scheme of delegations is as follows:

A Licensing committee and Licensing sub committee

Applications made under the Licensing Act 2003

All applications will be determined by the head of planning and regulatory services in accordance with the scheme of delegations set out in Appendix 6 of the council's Licensing Policy, with the exception of those matters which cannot be delegated under s10(4) Licensing Act 2003 or matters reserved for the licensing committee or licensing sub-committee:

Matter to be dealt with	Licensing Sub-committee	Officers
Application for personal licence	If a police objection made	If no objection made
Application for personal licence, with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made and not withdrawn	If no relevant representation made
Application for provisional statement	If a relevant representation made and not withdrawn	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made and not withdrawn	If no relevant representation made
Application to vary designated premises supervisor	If a police objection made	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection made	All other cases

Matter to be dealt with	Licensing Sub-committee	Officers
Application for Interim Authority Notice	If a police objection made	All other cases
Decision on whether a representation is relevant or irrelevant, frivolous, vexatious, etc.		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection made	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases with discretion to refer to sub-committee

B Applications made under the Gambling Act 2005

All applications will be determined by the head of planning and regulatory services in accordance with the scheme of delegations set out in Appendix 2 of the council's Gambling Statement of Policy, except those reserved for full council or the regulatory committee.

Matters to be dealt with	Full Council	Committee or sub-committee	Officers
Final approval of three year licensing policy	All cases		
Policy not to permit casinos	All cases		
Fee setting (when appropriate)		As appropriate	All cases

Matters to be dealt with	Full Council	Committee or sub-committee	Officers
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		All cases	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		All cases	
Applications for other permits			All cases
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	

Pre-hearing Process

3. Applications relating to the licensing of activities taking place at premises, that are made under the Licensing Act 2003, are advertised by the applicant displaying a Public Notice on the premises and placing a Public Notice in a local newspaper.
4. The licensing team will notify applicants and interested parties of hearings. This will include details of:
 - The rights of parties to attend the hearing and nominate legal or other representatives to present their case.
 - Parties' abilities to address the committee/sub-committee, to give information and call witnesses.
 - The consequences of non-attendance.
 - This hearings procedure.
 - A separate schedule detailing points about which the licensing authority requires clarification.
 - The requirement that all parties notify the licensing authority:
 - If they are attending or will be represented at the hearing;
 - If they consider the hearing to be unnecessary;
 - Of any request for permission for a witness to appear at the hearing, the name of the witness and a brief description of the point or points on which that person will be able to assist the hearing.
 - The time frame for notification (see paragraph 5 below)
 - Any information to accompany the notice will be sent out in accordance with regulations.
 - Parties will also be requested to inform the Council of any particular needs they have in order that the Council may plan to make reasonable adjustments in respect of this, for example if the party requires a translator
5. Parties will be notified of hearings in accordance with the notice periods required by the Licensing Act 2003 (see table 1 below). Committee agenda papers will be dispatched at least five working days prior to a hearing (except where regulatory time frames make this impracticable).
6. If the head of planning and regulatory services or the head of legal and procurement, following consultation with the chair and vice chair, consider that beyond reasonable doubt the outcome of the committee/sub-committee would be the application or appeal would be refused, then the matter should normally be determined by officers unless there is a statutory requirement for a hearing to take place.
7. Hearings will be dispensed with if all parties making relevant representations agree a hearing is unnecessary. In such circumstances a decision will be taken

by the head of planning and regulatory services or head of legal and procurement to cancel the meeting.

8. Meetings of the licensing committee and sub-committee will be conducted in accordance with the Committee Procedure Rules, except when the committee or sub-committees sits as a hearing, in which case the Hearing Procedure Rules will apply.
9. Hearings will normally be held in public. The committee may exclude the public from all or part of a hearing where it considers that the reasons for holding a meeting in private outweigh the public interest in holding it in public.
10. The committee will hold its deliberations in private accompanied by the legal officer and committee officer.
11. A chair will be appointed by the members of the sub-committee unless the committee chair or vice chair is present, and they agree to chair the meeting.
12. The Hearing Procedure Rules for hearings under the Licensing Act 2003 are set in Appendix A.

