



## LICENSING SUB-COMMITTEE

**Monday, 15 April 2019**

**10.00 am**

**Committee Room 2, City Hall**

Membership: Councillors Kathleen Brothwell (Chair), Fay Smith, Pat Vaughan and Loraine Woolley

Substitute member: Councillor Fay Smith

Officers attending: Ian Cullen, John Cunliffe and Democratic Services

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## A G E N D A

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## **LICENSING SUB-COMMITTEE**

### **Procedure for Hearings**

- (1) The Chair will introduce him/herself and will introduce the other members of the sub-committee, the Licensing Officer, the Clerk to the sub-committee and any other officers present to advise the sub-committee.
- (2) The Chair will request all parties taking part in the proceedings to introduce themselves to the Sub -Committee.
- (3) The Chair will then ask the Licensing Officer to open the proceedings by:
  - stating the nature of the matter to be considered;
  - giving the name of the applicant or licence holder; and
  - where appropriate, the name of the premises or place concerned; and
  - outlining the application and the relevant representations and/or notices made and/or given in respect of the application.
- (4) The Chair will then ask the Licensing Officer to confirm whether or not the formal requirements in respect of the matter to be considered have been complied with.
- (5) If not satisfied as to any formal requirements, the sub-committee will decide whether to:
  - continue with its consideration of the matter; or
  - adjourn the proceedings to enable the formal requirements to be completed; or
  - dismiss the application.
- (6) The Chair will then explain the procedure the sub-committee intends to follow at the hearing and shall advise the parties of the period of time each will be allowed to make their application and/or representation. If the Chair considers that there is no need for a time limit, he should say so.
- (7) The sub-committee will then consider any representations in regard to the period of time allowed for the parties and any request made by a party for permission for another person to appear at the hearing to assist the licensing authority in regard to that party's application, representations or notice (such permission will not be unreasonably withheld).
- (8) The procedure for the hearing shall be as follows:
  - (a) The applicant, or their representative, will present their case. In presenting the case the applicant, or their representative, may give

evidence and may call any other person, given permission to appear by the sub-committee, to assist in the proceedings. Each shall, in turn:

- give evidence;
- may be questioned by any other party;
- may be questioned by members of the sub-committee;
- may, if necessary, be re-questioned by the applicant or their representative calling them.

(b) If a time limit has been imposed, the applicant and/or their representative shall not, in presenting the case, exceed the period of time allowed for this purpose.

(c) The other party or parties, or their respective representatives, will each, in turn, present their case(s). Where there is more than one other party, in the absence of agreement, the sub-committee will decide the order in which the cases shall be presented. In presenting the case any party, or their representative, may give evidence and may call any other person, given permission by the sub-committee to appear, to assist in the proceedings. Each shall, in turn:

- give evidence;
- may be questioned by any other party;
- may be questioned by members of the sub-committee;
- may, if necessary, be re-questioned by the applicant or their representative calling them.

(d) If a time limit has been imposed each other party and/or their representative shall not, in presenting the case, exceed the period of time allowed for this purpose.

(e) Once all parties have put their cases to the sub-committee, each party will be given the opportunity of summing up their case in the order they were presented. The Chair may propose that no more than 5 minutes will be allowed to each party for this purpose, but may take representations if any are made.

(f) Members of the sub-committee may ask the parties, or any persons present to assist, for any additional information or clarification required.

(9) The Chair will then advise the parties that the sub-committee will retire to determine the application. The sub-committee will be accompanied by the Clerk to the sub-committee, whose only role will be to record the decision and the reasons for that decision. The sub-committee may, after retiring, call upon the Licensing Authority's legal representative if it requires clarification on a point of law.

(10) The sub-committee will consider its decision. The decision of the majority of the sub-committee shall be the decision of the sub-committee.

(11) There are timescales, depending on the nature of the application, by which the sub-committee must determine an application and the timescale will be included in the officer's report.

- (12) If the hearing requires a decision at the conclusion of the hearing then having reached a decision, the sub-committee shall reconvene to announce the decision to the parties. Before doing so, where legal advice has been sought, the legal representative will inform the parties of what advice was given and the parties shall be afforded the opportunity to comment on that advice.
- (13) If the decision does not have to be made at the conclusion of the hearing the sub-committee must make its decision within five working days beginning with the day or last day on which the hearing was held. This does not preclude the Sub-committee making its decision on the day or last day of the hearing.
- (14) The Chair will announce the sub-committee's decision together with the reasons for the decision. This will, where applicable, include details of any conditions imposed and the reasons for their imposition or, where no conditions have been imposed, the reason(s) for not doing so.

## **POINTS TO NOTE RELATING TO HEARINGS**

- (a) Members of the sub-committee must remain throughout all of the hearing.
- (b) Members of the sub-committee must confine themselves to questions and **NOT** embark on discussions upon the merits or otherwise of the application or evidence until they consider their decision.
- (c) The strict rules of evidence do not apply so hearsay evidence is admissible.
- (d) Where a large number of interested parties are involved in a particular hearing, they will be encouraged to appoint a spokesperson or spokespersons so as to avoid duplication of evidence.
- (e) A general assumption will be made that all parties have read and understood the relevant paperwork and background documents before attending the hearing. There should be no need for parties to duplicate word for word the contents of their written submissions.
- (f) Unless indicated otherwise, the hearing will take place in public. If the public are to be excluded then full reasons for doing so will be given by the Chair.
- (g) In determining applications and representations members of the sub-committee will give appropriate weight to:
  - The argument and evidence presented by all parties;
  - The four licensing objectives of the Licensing Act 2003, namely
    - (a) the prevention of crime and disorder,
    - (b) the prevention of public nuisance,
    - (c) public safety, and
    - (d) the protection of children from harm;
  - The Statement of Licensing Policy of the City of Lincoln Council;
  - Section 182 Statutory Guidance issued by the Home Office;
  - Any steps necessary to promote the licensing objectives; and
  - Information contained in any operating schedule submitted by the applicant.
- (h) The general principles under which members of the sub-committee will consider all licensing applications are:
  - A fair and unbiased mind;
  - On its own merits;
  - Any pre-conceived opinions and resolutions will be put aside;
  - They will act without any prejudice or partiality;
  - They will consider both the interests of the public and the rights of the applicant; and
  - They will treat all applicants fairly and equally.
- (i) The sub-committee is required to give reasons for its decision. Such reasons need to be clear and include an explanation of why it has reached its decision including what it relied on to do so (e.g. what evidence was accepted, and what evidence was rejected, and why).
- (j) If, in making its decision, the Sub-Committee considered it proper to depart from the Section 182 Guidance or its own Licensing Policy it is also required to give full reasons for so departing.