



HILLINGDON
LONDON

Scrap Metal Dealers Act 2013

Licensing Sub-Committee Hearing Protocol for determining new (& renewal) & variation Scrap Metal Dealer licences

This protocol outlines the procedures that will apply:

Full details of the regulations surrounding sub-committee hearings are available for download on the gov.co.uk website by [clicking here](#).

It is important that you carefully read these procedures before you attend and speak at a Licensing sub-committee hearing

Date: 2013

1. On receiving the Notice of Hearing

What is the Notice of Hearing?

The Hillingdon Licensing Service will give appropriate notice of the hearing, which depends upon the type of application to be considered.

A Notice of the Hearing will be sent to all parties accompanied by:

- Date, time and location of the actual hearing and a procedural briefing to be held beforehand;
- This procedure note, the report from the Council's Licensing Officer with relevant representations attached;
- Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
- Confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the authority to be required, question another party to the hearing;
- The consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
- A note of any particular points on which the Hillingdon Licensing Service wants clarification.

Contact Information:

To give notice or any queries relating to the hearing please contact:

Clerk to the Committee

Tel: 01895 277655

Email: democratic@hillingdon.gov.uk

Write to: Clerk to the Committee, Democratic Services, 3E/05, Civic Centre, Uxbridge, UB8 1UW

What do I do when I receive the Notice of Hearing?

On receipt of the Notice of Hearing, all parties must inform the Clerk to the Committee – **normally no later than 2 working days before the hearing*** – whether they:

- Intend to attend or to be represented at the hearing;
- Consider a hearing to be unnecessary; and
- Wish to request that another person appear at the hearing (other than their representative) as a witness. If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the hearing.

All parties to the hearing are also reminded of their right to have a legal representative at the hearing.

If a party does not notify the above to the Clerk to the Committee before the relevant deadline they may not be entitled to speaking rights at the hearing.

IT IS IMPORTANT THAT YOU REPLY TO THE NOTICE **If I want to withdraw my application - how do I do this?**

The applicant may withdraw their application by contacting the Licensing Service by phone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during hearing, any party wishes to withdraw their representations they may do so orally by informing the Chairman.

What happens if I cannot attend the sub-committee hearing?

If you have made an application and are unable to attend the sub-committee hearing, the sub-committee will only hear and consider any evidence and arguments put forward by or on behalf of the applicant and other parties present.

Can you accommodate any special needs I may have?

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

Can the date of the hearing be changed?

Unfortunately, the Hillingdon Licensing Service cannot usually be flexible in the dates for hearings. Each request for a change of date will be considered on its own merits.

2. Before the Hearing

You will have been notified of the date and time of the Licensing Sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

How do I get to the Civic Centre?

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 207, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

Will the hearing be in public?

For Scrap Metal Dealers, all hearings will be held in private.

Will other parties or objectors be present?

In exceptional circumstances, representatives of other consulted bodies such as the police or the Environment Agency may attend the hearing.

I have some new evidence - may I present it?

The sub-committee **will not** normally allow the production of new written evidence not previously submitted by any party. In the case where the sub-committee does allow new evidence, they must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for applicants to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

Will I be briefed on procedure before the hearing?

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Licensing Officer or Legal Advisor can outline the procedures to be followed at the hearing.

Who are the people on the Licensing sub-committee?

Three elected councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two. Councillors who sit on the sub-committees have been trained in the new Scrap Metal Dealers Act and regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call parties to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