Table 1

Licensing Act 2003 Timetable for Hearings

Types of hearing	Licensing Act Section	Working days within which hearing must be held	Working days within which interested parties must be notified of hearing	Working days within which parties must notify authority attending/and witness details	Persons to whom notice must be given	Minimum additionally required documentation for the hearing*
Premises licence	18(3)(a)	20	10	5	(a) applicant (b) all persons making relevant representations	Applicant receives all relevant representations
Provisional statement	31(3)(a)	20	10	5	a) applicant (b) all persons making relevant representations	Applicant receives all relevant representations
Premises licence variation	35(3)(a)	20	10	5	a) applicant (b) all persons making relevant representations	Applicant receives all relevant representations
Designated premises supervisor	39(3)(a)	20	10	5	(a) the holder of the premises licence (b) Police (c) the individual proposed to be the designated premises supervisor	Police objection notice

Table 1

Types of hearing	Licensing Act Section	Working days within which hearing must be held	Working days within which interested parties must be notified of hearing	Working days within which parties must notify authority attending/and witness details	Persons to whom notice must be given	Minimum additionally required documentation for the hearing*
Premises licence transfer	44(5)(a)	20	10	5	(a) applicant (b) Police	Police objection notice
Cancellation of interim authority notice	48(3)(a)	5	2	1	(a) any person with a prescribed interest in the premises or is connected to the former	Police objection notice
Review of premises licence	52(2)	20	10	5	(a) the premises licence holder (b) all persons making relevant representations (c) applicant	Applicant receives all relevant representations
Grant of a club premises certificate	72(3)(a)	20	10	5	(a) the applicant/club (b) all persons making relevant representations	Applicant receives all relevant representations
Variation of club premises certificate	85(3)(a)	20	10	5	(a) the applicant/club (b) all persons making relevant representations	Applicant receives all relevant representations

Table 1

Types of hearing	Licensing Act Section	Working days within which hearing must be held	Working days within which interested parties must be notified of hearing	Working days within which parties must notify authority attending/and witness details	Persons to whom notice must be given	Minimum additionally required documentation for the hearing*
Review of club premises certificate	88(2)	20	10	5	(a) the club holding the certificate (b) all persons making relevant Representations (c) the person requesting the review	Applicant receives all relevant representations
Counter notice following Police objection	105(2)(a)	7	2	1	(a) premises user (b) Police	
Personal licence	120(7)(a)	20	10	5	(a) applicant (b) Police	Police objection notice
Personal licence renewal	121(6)(a)	20	10	5	(a) applicant (b) Police	Police objection notice
Convictions discovered after grant or renewal of personal licence	124(4)(a)	20	10	5	(a) the licence (b) Police	Police objection notice
Review of premises licence following closure order	167(5)(a)	10	5	2	(a) the premise licence holder (b) all persons making relevant representations	Applicant receives all relevant representations

Table 1

Types of hearing	Licensing Act Section	Working days within which hearing must be held	Working days within which interested parties must be notified of hearing	Working days within which parties must notify authority attending/and witness details	Persons to whom notice must be given	Minimum additionally required documentation for the hearing*
Conversion of existing licence	Schedule 8 para 4(3)(a)	10	5	2	(a) applicant (b) Police	
Conversion of existing club certificates	Schedule 8 para 16(3)(a)	10	5	2	(a) applicant (b) Police	
Personal licence for holders of a justices licence	Schedule 8 para 26(3)(a)	10	5	2	(a) applicant (b) Police	

*The Licensing Act 2003 (Hearings) Regulations 2005 (Regulation 7) require all hearing notices to explain:

- The rights of a party to attend, be assisted or represented (Regulation 15)
- The party's rights at the hearing (Regulation 16)
- The consequences if a party does not attend or is not represented (Regulation 20)
- The procedures to be followed at the hearing
- Any particular points on which the authority considers that it will want clarification at the hearing from a party.

REGULATORY COMMITTEE PROCEDURE RULES

Terms of Reference

1. The terms of reference for the regulatory committee are set out in Part 2 ,Section 8 of the council's constitution.

Scheme of Delegation

2. The committee's scheme of delegations is as follows:

A Applications for the consideration of licences or the issue of permits in relation to Hackney Carriage Vehicles and Drivers, Private Hire Vehicles and Drivers, and Private Hire Vehicle Operators

The regulatory committee/subcommittee will consider applications which are contrary to policy or where the applicant or licensee has disclosed a conviction that would normally lead to refusal of a licence as detailed in the Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades.

B Applications for Tables and Chairs and other licences falling under the terms of reference for the committee

Applications where objections have been received are referred to the regulatory committee/subcommittee.

D Applications for sex establishments under the Local Government (Miscellaneous Provisions) Act 1982

Applications will be determined by the head of planning and regulatory services where the application is valid and no objections have been received and there are no other statutory grounds for refusal

In cases where objections have been received; or if there are concerns regarding the characteristics of the locality; or any other discretionary ground of refusal exists, including that if the application were granted then any maximum number of premises in a relevant locality would be exceeded as set out in the Statement of Policy for Sex Establishments, Section 4, Location of Licensed Premises, then the application will be referred to the regulatory committee for a hearing and determination of the application.

Pre-hearing Process

3. Applications relating to the licensing of activities taking place at premises, that are made under the Local Government (Miscellaneous Provisions) Act 1982 (Sex Establishments), are advertised by the applicant displaying a Public Notice on the premises and placing a Public Notice in a local newspaper.

