

Part 4

Licensing Procedure Rules

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Licensing Procedure Rules - Licensing Committee

Application

These Procedure Rules shall apply when the Licensing Committee sits to hear Licensing applications other than those made pursuant to the Licensing Act 2003 and the Gambling Act 2005.

Terms of Reference of the Licensing Committee:

Ward Members will have no involvement in the decision making process either by voting on the matter or otherwise participating in the Committee's deliberations, except that any Ward Member (whether a member of the Committee or not) may make a statement setting out his views or the views of those he/she represents. Such statement may be made immediately after any objector has made his/her case and been questioned thereon.

Procedure for hearing licensing applications:

Following receipt of an application, the Licensing Officer will carry out reasonable consultation with any interested parties, including Ward Members. In the case of Sex Establishment applications this will include a notice to be advertised on the premises and a notice in the local press. Should any objection be received which cannot be resolved, the licensing application will then be referred to the Licensing Committee for consideration and determination. All objectors will be invited to the meeting; the Council's Scheme of Public Participation will not apply.

1. Written objections, representations, petitions, etc will be circulated with the agenda and will be taken into account by members of the Committee. It will not be possible to circulate any such communications received after the agenda has been circulated, as both parties must have the opportunity of studying them prior to the meeting. The agenda and papers for consideration will be circulated at least 5 clear days before the meeting.
2. At the start of the meeting the Chairman will outline the procedure to all those present.
3. The Licensing Manager of the Council will present the facts to the Committee and will explain the Recommendation.
4. The members of the Committee may ask questions of the Licensing Manager.
5. The Applicant or their representative may ask questions of the Licensing Manager.
6. Any Objector or their representative may ask questions of the Licensing Manager.
7. Relevant Council officers, representatives of the Police or Fire Service (if present) may be questioned by:
 - (a) Members of the Committee;
 - (b) The Applicant or their representative; or
 - (c) Any Objector or their representative.

8. The Applicant (or their representative) may present their case, including calling any witnesses. The Licensing Manager and/or members of the Committee may ask questions of the Applicant or any witness.
9. Any Objector may ask questions of the Applicant or any witness.
10. The Objector (or their representative) may present their case including calling any witness. The Licensing Manager and/or Members of the Committee may ask questions of the Objector.
11. The Applicant may ask questions of the Objector.
12. The Applicant may sum up their case.
13. The Objector may sum up their case.
14. The Committee will deliberate in private with only its legal adviser and Committee Officer in attendance. The decision on the matter, and the reasons for it, will be communicated to all those present in open session before the meeting is closed.

Licensing Procedure Rules - Licensing Committee

Street Trading Representations

Terms of Reference of the Licensing Committee:

Ward Members will have no involvement in the decision making process either by voting on the matter or otherwise participating in the Committee's deliberations, except that any Ward Member (whether a member of the Committee or not) may make a statement setting out their views or the views of those they represent. Such a statement may be made immediately after any applicant and/or the Head of Service (or their representative) has made their case and been questioned thereon.

Procedure for hearing representations:

The Head of Service (or their representative), acting on delegated powers, can approve, attach specific conditions to, refuse or revoke a Street Trading Consent application. The decision is made upon consideration of the following criteria, and any consultee objections received based on them.

1. **Public Safety:** The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction or fire hazard. The term "public" refers to both customers requesting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 6 of the Licensing Scheme on site assessment criteria.
2. **Public Order:** The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the Hampshire Constabulary will be taken into consideration.

3. **Avoidance of Nuisance:** The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council officers shall be taken into consideration.
4. **Needs of the Area:** The sufficiency of other trading outlets will be taken into consideration in relation to:
 - (a) The presence of like outlets already existing in the immediate locality of the proposed street trading site.
 - (b) The general needs of a locality, should no comparable outlets exist.

Applicants will have to demonstrate to the Council the need for the proposed street trading activity in relation to either points 1 or 2 above, whichever applies.

5. **Compliance with legal requirements:** The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation.
6. **Consultees Observations:** In relation to points a) – d) above, consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.
7. **Permitted Trading Hours:** The Council generally will only permit street trading between 6.00 am and Midnight, in Andover town centre, 22.00hrs in Romsey town centre and until 2.00am elsewhere, on any one day. Any trading outside these hours will have to be approved by the Council. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.
8. **Market days:** Those Consent Street licensees who have consent to trade in the town centres will not be able to do so on Market days.

