

**MID SUFFOLK DISTRICT COUNCIL AND BABERGH DISTRICT COUNCIL**

<b>From: Corporate Manager - Licensing</b>	<b>Report Number: R14</b>
<b>To: MSDC Licensing Act 2003 Committee BDC Licensing Act 2003 Committee</b>	<b>Date of meeting: 5 June 2015 12 June 2015</b>

**LICENSING ACT 2003 - ADOPTION OF PROCEDURES FOR SUB-COMMITTEE HEARINGS**

**1. Purpose of Report**

- 1.1 To report information to the Licensing Act 2003 Committee, as local Licensing Authority, to enable its consideration and adoption of a set of updated Licensing Act 2003 hearing procedures.

**2. Recommendations**

- 2.1 That the Committee resolve, as the Licensing Authority established under section 6 of the Licensing Act 2003, to adopt the updated hearing procedures attached, either with or without modifications.

The Committee is able to resolve this matter.

**3. Financial Implications**

- 3.1 None directly arising from the matters contained within this report. In general terms the legislation aims to secure full cost-recovery of administering Licensing Act 2003 functions through fees payable for licence applications and maintenance. The fee banding system and fee levels are currently set by Central Government via Regulation (as they have been, unchanged, since 2005). The previous government had decided in early 2015 to not activate the provisions of the Police Reform and Social Responsibility Act 2011 - section 121 of which would devolve fee setting to local licensing authorities.

**4. Risk Management**

- 4.1 Failure by the Licensing Authority to set its own procedures, within the confines of any Regulatory requirements, and to keep those procedures transparent and under review will result in legal challenge in respect of the Council's decisions as Licensing Authority.
- 4.2 The risks that inherently apply to the Licensing Authority when carrying out its licensing functions relate to promotion of the four licensing objectives, which are prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

**5. Consultations**

- 5.1 None applicable. The matters contained within this report are for the Licensing Authority to consider. The same report will be presented to both Licensing Authorities of Mid Suffolk and Babergh.

## **6. Equality Analysis**

- 6.1 There are no equality impacts arising directly from the matters contained within this report.

## **7. Key Information**

- 7.1 Section 7 of the Licensing Act 2003 provides that all licensing functions under the Licensing Act 2003 are to be discharged by the licensing committee (subject only to matters reserved for full Council - which includes adoption of licensing policy and consideration of early morning alcohol restriction orders). The Licensing Authority has, since 2005, adopted the scheme of delegations for its Licensing Act 2003 functions as contained within Part 3 of the Council's Constitution. This is not proposed to change via this report, which relates to the procedures to be followed for hearings only.
- 7.2 Whilst Mid Suffolk and Babergh are separate Licensing Authorities, and may accordingly adopt their own individual procedures subject to relevant Regulations, it is proposed that aligned hearing procedures will ensure the smooth operation and consistent administration and delivery of licensing functions under the Licensing Act 2003. Adoption of approved updated procedures may also support both Councils should any individual hearing decision be challenged in a court of law.
- 7.3 There are established 'good practice' elements within both Authorities' existing approved hearing procedures and it is important that these are preserved. These include that the applicant should always be given the final opportunity to give closing comments/summing up for any hearing relating to a new application or variation of an existing licence, and that the licence or certificate holder should always be given that same opportunity for reviews (where their licence and business may potentially be in some jeopardy). Procedural elements may, in some cases, also have been tested in court on appeals.
- 7.4 Both Authorities operate their hearings on very similar lines, particularly since the integration of services, but it is recommended that a timely procedural update and adoption under the new Committee membership will further benefit both Authorities. The outcomes of this work should be that both licensing committees receive clearer consistent support service from officers and that increased clarity/transparency regarding hearings processes is provided to all parties to hearings. It should also further safeguard the Councils position for any onward appeals to the magistrates' or high court.
- 7.5 Rules as to the conduct of Licensing Committees are provided for by the Licensing Act 2003 (Hearings) Regulations 2005. These are not, however, exhaustive thus enabling licensing authorities some scope to develop their own domestic arrangements. Regulation 21 of 2005 Regulations states that "Subject to the provisions of these Regulations, the authority shall determine the procedure to be followed at the hearing."
- 7.6 Regulation 23 requires that "A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require". The rules of natural justice apply to licensing hearings and parties have a right to a fair hearing in accordance with Human Right Act 1998 principles. Provided that the parties have an opportunity to comment on and refute what is put forward, the strict rules of evidence that apply in court proceedings need not be observed and any evidence which is logically probative can be admitted (including hearsay).

