

## HEARINGS GUIDANCE – UNDER LICENSING ACT 2003

The government has issued regulations governing how licensing committee hearings should be organized. Other than that, it is up to each licensing committee to decide how it wants to organize its hearings, and advice should be sought from the licensing authority's officers.

Committee hearings must be heard within certain specified time limits, as indicated below, and the licensing authority has to give advance warning in writing of the date, time and place at which the hearing will be held.

<b>Type of application</b>	<b>Hearing to be held within</b>	<b>Amount of advance warning before the hearing</b>	<b>Minimum time for reply to a 'regulation 7' notice (see below)</b>
<b><i>Applying for new premises licences or a personal licence; a provisional statement; varying or transferring a premises licence;</i></b>	20 working days from the last day on which representations may be received (which is 28 working days from the date of application)	10 working days	5 working days before the hearing
<b><i>Application to review a premises licence</i></b>	20 working days from the last day on which representations may be received	10 working days	5 working days
<b><i>Review a premises licence after a closure order; application for conversion of an existing licence</i></b>	10 working days	5 working days	2 working days
<b><i>Consider a counter-notice of a police objection to a temporary event notice</i></b>	7 working days from the last day on which the police may issue a counter-notice	2 working days	1 working day

The licensing authority can extend the time limits in this table if it is necessary to do so in the public interest.

### **The notice of hearing sets out:**

- the right to be represented at the hearing by a solicitor, barrister or another person
- the right to give further information and call witnesses at the hearing if needed. The licensing committee can take into account documentary and other evidence presented before the hearing. If a party wants to introduce new evidence at the hearing itself, the agreement of all of the other parties to the hearing must be given, to ensure that a fair hearing is given and no party is 'ambushed' at the last minute by material that they have not had the chance to consider. Any evidence must be relevant to the application or the representations and relate to the licensing objectives.
- the right to address the licensing authority
- what happens if a party does not attend or is not represented at the hearing
- the procedure to be followed at the hearing. It is up to each licensing committee how it regulates its hearings
- any particular points that the licensing authority will want clarification of from any party at the hearing. For example, it may seek clarification on the proposed number of spectators at a licensed event, or how far away from premises a person making representations actually lives.

On receiving a notice it is important that the applicant (or anyone making representations), informs the licensing authority in writing whether:

- they intend to attend or be represented at the hearing
- the names of any witnesses that may be called
- whether they consider a hearing to be unnecessary. If all the parties agree that a hearing is not necessary the licensing authority can dispense with the need to hold one.

The members of the licensing committee may question any party or witness themselves, and each party must be given an equal maximum period of time in which to present their case. Hearings must normally be held in public, (although the public and any party to the hearing can be excluded if necessary in the public interest), and they can adjourn the hearing as necessary.

Hearings may be heard in the absence of anyone who has notified the licensing authority that they do not intend to attend or be represented. If a party fails to attend without informing the licensing authority, it may adjourn the hearing if it considers it necessary in the public interest or it may hold the hearing in the absence of that party.

The licensing committee must reach a decision – and will normally give reasons - immediately when dealing with temporary event notices, conversions of existing licences, or

reviews of premises licences after a closure order. In all other cases they have up to five working days from the end of the hearing in which to reach a decision. Any relevant licences should be issued as soon as possible after the decision has been made.

If a party to a hearing fails to comply with the requirements before the licensing committee reaches its decision, the committee may still make a proper decision, providing the licensing committee does not think anyone has been prejudiced as a result. The licensing authority can also correct any clerical mistakes in any documents recording its decisions without the need for another hearing.

The licensing authority must maintain a register of the licences it issues and the operating schedules that apply to them. It must also keep a record of all of its hearings for six years from the date of its decision (or the date of any appeal from a decision if that is later).

### ***Dealing with representations***

Representations may be made by interested parties or by responsible authorities. Any representations must be made:

- within the specified time period for lodging them
- must relate to the licensing objectives
- may not be frivolous, vexatious or irrelevant.

The licensing authority can reject them if they do not meet these criteria. If they are accepted, a hearing will be arranged before the licensing committee to hear the application and consider the representations.

Any notices required to be given in connection with hearings may be given electronically (for example by fax or e-mail), providing that the party receiving them has agreed to accept them electronically. A notice sent by fax or e-mail would not be treated as having been properly sent until it has been actually received by the person it was intended for.

**Appeals** against the decision of the licensing committee must be commenced by notice of appeal to the Magistrates Court within 21 days from the notice of decision. Any aggrieved party is entitled to lodge an appeal. The licensing authority will always be the respondent but where the appeal is against the decision of a licensing authority to grant an application the licence holder in such cases will be a co-respondent.

On determining the appeal the courts can dismiss the appeal, substitute any other decision which the licensing authority could have made or remit the case back to the licensing authority to dispose of as directed by the court. The court can award costs at their discretion.

You can contact the Licensing Section by email at [licensing@haringey.gov.uk](mailto:licensing@haringey.gov.uk).