Where, acting under delegated powers, the Head of Service is minded to refuse a consent, or to grant a consent subject to conditions, they will notify the applicant accordingly. If the applicant would be aggrieved by a decision in the terms indicated by the Head of Service, then they may within twenty eight days of such notification being received, make a written request that their application be considered by the Licensing Committee, and the Licensing Committee will then determine the application in accordance with the procedure set out below. If no such request is made within the twenty eight day period, then the Head of Service will forthwith proceed to issue a decision in the terms indicated in the notification referred to above.

1. Written objections, representations, petitions, etc will be circulated with the agenda and will be taken into account by members of the Committee. It will not be possible to circulate any such communications received after the agenda has been circulated, as both parties must have the opportunity of studying them prior to the meeting. The agenda and papers for consideration will be circulated 5 days before the meeting.

2. At the start of the meeting the Chairman will outline the procedure to all those present.
3. The Head of Service (or their representative) will present the facts to the Committee and explain the Recommendation.
4. The Members of the Committee may ask questions of the Head of Service (or their representative).
5. The Applicant may ask questions of the Head of Service (or their representative).
6. Relevant Council officers and other Consultees may be questioned by:
 - (a) Members of the Committee;
 - (b) The Applicant.
7. The Applicant may present their case, including calling any witnesses. The Head of Service (or their representative), any relevant Council officers, other Consultees and/or members of the Committee may ask questions of the Applicant or any witness.
8. The Applicant may sum up their case.
9. The Committee will deliberate in private with only its legal adviser and Committee Officer in attendance. The decision on the matter, and the reasons for it, will be communicated to all those present in open session before the meeting is closed.

Licensing Procedure Rules - Licensing Committee

Licensing of Tables and Chairs on the Highway

Representations

Terms of Reference of the Licensing Committee

Ward Members will have no involvement in the decision making process either by voting on the matter or otherwise participating in the Committee's deliberations, except that any Ward Member (whether a member of the Committee or not) may make a statement setting out their views or the views of those they represent. Such a statement may be made immediately after any applicant and/or the Head of Service (or their representative) has made their case and been questioned thereon.

Procedure for hearing representations:

The Head of Service, acting on delegated powers (or their representative) can approve, attach specific conditions to, or refuse a Licence application. The decision is made upon consideration of the following criteria, and any consultee objections received based on them.

1. **Public Safety:** The location of the proposed licensed site should not present a substantial risk to the public in terms of road safety, obstruction or fire hazard. The term “public” refers to both customers using the licensed area, and other members of the public using the street. In particular reference will be made to the guidelines set out in Section 5 of the Licensing Scheme on site assessment criteria.
2. **Public Order:** The licensed area should not present a risk to good public order in the locality in which it is situated. Observations from Hampshire constabulary will be taken into consideration in assessing this particular criterion.
3. **Avoidance of Nuisance:** The licensed area should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed licensed area. Observations from Council officers shall be taken into consideration in assessing this particular criterion.
4. **Compliance with legal requirements:** The proposed trading activity should comply with the relevant legislation.
5. **Consultees Observations:** In relation to the points above, consideration will also be given to written observations from consultees. Any objections made to the granting of a licence will be considered in terms of relevancy and appropriateness to the application that has been made. Frivolous, vexatious or repetitious observations shall be disregarded by the Council.
6. **Permitted Trading Hours:** The Council generally will only allow tables and chairs to be placed upon the highway between 0800 hours and 2200 hours on any one day. Any application requesting hours outside of the above will have to be approved by the Council and will be assessed in terms of the criteria detailed above. The Council, however, retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.
7. **Market Days:** Those licensees who have consent to trade in the town centres may not be able to do so if the licensed area includes an area upon which a Market is held.

Where, acting under delegated powers, the Head of Service is minded to refuse a consent, or to grant a consent subject to conditions, they will notify the applicant accordingly. If the applicant would be aggrieved by a decision in the terms indicated by the Head of Service, then they may, within twenty eight days of such notification being received, make a written request that their application be considered by the Licensing Committee, and the Licensing Committee will then determine the application in accordance with the procedure set out below. If no such request is made within the twenty eight day period, then the Head of Service will forthwith proceed to issue a decision in the terms indicated in the notification referred to above.

