

# Public Document Pack



## LICENSING COMMITTEE

Wednesday, 16 May 2007 at 9.00 am  
Council Chamber, Civic Centre, Silver Street,  
Enfield, EN1 3XA

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### ***Membership subject to confirmation at Full Council 9 May 2007***

Councillors : John Boast (Chairman), Chris Bond, Yasemin Brett,  
Bambos Charalambous, Andreas Constantinides, Annette Dreblow (Vice-Chairman),  
Christiana During, Peter Fallart, Norman Ford, Ahmet Hasan, Elaine Hayward, Henry  
Lamprecht, Anne-Marie Pearce, Toby Simon and Terence Smith

## AGENDA – PART 1

1. **WELCOME AND INTRODUCTIONS**
2. **APOLOGIES FOR ABSENCE**
3. **DECLARATION OF INTERESTS** (Pages 1 - 2)

Members are invited to identify any personal or prejudicial interests relevant to items on the agenda.

Please refer to the attached guidance note.

4. **MINUTES OF MEETING HELD ON 23 OCTOBER 2006** (Pages 3 - 6)

To agree the minutes of the meeting held on Monday 23 October 2006.

5. **GAMBLING ACT 2005 : DELEGATED POWERS** (Pages 7 - 16)

To receive a report from the Director of Environment, Street Scene and Parks seeking approval to the delegation of powers under the Gambling Act 2005 and to confirm the procedure to be followed at Licensing Sub-Committee hearings.