- 7.7 Ordinarily the procedure for the hearing will be a pro-forma document published and sent in advance of a hearing to all parties together with the agenda, officer's report, application under consideration, representations and any evidence filed by the parties. This allows all parties to have had time before they assemble to have pre-read the documents and distilled the facts/main issues. In some cases this may also enable parties to engage in 'mediation' dialogue, which may on occasion assist with speeding up hearing proceedings (or avoid them altogether). This all contributes towards the smooth and efficient running of licensing hearings.
- 7.8 At the outset of a hearing the Sub-Committee, normally via the Chair, will explain the procedure the Sub-Committee proposes to follow for the hearing - and all parties should have seen this in advance in any case. The adopted local procedure should always be read alongside the Licensing Act 2003 (Hearings) Regulations 2005, and those Regulations be complied with unless any exceptional circumstances reasonably require a departure (as provided for by Regulations 31 to 33). It is proposed by this report to also utilise a Chairman's checklist pro-forma, incorporating the relevant hearing procedure, to further assist the Sub-Committee chair with effective and clear administration of his/her duties.
- 7.9 Attached at Appendices A to G is the package of main procedures proposed to be adopted, with or without the Committee's modification. There will be some necessary differences based upon the type of process, for example that a summary review decision must in all cases be made at the conclusion of the hearing. The relevant hearing Regulations are also attached as Appendix H, including a one-page summary sheet for ease of reference. All members serving on a Licensing Sub-Committee should ensure that they are familiar with these requirements, not just the Chair.

## 8. Appendices

Title	Location
A. New or Variation Application Hearing Procedure	Attached
B. Review (Standard) Application Hearing Procedure	Attached
C. Review (Summary/Expedited) Hearing Procedure	Attached
D. Personal Licence Application Hearing Procedure	Attached
E. Designated Premises Supervisor (DPS) Variation or Transfer	Attached
F. Temporary Event Notices (TENs) Hearing Procedure	Attached
G. Chairman's checklist format	Attached
H. The Licensing Act 2003 (Hearings) Regulations 2005	Attached

## 9. Background Documents

- 9.1 The Licensing Act 2003
- 9.2 Council Constitution (Part 3)

### Authorship:

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**NEW OR VARIATION APPLICATION HEARING PROCEDURE  
(PREMISES OR MEMBER'S CLUB)**

**NOTE:** References to the 'Applicant' may also apply to an existing licence holder if the hearing consideration relates to a licence already on issue (for example a variation)