4. For applications made under s.115A of the Highways Act 1980 (Tables and chairs and other structures that are placed on the highway), these are advertised by the licensing authority placing Public Notices in the vicinity of the proposed licensed area.
5. The licensing team will notify applicants and interested parties of hearings. This will include details of:
 - The rights of parties to attend the hearing and nominate legal or other representatives to present their case.
 - Parties' abilities to address the committee/subcommittee, to give information and call witnesses.
 - The consequences of non-attendance.
 - This hearings procedure.
 - A separate schedule detailing points about which the licensing authority requires clarification.
 - The requirement that all parties notify the licensing authority:
 - If they are attending or will be represented at the hearing;
 - If they consider the hearing to be unnecessary;
 - Of any request for permission for a witness to appear at the hearing, the name of the witness and a brief description of the point or points on which that person will be able to assist the hearing.
 - Any information to accompany the notice will be sent out in accordance with regulations.
 - Parties will also be requested to inform the Council of any particular needs they have in order that the Council may plan to make reasonable adjustments in respect of this, for example if the party requires a translator
6. If the head of planning and regulatory services or the head of legal and procurement, following consultation with the chair and vice chair, consider that beyond reasonable doubt the outcome of the committee/subcommittee would be the application or appeal would be refused, then the matter should normally be determined by officers unless there is a statutory requirement for a hearing to take place.
7. Hearings will be dispensed with if all parties making relevant representations agree a hearing is unnecessary. In such circumstances a decision will be taken by the head of planning and regulatory services or head of legal and procurement to cancel the meeting.

Procedure for Regulatory Committee and Subcommittee Hearings

8. Meetings of the committee and subcommittee will be conducted in accordance with the Committee Procedure Rules, except when the committee or sub-committees sits as a hearing, in which case the Hearing Procedure Rules will apply.
9. The committee may exclude the public from all or part of a hearing where it considers that the public interest outweighs the public interest in the hearing, or that part of the hearing taking place in public.

10. The committee will hold its deliberations in private accompanied by the legal officer and committee officer.
11. The subcommittee will appoint a chair for the meeting unless the chair or vice chair are present.
11. The Hearing Procedure Rules are set out at Appendices A and B.

Appendix D

Licensing Committee/Subcommittee : Procedure for Determining Licensing Act 2003 Cases/Applications Made Under The Gambling Act 2005

Regulatory Committee/Subcommittee: Procedure for Determining Applications for Tables and Chairs/Applications For Sex Establishments Made Under The Local Government (Miscellaneous Provisions) Act 1982

Time limits on Representations

1. In normal circumstances, the committee/subcommittee will expect each party (applicant v objectors) to present their case within a maximum of 15 minutes, although this time limit may be varied by the committee/subcommittee, either on the application of a party to the hearing or at the sub-committee's own instigation. Should this need arise then all parties will be afforded the same allotted time to speak.
2. Where there are several interested parties whose representations reveal similar grounds of concern, the interested parties are strongly urged to appoint a spokesperson to avoid repetition of the same points.

Cross Examination

3. Regulation 23 states that the authority generally leads the hearing, and that cross-examination cannot take place unless specified by the local authority.
4. A decision to allow cross-examination will be taken on a case-by-case basis, with a presumption to allow.

Behaviour during the Hearing

5. Any person attending the hearing who is deemed by the sub-committee to be behaving in a disruptive manner will be asked to leave the hearing.

Late papers

6. If documentation is produced for the first time at the hearing, it can only be considered if all parties agree to accept it. Information must be relevant to the representations already made and to the promotion of the licensing objectives.

Step 1 Introduction

At the start of the hearing the chair should read out a statement declaring under which capacity the committee/subcommittee is sitting, ie

This subcommittee is sitting to consider matters under the Licensing Act 2003.

The chair will introduce themselves and the members of the committee / subcommittee.

The chair will then introduce and explain the respective roles of:

- (a) the licensing officer;
- (b) the legal adviser to the committee/subcommittee;
- (c) the committee officer (where applicable).

The chair invites all those present to introduce themselves and ask them to indicate if they wish to speak during the hearing. (Only those persons who have made representations may address the committee/subcommittee.)

Each party (the applicant and the objectors) will be asked by the chair whether 15 minutes is sufficient for the presentation of their case. (Agreement on the length of time given for each speaker is at the discretion of the chair. If there are a large number of relevant objections to a particular application the licensing authority (council) may ask an appropriate number of representatives or a spokesperson to put forward their views.)

Please note that at any time during the hearing the legal adviser or the licensing officer may be asked or may offer advice to the committee/subcommittee or other parties or ask questions of any party.

The legal adviser outlines the order of business.

Step 2: Presentation by Licensing Officer

The licensing officer outlines the application; confirms the application details with the applicant or applicant's representative, introduces the report and provides an update on any recent changes.

