

Item no.

Report to: **District of Easington**
Date: **7 June 2007**
Report of: **Executive Member for Liveability**
Subject; **Delegation of functions, responsibilities and legal procedures for implementing the Gambling Act 2005.**
Ward: **All**

1. Purpose of Report

- 1.1 To request amendment of the Authority's Constitution to include the proposed Scheme of Delegation in respect of functions under the Gambling Act 2005.
- 1.2 To designate the Licensing Committee as the body responsible for the setting of fees for applications under the Act.
- 1.3 To approve the attached procedure to be followed at hearings in respect of applications made under the Gambling Act 2005.

2. Consultation

- 2.1 In preparing this report consultation has been undertaken with Executive Member for Liveability, the Director of Community Services, Democratic Services Officer and the Monitoring Officer.

3. Background

- 3.1 In December 2006 the District Council Of Easington approved a report setting out the Council's policy (or Statement of Principles) for delivering the new controls to be introduced under the Gambling Act 2005. At present, under existing legislation, local authorities are responsible for the issuing of permits in respect of gaming machines in arcades, betting offices, pubs and other small premises. Small lotteries are also regulated by the local authority. The Licensing function is carried out within the Environmental Health and Licensing Unit.
- 3.2 The Gambling Act 2005 will become operational on 1st September 2007. The Act integrates and replaces the existing laws in relation to licensing regimes concerning gaming and betting so they can be controlled under one gambling act. The main effect of the act is to transfer the current responsibilities for gambling and betting premises from the Magistrates Court to Local Authorities.
- 3.3 Under the Act local authorities, as the Licensing Authority, will still be responsible for the issuing of the permits for the smaller activities described in 3.1 and will for the first time,

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become responsible for issuing Premises Licenses, permits and notices for the larger scale activities previously carried out by Magistrates. This includes bingo halls and betting offices.

- 3.4 The Local Authority will be required to carry out their functions under the Act with a view to promoting the licensing objectives, namely:
- Preventing gambling being a source of crime and disorder
 - Ensuring that gambling is conducted in a fair and open way, and
 - Protection of children and other vulnerable persons from being harmed or exploited by gambling
- 3.5 From May 21st 2007 applications for Premises Licenses will be able to be submitted to this authority. Not all current permissions will need to be replaced, current permits in respect of gaming machines in pubs and clubs will continue to be valid until their expiry and Lotteries and Amusement registrations will continue until their expiry at December 31st 2007. On expiry new applications will be made to the Council.
- 3.6 Similar to the Licensing Act 2003 there will be a fast track conversion process for applicants wishing to convert an existing permission without any changes to its terms and conditions.
- 3.7 This authority will be responsible for the issuing of permits and licenses in respect of
- 23 betting offices
 - 2 dog tracks
 - 4 adult gaming centres (amusement arcades)
 - 3 bingo halls
 - 88 public houses, not all of which may have gaming machines
 - 68 registered clubs, not all of which may have gaming machines
- 3.8 In respect of the setting of fees under Section 212 of the Act the Government has prescribed maximum fees for Premises Licenses. Licensing Authorities will be able to set their own fees with the maximum fee related to the recovery of costs of administration and enforcement. The Act provides that, should the Licensing Authority decide to delegate the determination of fees and charges, it may delegate this function to a Committee or an officer.
- 3.9 The Regulations regarding the procedures to be followed at hearings in respect of contentious applications have also been published. They are very similar to the Licensing

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Act regulations and vary mainly in that no time scales are identified within which hearings must be called.