1. Written objections, representations, petitions, etc will be circulated with the agenda and will be taken into account by members of the committee. It will not be possible to circulate any such communications received after the agenda has been circulated, as both parties must have the opportunity of studying them prior to the meeting. The agenda and papers for consideration will be circulated 5 days before the meeting.
2. At the start of the meeting the Chairman will outline the procedure to all those present.
3. The Head of Service (or their representative) will present the facts to the Committee and explain the Recommendation.
4. The members of the Committee may ask questions of the Head of Service (or their representative).
5. The Applicant may ask questions of the Head of Service (or their representative).
6. Relevant Council officers and other Consultees may be questioned by:
 - (a) Members of the Committee
 - (b) The Applicant
7. The Applicant may present their case, including calling any witness. The Head of Service (or their representative), any relevant Council officers, other Consultees and/or members of the Committee may ask questions of the Applicant or any witness.
8. The Applicant may sum up their case.
9. The Committee will deliberate in private with only its legal adviser and Committee Officer in attendance. The decision on the matter, and the reasons for it, will be communicated to all those present in open session before the meeting is closed.

Licensing Procedure Rules - Licensing Sub-Committee

Application

These Procedure Rules shall apply to all hearings of applications and other matters pursuant to the Licensing Act 2003 and subordinate legislation and any amendments thereto, and to the Gambling Act 2005 and subordinate legislation and any amendments thereto.

Terms of Reference of the Licensing Sub-Committee:

Ward Members will have no involvement in the decision making process.

Procedure for hearing licensing applications:

1. The Council's Scheme of Public Participation will not apply.

2. At the start of the hearing the Chairman will explain the procedure to all those present.
3. The Hearing shall take place in public. The Sub-Committee may exclude the public from all or part of the hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
4. A party to whom notice has been given may attend the hearing and may be assisted or represented by a person whether or not that person is legally qualified.
5. The hearing shall take the form of a discussion led by the Sub-Committee.
6. Cross-examination will not be permitted unless the Sub-Committee considers it is required for it to consider the representations, application or notice as the case may require.
7. The Sub-Committee may impose a maximum period of time for each party to address the Sub-Committee.
8. To facilitate the discussion the following procedure will be followed in all cases except for reviews when 8(b) shall apply and interim steps hearings for expedited summary reviews when 8(c) shall apply:
 - (a)
 - (i) The Licensing Manager of the Council or their representative will present the facts of the application and action taken, to the Sub-Committee.
 - (ii) The Applicant or their representative may address the Sub-Committee.
 - (iii) Other parties may address the Sub-Committee in the following order:
 - Responsible authorities
 - Other parties
 - (b)
 - (i) The Licensing Manager of the Council or their representative will present the facts of the review, and action taken, to the Sub-Committee.
 - (ii) The person requesting the review may address the Sub-Committee.
 - (iii) The licence holder may address the Sub-Committee.
 - (iv) Other parties may address the Sub-Committee in the following order:
 - Responsible authorities
 - Other parties
 - (c)
 - (i) The Licensing Manager of the Council or his representative will present the facts giving rise to the review, and will outline any action taken, to the Sub-Committee.

- (ii) The Police officer requesting the review or his representative may address the Sub-Committee.
 - (iii) The licence holder or their representative may address the Sub-Committee.
- 9. The Sub-Committee may permit the applicant or any party to question any other party.
- 10. The members of the Sub-Committee may ask any questions of the Licensing Manager or their representative, or of any party or other person appearing at the hearing.
- 11. Documentary or other evidence may be produced at the hearing with the consent of all the parties.
- 12. Where a party fails to attend or be represented and the Sub-Committee considers it necessary in the public interest it may adjourn the hearing to a specified date or hold the hearing in a party's absence.
- 13. The Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and refuse to permit that person to return or permit them to return only on such conditions as the Sub-Committee may specify. Any such person may submit to the Sub-Committee in writing before the end of the hearing any information which they would have been entitled to give orally had they not been required to leave.
- 14. The Sub-Committee may ask questions of its legal adviser.
- 15. The Sub-Committee will deliberate in private.
- 16. The Sub-Committee may request advice in private of its legal adviser regarding the drafting of reasons.
- 17. In the case of a hearing under the sections and circumstances set out in Regulation 26(1) of the Licensing Act 2003 (Hearings) Regulations 2005 (or any amending legislation), the Sub-Committee will make its determination at the conclusion of the hearing.

In any other case, the Sub-Committee will make its determination either at the conclusion of the hearing or within the period of five working days beginning with the day or the last day on which the hearing was held.
- 18. A record of the hearing will be taken in a permanent and intelligible form.