



Leicester  
City Council

# **Code of Practice for Hearings - Licensing Act 2003**

**Version 4a**

**July 2014**

## **1. Introduction**

- 1.1. This Code of Practice sets out how hearings to be held by Leicester City Council in its role as Licensing Authority under the Licensing Act 2003 will be conducted.
- 1.2. The Licensing Act – Hearings Regulations 2004 also regulate the conduct of hearings and this Code should be read in conjunction with those regulations. In the event of uncertainty the Regulations would take precedence.
- 1.3. Members of the Licensing Committee who sit on hearing panels are also governed by the “Code Of Practice For Member Involvement in Licensing Matters.”
- 1.4. The types of hearings to which this Code of Practice is applicable are set out in Sections 6.

## **2. Objectives**

- 2.1. Hearings will be conducted in order to achieve the following objectives:
  - The decision making process promotes the licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm.
  - All parties are given a fair hearing.
  - Hearings are conducted in an efficient manor.

## **3. Roles**

- 3.1. The Licensing Committee has delegated the holding of hearings to Licensing Sub-Committees of three members. Members of the Sub-Committee will:
  - Consider information and evidence presented by the parties;
  - Control the conduct of hearings in accordance with this code;
  - Ask questions of the parties that are relevant to the matter to be determined.
  - Seek advice from the Legal Advisor and Licensing Officer
  - Make a determination at the conclusion of the hearing.
- 3.2. The Legal Advisor will give legal advice to the Sub-Committee on the following matters:
  - The interpretation of legislation;
  - Other legal matters;
  - The admissibility and relevance of evidence and other information presented by the parties;
  - The relevance and appropriateness of questions.The Legal Advisor will remain neutral to the decision making process.
- 3.3. The Committee Secretary will make a record of the hearing and will advise the Sub-Committee on the procedure to be followed. The Committee Secretary will remain neutral to the decision making process.

- 3.4. The Licensing Officer will provide the factual details of the matter to be considered and offer advice to the Sub-Committee on the Licensing Act, the authority's Licensing Policy and the Guidance issued by the Secretary of State, as they relate to the application and representations made. The Licensing Officer will remain neutral to the decision making process.
- 3.5. The Parties to the hearing include the applicant and any responsible authority or interested party who has made a representation or given a notice in respect of the application. They will be able to give further information in support of their application, representation or notice, to clarify any point that the Licensing Authority has raised, to address the Sub-Committee and, if given permission by the authority, question another party.
- 3.6. Ward councillors who appear at licensing hearings as interested parties, because they have made representations or requested reviews, will be given the same opportunities and be subject to the same restrictions as other parties to the hearing.

#### **4. General Matters**

##### **4.1. Setting of Date for Hearings**

- 4.1.1. In view of the requirement to hold hearings within specified times, the Licensing Authority will generally be unable to enter into discussions to identify dates convenient to all parties concerned.
- 4.1.2. The Licensing Authority will give notice of the hearing as set out in Section 6.
- 4.1.3. The notice will specify any points that the Licensing Authority would like to be clarified at the hearing.
- 4.1.4. In exceptional circumstances, the Licensing Authority will consider applications to adjourn hearings to a later date.

##### **4.2. Notice of Attendance**

- 4.2.1. Any party receiving a notice of hearing will give the Licensing Authority, within the time period specified in Section 6, a notice of whether they intend to attend or be represented at the hearing, or whether they consider a hearing to be unnecessary.
- 4.2.2. If a party wishes any other person (other than a person representing them) to appear at the hearing, the notice shall also contain a request for permission for this, with details of the name of the person and a brief description of the points that the person would be able to make.
- 4.2.3. If a party has not notified the Licensing Authority of their intention to attend a hearing, the rights of the party, as outlined in Paragraph 3.5 above, may only be exercised with the agreement of the Sub-committee.

### **4.3. Non- Attendance at Hearings**

- 4.3.1. If a party to a hearing fails to attend, the licensing authority may hold the hearing in that party's absence unless it considers it in the public interest to adjourn the hearing to a later date.
- 4.3.2. Where a hearing is held in the absence of a party, any written representation made by the party will be considered by the Licensing Authority at the hearing.