4. Position Statement and Option Appraisal

- 4.1 Section 154 of the Gambling Act 2005 provides that all matters relating to the discharge of the functions under the Gambling Act 2005 and any regulations made under it are delegated to the Licensing Committee of the authority established under Section 6 of the Licensing Act 2003, except:
- a resolution to refuse an application for a casino licences, which must be taken by the whole authority,
 - setting the Council's Statement of Principles, which must be approved by Full Council,
 - setting fees (to the extent that an authority has delegated powers in relation to fees). The Council as licensing authority is able to delegate decision making on fees for premises licenses to the Licensing Committee or an officer.
- 4.2 The Licensing Committee may arrange for the discharge of certain functions by its sub-committees or by an officer of the Licensing Authority. The Licensing Committee has already established sub-committees consisting of three members of the Committee. The proposed delegation of functions, under the Gambling Act 2005, from the Licensing Committee to the sub-committees is set out in Appendix 1.
- 4.3 In order to allow officers to carry out their operational duties it will also be necessary to amend the Council's Scheme of Delegation to reflect the 2005 Act. The proposed delegation of functions to the Director of Community Services is at Appendix 2 including proposed officer level delegations.
- 4.4 It is proposed that the day- to- day enforcement and authorisation functions of the Act be delegated to officer level. Any contentious applications will be referred to the Licensing sub-committee. Appendix 2 also sets out a proposed scheme of delegation to give effect to these provisions of the act.
- 4.5 Small Society Lotteries Permits - for the reasons in 5.2 this falls to be a function of the Development Control and Regulatory Services Panel.
- 4.6 The setting of fees levels in respect of premises licenses and certain permits may be delegated to either the Licensing Committee or an officer. It is recommended that responsibility for the setting of fees and charges under the 2005 Act be delegated to the Licensing Committee, subject to consultation with the appropriate Executive member. It is recommended that the terms of reference of the Licensing Committee be amended to include this function as set out in appendix 1.

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- 4.7 It is recommended that the proposed procedure to be followed during hearings by the Licensing Committee or sub-committee (appended at Appendix 3) is adopted by the Council.
- 4.8 Times within which hearings are to be held are not prescribed in the Act or statutory guidance. It is proposed that times for the calling and holding of hearings in line with the current Licensing Act procedures be adopted for the sake of consistency. This will be qualified with a statement that if circumstances demand then this timescale may be departed from.

5. Implications

5.1 *Financial*

It is envisaged that Income generated from the fees payable will be utilised in the administration and enforcement of the Gambling Act provisions and there will be no net increase in budget. A further report will be brought with the proposed fees.

5.2 *Legal*

This is a statutory function and the Council must implement the provisions of the Gambling Act and associated legislation.

Small Society Lotteries- This is classified under the Gambling Act as a Local Authority function, rather than a Licensing Authority function. It appears this was a mistake in drafting of the Act and subsequently does not permit the Licensing Committee to be the body responsible for small lotteries. It is necessary to delegate the function in relation to small lotteries to another committee of the authority. The delegation falls to be considered under Section 101 of the Local Government Act 1972. It is proposed that this function is retained by the Development Control and Regulatory Services Panel, which is a Committee for the purposes of Section 101.

Section 212 of the Gambling Act 2005 gives options regarding the delegating of the function of setting fees for premises licenses to either the Licensing Committee or an officer. It is recommended that responsibility for the setting of fees and charges under the 2005 Act is delegated to the Licensing Committee.

5.3 *Policy*

There are no implications. The authority has adopted its Statement of Principles under the Gambling Act, which will be Council Policy in respect of applications.

5.4 *Risk*

There are no risks identified, the number of new premises which will be administered by this department will be in the order of 40.

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5.5 *Communications*

Potential applicants will be contacted individually and advised of the implications and new procedures.

6. Corporate

Accords with the objective of making the district safe.

6.1 *Equality and Diversity* *None*

6.2 *e-government* No issues

6.3 *Procurement* There are no issues.

7. Recommendation

7.1 That the function for setting fees for premises licenses be delegated to the Licensing Committee and the terms of reference of the Licensing Committee be amended to take account of this and other matters within this report as detailed at Appendix 1

7.2 That the Council's scheme of delegation be updated in respect of the Gambling Act 2005 as set out in appendix 2.

7.3 That the procedure to be followed at hearings of the Licensing sub-committee as set out in appendix 3 be approved.

Background Papers/Documents referred to:

- i) Gambling Act 2005
- ii) Guidance from the Gambling Commission
- iii) Regulations made under the Gambling Act 2005

Appendix 1

Terms of Reference for Licensing Committee under the Gambling Act 2005

1. Exercise those functions of the Licensing Committee under the Gambling Act 2005 and any regulations made under that Act, together with any related functions, with the exception of:-

