

LICENSING COMMITTEE

PROCEDURAL RULES FOR THE HEARING OF APPLICATIONS UNDER SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SEXUAL ENTERTAINMENT VENUES

1 Purpose

- 1.1 These procedural rules have been prepared to facilitate proper consideration by the Licensing Committee and its Sub Committees of applications for sexual entertainment venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 The rules set out a framework for how applications are to be heard and explain the role of the participants at the Hearing.

Definitions

- 2.1 The following definitions describe the participants at and the subject matter of a Hearing:

Applicant means the applicant for the grant, renewal or transfer of a licence as appropriate.

Application means an application for one or more of the following, as the case may be:

- a) grant of a licence;
- b) transfer of a licence;
- c) renewal of a licence;

Committee includes a Sub-committee

Hearing means a meeting of the Licensing Committee during which an application for a licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 is being considered

Objector means any person who has given Notice of Objection in accordance with Paragraph 10 (15) of the Schedule 3 the 1982 Act.

Parties means the Applicant(s) and any Objector(s) to the grant of the application.

The Council means Wiltshire Council.

The 1982 Act means the Local Government (Miscellaneous Provisions) Act 1982

3 Key Principles

- 3.1 The Hearing will be conducted in accordance with the principles of natural justice, and fairness.
- 3.2 This will include that:
 - 3.2.1 All Parties have an opportunity to make representations before a decision is made;
 - 3.2.3 All Parties have an adequate opportunity to consider and respond to any submissions made other parties to the Hearing;
- 3.3 It is also fundamental that there is an orderly presentation of submissions at a Hearing so that the relevant issues are properly understood, evidence is tested and that oral statements made at the Hearing are accurately recorded.
- 3.4 Ultimately the Chairman determines the application of these rules, having regard to any submissions being made by those present and in particular the Committee Lawyer.

4 The Hearing

- 4.1 Subject to the exceptions below, the Hearing shall take place in public.
 - 4.1.1 The Committee may exclude the public from all or part of the Hearing where it considers it to be in the public interest to do so and in accordance with S100A Local Government Act 1972, as amended. Public includes a party and any person assisting or representing a party.
 - 4.1.2 The Committee may require any person attending the Hearing who, in its opinion, is behaving in a disruptive manner, to leave the Hearing and may:
 - a refuse to permit them to return; or
 - b permit them to return only on such conditions as the Committee may specify;
 - 4.1.3 in the event that a person is required to leave a Hearing that person may, before the end of the Hearing, submit to the Committee in writing any information which they would have given orally.
- 4.2 Prior to the Hearing commencing, the Chairperson shall advise the parties of the procedure it proposes to follow at the Hearing.

- 4.3 Where a party has previously requested permission for a person(s), other than their representative, to appear at the Hearing then the Committee shall consider whether to permit that request.
- 4.4 The Committee will allow the parties an equal maximum period of time in which to exercise their rights.
- 4.5 This equal maximum time may have been notified in advance of the Hearing;
- 4.6 Where there is a multiple of Parties who have attended the Hearing to make the same or similar representations then the Committee would normally require that a spokesperson be appointed by them to make the representations on behalf of all of those Parties.

5 Presentation of Submissions

- 5.1 The Chairman will introduce the Application.
- 5.2 Submissions shall be made in the following order unless the Chairman directs otherwise:
 - 5.2.1 The Licensing Officer will orally present the Committee Report and will in particular advise the Committee as to:
 - a the options available to it;
 - b the considerations that are relevant in reaching its decision.
 - 5.2.2 The Applicant (or the Applicant's Representative) will orally present its submission which may include:
 - a presenting their case in accordance with the papers, which will have been circulated with Agenda papers;
 - b confirming key information and answer pertinent questions; and
 - c calling witnesses in support of the Application (see paragraph 4.3).
 - 5.2.3 Objectors will orally present their representations in turn which shall include:
 - a the grounds of the objection to the Application; and
 - b if appropriate, any condition(s) that the Objector would wish to see imposed on the Licence if it were to be granted

6 Questioning of Submissions

- 6.1 The Chairman will regulate the order in which questions are asked by Members.

- 6.2 The Chairman and Members may question any Party following the completion of their submission.
- 6.3 The Chairman will normally then permit the Applicant and the Objectors to ask questions of the other parties
- 6.4 The Chairman may direct that questions which are not relevant to the Application are not formally put or answered.

7 Documentation

- 7.1 No party shall present new documentation to the Committee at the Hearing other than with the consent of the Committee having taken into account any comments by the other parties and any advice given by officers. Where a party is given consent to present new documentation, they shall provide sufficient copies for the Committee, officers and the other parties present

8 Intervention

The Chairman shall permit the following interventions at any point in the Hearing:

- 8.1 The Committee Lawyer to advise the Committee on issues of law, procedure and relevant considerations on decision making. If necessary, the Chairman may adjourn the Hearing and require the Committee, the Committee Lawyer and the Committee Manager to leave the Hearing so that advice can be given.
- 8.2 The Committee Manager to advise the Committee on procedure generally, or to request that statements made are repeated for reasons of clarity and so that they can be properly recorded.
- 8.3 The Licensing Officer to seek to clarify statements that have been made in light of information held on their file.

9 Failure of Parties to Attend Hearing

- 9.1 If a Party has informed the Licensing Officer that it does not intend to attend or be represented at a Hearing, the Hearing may proceed in its absence.
- 9.2 If a Party has not indicated that it does not intend to attend or be represented at a Hearing and fails to attend or be represented at the Hearing then the Committee may:
 - 9.2.1 where it considers it be necessary in the public interest, adjourn the Hearing generally or to a specified date; or
 - 9.2.2 hold the Hearing in the Party's absence.
- 9.3 Where the Licensing Authority holds a Hearing in the absence of a Party, it shall consider at the Hearing the application, representations made by that Party.

10 Closing Submissions

10.1 The Chairman shall allow, first the Objectors to make a closing oral submission(s) and secondly the Applicant or the Applicant's Representative to make an oral closing submission in support of the Application.

11 Decision

11.1 Following the closing submissions by all parties the Committee shall adjourn. The Committee members, the Committee Lawyer and the Committee Manager, shall retire so that the decision may be considered in private, and to consider any legal issues raised by the Members.

11.2 The decision, and reasons for the decision, of the Committee shall be communicated orally by the Chairman to the parties after the Committee has deliberated in private on the Application.

11.3 Written reasons shall be provided soon after the deliberations of the Application and in any event within the statutory time limits.

Hearing Procedure Summary

1. The Chairman welcomes all those present and introduces the Application.
2. The Chairman introduces the Applicant, Objectors and Officers present.
3. The Chairman outlines the Hearing Procedure.
4. The Licensing Officer presents the Committee Report.
5. The Applicant addresses the Committee.
6. Questions to the Applicant by Members of the Committee
7. Questions to the Applicant by Objectors.
8. Submissions by Objectors.
9. Questions to Objectors by Members of the Committee.
10. Questions to Objectors by Applicant.
11. Summing up by Objectors.
12. Summing up by Applicant.
13. Committee retires with the Committee Lawyer and Committee Manager to consider its decision.
14. Committee returns and the Lawyer gives a summary of any legal advice that may have been given to the Committee, and invites the parties present to make any comments on that advice.
15. The Chairman either gives the decision with reasons, or advises that it will be released in writing with reasons within the statutory time limits.