1. The Council's Licensing Officer will present a report to the Sub-Committee outlining details of the application and reasons for the hearing including representations/objections made. The Licensing Officer may then, through the Chair, be questioned on his report by any party to the hearing.
2. The Applicant (and/or his advocate/representative) will then present their case in support of the application they have made. The Applicant calls any witnesses (if applicable). The Applicant and witnesses (if any) may then, through the Chair, be questioned by any party to the hearing.
3. Responsible Authorities (and/or his advocate/representative) will then present their case in support of their representations. The Responsible Authorities call any witnesses (if applicable). The Responsible Authorities and witnesses (if any) may then, through the Chair, be questioned by any party to the hearing.
4. REPEAT STEP 3 FOR EACH RESPONSIBLE AUTHORITY.
5. Other Persons objecting (and/or his advocate/representative) will then present their case in support of their representations. Other Persons call any witnesses (if applicable). Other Persons and witnesses (if any) may then, through the Chair, be questioned by any party to the hearing.
6. REPEAT STEP 5 FOR EACH OTHER PERSON OBJECTING.
7. The Chairman may then allow additional questioning/ clarification of any of the parties in the order indicated by him.
8. The Council's Licensing Officer gives any closing comments to the Sub-Committee.
9. The Applicant (and/or their advocate) gives any closing address to the Sub-Committee.
10. The Sub-Committee retires to deliberate in private session. All parties will then be called back into the meeting for the announcement of the decision and reasons for the decision will be given by the Chairman or Legal Advisor to the Sub-Committee (in some cases the Sub-Committee may decide to defer making a decision in accordance with any regulatory timeframe). The full written notification of the decision and rights of appeal will follow forthwith.

**NOTES:**

- (a) The hearing will take the form of an informal discussion led by the Licensing Authority.
- (b) The Sub-Committee Chairman and, with his consent, any Member of the Sub-Committee may at any time question the Applicant, Responsible Authorities, Other Persons, Licensing Officer or any witnesses. The Sub-Committee Chairman may deviate from this procedure as he considers necessary or appropriate, to allow a discussion to flow and to allow all parties fair and equal opportunity to raise all points they may wish to make.
- (c) At all times during proceedings due regard shall be had to The Licensing Act 2003 (Hearings) Regulations 2005.

**REVIEW (STANDARD) APPLICATION HEARING PROCEDURE  
(PREMISES OR MEMBER'S CLUB)**

NOTE: Grounds for review may require prior determination by Licensing Sub-Committee (if may be considered irrelevant, frivolous, vexatious or repetitious) and review application may be rejected at any time for any of these reasons.

1. The Licensing Officer will present a report to the Sub-Committee outlining details of the review application and reasons for the hearing.
2. The Licensing Officer may then be questioned on his report by the Applicant for Review, Licence-holder (and his/her advocate if applicable), any other persons making relevant representations and Members of the Sub-Committee.
3. The Applicant for Review will then present their case, detailing the grounds for review. The Applicant may amplify the grounds stated within the application.
4. The Applicant for Review calls any witnesses (if applicable).
5. The Applicant for Review and his witnesses (if applicable) may then be questioned on their submissions by the Licence-holder and/or his advocate, any other person making relevant representations, Licensing Officer and Members of the Sub-Committee.
6. REPEAT STEPS 3-5 FOR ANY OTHER PARTY JOINING THE REVIEW
7. The Licence-holder and/or his advocate make an opening address to the Sub-Committee.
8. The Licence-holder and/or his advocate call any witnesses.
9. The Licence-holder and/or his advocate, and his witnesses if applicable, may then be questioned on their submissions by the Applicant for Review, any other person making relevant representations, Licensing Officer and Members of the Sub-Committee.
10. The Licence-holder and/or his advocate may then question his witness to clarify any points.
11. The Chairman may then allow additional questioning/ clarification of any of the parties in the order indicated by him.
12. The Applicant for Review gives any closing address to the Sub-Committee.
13. The Licensing Officer gives any closing comments to the Sub-Committee.
14. The Licence-holder and/or his advocate give a closing address to the Sub-Committee.
15. The Sub-Committee retires to deliberate in private session. All parties will then be called back into the meeting for the announcement of the decision and reasons for the decision will be given by the Chairman or Legal Advisor to the Sub-Committee (in some cases the Sub-Committee may decide to defer making a decision in accordance with any regulatory timeframe). The full written notification of the decision and rights of appeal will follow forthwith.