- a resolution not to issue casino licences, which must be taken by the whole authority
- functions in relation to the three- year Statement of Principles, which must be taken by the whole authority
- setting fees(to the extent that an authority has delegated powers in relation to fees). The licensing authority are able to delegate decision making on fees to the Licensing Committee.
- Any function specifically reserved to the Licensing Committee;

And in particular, deal with the following matters in the circumstances indicated:-

- To determine applications for the grant of a Premises Licence where a relevant representation has been made;
- To determine applications for a variation to a Premises Licence where a relevant representation has been made;
- To determine applications for the transfer of a Premises Licence where a relevant representation has been made;
- To determine applications for Provisional Statements where a relevant representation has been made;
- To determine applications, renewal and variations in respect of club gaming/club machine permits where a relevant representation has been made, including those leading to a cancellation;
- To determine the review of a Premises Licence;
- Where a decision is made to give a counter notice to a temporary use notice;
- Applications for other permits, registrations and notifications where relevant representations are received or following service of a notice of intention to refuse or grant a lesser number of machines.

Delegation of Authority and Functions to the Director of Community Services

Matter to be dealt with	Full Licensing Committee	Licensing Sub-committee	Officer *
Application for premises licence		<ul style="list-style-type: none"> i. Representation made and not withdrawn ii. Where the Licensing Authority considers that a condition should be added to the licence, under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary 	<ul style="list-style-type: none"> i. No representation made or representations have been withdrawn
Application to vary premises licence		<ul style="list-style-type: none"> i. Representation made and not withdrawn ii. Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary (S187(3)) 	<ul style="list-style-type: none"> i. No representation made or representations have been withdrawn ii. If the application for variation is to remove a default condition and there are no reps and there are no proposals by the Authority to otherwise alter the conditions
Application for transfer of premises licence		Representation made by the Gambling Commission and not withdrawn	All other cases where no representation made by the Commission
Application for provisional statement		<ul style="list-style-type: none"> i. Representation made and not withdrawn ii. Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition 	No representation made or representations have been withdrawn

		should be excluded under section 169(1)(b)	
Review of a premises Licence		All cases	
Consideration of Temporary Use Notices		<ul style="list-style-type: none"> i. All cases where an objection notice has been received, unless each person who would be entitled to make representations agrees that a hearing is unnecessary . ii. All Cases where a counter notice may be required (S232(3)) 	All other cases
Application for Club Gaming/Club machine permits, renewals and variations (including those leading to cancellation of permit)		<ul style="list-style-type: none"> i. Objection made and not withdrawn (Sch 12 para 28 (2)) ii. Refusal of permit proposed on the grounds listed in Sch 12 paragraph 6(1)(a)-(d) , or paragraph 10(3) as applicable unless Authority and all relevant parties agree that a hearing is unnecessary (Sch 12 para 7) 	<ul style="list-style-type: none"> i. No objection made or objections have been withdrawn ii. Refusal of permit proposed on the grounds listed in Sch 12 paragraph 6(1)(a)-(d) or paragraph 10(3) as applicable, where Authority and all relevant parties agree a hearing is unnecessary (Sch 12 para 7)
Cancellation of Club Gaming /Club Machine Permits under Schedule 12 Paragraphs 21, and 22 (non payment of annual fee)		All cases where permit holder requests a hearing under paragraph 21(2) or where representations made?	All other cases

* These powers are delegated to the Director of Community Services, Environmental Health and Licensing Manager, Principal Environmental Health Officer – Licensing and Senior Licensing Enforcement Officer .

The above officers be given delegated power to administer and carry out all other functions of the Licensing Authority capable of delegation under The Gambling Act 2005 and its subordinate legislation, (and any legislation which may subsequently amend or replace it,) which is not otherwise delegated to the Authority, The Licensing Committee or its Sub Committees. This includes for example, but is not limited to:-

- to serve and receive service of all notices, counter notices, etc required or permitted to be served under the Act
- To determine points of clarification required for hearings
- To adjourn hearings where all parties are in agreement
- To determine applications where representations are withdrawn before the hearing
- To extend time limits
- To give effect to the decisions of the Magistrates Court on appeals

Appendix 3

Procedure at hearings under the Gambling Act 2005

Procedure for determining applications, where a hearing is required, before the Licensing Committee or its Licensing Sub-Committee(s) in relation to applications under the Gambling Act 2005 (the “Act”)

1 Scope of Procedure

- 1.1 This procedure shall apply to all applications, which are required under the Act to be determined by the Licensing Committee or its Licensing Sub-Committee.
- 1.2 The Procedure shall comply with The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licenses and Provisional Statements) (England and Wales) Regulations 2007.