### **4.4. Visits to Premises**

- 4.4.1. In certain situations a visit to a premises that is the subject of a hearing may prove useful. This will be dependant on the purpose of the hearing and the level of information that is provided at the hearing. However, care needs to be taken to ensure that the visit does not prejudice the hearing, by evidence being presented at the visit, other than about the physical layout of the premises. Members should also be aware that, because of the limited time during which it is possible to arrange a visit, the timing may not always be the most convenient for all involved.
- 4.4.2. Where, after considering the information presented at the hearing, members of the panel believe that a visit would be useful, a visit may be organised subject to the following
  - The permission of the occupier of the premises being granted.
  - A suitable date being found for the visit within the time allowed for determination on the application.
  - Discussion of the application not taking place during the visit
  - An opportunity being provided for the other parties to the hearing to be present during the visit.

### **4.5. Documentary Evidence**

- 4.5.1. Eight copies of any documentary or written information to be presented at hearings should be submitted to the Licensing Authority in accordance with the timescales set out in Section 6.
- 4.5.2. Parties to the hearing should also submit a written summary, of no more than one page of A4, of all information they intend to present at the hearing.
- 4.5.3. The Licensing Authority will forward copies of evidence and information to other parties to the hearing.
- 4.5.4. The Sub-Committee may only consider evidence submitted at the hearing if all parties agree to its late submission.

#### **4.6. Maximum Time Allowances at Hearings**

- 4.6.1. The Licensing Authority is required by regulation to allow the same maximum times for the parties to undertake the functions identified in paragraph 3.5 above. These are set out in Section 6.
- 4.6.2. Applications that all parties should be allowed extra time to undertake their functions, would need to be made in advance of the hearing. In these circumstances it may be possible to rearrange the hearing provided that statutory deadlines can still be met.

#### **4.7. Public Hearings**

- 4.7.1. Hearings will be in public.
- 4.7.2. The Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so.

#### **4.8. Right of Assistance and Representation**

- 4.8.1. Any party to a hearing may be assisted or represented by any person whether legally qualified or not.

### **5. Procedure at Hearings**

#### **5.1. Format of Hearings**

- 5.1.1. Hearings will take the form of a discussion led by the authority. Cross-examination will not be allowed unless the authority considers it necessary for it to consider the matter being dealt with.

#### **5.2. Introductions**

- 5.2.1. The Chair of the Sub-Committee will arrange for all parties present to introduce themselves.
- 5.2.2. The Chair will explain the procedure to be followed.

#### **5.3. Licensing Officer's Report**

- 5.3.1. The Licensing Officer will present a report that will:
  - confirm the purpose of the hearing
  - set out the factual details of the matter to be considered
  - provide advice about how the Licensing Act, statutory guidance and the authority's policy relates to the application and any representations made
  - in respect of premises licences, a schedule of the conditions that are consistent with the operating schedule submitted with the application
  - a schedule of the points that require clarification that were identified in the notice of hearing.

#### **5.4. Presentation of Information**

- 5.4.1. Each party will clarify any points raised by the authority and give further information in support of their representation, notice or application. Questions about the information may be asked by the Sub-Committee members (see Paragraph 5.5). Cross-examination by another party will not be allowed unless the Sub-Committee consider it would assist them in arriving at a determination.
- 5.4.2. The Licensing Authority will seek to focus the hearing on the promotion of the licensing objective that gave rise to the hearing and avoid the hearing straying into undisputed areas. The information should therefore be relevant and relate to the representation, notice or other determination to be considered and to the promotion of the licensing objectives.
- 5.4.3. Where more than one representation has been made, the party making the representation should avoid duplicating the points made by other parties although they may briefly state their agreement with them.
- 5.4.4. Generally, the parties may not add further representations to those disclosed to the applicant prior to the hearing, but they may amplify their existing representation.
- 5.4.5. Information will be presented first by the party making the representation or notice followed by a response by the applicant. Where there is more than one party giving a representation or notice, the Sub-Committee will decide which order they should take.
- 5.4.6. The maximum time allowed for each presentation is set out in Section 6.

#### **5.5. Questions**

- 5.5.1. Following each presentation, members of the Sub-Committee may ask questions.
- 5.5.2. The questions will be relevant and relate to the representation, notice or other determination to be considered. Duplication will be avoided.
- 5.5.3. Where the Sub-Committee consider it would assist them in arriving at a determination, they may give permission for another party, or one of the officers present to ask a question.
- 5.5.4. The maximum time allowed for questions by another party in relation to each presentation is set out in Section 6.