**NOTES:**

- (a) The hearing will take the form of an informal discussion led by the Licensing Authority.
- (b) The Sub-Committee Chairman and, with his consent, any Member of the Sub-Committee may at any time question the Applicant, Responsible Authorities, Other Persons, Licensing Officer or any witnesses. The Sub-Committee Chairman may deviate from this procedure as he considers necessary or appropriate, to allow a discussion to flow and to allow all parties fair and equal opportunity to raise all points they may wish to make.
- (c) At all times during proceedings due regard shall be had to The Licensing Act 2003 (Hearings) Regulations 2005.
- (d) 'Applicant for Review' means the person(s) who made the original application to review the licence. This must be a 'Responsible Authority' (i.e. Police or EHO) or an 'Other Person' (local resident or business, or representative thereof).

## REVIEW (SUMMARY/EXPEDITED) HEARING PROCEDURE (PREMISES ONLY)

NOTE: Upon receipt of an application for expedited (or 'summary') licence review, where the Chief Officer of Police is satisfied that a licensed premises are associated with **serious crime** or **serious disorder** (or both) the Council will be required to determine, within 48 hours of the application, whether it is **necessary** to take any interim steps. This meeting will precede the review hearing.

1. The Licensing Officer will present a report to the Sub-Committee outlining details of the review application and reasons for the hearing. This will include reference to any prior interim steps and certification from the Police.
2. The Licensing Officer may then be questioned on his/her report by the Applicant for Review, Licence-holder (and his/her advocate if applicable), any other persons making relevant representations and Members of the Sub-Committee.
3. The Applicant for Review will then present their case, detailing the grounds for review. The Applicant may amplify the grounds stated within the application.
4. The Applicant for Review calls any witnesses (if applicable).
5. The Applicant for Review and his witnesses (if applicable) may then be questioned on their submissions by the Licence-holder and/or his advocate, any other person making relevant representations, Licensing Officer and Members of the Sub-Committee.
6. REPEAT STEPS 3-5 FOR ANY OTHER PARTY JOINING THE REVIEW
7. The Licence-holder and/or his advocate make an opening address to the Sub-Committee.
8. The Licence-holder and/or his advocate call any witnesses.
9. The Licence-holder and/or his advocate, and his witnesses if applicable, may then be questioned on their submissions by the Applicant for Review, any other person making relevant representations, Licensing Officer and Members of the Sub-Committee.
10. The Licence-holder and/or his advocate may then question the witnesses to clarify any points.
11. The Chairman may then allow additional questioning/ clarification of any of the parties in the order indicated by him.
12. The Applicant for Review gives any closing address to the Sub-Committee.
13. The Licensing Officer gives any closing comments to the Sub-Committee.
14. The Licence-holder and/or his advocate give a closing address to the Sub-Committee.
15. The Sub-Committee retires to deliberate in private session. All parties will then be called back into the meeting for the announcement of the decision and reasons for the decision will be given by the Sub-Committee Chairman or Legal Adviser to the Sub-Committee. The Sub-Committee will determine the application at the conclusion of the hearing in accordance with Regulation 26(1)(a)(ab). A written decision notice will follow forthwith to all parties including reference to the status of any interim steps (if any) and rights of appeal.

### NOTES:

- (a) The hearing will take the form of an informal discussion led by the Licensing Authority.
- (b) The Sub-Committee Chairman and, with his consent, any Member of the Sub-Committee may at any time question the Applicant, Responsible Authorities, Other Persons, Licensing Officer or any witnesses. The Sub-Committee Chairman may deviate from this procedure as he considers necessary or appropriate, to allow a discussion to flow and to allow all parties fair and equal opportunity to raise all points they may wish to make.
- (c) The Sub-Committee will be aware that the Licensing Act 2003 (Hearings) Regulations 2005 have application in full to the summary review hearing, unlike in the case of a hearing to determine interim steps.
- (d) 'Applicant for Review' means the person(s) who made the original application to review the licence. This will be the Chief Officer of Police in respect of any summary review under section 53A. 'Licence-holder' means the holder of the premises licence subject to the review, or their authorised representative.