2 Definitions

- 2.1 The following terms shall have the following meanings throughout this document, unless the contrary is specified:-
 - (i) “the Act” means the Gambling Act 2005.
 - (ii) “Applicant” means a person who makes an application. The term Applicant also refers to a person representing the Applicant.
 - (iii) “the Authority” means the Licensing Authority for the District Council of Easington.
 - (iv) “Licensing Committee” means the Committee empowered under the Act to determine applications under the Act and “Licensing Committee” shall be construed to include the “Licensing Sub-Committee(s)”.
 - (v) “Notice of hearing” means a notice given to a party in accordance with Regulation 5.
 - (vi) “Responsible Authority” means a person or body as defined by the Act and/or the Regulations and includes the Gambling Commission, the Police, the Fire Authority, Planning Officers, Environmental Health Officers, Health and Safety Officers, Trading Standards Officers and officers responsible for protecting children from harm. “Responsible Authority” includes a person representing the Responsible Authority.
 - (vii) “Interested Party” means any of the following:-
 - a person living in the vicinity of the premises or a body representing the same;
 - a person involved in a business in the vicinity of the premises or a body representing the same.

“Interested Party” and “Interested Parties” shall be construed accordingly. “Interested Party” includes a person representing the Interested Party.

3 Arrangements for Licensing Hearings

- 3.1 Licensing Hearings will generally take place at the Council Chambers, Seaside Lane, Easington before the Licensing Sub-Committee, comprising three Members of the Council’s Licensing Committee. In certain circumstances, (within the absolute discretion of the Licensing Committee), the full Licensing Committee may decide to hear the application.

- 3.2 The Licensing Committee may be advised by a legal adviser and supported by an officer from Democratic Services who will take a note of the hearing and act as the clerk to the Licensing Committee.
- 3.3 The applications will generally be listed together with a number of other applications for either the morning session, starting generally at 9.30.am or the afternoon session, commencing at 2.00.pm. The Authority and/or the Licensing Committee will decide in what order the applications should be heard in. The Parties must ensure that they arrive for the start of the session and that they are available throughout that session. The Licensing Committee may hold hearings at other times if it considers it appropriate.
- 3.4 The hearing will generally take place in public. However, the Licensing Committee may exclude the public from all or any part of the hearing where it considers that the public interest in so doing outweighs the public interest in the public attending the hearing, or that part of the hearing taking place in public.
- 3.5 The Licensing Committee shall be entitled (but not required) to retire into private session at the end of the hearing to decide how it wishes to determine the application.
- 3.6 The Licensing Committee has a general power to retire during the hearing and to deliberate in private on any aspect or issues which may arise in connection with the hearing.
- 3.7 The Licensing Sub Committee shall consist of three members of the Licensing Committee and the quorum for Sub Committee meetings shall be three.

4 Right to be represented

- 4.1 Subject to any restrictions in the Regulations, a Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

5 Requirement for a hearing

- 5.1 A hearing will take place before a Licensing Committee where a hearing is required under the Act and/or the Regulations. A hearing is normally required where there has been a relevant representation from one or more of the Responsible Authorities, or from any Interested Party as defined by the Act.
- 5.2 There are different periods within which a hearing should be held depending upon the type of application being determined, however hearings will be scheduled in accordance with the time frames set out in Schedule 1, Column 2 of the Regulations. In general hearings must be held within 20 working days after the time has expired for making representations.