#### **5.6. Final Addresses to the Sub-Committee**

- 5.6.1. Following the completion of presentations and questions, each party may address the Sub-Committee. This will be done in the order in which presentations were given.
- 5.6.2. The maximum time allowed for addressing the Sub-Committee is set out in Section 6.

## **5.7. Close of Hearing**

- 5.7.1. On completion of all presentations and questions, the Chair of the Sub-Committee will declare the hearing closed.

## **5.8. Determination**

- 5.8.1. The Sub-Committee will make a determination of the matters to be considered within the timescales set out in Section 6.
- 5.8.2. In coming to a determination the Sub-Committee may take advice from its Licensing Officer and Legal Advisor. All such advice will be given in the presence of the parties to the hearing.
- 5.8.3. Where the parties of the hearing are excluded from the hearing whilst the Sub-Committee considers its determination, then except as allowed for in Paragraph 5.8.4 below, all persons present, including council officers, will also be excluded from the hearing. As an exception to the above, the Sub-Committee may decide that the Committee Services Officer may remain to record, but not take part in, the decision making process.
- 5.8.4. After reaching its determination, the Sub-Committee may ask the Legal Advisor present to verify the wording of the determination and the Committee Services Officer to record the decision, prior to it being announced to the parties. This verification and recording may take place in private.

## **5.9. Announcement of Determination and Notification**

- 5.9.1. If the Sub-Committee has made its determination immediately after the hearing, it will announce its decision, and where applicable the reasons for it, to the parties present.
- 5.9.2. Written notification of the determination will be given to the parties within the timescales set out in Section 6. Notifications will include information about the rights of appeal against the determination made.
- 5.9.3. Where there is any discrepancy between the announcement of the decision and the written notification, the written notification will take precedence.

## Details Applicable to Each Type of Hearing

### 5.10. Determination of Application for Personal Licence – Section 120(7)(a) Determination of Application for Renewal of Personal Licence – Section 121(6)(a)

Period in which Hearing to be held	20 working days from the date of end of period for notice by police
Period of Notice of Hearing	10 working days
Parties to be Notified	The Applicant The Chief Officer of Police
Period of Notice of Attendance at Hearing	5 working days before hearing
Period of submission of evidence to be presented at hearing	5 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	30 minutes
Maximum time for questioning of each party by any other party at hearing	10 minutes
Maximum time for addressing Sub-Committee by each party	5 minutes
Determinations to be made	Whether it is necessary to reject the application to promote the crime prevention objective
Period allowed for Determination by Sub-Committee	5 working days

### 5.11. Determination of Application for Premises Licence – Section 18(3)(a) Determination of Application for Club Premises Certificate – Section 72(3)(a)

Period in which Hearing to be held	20 working days from the date of end of period for representations
Period of Notice of Hearing	10 working days
Parties to be Notified	The Applicant Parties making representations
Period of Notice of Attendance at Hearing	5 working days before hearing
Period of submission of evidence to be presented at hearing	5 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	40 minutes
Maximum time for questioning of each party by any other parties at hearing	15 minutes
Maximum time for addressing Sub-Committee by each party	10 minutes
Determinations to be made	Whether to: <ul style="list-style-type: none"> <li>• Grant the licence subject to conditions</li> <li>• To exclude from the licence any of the licensable activities</li> <li>• To refuse to accept the proposed</li> </ul>

	premises supervisor <ul style="list-style-type: none"> <li>To reject the application</li> </ul>
Period allowed for Determination by Sub-Committee	5 working days

5.12. Determination of Application for Provisional Statement – Section 31(3)(a)

Period in which Hearing to be held	20 working days from the date of end of period for representations
Period of Notice of Hearing	10 working days
Parties to be Notified	The Applicant Parties making representations
Period of Notice of Attendance at Hearing	5 working days before hearing
Period of submission of evidence to be presented at hearing	5 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	40 minutes
Maximum time for questioning of each party by any other parties at hearing	15 minutes
Maximum time for addressing Sub-Committee by each party	10 minutes
Determinations to be made	Whether it would be necessary on the completion of the premises, to: <ul style="list-style-type: none"> <li>Grant the licence subject to conditions</li> <li>To exclude from the licence any of the licensable activities</li> <li>To refuse to accept the proposed premises supervisor</li> <li>To reject the application</li> </ul>
Period allowed for Determination by Sub-Committee	5 working days