**PERSONAL LICENCE APPLICATION HEARING PROCEDURE**

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. The Licensing Officer will present a report to the Sub-Committee outlining details of the application and reasons for the hearing.                                                                                                                                                                                                                                                                                                                                      |
| 2. The Licensing Officer may then be questioned on his report by the Applicant and/or his advocate, Police representative and Members of the Sub-Committee.                                                                                                                                                                                                                                                                                                                |
| 3. The Police representative will then present their case, confirming the reasons for issuing the objection notice and clarifying why the Police are satisfied that the granting of the personal licence would undermine the crime prevention objective.                                                                                                                                                                                                                   |
| 4. The Police representative calls any witnesses.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 5. The Police representative and his witnesses may then be questioned on their submissions by the Applicant and/or his advocate, Licensing Officer and Members of the Sub-Committee.                                                                                                                                                                                                                                                                                       |
| 6. The Applicant or his advocate makes an opening address to the Sub-Committee.                                                                                                                                                                                                                                                                                                                                                                                            |
| 7. The Applicant or his advocate calls any witnesses.                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 8. The Applicant and/or his advocate, and his witnesses if applicable, may then be questioned on their submissions by the Police representative, Licensing Officer and Members of the Sub-Committee.                                                                                                                                                                                                                                                                       |
| 9. The Applicant or his advocate may then question the witness to clarify any points.                                                                                                                                                                                                                                                                                                                                                                                      |
| 10. The Police representative gives a closing address to the Sub-Committee.                                                                                                                                                                                                                                                                                                                                                                                                |
| 11. The Licensing Officer gives any closing comments to the Sub-Committee.                                                                                                                                                                                                                                                                                                                                                                                                 |
| 12. The Applicant and/or his advocate give a closing address to the Sub-Committee.                                                                                                                                                                                                                                                                                                                                                                                         |
| 13. The Sub-Committee retires to deliberate in private session. All parties will then be called back into the meeting for the announcement of the decision and reasons for the decision will be given by the Chairman or Legal Advisor to the Sub-Committee (in some cases the Sub-Committee may decide to defer making a decision in accordance with any regulatory timeframe). The full written notification of the decision and rights of appeal will follow forthwith. |

**NOTES:**

- (a) The hearing will take the form of an informal discussion led by the Licensing Authority.
- (b) The Sub-Committee Chairman and, with his consent, any Member of the Sub-Committee may at any time question the Applicant, Responsible Authorities, Other Persons, Licensing Officer or any witnesses. The Sub-Committee Chairman may deviate from this procedure as he considers necessary or appropriate, to allow a discussion to flow and to allow all parties fair and equal opportunity to raise all points they may wish to make.
- (c) At all times during proceedings due regard shall be had to The Licensing Act 2003 (Hearings) Regulations 2005.

**DESIGNATED PREMISES SUPERVISOR (DPS) VARIATION OR  
TRANSFER OBJECTION HEARING PROCEDURE**

1. The Licensing Officer will present a report to the Sub-Committee outlining details of the application and reasons for the hearing.
2. The Licensing Officer may then be questioned on his report by the Applicant and/or his advocate, Police representative and Members of the Sub-Committee.
3. The Police representative will then present their case, confirming the reasons for issuing the objection notice and clarifying why the Police are satisfied that the granting of the personal licence would undermine the crime prevention objective.
4. The Police representative calls any witnesses.
5. The Police representative and his witnesses may then be questioned on their submissions by the Applicant and/or his advocate, Licensing Officer and Members of the Sub-Committee.
6. The Applicant or his advocate makes an opening address to the Sub-Committee.
7. The Applicant or his advocate calls any witnesses.
8. The Applicant and/or his advocate, and his witnesses if applicable, may then be questioned on their submissions by the Police representative, Licensing Officer and Members of the Sub-Committee.
9. The Applicant or his advocate may then question the witness to clarify any points.
10. The Police representative gives a closing address to the Sub-Committee.
11. The Licensing Officer gives any closing comments to the Sub-Committee.
12. The Applicant and/or his advocate give a closing address to the Sub-Committee.
13. The Sub-Committee retires to deliberate in private session. All parties will then be called back into the meeting for the announcement of the decision and reasons for the decision will be given by the Chairman or Legal Advisor to the Sub-Committee (in some cases the Sub-Committee may decide to defer making a decision in accordance with any regulatory timeframe). The full written notification of the decision and rights of appeal will follow forthwith.