6 Notice of Hearing

- 6.1 Where a hearing is required to be held under the Act, the Authority will give a "Notice of Hearing" to all persons specified in the Regulations. This will generally be to the Applicant and any parties who have lodged a relevant objection (in the case of the Police) or a relevant representation from Responsible Authorities or any other Interested Parties as defined by the Act or the Regulations. The Notice of Hearing will be given in accordance with the requirements of the Regulations, which for most applications will generally be no later than 10 working days before the first day on which the hearing is to be held.
- 6.2 The Notice of Hearing will be accompanied by the following details:
- the consequences provided for under regulation 10(1) where a party informs the relevant committee that he does not wish to attend or be represented at the hearing, or fails to inform the relevant committee whether he wishes to attend or be represented at the hearing;

- the requirements imposed on the relevant committee in conducting a hearing as set out in regulations 8 and 9;
- the consequences provided for in regulation 10(2) where a party has indicated that he wishes to attend or be represented at the hearing, but fails to attend or be represented at the hearing;
- the procedure to be followed at the hearing;
- the time limit and method, if any, by which a party should inform the relevant committee that he wishes to attend or address the hearing;
- the time limit and method, if any, by which a party should inform the relevant committee that he wishes to be assisted or represented by another person;
- the time limit and method, if any, by which a party should inform the licensing authority that he will want to call a witness to give evidence at the hearing, and the matters in relation to which he wishes that witness to give evidence;
- the time limit and method, if any, by which a party should inform the relevant committee that he wishes to withdraw any representations;
- the time limit and method, if any, by which a party should inform the relevant committee that he is willing to consent to the application being determined without a hearing;
- the matters, if any, on which the relevant committee considers at the time that it will want clarification at the hearing from a party.

6.3 The Authority's Licensing Department will prepare a report for consideration by the Licensing Committee, which may incorporate a list of conditions, which have been proposed by the Parties. This will be sent to the Parties with the Notice of Hearing.

7 Right to dispense with a hearing

7.1 An Authority may dispense with the requirement to hold a hearing if all parties agree that such a hearing is unnecessary provided (1) all the Parties involved in the application agree to dispense with a hearing and (2) all parties have each served a notice on the Authority that a hearing is unnecessary. Parties must notify the Authority in writing that a hearing is unnecessary following receipt of the Notice of Hearing from the Authority. The Authority considers it is in the interests of the particular case and all Parties involved, that the parties advise the Authority that they consider a hearing to be unnecessary as soon as they realise this is the case to avoid unnecessary time being wasted and costs being incurred by the parties involved. The Parties are therefore encouraged to send the notice to the Authority in advance of the hearing, rather than waiting until the day of the hearing.

7.2 If the Parties have advised the Authority that a hearing is unnecessary, the Authority will determine the application or review.

8 Withdrawal of Representations

8.1 A Party who wishes to withdraw any representations they have made, may do so by giving written notice to the Authority no later than 24 hours before the day on which the hearing is scheduled to be held.

8.2 The Regulations also allow the Parties to withdraw their representations orally on the first day of the hearing, however, notwithstanding the Regulations, the Authority encourages any Party who is intending to withdraw their representation, to advise the Authority in

writing as soon as possible before the hearing is due to take place, to avoid unnecessary time being wasted or an unnecessary hearing being scheduled.

