

DISPENSING WITH A SUB-COMMITTEE HEARING FOR APPLICATIONS MADE UNDER THE LICENSING ACT 2003

Committee name	Licensing Committee
Officer reporting	Beejal Soni - Legal Services
Papers with report	Appendix 1 – procedure for dispensing with a formal hearing
Ward	All

HEADLINES

This procedure detailed in this report supplements the Hearing Protocol for the Licensing Act 2003 and the Gambling Act 2005. This procedure is relevant where all parties to a Sub-Committee Hearing are in agreement about the preferred outcome. Appendix 1 sets out the process and requirements for the parties to request the Licensing Sub-Committee to determine the application without a formal licensing hearing taking place.

RECOMMENDATIONS:

That the Licensing Committee agree the procedure for dispensing with a formal Licensing Sub-Committee hearing, attached at Appendix 1.

SUPPORTING INFORMATION

Section 162(2) of the Gambling Act 2005 and Section 201(4)(a) of the Licensing Act 2003 permit an application to be determined by a Licensing Sub-Committee without a hearing taking place.

Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005 and Regulation 12 of the Gambling Act 2005 (Proceedings of the Licensing Committees and Sub-Committees (Premises Licences and Provisional Statements) Regulations 2007 permit a Licensing Sub-Committee to dispense with holding a hearing if all relevant parties agree that a hearing is unnecessary, and give notice to the authority to that effect. The effect of this would be that the Sub-Committee would still meet to consider any objections or representations, but the parties would not attend, and the meeting would not need to take the form of a “hearing”.

On 15 October 2015 the Licensing Committee approved the Hearing Protocol for Licensing Sub-Committee meetings held under the Licensing Act 2003 and Gambling Act 2005.

Paragraph 9.3 of the Hearing protocol permits parties to apply to dispense with a hearing where all parties agree a hearing is unnecessary. Paragraph 9.3 can assist to speedily determine applications where all parties have agreed conditions and other matters such as periods of suspension related to the application in question.

Appendix 1 sets out the procedure to be followed where all parties to a hearing agree that a hearing is unnecessary and wish to request for the hearing to be dispensed with.

The proposal is for an officer of the Regulatory Services team to prepare a report for the Licensing Sub-Committee outlining the application and reasons why the parties believe it is not necessary to hold a formal Licensing Sub-Committee hearing. The Licensing Sub-Committee will then determine:

1. Whether or not to dispense with the hearing and give reasons for their decision; and
2. Where a hearing has been dispensed with, to determine the outcome of the application on the basis of the report prepared by the Regulatory Services officer.

Formally convened meetings are not required to consider applications to dispense with hearings. The meeting can take the form of a telephone conference, exchange of emails or an informal meeting. In most situations, it is likely that the agreement reached between the parties will then become the decision of the Licensing Sub-Committee.

The Licensing Sub-Committee retains the discretion to refuse the application to dispense with a hearing. Regardless of the outcome of the application, the Sub-Committee is required to provide written reasons for its decision.

Where a Licensing Sub-Committee refuses an application to dispense with a hearing, a Licensing Sub-Committee hearing will have to take place within 10 working days.

Implications on related Council policies

None at this stage

How this report benefits Hillingdon residents

It will enable speedy resolution of licensing disputes.

Financial Implications

None at this stage

Legal Implications

Legal comments have been incorporated within this report.

BACKGROUND PAPERS

None

**PROCEDURE WHERE ALL PARTIES HAVE AGREED TO DISPENSE WITH A HEARING
UNDER THE LICENSING ACT 2003 AND GAMBLING ACT 2005**

1. This procedure supplements Paragraph 9.3 of the Licensing Act 2003 and Gambling Act 2005 Hearing Protocol.
2. This procedure may be utilised by a Licensing Sub-Committee :
 - 2.1 Following the publication of a Licensing Sub-Committee Agenda; and
 - 2.2 Up to 24 hours before a Licensing Sub-Committee hearing is convened to determine an application brought under the Licensing Act 2003 and/or Gambling Act 2005; and
3. In order for this procedure to be utilised, all parties to the hearing should provide the licensing officer with correspondence confirming:
 - 3.1 The terms of any agreement reached with regard to a licensing application; and
 - 3.2 That they are of the opinion that a hearing can be dispensed with; and
 - 3.3 A request to grant the application on the terms agreed by all parties
4. The information contained in Paragraph 3 above will form the basis of an electronic report to the Licensing Sub-Committee and its legal advisor containing:
 - 4.1 A copy of the application;
 - 4.2 The relevant representations received;
 - 4.3 Copies of the correspondence referred to in Paragraph 3 above;
 - 4.4 A recommendation that the Sub-Committee (1) dispenses with the hearing and (2) determines the application on the basis of the information contained in the report.
5. When considering the abovementioned report and determining the application, the Sub-Committee do not have to formally meet. The Democratic Services team will ensure that the Sub-Committee are able to discuss the application with each other in order to reach a determination. The discussion may take place by holding an informal meeting, Skype connection, telephone conference or other suitable electronic/digital method of communication.
6. Democratic Services will ensure that Legal and Democratic Services officers are available to provide assistance as required
7. The Sub-Committee must:
 - 7.1 First decide whether they agree to dispense with a hearing; and
 - 7.2 Secondly, whether they agree to grant the application on the conditions agreed by the parties.
8. The matters referred to in Paragraph 7 do not have to be unanimously agreed.
9. If the Sub-Committee do not agree to any one of the matters referred to in Paragraph 7 above, a Sub-Committee must take place within 10 working days of the refusal of the application to dispense with a hearing. .

10. If the Sub-Committee agrees to the matters referred to in Paragraph 7 above, the Chairman should provide written confirmation of the decision to the Democratic Services team.
11. A decision notice will be prepared and sent to all parties in the usual way.