5.13. Determination of Application to Vary Premises Licence – Section 35(3)(a)  
 Determination of Application to Vary Club Premises Certificate – Section 85(3)(a)

Period in which Hearing to be held	20 working days from the date of end of period for representations
Period of Notice of Hearing	10 working days
Parties to be Notified	The Applicant Parties making representations
Period of Notice of Attendance at Hearing	5 working days before hearing
Period of submission of evidence to be presented at hearing	5 working days before hearing
Maximum time for presentation of evidence	40 minutes

and information by each party at hearing	
Maximum time for questioning of each party by any other parties at hearing	15 minutes
Maximum time for addressing Sub-Committee by each party	10 minutes
Determinations to be made	Whether to: <ul style="list-style-type: none"> <li>• Modify the conditions of the licence</li> <li>• To reject the whole</li> </ul>
Period allowed for Determination by Sub-Committee	5 working days

5.14. Determination of Application to Change Premises Supervisor – Section 39(3)(a)

Period in which Hearing to be held	20 working days from the date of end of period for notice by police
Period of Notice of Hearing	10 working days
Parties to be Notified	The Applicant The Chief Officer of Police The proposed premises supervisor
Period of Notice of Attendance at Hearing	5 working days before hearing
Period of submission of evidence to be presented at hearing	5 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	30 minutes
Maximum time for questioning of each party by any other parties at hearing	10 minutes
Maximum time for addressing Sub-Committee by each party	5 minutes
Determinations to be made	Whether it is necessary to reject the application to promote the crime prevention objective
Period allowed for Determination by Sub-Committee	5 working days

5.15. Determination of Application to Transfer Premises Licence – Section 44(5)(a)

Period in which Hearing to be held	20 working days from the date of end of period for notice by police
Period of Notice of Hearing	10 working days
Parties to be Notified	The Applicant The Chief Officer of police The existing licence holder
Period of Notice of Attendance at Hearing	5 working days before hearing

Period of submission of evidence to be presented at hearing	5 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	30 minutes
Maximum time for questioning of each party by any other parties at hearing	10 minutes
Maximum time for addressing Sub-Committee by each party	5 minutes
Determinations to be made	Whether it is necessary to reject the application for the promotion of the crime prevention objective
Period allowed for Determination by Sub-Committee	5 working days

5.16. Cancellation of Interim Authority Notice – Section 48(3)(a)

Period in which Hearing to be held	5 working days from the date of end of period for notice by police
Period of Notice of Hearing	2 working days
Parties to be Notified	The Applicant The Chief Officer of police
Period of Notice of Attendance at Hearing	1 working days before hearing
Period of submission of evidence to be presented at hearing	1 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	30 minutes
Maximum time for questioning of each party by any other parties at hearing	10 minutes
Maximum time for addressing Sub-Committee by each party	5 minutes
Determinations to be made	Whether it is necessary to cancel the interim authority notice for the promotion of the crime prevention objective
Period allowed for Determination by Sub-Committee	5 working days

5.17. Review of Premises Licence – Section 52(2)  
Review of Club Premises Certificate – Section 82(2)

Period in which Hearing to be held	20 working days from the date of end of period for representations
Period of Notice of Hearing	10 working days

Parties to be Notified	The licence holder Persons making relevant representations The person who made the application for a review
Period of Notice of Attendance at Hearing	5 working days before hearing
Period of submission of evidence to be presented at hearing	5 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	40 minutes
Maximum time for questioning of each party by any other parties at hearing	15 minutes
Maximum time for addressing Sub-Committee by each party	10 minutes
Determinations to be made	Whether to: <ul style="list-style-type: none"> <li>• Modify the conditions of the licence</li> <li>• Exclude a licensing activity</li> <li>• Remove the designated premises supervisor</li> <li>• Suspend the licence for up to three months</li> <li>• Revoke the licence</li> </ul>
Period allowed for Determination by Sub-Committee	5 working days

5.18. Review of Premises Licence following Closure Order – Section 167(5)(a)

Period in which Hearing to be held	10 working days from the date notice from magistrates' court
Period of Notice of Hearing	5 working days
Parties to be Notified	The licence holder Persons making relevant representations
Period of Notice of Attendance at Hearing	2 working days before hearing
Period of submission of evidence to be presented at hearing	2 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	40 minutes
Maximum time for questioning of each party by any other parties at hearing	15 minutes
Maximum time for addressing Sub-Committee by each party	10 minutes