9 Documentary or other information

- 9.1 Documentary or other information upon which a Party intends to rely shall be submitted to the Director of Community Services, in the case of the Applicant, with the application and in the case of any other Party, within the 28 day period allowed for objections or representations so that this information can be included with the report to be submitted to the Licensing Committee and served with the Notice of Hearing. Copies of this documentary or other information will be sent to all the other Parties to the hearing, and made available for public inspection at the Council Chambers, Seaside Lane, Easington prior to the hearing.
- 9.2. If any Party does not consent to the additional documentary or other information being submitted, even though it has been submitted prior to the first day of the hearing but after the time for making representations expired, the Licensing Committee may decide in exceptional circumstances, in the interests of the determination of the case, to allow the additional documentary or other information to be submitted. In this case, it may adjourn the hearing to allow the Parties to respond to the documentary information.
- 9.3 Where an objection or representation is made by an association or local residents group, the chairman or secretary or other authorised officer of the association or local residents group shall either confirm at the hearing or in writing beforehand that the objection/representation is made by a duly authorised officer on behalf of that association or local residents group.
- 9.4 Petitions should state the purpose of that petition on each page and a warning to potential signatories that a copy of the petition will be supplied, by the Authority to the Parties. Each person signing the petition should also print his or her name and address. Each page of the petition should be dated.
- 9.5 In considering any representations or objections made by a Party the Authority may exercise its discretion and take into account such other documentary or other information produced by a Party in support of their application, representations or notice, as the case may be, provided:-
- (1) it has been submitted prior to the hearing; or
 - (2) if it is submitted at the hearing, with the consent of all other Parties at the hearing.
- 9.6 A party wishing to rely on documentary or other information (whether in relation to facts, evidence, case law or other authorities) that has not been submitted before the officer's report has been prepared, should ensure that such documentary or other information is sent to the Authority, the Applicant and all other Parties to the hearing either at least 5 working days prior to the date of the hearing or, if being submitted at the hearing with the agreement of all the parties, must make sure that sufficient copies are available for circulation to the Authority, the Applicant and all other Parties attending the hearing, in the event of the Licensing Committee allowing it to be produced.
- 9.7 If a Party seeks to produce additional documentary or other information at the hearing and the Parties do not consent to this request, this documentary or other information shall not be admitted in evidence.
- 9.8 If all the other parties agree, the Licensing Committee may allow the additional documentary or other information to be submitted. The Licensing Committee may however decide that the documentary or other information should not be admitted.
- 9.9 Where the documentary or other information is accepted in evidence, if requested by the Chairman, the Party submitting it shall read aloud the contents of the document.

- 9.10 Where a Party wishes to submit additional documentary or other information at the hearing, which has not been served beforehand, the following rules will apply:-
- (a) The Party seeking to adduce the additional documentary or other information should explain why the document concerned was not submitted in advance.
 - (b) The Licensing Committee shall establish whether the other Party or Parties (or their representative) have already seen the document and whether they consent to its admission in evidence.
 - (c) If the other parties have not previously seen the additional documentation, the Chairman of the Licensing Committee may request that it shall first be passed to them (or to their representative) so that they can consider and decide whether they consent to it being submitted as evidence. It may be necessary to adjourn the hearing for a period to allow the Parties time to study the document before a Party is able to decide whether or not they consent.

10 **Failure to attend the hearing**

- 10.1 If a Party has informed the Authority that he or she will not attend or be represented at the hearing, the hearing can proceed in his or her absence.
- 10.2 If a Party has failed to indicate whether or not he or she will attend or be represented at the hearing, the Licensing Committee may:-
- (a) adjourn the hearing to a specified date, where it considers it is necessary in the public interest; or
 - (b) hold the hearing in the Party's absence.
- 10.3 Where the Licensing Committee holds the hearing in the absence of a Party, the Licensing Committee shall consider the application and/or any representations or notice, which, that Party has previously submitted, during the Licensing Committee's consideration of the application.
- 10.4 Where the hearing has been adjourned to a specified date, the Authority must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

11 **Representations**

- 11.1 When a Party gives evidence:
- (a) They are first asked to give their full name and address.
 - (b) They can address the Licensing Committee by either making a statement or, if appropriate, by being questioned by the person calling them. The Licensing Committee requests that parties do not repeat matters which are already set out in the Committee Papers, the application, representations or notice (as the case may be) as the Members of the Licensing Committee will have read the papers and will be familiar with them, unless the particular Licensing Committee indicates otherwise.
 - (c) At the hearing a Party shall be entitled to provide further information on any point or points upon which the Authority has given notice that it requires to be clarified, in the "Notice of Hearing", as defined above.
 - (d) Members of the Licensing Committee may ask any question of any party or other person appearing at the hearing.