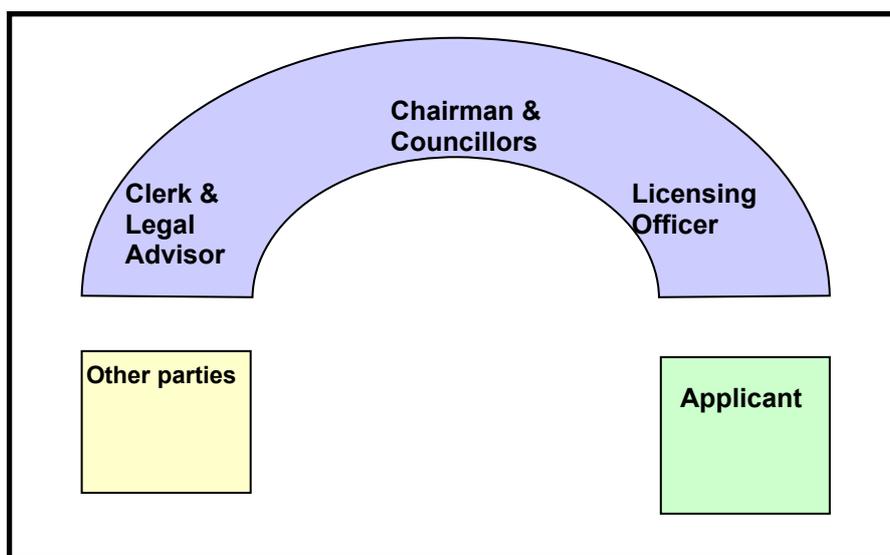
- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Adviser** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual cases and to provide help and assistance to members of the public attending such meetings.

3. During the Hearing

The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

Where shall I sit at the hearing?

Once you have attended the procedural briefing, you will be directed into the relevant Committee Room. The set up of the room for those involved will generally be as shown below:



In general, how will the hearing be conducted?

The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the issue of suitability of an applicant. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.

If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter to be clarified by officers present at any time during the proceedings.

What is the order of proceedings?

The Chairman of the sub-committee will open the hearing by introducing the Councillors explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:

Introduction by the Council's Licensing Officer



The Applicant



Other parties e.g. Police/Environment Agency



OPTIONAL - DISCUSSION LED BY THE SUB-COMMITTEE
A discussion will only occur if the sub-committee feels that there is a need for the parties involved to clarify each other's cases. The Chairman will lead the discussion



Closing remarks from each party



Sub-committee deliberates



Chairman announces the decision

The licensing officer will introduce the report and will outline impartially the matter before the sub-committee, giving any relevant background information.

The applicant presents their case and brings forward any supporters or witnesses

The Chairman calls on any of the other parties present to give factual information about the suitability of the applicant. They may make reference to the comments in the report and provide any necessary updates.

The Licensing Officer and other parties (if any) make brief closing remarks on the application under question. The applicant makes the final closing remarks.

The sub-committee will remain in the room to deliberate and make their decision, with only the Legal Advisor and Clerk to the Committee remaining. All other present will be asked to leave the room.

Parties may return to the room when asked and the Chairman announces the decision. The Chairman reminds the applicant that the decision will be sent to them in writing. There can be no further questions or statements

Can a Councillor sit on a sub-committee if the application is for a site licence in their ward in their ward?

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillor should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the three Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

What power does the Chairman have to control the meeting?

The Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

How will the sub-committee make its final decision?

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will usually withdraw to make its decision on the application. The sub-committee must disregard any information given or evidence produced by a party or witness, which is not relevant to the application or to the suitability of the applicant.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state why refusal or attachment of conditions is necessary taking into account the evidence presented during the hearing.

4. After the Hearing

When will we get formal notice of the decision?

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

The Council's Legal Advisor will send applicants a decision letter shortly after the meeting outlining the decision and any conditions that are attached to the application. In addition, a

letter will be sent to all those who made relevant written representations in connection with the application. This will confirm the decision made; any conditions attached to an approval or the reasons for refusal. Details of the respective appeal rights will also be sent with this notice.

The minutes of the meeting will be made available on the Council's website at:
www.hillingdon.gov.uk

Can we appeal against the decision?

Following the decision, the applicant in respect of a particular application can appeal to the Magistrates Court within 21 days of receiving written notice of the decision.