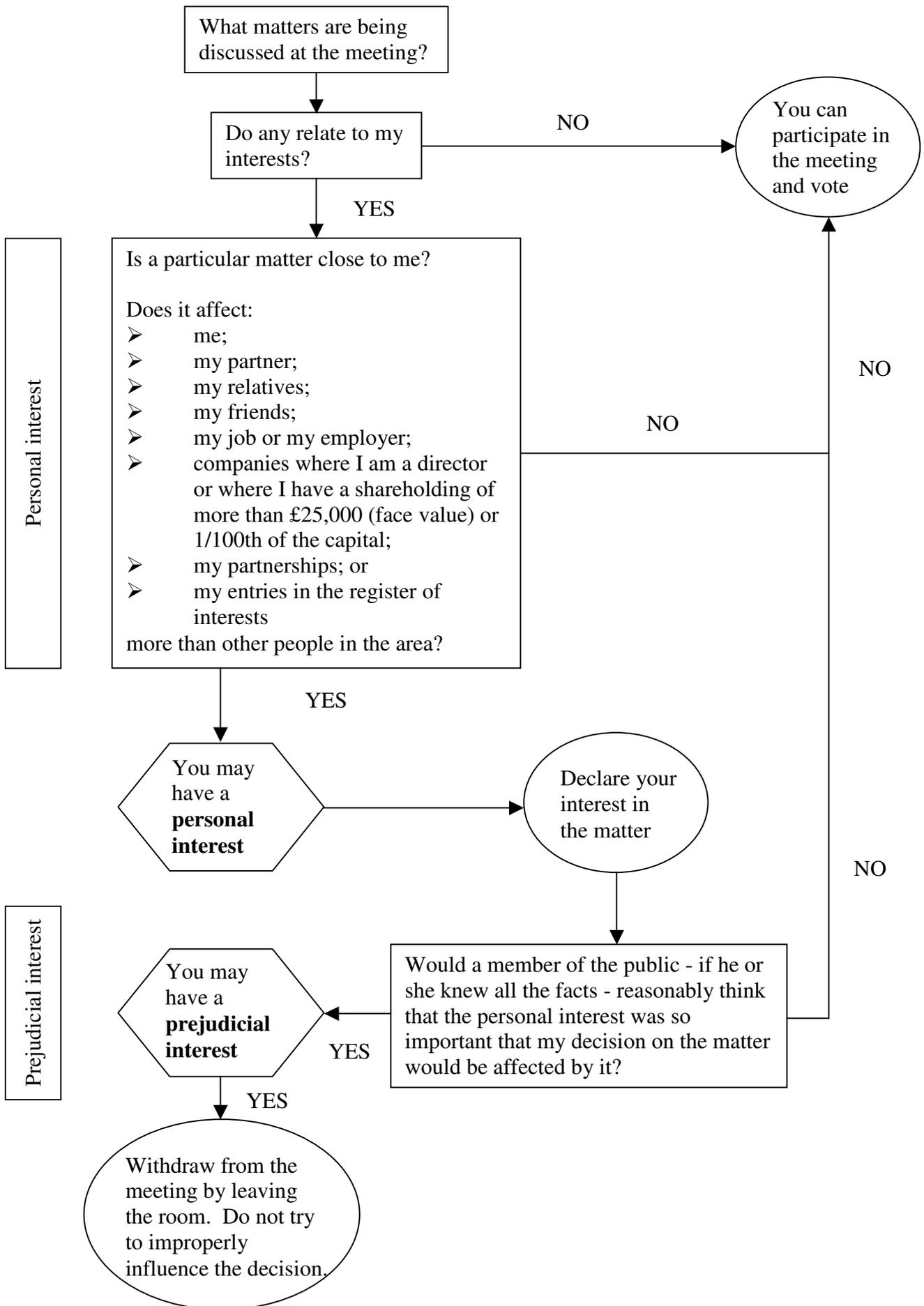
**(Report No. 6)**

## **6. EXCLUSION OF THE PRESS AND PUBLIC**

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972, excluding the press and public from the meeting for any items of business listed on Part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act, (as amended by the Local Government (Access to Information) (Variation) Order 2006).

Members are asked to note that no items have currently been identified for consideration in Part 2 of the Agenda.

**DECLARING INTERESTS FLOWCHART - QUESTIONS TO ASK YOURSELF**



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**LICENSING COMMITTEE - 23.10.2006****MINUTES OF THE MEETING OF THE LICENSING COMMITTEE  
HELD ON MONDAY, 23 OCTOBER 2006****COUNCILLORS**

<b>PRESENT</b>	John Boast, Bambos Charalambous, Andreas Constantinides, Annette Dreblow, Vivien Giladi, Elaine Hayward, Anne-Marie Pearce, Toby Simon and Terence Smith
<b>ABSENT</b>	Chris Bond, Norman Ford, Henry Lamprecht, Kieran McGregor and Ayfer Orhan
<b>CO-OPTED</b>	(none)
<b>OFFICERS:</b>	Alan Bates (Metropolitan Police - Licensing Team), Mark Galvayne (Licensing) and Sue McDaid (Acting Head of Trading Standards and Licensing) Penelope Williams (Committee Secretary)

**432****WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting.

**433****APOLOGIES FOR ABSENCE**

Councillors Bond, Ford and Orhan sent their apologies for absence.

**434****DECLARATION OF INTERESTS**

There were no declarations of interest.

**435****MINUTES OF MEETING HELD ON 10 JULY 2006**

The committee agreed that minutes of the meeting held on 10 July were a correct record of the meeting.

**436****GAMBLING ACT 2005: ENFIELD'S DRAFT STATEMENT OF PRINCIPLES**

The Committee received a report from the Director of Environment, Street Scene and Parks on the Council's draft Gambling Act 2005 Statement of

**LICENSING COMMITTEE - 23.10.2006**

Principles. The report also included the responses received to the public consultation.

The Committee were invited to comment on the statement before it was considered for approval at Council.

**1. Changes to the draft Gambling Act 2005: Statement of Principles – presented by Sue McDaid (Acting Head of Trading Standards and Licensing).**

1.1 Sue McDaid presented the following information on the public consultation:-

- a. The consultation ended on 13 October 2006; 15 responses were received.
- b. 90% thought that the statement was clear and understandable.
- c. 70% supported the proposal that the Council should pass a “no casinos” resolution. A “no casino” resolution would mean that Enfield would not receive or process any applications for casinos and that none would be given permission to operate in the borough.

1.2 Licensing had made the following key changes to the draft statement of principles in response to the consultation:-

- a. In response to comments made by the Association of British Bookmakers the following sentence was added “The Council will consider limiting the number of betting machines where there is evidence that such machines have been or are likely to be used in breach of the licensing objectives” to Section 19.2.
- b. Section 19 was altered to reflect the fact that children (under 18) are not permitted to enter betting premises.
- c. In response to a suggestion from the Local Safeguarding Children’s Board, in sections 14.4, 16.3, 18.2, 20.4 and 23.3 the words “truanting children under 18 years of age” were changed to just “truanting children”.
- d. Section 2.2 had been amended to include adults with learning difficulties as “vulnerable persons”.
- e. The National Association for Gambling Care’s recommendations that
  - Leaflets offering information helpful to gamblers with gambling problems and customer self exclusion forms (forms that enable

**LICENSING COMMITTEE - 23.10.2006**

customers to ask operators to refuse them entry to gambling establishments) should be on display, both prominently and discreetly.