**NOTES:**

- (a) The hearing will take the form of an informal discussion led by the Licensing Authority.
- (b) The Sub-Committee Chairman and, with his consent, any Member of the Sub-Committee may at any time question the Applicant, Police representative, Licensing Officer or any witnesses. The Sub-Committee Chairman may deviate from this procedure as he considers necessary or appropriate, to allow a discussion to flow and to allow all parties fair and equal opportunity to raise all points they may wish to make
- (c) At all times during proceedings due regard shall be had to The Licensing Act 2003 (Hearings) Regulations 2005.

**TEMPORARY EVENT NOTICES (TENS) HEARING PROCEDURE****(Where relevant person has issued objection notice under Section 104 of the Licensing Act 2003)**

1. The Licensing Officer will present a report to the Sub-Committee outlining details of the temporary event notice, the 'relevant person' (i.e. Police/EHO*) objection notice and reasons for the hearing.
2. The Licensing Officer may then be questioned on his report by the premises-user (i.e. the person giving the TEN) and/or his advocate, relevant person representative and members of the Sub-Committee.
3. The Police/EHO representative will then present their case, confirming the reasons for issuing the objection notice and clarifying why the Police/EHO are satisfied that the temporary event would undermine the licensing objectives.
4. The Police/EHO representative calls any witnesses.
5. The Police/EHO representative and his witnesses may then be questioned on their submissions by the premises-user and/or his advocate, Licensing Officer and members of the Sub-Committee.
6. REPEAT STEPS 3-5 IF MORE THAN ONE OBJECTION NOTICE.
7. The premises-user or his advocate makes an opening address to the Sub-Committee.
8. The premises-user or his advocate calls any witnesses.
9. The premises-user and/or his advocate, and his witnesses if applicable, may then be questioned on their submissions by the Police/EHO representative, Licensing Officer and members of the Sub-Committee.
10. The premises-user or his advocate may then question the witness to clarify any points.
11. The Police/EHO representative gives a closing address to the Sub-Committee.
12. The Licensing Officer gives any closing comments to the Sub-Committee.
13. The premises-user and/or his advocate give a closing address to the Sub-Committee.
14. The Sub-Committee retires to deliberate in private session. All parties will then be called back into the meeting for the announcement of the decision and reasons for the decision will be given by the Sub-Committee Chairman or Legal Adviser to the Sub-Committee. The premises user and/or his advocate will be given opportunity to clarify any points on the decision if the Chairman consents. The decision notice, counter notice and any statement of conditions (if applicable) will follow in writing.

\* EHO = Environmental Health Officer

**NOTES:**

- (a) The hearing will take the form of an informal discussion led by the Licensing Authority.
- (b) The Sub-Committee Chairman and, with his consent, any member of the Sub-Committee may at any time question the premises-user, Police/EHO representative, Licensing Officer or any witnesses. The Sub-Committee Chairman may deviate from this procedure as he considers necessary or appropriate, to allow a discussion to flow and to allow all parties fair and equal opportunity to raise all points they may wish to make.
- (c) At all times during proceedings due regard shall be had to The Licensing Act 2003 (Hearings) Regulations 2005.

# Babergh District Council and Mid Suffolk District Council



## **CHAIRMAN’S CHECKLIST** **Licensing Act 2003 Hearings**

**NOTE:** The supporting Licensing Officer will prepare this document for the Sub-Committee Chairman in advance of each hearing, and provide it via briefing, email or post. The correct procedure will be entered (at 11) dependant on the type of application. Housekeeping and other minor detail will vary depending on the hearing location.