- 11.2 The Licensing Committee must allow the Parties an equal maximum amount of time in which to exercise their rights at the hearing. Section 13 of this procedure specifies the usual times permitted to address the Licensing Committee.
- 11.3 The Licensing Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave. The Licensing Committee may refuse to allow that person to return or may permit them to return only on such conditions as the Licensing Committee may specify. However if that person is made to leave the hearing by the Chairman, that person may, before the end of the hearing, submit to the Licensing Committee, in writing, any information which that person would have otherwise been entitled to give orally.
- 11.4 A Party to the hearing, as defined, will not normally be allowed to cross-examine another Party, unless they have first requested and been granted permission to question another Party by the Licensing Committee.
- 11.5 Responsible Authorities and Interested Parties who are objecting to or making representations in relation to an application may not generally question another Responsible Authority or another Interested Party who is also objecting to or making representations about the same application. However, if the Licensing Committee considers it necessary for it to consider the application, representations or notice, as the case may be, it may grant permission for a Party to be questioned by another Party or their representative.
- 11.6 Where the Licensing Committee has granted permission for any Party to be cross-examined by another Party, the Licensing Committee may limit the extent of that cross-examination at any time, either before or during the questioning.
- 11.7 Throughout the presentation of the respective Parties presentations, questions may be asked by any Member of the Licensing Committee and if appropriate by their legal adviser. Such questions will normally be put immediately following the conclusion of the Party's case, unless it is appropriate to raise the question during the presentation of their case.
- 11.8 Late representations by a party who has not made a relevant objection or representation within the time allowed by the Act or the Regulations may be considered by the Licensing (Sub) Committee at the discretion of the members of that Committee.
- 11.9 The Licensing Committee will disregard any information, objection or representation made by a Party (even if they do not attend the hearing) when it considers that information, objection or representation is not relevant to:-
- (a) their application, representations or notice or, where the party is a witness, the application, representation or notice of the party calling them as a witness, as applicable, and
 - (b) the promotion of the licensing objectives or in relation to a hearing to consider a notice given by a chief officer of the police, the crime prevention objective.
- 11.10 A Party will not be allowed at the hearing to raise any new matter not referred to in their written representation unless there are exceptional reasons for so doing and the Party is able to justify why the new material should be placed before and considered by the Licensing Committee.
- 11.11 Any such application to introduce new matters will be open to representations by the other Parties as to whether such matters should be considered by the Licensing Committee. When the Parties have made their representations in this respect, the Licensing Committee will decide whether the new material should be allowed in evidence.

12 **Order of Proceedings**

- 12.1 At the start of the hearing the Chairman of the Licensing Committee will:

- (a) Introduce the members of the Licensing Committee;
- (b) Ask all parties present to identify themselves and explain the nature of their involvement, and to indicate whether they propose to speak at the hearing; and
- (c) ensure that those present are familiar with the procedure to be followed; and
- (d) ask whether any representations have been or are now to be withdrawn; and
- (e) will hear and decide any requests to allow cross-examination of the Applicant or any other party or their respective representatives; and
- (f) will hear and decide any requests to adduce additional documentary or other information.

12.2 The procedure at the Hearing will take the form of a discussion, lead by the Licensing Committee, following the procedure specified below. Members may seek clarification of any procedural, technical or legal matter from officers at any time during the proceedings.

12.3 The procedure is as follows:

- (a) A report will be put before the Licensing Committee prepared by the relevant officer(s) of the Authority, outlining important aspects of the application and the officer(s) may give any relevant additional background information. In addition, the report provides an Ordnance sheet indicating the locations of the Applicants' premises, the premises of those persons or bodies who have made representations, the operating schedule and, if relevant, other premises within a suitable radius, which are licensed. The Licensing Committee may require this report to be read to the Licensing Committee. The Members of the Licensing Committee can then question the officers presenting the report and Parties may be allowed to ask questions of the officers in clarification.
- (b) Each party will then be asked to address the Licensing Committee and call any witnesses in support of their application or representations. The usual order will be for Responsible Authorities to go first, followed by the Interested Parties and then the Applicant, although this order can be changed by the Licensing Committee, if the Chairman directs.