- ATMs and cash machines should be located separately from gaming machines and should display Gamcare information.

**2. Comments on Draft Statement of Principles**

- 2.1. The references relating to “truanting children” might be difficult to enforce, but members felt that they should be included, as they set out the Council’s view on the matter.
- 2.2. The Council could not insert a clause prohibiting children from gambling into the Statement of Principles, as this was not prohibited in the Gambling Act. For example there is a minimum age for the use of category D gaming machines so children can access and use them.
- 2.3. The Statement of Principles would be reviewed every 3 years so that if there were problems with any of the sections they could be altered.
- 2.4. The Committee noted the comments of Oliver Treacy of the Barnet, Enfield and Haringey Mental Health Trust regarding minors and increasing the availability of rehabilitation.
- 2.5. The paragraph requested by the Association of Bookmakers on enforcement (eg: requesting operators to provide a single point of contact for enforcement officers to contact in case of compliance issues) could not be included in the policy but would be what was done in practice.
- 2.6. Councillor Charalambous thought that alcohol licensed premises might apply for additional gaming machine permits during the transitional period, giving them grandfather rights. Mark Galvayne explained this could not be prevented but that there was an informal agreement that the Police would make representations against any application for more than 4 machines based on the practice that formerly operated at the magistrates court. This meant that these applications would then have to be agreed by the Licensing Panel. The Police would also look closely at applications for 3-4 machines. Any application for 2 machines was accepted automatically. The transitional period starts on 30 April 2007.
- 2.7. Roger Etchell’s letter, sent on behalf of HJM Caterers Ltd, expressed concerns about the application of standard conditions. Mark Galvayne advised that licensing officers had sought Counsel’s opinion on the expectations of operators as suggested in Section 15.3 and that

**LICENSING COMMITTEE - 23.10.2006**

Counsel had advised that the Council could express their expectations in this way.

- 2.8. Councillor Charalambous raised concerns about the number of clubs in his ward, which were not constituted as members' clubs as described in Section 26. Mark Galvayne advised that some of these would be licensed under premises licences rather than under club certificates under the Licensing Act 2003, so therefore did not have to meet the definitions of "club" laid down in the Act about constitution of clubs but would have to if they were licensed under club certificates.
- 2.9. Councillor Giladi felt that it was unclear what the word "equally" at the end of Section 26.2 referred to.

**AGREED**

1. That the revised Gambling Act 2005: Statement of Principles be noted and recommended to Council for approval with the amendments listed below.
2. That the following amendments be incorporated into the Statement of Principles:-
  - Wherever children under 18 years old were mentioned they should be referred to as "children (under 18)".
  - In Section 24.5 the words "however conditions (other than these) cannot be attached to permits" should be removed, and the comma after the word "for" be replaced with a full stop.
  - The phrase "and controlled by its members equally" in Section 26.2 should be made clearer.
3. During the transitional period, the police should be asked to look in particular detail at all applications for more than 2 gaming machines.

**MUNICIPAL YEAR 2007/2008 REPORT NO. 6****MEETING TITLE AND DATE:**

Licensing Committee  
- 16 May 2007

**REPORT OF:**

Director of Environment, Street  
Scene and Parks

**CONTACT OFFICER:**

Mark Galvayne

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[mark.galvayne@enfield.gov.uk](mailto:mark.galvayne@enfield.gov.uk)

<b>Agenda – Part: 1</b>	<b>Item: 5</b>
<b>Subject:</b> <b>Gambling Act 2005 – Delegated Powers and Licensing Sub-Committee Procedure</b>	
<b>Wards: All</b>	

**1. EXECUTIVE SUMMARY**

- 1.1 Applications under the Gambling Act 2005 may be submitted to the Council on and after 21 May 2007.
- 1.2 The Licensing Committee is invited to delegate certain powers to authorised officers (as listed in Appendix A) of the Environmental Protection and Regulation division and to confirm the procedure to be followed at Licensing Sub-Committee hearings.

**2. RECOMMENDATION**

- 2.1 To agree each of the proposals set out in Section 3 below.