<b>ITEM</b>	<b>GUIDANCE DESCRIPTION</b>	<b>NOTES</b>
	<b>Procedural Matters</b>	
	<b>Legal Advisor</b>	
1.	Brief welcome and state reason for hearing – determination of an application for  1) Premises Licence (New or Variation) or 2) Club Premises Certificate (New or Variation)  in respect of:  _____	
2.	Advise the procedure to be followed for the hearing and advise the Rights of a Party (Regs 15 and 16 of the Hearing Regulations 2005)	
3.	Appointment of a Chairman (Vote called)	
	<b>Chairman</b>	
4.	<b>Welcome + Domestic arrangements/Filming</b>  Welcome to this meeting of the Licensing Act 2003 Sub-Committee.  The Council, members of the public and the press may record/film/photograph or broadcast this meeting when the public and the press are not lawfully excluded.  Any member of the public who attends a meeting and objects to being filmed should advise the Committee Clerk who will instruct that they are not included in the filming.	

	<p>May I (<b>or Committee Clerk</b>) first of all remind you of some domestic arrangements:</p> <ul style="list-style-type: none"> <li>• Toilets are situated at XXXX</li> <li>• Water is available from XXXX</li> <li>• If the fire alarm sounds, please leave the room straight away [EXIT DETAIL]</li> <li>• Please put all mobile phones onto silent.</li> </ul>	
5.	Apologies for absence/substitutions	
6.	To receive any declarations of pecuniary or non-pecuniary interest by Members	
7.	<b>Introductions</b>	
7.1	<p>Introduction of Sub-Committee Members:</p> <p>Chairman: _____</p> <p>Councillor: _____</p> <p>Councillor: _____</p>	
7.2	<p>Introduce officers in attendance:</p> <p>Legal Advisor: _____</p> <p>Licensing Officer: _____</p> <p>Licensing Officer: _____</p> <p>Committee Officer: _____</p>	
7.3	<p>Ask the Applicants to introduce themselves. If they are represented, ask the representative to make the introductions.</p> <p>Ask the Applicant to confirm receipt of procedure, report and copies of all relevant representations.</p>	
7.4	<p>Introduce the Responsible Authorities (<b>if any</b>) that have made relevant representations:</p> <p>Suffolk Constabulary: _____</p> <p>Environmental Health Officer: _____</p> <p>Suffolk Fire and Rescue: _____</p> <p>Planning Officer: _____</p> <p>Trading Standards: _____</p> <p>Health and Safety Executive: _____</p> <p>Licensing Authority: _____</p> <p>Public Health: _____</p>	
7.5	<p>Ask the Other Persons to introduce themselves.</p> <p>Ask the Other Persons if they would like to appoint a spokesperson to put forward their views.</p>	

	<b>Time to withdraw? Witnesses/Documents and Timeframe</b>	
8.	The Chairman asks whether any party to the hearing wishes to withdraw either their application or representation?	
9.	Chairman's questions to the Licensing Officer: <ul style="list-style-type: none"> <li>• Have there been any requests from the parties for permission to call witnesses? (If YES, the Sub-Committee must make a determination whether to allow witnesses to be called, but should not unreasonably withhold this right – Reg 22)</li> <li>• Have the parties indicated they wish to present documentary (or other) material? (If YES, the Sub-Committee must make a determination whether to allow the material to be presented at the hearing – Reg 18)</li> </ul>	
10.	The Chairman will ask the Applicant to estimate the time required to present the case and ask questions of other parties to the hearing.  The Chairman will ask the Responsible Authority and the Other Persons how long they require to present their case, and to question the Applicant.  The Sub-Committee determines the timing considered reasonable for all parties (must be same time for all):  _____	
	<b>THE HEARING</b>	
11.	The relevant approved step-by-step procedure will be inserted here, dependant on the type of application	
	<b>Closing Submission</b>	
12.1	The Chairman asks the Responsible Authority to give a closing statement (only if they have generated the application e.g. review or issued an objection notice)	
12.2	The Chairman can ask the Licensing Officer to give a closing statement to summarise any points which need clarity.	
12.3	The Chairman asks the Applicant (or their representative) to give a closing statement.	
12.	<b>Not to be asked of parties to the hearing</b>  If the Chairman is satisfied all parties have had sufficient time to put forward their case, the Chairman <b>must</b> put forward the Motion:  <b>“On the basis that the Sub-Committee considers that the public interest in excluding the public out-weighs the public interest in its deliberation being held in public it is resolved that:</b>	