Determinations to be made	Whether to: <ul style="list-style-type: none"> <li>• Modify the conditions of the licence</li> <li>• Exclude a licensing activity</li> <li>• Remove the designated premises supervisor</li> <li>• Suspend the licence for up to three months</li> <li>• Revoke the licence</li> </ul>
Period allowed for Determination by Sub-Committee	At the conclusion of the hearing

5.19. Police objection to Temporary Event Notice – Section 105(2)(a)

Period in which Hearing to be held	7 working days from the date of end of period for notice by police
Period of Notice of Hearing	2 working days
Parties to be Notified	The Applicant The Chief Officer of Police
Period of Notice of Attendance at Hearing	1 working days before hearing
Period of submission of evidence to be presented at hearing	1 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	40 minutes
Maximum time for questioning of each party by any other parties at hearing	15 minutes
Maximum time for addressing Sub-Committee by each party	10 minutes
Determinations to be made	Whether to give a counter notice
Period allowed for Determination by Sub-Committee	At the conclusion of the hearing

5.20. Consideration of Convictions of Personal Licence Holder – Section 124(4)(a)

Period in which Hearing to be held	20 working days from the date of end of period for notice by police
Period of Notice of Hearing	10 working days
Parties to be Notified	The Applicant The Chief Officer of police
Period of Notice of Attendance at Hearing	5 working days before hearing
Period of submission of evidence to be presented at hearing	5 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	30 minutes
Maximum time for questioning of each party by any other parties at hearing	10 minutes

Maximum time for addressing Sub-Committee by each party	5 minutes
Determinations to be made	Whether it is necessary to cancel the interim authority notice for the promotion of the crime prevention objective
Period allowed for Determination by Sub-Committee	5 working days

- 5.21. Determination of Application for Conversion to Premises Licence, subject to of Police Notice of Objection – Paragraph 4(3)(a) of Schedule 8  
Determination of Application for Conversion to Club Premises Certificate, subject to of Police Notice of Objection – Paragraph 16(3)(a) of Schedule 8

Period in which Hearing to be held	10 working days from the date of end of period for representations
Period of Notice of Hearing	5 working days
Parties to be Notified	The applicant The Chief Officer of Police
Period of Notice of Attendance at Hearing	2 working days before hearing
Period of submission of evidence to be presented at hearing	2 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	40 minutes
Maximum time for questioning of each party by any other parties at hearing	15 minutes
Maximum time for addressing Sub-Committee by each party	10 minutes
Determinations to be made	Whether it is necessary to reject the application to promote the crime prevention objective.
Period allowed for Determination by Sub-Committee	At the conclusion of the hearing

- 5.22. Determination of Application for Conversion to Personal Licence, subject to a Police Notice of Objection – Paragraph 26(3)(a) of Schedule 8

Period in which Hearing to be held	10 working days from the date of end of period for notice by police
Period of Notice of Hearing	5 working days
Parties to be Notified	The Applicant The Chief Officer of Police
Period of Notice of Attendance at Hearing	2 working days before hearing
Period of submission of evidence to be presented at hearing	2 working days before hearing
Maximum time for presentation of evidence and information by each party at hearing	30 minutes

Maximum time for questioning of each party by any other party at hearing	10 minutes
Maximum time for addressing Sub-Committee by each party	5 minutes
Determinations to be made	Whether it is necessary to reject the application to promote the crime prevention objective
Period allowed for Determination by Sub-Committee	At the conclusion of the hearing

# Summary of Procedure at Hearing

## 1. Introductions

- 1.1. Introduction from Chair
- 1.2. Introduction from other members, officers and the parties

## 2. Report

- 2.1. Report by the Licensing Officer
- 2.2. Questions by members
- 2.3. Questions by the parties

## 3. Presentations

- 3.1. Presentation by those making representations
  - 3.1.1. Questions by members
  - 3.1.2. Questions by other parties
- 3.2. Presentation by applicant
  - 3.2.1. Questions by members
  - 3.2.2. Questions by other parties

## 4. Final Addresses

- 4.1. By those making representations
- 4.2. By the applicant

## 5. Advice

- 5.1. From the Licensing Officer
- 5.2. From the Legal Advisor

## 6. Decision

- 6.1. Consideration by members in private
- 6.2. Members come to a decision
- 6.3. Legal Advisor is asked to check the decision
- 6.4. Chair announces decision