The chair will invite questions from all parties to clarify the content of the licensing officer's report.

Step 3: Applicant's Evidence

The applicant or their representative presents their case and brings forward any supporters or witnesses, after which the chair will invite questions to the applicant and their representatives from:

- (1) Members of the committee/subcommittee
- (2) The Responsible Authorities (or their representative);
- (3) Interested parties¹ (e.g. objectors);
- (4) the licensing officer.

The chair will also invite questions to any witnesses where present from all parties.

Questions should be relevant to the application and repetition will be discouraged.

Step 4: Responsible Authorities who are objecting present their case

Responsible authorities present their case and are questioned (if necessary) in turn by:

- (1) Members of the committee/subcommittee
- (2) The applicant;
- (3) Interested parties (e.g. objectors);
- (4) the licensing officer.

The chair will also invite questions to any witnesses where present from all parties listed above.

Questions should be relevant to the application and repetition will be discouraged.

Step 5: Interested Parties introduce their case

Each of the interested parties or their representatives wishing to address the committee/subcommittee may do so in order determined by the chair. They too must be willing to be questioned by other parties as listed above. Interested parties may not however question each other.

Questions should be relevant to the application and repetition will be discouraged.

Interested parties present their case and bring forward any witnesses, who are questioned (if necessary) in turn by:

- (1) Members of the committee/subcommittee
- (2) The Applicant;
- (3) Responsible authorities;
- (4) Licensing officer.

¹ An **interested party** is defined an interested party is anyone who has made a relevant representation as defined in the Licensing Act 2003 or Gambling Act 2005, and may include:

1. A person living in the vicinity of the premises in question.
2. A body representing persons living in the vicinity of the premises in question e.g. a Residents' Association.
3. A person involved in a business in the vicinity of the premises in question
4. A body representing persons involved in such business e.g. a Trade Association.

Step 6: Closing Statements

The chair will invite closing statements from the Responsible Authorities/Interested Parties and the applicant. Each party will be given a maximum of 5 minutes to sum up their representation(s).

Step 7: Members of the committee/subcommittee seek clarifications on any outstanding points

Members of the committee/subcommittee have a final opportunity to seek clarification on any points raised.

Step 8: Members of the committee/subcommittee retire to deliberate

The committee/subcommittee accompanied only by their legal adviser (and committee officer) will retire to make its decision in private.

Step 9: Decision notification

The committee/subcommittee usually readmits the applicant and other parties and the chair announces the decision. The legal adviser will provide the reasons for the decision and advises the parties that the decision will also be sent to them in writing and the rights of appeal. There can be no further questions or statements.

If the committee/subcommittee is unable to reach a decision, the chair will explain that all parties will be notified as soon as possible (but within 5 working days) of the decision and the reasons for such.

Procedure for Regulatory Committee/subcommittee Hearings

All regulatory committee/subcommittee hearings where the subject is not exempt from publication, e.g., applications for tables and chairs on the highway, and are held in public follow the licensing sub-committee procedures, above.

Members of the public will be excluded for the consideration of licences or the issue of permits in relation to Hackney Carriage Vehicles and Drivers, Private Hire Vehicles and Drivers, and Private Hire Vehicle Operators. The hearing will be conducted by a subcommittee of the regulatory committee.

The procedure is:

Step 1: Introduction

The chair introduces themselves and the members of the subcommittee. The chair then introduces the legal adviser, committee officer and the licensing officer and explains their roles.

The chair welcomes the licensee/applicant and establishes the identity of all who will be taking part and advises the applicant of their right to be accompanied. The legal adviser outlines the order of business.

Step 2: Presentation by Licensing Officer

The licensing officer outlines the application; confirms the application details with the applicant or applicant's representative, introduces the report and provides an update on any recent changes.

The licensing officer may call witnesses to support the council's case.

Members of the subcommittee and the applicant/their representative may ask the licensing officer questions for clarification.

Step 3: Applicant's Evidence

The applicant or their representative presents their case and brings forward any supporters or witnesses, after which they are questioned (if necessary) by members of the subcommittee.

Step 4: Members of the committee/subcommittee seek clarifications on any outstanding points

Members of the subcommittee have a final opportunity to seek clarification on any points raised.

Step 8: Members of the committee/subcommittee retire to deliberate

The subcommittee accompanied only by their legal adviser (and committee officer) will retire to make its decision in private.

Step 6: Decision notification

The subcommittee usually readmits the applicant and other parties and the chair announces the decision. The legal adviser will provide the reasons for the decision and advises the parties that the decision will also be sent to them in writing and the rights of appeal. There can be no further questions or statements.

If the subcommittee is unable to reach a decision, the chair will explain that all parties will be notified as soon as possible (but within 5 working days) of the decision and the reasons for such.