### 3. LAW & PROPOSALS

- 3.1 **Law** : Section 157 of the Gambling Act 2005 [‘the Act’] provides that the licensing authority itself is a responsible authority in relation to premises.  
**Proposal** : that authority be delegated to authorised officers (listed in Appendix A) to make representations on behalf of the licensing authority.
- 3.2 **Law** : Section 158 of the Act provides that a person is an interested party in relation to a premises licence if, in the opinion of the licensing authority, the person lives sufficiently close to the premises or has business interests that are likely to be affected or represents those persons.  
**Proposal** : that authority be delegated to authorised officers (listed in Appendix A) to determine whether a person making representations lives sufficiently close to the premises or has business interests that are likely to be affected or represents those persons.
- 3.3 **Law** : Section 162 of the Act provides that the licensing authority may determine an application for a premises licence without a hearing if the authority think that the representations are vexatious and/or frivolous and/or will certainly not influence the authority’s determination of the application.  
**Proposal** : that authority be delegated to authorised officers (listed in Appendix A) to determine whether representations are vexatious and/or frivolous and/or will certainly not influence the authority’s determination of the application.
- 3.4 **Law** : Section 163 of the Act provides that the licensing authority, on considering an application for a premises licence, shall grant or reject it.  
**Proposal** : that authority be delegated to authorised officers (listed in Appendix A) to grant an application for a premises licence in the absence of any representations.
- 3.5 **Law** : Section 198 of the Act provides that the licensing authority may reject an application for review of a premises licence if they think that the grounds for review are irrelevant, frivolous, vexatious, will not cause the authority to take action, or are the same as those given in an earlier application.  
**Proposal** : that authority be delegated to authorised officers (listed in Appendix A) to reject an application for review on the above grounds.
- 3.6 **Law** : Section 284 of the Act provides that the licensing authority may make an order disapplying the automatic entitlement of a specified licensed premises to make two gaming machines available, if they think that the entitlement is not reasonably consistent with the pursuit of the licensing objectives or if offences have occurred.  
**Proposal** : that authority be delegated to authorised officers (listed in Appendix A) to make an order in respect of a particular premises on the above grounds.
- 3.7 **Law** : Section 304 of the Act provides that an officer of the licensing authority is an authorised person for a purpose relating to premises (inspection and

enforcement) if the officer is designated by the authority as an authorised person.

**Proposal** : that the Head of Trading Standards & Licensing be designated as an authorised person and that authority be delegated to the Head of Trading Standards & Licensing to designate other officers as authorised persons.

3.8 **Law** : Paragraph 8 to Schedule 10, Paragraph 4 to Schedule 11, Paragraph 5 to Schedule 12, Paragraph 4 to Schedule 13 and Paragraph 9 to Schedule 14 of the Act provide that the licensing authority may grant applications for permits and registrations where there have been no representations and the grant of the permit or registration is in accordance with the pursuit of the licensing objectives and any guidance issued by the Gambling Commission.

**Proposal** : that authority be delegated to authorised officers (listed in Appendix A) to grant applications for permits and registrations where the grant of the permit or registration is in accordance with the pursuit of the licensing objectives and any guidance issued by the Gambling Commission.

3.9 **Law** : The Gambling Act 2005 (Procedures of Licensing Committees and Sub-Committees) Regulations 2007 provide that the procedure to be followed at Licensing Sub-Committee hearings be notified to all parties to an application.

**Proposal** : that Procedure to be Followed at Hearings of the Licensing Sub-Committee' attached as Appendix B (which is currently complied with in respect of applications made under the Licensing Act 2003) be complied with in respect of applications made under the Gambling Act 2005.

#### 4. **ALTERNATIVE OPTIONS CONSIDERED**

4.1 Not applicable

#### 5. **REASONS FOR RECOMMENDATIONS**

5.1 To comply with the provisions of the Gambling Act 2005.

#### 6. **COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS**

##### 6.1 **Financial Implications**

Not applicable

##### 6.2 **Legal Implications**

It is appropriate to delegate these powers to authorised officers to ensure that such decisions do not need to be made unnecessarily by the Licensing Committee.

##### 6.3 **Property Implications**

Not applicable

**7. PERFORMANCE MANAGEMENT IMPLICATIONS**

Not applicable

**8. PUTTING ENFIELD FIRST**

Not applicable

**Background Papers**

The Gambling Act 2005

Regulations issued by the Secretary of State

Guidance to Licensing Authorities issued by the Gambling Commission

## **Appendix A**

### **Delegated powers to discharge the Licensing Authority's functions by 'Authorised Officers'**

'Authorised officers' are:

- The Assistant Director (Environmental Protection and Regulation)
- Head of Trading Standards and Licensing
- Head of Environmental Health
- Head of Environmental Crime
- And persons duly authorised by any of the above post holders.

