

# **POWYS COUNTY COUNCIL**

## **LICENSING ACT 2003**

### **Licensing Sub-Committees – Procedural Guidelines for the conduct of hearings in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 (“the Regulations”)**

#### **Introduction**

**The four licensing objectives, as set out in the Licensing Act 2003 are:**

- **The prevention of crime and disorder**
- **Public safety**
- **The prevention of public nuisance**
- **The protection of children from harm**

**Each application that comes before a sub committee of the Authority will be treated on its own merits and this licensing authority will take its decision based upon the merits of the application, taking into account the need to promote the four licensing objectives. This Authority will also have regard to its Statement of Licensing Policy and the guidance issued under section 182 of the Licensing Act 2003.**

1. The hearing will normally be held in public. However, the sub committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
2. The hearing shall take the form of a discussion led by the Licensing sub committee and cross examination will not be permitted except at the discretion of the sub committee if it is required to consider the application or representations. This is in accordance with Regulation 23 of the Regulations. A party wishing to cross examine another party must make an application to the sub committee.
3. The procedure at the hearing shall be determined by the sub committee, normally in accordance with the following guidelines.
4. The sub committee shall appoint a Chairman.
5. The Chairman will welcome everyone to the hearing and will introduce him/herself and the other members of the sub committee.
6. The Legal Adviser to the sub committee will ask everyone present to introduce themselves and will explain the procedure to be followed. He/she will ask the applicant, if unaccompanied, if he/she was aware of the right to be represented. The sub committee will also consider any

- request made by a party under Regulation 8(2) for permission for another person to appear at the hearing as a witness.
7. The Licensing Officer will present a report outlining the nature of the application to be considered, any relevant representations and policy statements. The sub committee may ask any relevant questions of the officer through their Legal Adviser.
  8. The applicant (or his/her representative) will be invited to put his/her case. The applicant may call witnesses to support the case provided that the sub committee have given permission to do so. The sub committee and other parties who have made relevant representations may ask any relevant questions of the applicant or of persons representing them. The sub committee should ask questions through their Legal Adviser.
  9. The Chairman will then invite those parties making representations to address the sub committee. The sub committee may ask relevant questions of those parties making representations through their Legal Adviser. The applicant or his/her representative may also ask relevant questions of those parties making representations.
  10. The Chairman will invite the applicant (or his/her representative), and any parties making representations, to briefly summarise their points if they wish.
  11. The sub committee may ask relevant questions of any party during the hearing through their Legal Adviser, but should refrain from any discussion of the merits of the case.
  12. The sub committee will retire with their Legal Adviser to deliberate in private. If it is necessary to recall any party to provide further information or clarification, all parties at the hearing will be asked to return.
  13. When the sub committee has reached its conclusion, the parties will be recalled and the decision will be announced to the applicant by the Legal Adviser to the sub committee, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a licence and the licensing objectives that they relate to. Reasons will be given for the decision. That information will also be given to the applicant in writing as soon as is practicable and he/she will be told of any statutory rights of appeal that are available. In cases where a decision cannot be given at the end of a hearing, the applicant and those parties present will be notified of the decision within five working days.

**PLEASE NOTE:**

- Any person attending the hearing, who, in the opinion of the Chairman, is behaving in a disruptive manner, may be required to leave.
- Late additions to representations and evidence will only be considered with the agreement of all parties present
- The sub committee may allow a maximum period of time for each party to make all relevant statements in support of their written representations. The sub committee would request that all parties avoid repetition and keep the discussion moving in the interests of efficiency.
- Decisions will generally be taken regardless of whether the applicant or those who have made written representations are present. All notices and written representations received from absent parties will be considered. However if a party is unable to attend a hearing due to unforeseen circumstances and would wish to be present, that party should contact the relevant Licensing Officer or Committee Clerk by telephone in order to explain the circumstances. In such a case, the sub committee may be prepared to adjourn the hearing.