	<p><b>Under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for item 13 on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12 of the Act, on the grounds set out in Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005”.</b></p> <p>One Sub-Committee Member to Second the Motion and other to agree</p>	
13.	The Sub-Committee will retire, with the Legal Advisor to consider the application. This may include drafting (in general terms) any conditions of licence/certificate	
	<b>Legal Advisor or Chairman</b>	
14.	The Sub-Committee returns and the Chairman or Legal Advisor will announce the decision, together with the reasons for it or (alternatively) may announce that judgement is reserved in accordance with any permissible regulatory timescale and written reasons for decision will be provided at a later time.	
	<b>Legal Advisor</b>	
15.	The Legal Advisor will advise all parties that the decision and rights of appeal will be confirmed in writing.	
	<b>Chairman</b>	
16.	The Chairman will close the meeting and thank all present for their attendance.	

## HEARING REGULATIONS: Quick Reference Guide

### The Licensing Act 2003 (Hearings) Regulations 2005

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1. Came into force on 7th February 2005.
- 2/3. Interpretation of terminology
4. The authority shall arrange for the date on which and time and place at which a hearing is to be held
5. Hearings must be commenced within the period of time specified and take place on consecutive working days (where necessary)
6. Notice of hearing requirements/timeframes
7. The notice of hearing shall be accompanied by prescribed information
8. A party shall give to the authority an attendance notice including if being represented, witnesses and points they'll speak on.
9. Right to dispense with hearing if all parties agree (can't apply for review)
10. Withdrawal of representations – up to 24 hours via notice or orally at the hearing
11. Power to extend time for a specified period where it considers this to be necessary in the public interest. (Can't apply for summary review where it delays the decision past expedited 28 days)
12. An authority may adjourn a hearing to a specified date(s)
13. An authority may not exercise its powers under regulations 11 and 12 in such a way that the effect will be that it would fail to reach a determination on the review following closure order or summary review within the period specified
14. Hearing to be public but LA may exclude the public from all or part of a hearing
15. A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
16. Representations and supporting information.
17. Members of the authority may ask any question of any party or other person appearing at the hearing.
18. LA may consider documentary or other information produced by a party in support of their submissions either before the hearing or, with the consent of all the other parties, at the hearing.
19. Irrelevant information shall be disregarded
20. Failure of parties to attend the hearing. Can proceed or be adjourned (public interest)
21. Procedure at hearing. Subject to Regs, the authority shall determine the procedure to be followed at the hearing.
22. At the beginning of the hearing, the authority shall explain the procedure and not withhold unreasonably the right of a party to call witness etc.
23. A hearing shall be a discussion led by the authority and cross-examination shall not be permitted unless the authority considers it is required for it to consider the issues
24. Equal time must be allowed for parties to make their submissions
25. Disruptive persons may be asked to leave
26. Determination of applications – the LA has up to 5 days unless summary review, TENs etc.
27. Hearing dispensed with - the authority must make its determination within 10 working days
28. Decision notice must be forthwith (unless Act requires a different period).
29. Decision notice must be accompanied by appeal rights.
30. Record of proceedings to be kept for 6 years.
31. Irregularities shall not render proceedings void.
32. Irregularities – rectifying any prejudice.
33. Clerical mistakes may be corrected by the authority.
34. Notices in writing or electronic