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## Appendix B

### PROCEDURE TO BE FOLLOWED AT HEARINGS OF THE LICENSING SUB- COMMITTEE

#### 1. PURPOSE

The purpose of the hearing is to assist the sub committee to gather evidence and understand the relevant issues in order that the sub committee may determine the application.

#### 2. PROCEDURE

- 2.1 The hearing will generally be in public but the Chairman may exclude the public from all or part of the proceedings where this is in the public interest.
- 2.2 The quorum will be three members of the Licensing committee.
- 2.3 The Chairman will deal with introductions and explain the hearings procedure.
- 2.4 An equal maximum time will be allocated to all parties.
- 2.5 All parties must provide: their full name; private or business address and the name of the body they represent, if applicable.
- 2.6 The sub committee will determine whether persons present will be permitted to address the hearing.
- 2.7 Where necessary, the Chairman may require spokespersons to nominated to represent groups or other large numbers of objectors.
- 2.8 Members of the Authority may ask any question of any party or witness. Before participating in a hearing Members they must make a declaration confirming that they have not discussed the matter with any member of the sub committee hearing the application or review.
- 2.9 The sub committee's legal adviser or administrator will assist parties regarding the order in which they may present their evidence and, if permitted, ask questions.
- 2.10 The sub committee may seek clarification of any procedural, technical, legal or factual matter at any time during the proceedings from any party.
- 2.11 Any party wishing to withdraw a representation may do so orally at the hearing.
- 2.12 If a party does not attend, the sub-committee may either proceed in absence or adjourn in accordance with the Licensing Act (Hearings) Regulations 2005.

#### 3. EVIDENCE

- 3.1 Court rules of evidence will not strictly apply. They will however be followed to a great extent because Licensing sub committee decisions must be based upon an objective assessment of evidence. Hearsay evidence is permitted but will be given less weight than direct evidence. Evidence given in person, where cross-

examination is possible, is likely to be given more weight than representations which are only in writing.

- 3.2 The Licensing sub committee will receive a copy of the application, location of the premises and details of any representations in advance of the hearing.
- 3.3 The sub committee may take into account documentary evidence submitted either:
  - (a) 5 working days before the hearing; or
  - (b) in exceptional circumstances at the discretion of the Chairman, less than 5 working days before the hearing; or
  - (c) with the consent of all parties, at the hearing.
- 3.4 Copies should be provided of any document that is to be submitted at the hearing.
- 3.5 The sub committee shall disregard any evidence or information that is irrelevant to the application or the Licensing objectives.
- 3.6 The Chairman may require any person who is acting in a disruptive manner to leave the hearing.

#### **4. ORDER OF PROCEEDINGS**

- (a) Opening statement by the Council's Head of Licensing or representative
- (b) Representations by 'Responsible Authorities' and their witnesses;
- (c) Questions from the applicant and other parties if agreed by the Chairman;
- (d) Representations from 'Interested parties' and their witnesses';
- (e) Questions from the applicant and other parties if agreed by the Chairman;
- (f) Information from the applicant and witnesses in support of the applicant;
- (g) Questions from other parties to the applicant and their witnesses if agreed by the Chairman;
- (h) With leave of the Chairman, any further questions arising as a result of new information.
- (i) Closing statement of The Council's Head of Licensing, 'Responsible Authorities' and 'Interested parties';
- (j) Closing statement of applicant.

#### **5. DETERMINATION OF THE APPLICATION**

- 5.1 This will be made either at the end of the hearing or within the time specified in the Licensing Act (Hearings) regulations.
- 5.2 The Chairman may adjourn the hearing to enable the sub committee to reach its decision. (Which can be reached by majority decision).
- 5.3 Only the Licensing Authority's administrator or legal adviser may be present during the sub committee's deliberations at this stage. This can only be for the purposes of providing privileged advice on law or to record decisions and reasons.
- 5.5 The Licensing sub committee may refuse or grant the application in whole or in part and may attach any conditions they consider necessary to support the achievement of the Council's licensing objectives.

5.6 A record of the proceedings will be taken and maintained for six years.

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