Representations/objections by Responsible Authorities and Interested Parties

- (c) In appropriate cases, prior to hearing the submission of each of the Responsible Authorities and the Interested Parties, the Licensing Committee may ask them to confirm whether they are opposed to the application in its entirety or in part, or whether they are seeking conditions to be attached to the licence, if the Licensing Committee is minded to grant all or part of the application.
- (d) The Licensing Committee will then hear the representations from each of the Responsible Authorities and the Interested Parties or their representatives who may each address the Licensing Committee only once and shall take no longer than 10 minutes to present their case, including any submissions on the law or procedure, and upon any point which the Licensing Committee has for clarification (not including the time taken for questioning by the Licensing Committee or where permitted, by the Applicant) . If there is more than one party who has made representations they shall each be allowed up to 10 minutes to present their case.
- (e) The Licensing Committee will generally hear representations from the Responsible Authorities first, followed by the Interested Parties, however this order can be changed if the Chairman considers it appropriate to do so, in the interests of the consideration of the application.

- (f) Where permission has been granted to an Applicant to cross-examine a Party, the Applicant may cross-examine that party for normally up to 5 minutes.
- (g) Members of the Licensing Committee (and, if the Members direct their legal Advisor) may then ask any question of each of the Responsible Authorities and Interested Parties or their representative(s) as they consider appropriate.
- (h) The Licensing Committee will ask the Applicant, whether in light of any representations made prior to or at the hearing, whether they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
- (i) If the Applicant makes any comments in relation to paragraph 13.3 (k) above, the Licensing Committee will ask the other Responsible Authorities and Interested Parties, who are present, whether they wish to make any further comment in relation to any amendment or additional conditions offered by the Applicant.

Applicant's case

- (j) The chairman will then invite the applicant(s) or their representative to present their case and call evidence and/or witnesses if they so wish. The applicant(s) may address the Licensing Committee only once and shall take no longer than 10 minutes to present their case, including any submissions on the law or procedure, and upon any point which the Licensing Committee has asked to receive clarification (not including the time taken for questioning by the Licensing Committee or where permitted, by the other Parties.
- (k) Members of the Licensing Committee (and, if the Members so direct their legal Advisor) may then ask any question of the Applicant or their representative(s) as they consider appropriate.
- (l) Where permission has been granted to a party to cross-examine the Applicant, that party may cross-examine the Applicant for normally up to 5 minutes. If more than one Party has been given permission to question the Applicant, each Party will have up to 5 minutes to question the Applicant.

13 Decision

- 13.1 In some cases as prescribed by the Regulations the Licensing Committee is required to reach its decision at the conclusion of the hearing. In these cases the Licensing Committee may (although it is not required to) announce its decision and the reasons for it.
- 13.2 At the end of a hearing the Chairman will normally invite the Licensing Committee to move into private session, to enable the Licensing Committee to deliberate in private and if appropriate, to take legal advice before making a decision. The Licensing Committee will only reconvene to resolve any points of uncertainty on the evidence already given. During the adjournment, the Licensing Committee will normally be accompanied by a legal adviser. The decision shall be arrived at by the Licensing Committee alone. The Licensing Committee will normally retire to a private room but they may sometimes ask the Parties concerned, their witnesses and the public to leave.
- 13.3 Where the Licensing Committee has retired to make a decision, the Chairman may announce its decision and the reasons for its decision when the Licensing Committee returns into public session. The decision will then be confirmed in writing after the hearing forthwith, (which means without unreasonable delay).
- 13.4 Where the Licensing Committee is not required to make its decision at the conclusion of the hearing, unless required to do so earlier by the regulations, it will make its decision within 5 working days of the last day of the hearing. The Authority will then notify the Parties of its decision forthwith (which means without unreasonable delay), after the decision is made.

13.5 Where required to do so by the Act, the Authority will also notify the Chief Officer of Police, even if they were not a Party to the hearing.

14 **Waiver of Rules**

14.1 In order to ensure fairness to the Parties and/or in the interests of the proper consideration of the application in question, the Licensing Committee may waive, vary or modify any part or the whole of these rules in any particular case provided this does not contravene the Regulations.

15 **Power to extend time**

15.1 Subject to any restrictions contained in the Regulations, the Authority has the power to extend a time limit specified in the Regulations for a specified period, where it considers this is necessary in the public interest.

15.2 Where the Authority has exercised its discretion to extend time, it must forthwith give notice to the parties, stating the period of the extension and the reasons why it considers it is necessary in the public interest.