

# London Local Authorities Act 1991

## Special Treatments Licensing

### Procedures Notes for an Oral Hearing in Public of an Application

Any application for a Special Treatments Licence that is opposed and cannot be resolved by officers from the Council's Licensing Unit, will be set down for determination by the Licensing Sub-Committee at an oral hearing in public.

Where this is the case, all interested parties will be informed in writing prior to the meeting. Normally we will try to give 3 weeks working days notice in writing of the meeting date. Meetings are held at the 160 Tooley Street, London SE1 2QH on weekdays commencing at 10:00.

Neither the applicant nor objectors are required to attend the meeting but everybody involved is urged to attend. You will appreciate that evidence that is given orally at a meeting, where information provided can be discussed and clarified will often be given more weight than written evidence that cannot be questioned or substantiated.

The procedure for public hearings is set out in full below. Generally, however, the procedure followed is less formal than that in a Court of law and is not intended to intimidate any persons attending. Councilors and officers present appreciate that, very often, objectors and witnesses will have no experience of speaking at this type of meeting and every assistance is offered to make people feel relaxed. No oath is taken from those taking part in the meeting and no one is required to stand while speaking.

However, the procedure set out below is followed strictly. The Council wishes to ensure that every hearing is fair to all concerned. Copies of this notes are provided to all parties prior to the meeting so that no person is caught unaware, not knowing what to expect.

#### **General Points**

1. That the applicant and objectors attend, even though counsel, a solicitor, or a colleague or friend may be chosen to represent any party. Both applicant and objector may call witnesses.
2. Where an objection has lodged by an organisation, such as a tenants or residents association, it is advisable for more than one person to attend the hearing. It may assist the presentation of a case if one particular person is chosen to present and co-ordinate it, but as objectors may only speak on their own personal experiences, several people will normally be required to present a "complete picture" of the situation. Representatives of associations attending hearings may be asked for evidence that they have been formally authorised to object on behalf of the body.
3. Where a number of individual objectors are opposing an application upon similar grounds, they may wish to nominate one person to act as spokesperson. He/she can (i) make a general statement in support of their case; (ii) question other objectors to bring out important points; and (iii) cross-examine the applicant and his/her witnesses.
4. The applicant and the objectors (or their representatives) may speak in general terms in support of their case on one occasion only - either before or after they give evidence and call witnesses.

5. The applicant may wish to call witnesses to give evidence of action taken to try and resolve identified problems. For instance, witnesses might be called upon to comment upon sound insulation work carried out at a premise or members of staff might be required to speak upon management controls in operation at a venue. If the applicant is not to be the person who has day to day control of the premises in question, it is particularly useful for the manager to be called as a witness in order that Councilors can satisfy themselves the premises will be conducted properly and that the conditions of any licence that may be granted, will be observed.
6. The objectors may wish to call witnesses, neighbours or visitors to their homes who can give first hand accounts of disturbances that may have occurred. Objectors and witnesses, however, must limit the evidence given to the grounds of objection initially submitted in writing.
7. Members of the Committee receive a full report on the background of the case, prior to the meeting, and this report contains all information on issues such as the history of the premises and any records of nuisance and disturbance witnessed by officers. Officers may also report to the committee and give evidence of a professional nature within the scope of their duties.
8. Anyone giving evidence may be cross-examined by the opposing party or parties and may be questioned by the members. Cross-examination must take the form of questions to the person giving evidence. It cannot be taken as an opportunity to enter into discussion or make statements to the Sub-Committee.
9. The Council has no power to award costs to either side.

### ***The Procedure at the Hearing***

10. At the start of the meeting the Chair of the Sub-Committee will read out the details of the application to be considered. A check is made of all persons present who intend to give evidence during the course of the meeting. The Sub-Committee's legal adviser will detail the procedure to be followed at the meeting and the Licensing Officer will update members on any new developments on the application.
11. The objectors are called to speak first so that the applicant fully understands the case that he/she has to answer. Where there are a number of objectors present, the Chair will normally call those objectors who are represented to speak first, giving the opportunity for those other objectors to see in practice the procedure to be followed. If for any reason an objector requires to be called at an early stage of the meeting in order that they may leave, it would be helpful if this is made known to the Committee Clerk before the meeting commences.
12. Each person giving evidence should begin by stating his or her full name and address. If involved with the application that person should also state their connection. Each person giving evidence will firstly be examined by the person calling him or her. He or she may then be cross examined by the opposing party and by members of the Sub-Committee. He or she may then be questioned further by the person who called him or her.
13. Evidence given by objectors should clearly establish that complaints relate to the fitness of the applicant or the use of the premises concerned and not to other premises operating nearby. Records of dates and times of incidents upon which complaints are based are particularly helpful in the presentation of evidence.
14. An objector may be asked if he/she has made any complaint previously to the applicant, his or her staff, the police or the Council. Similarly, record of complaints made will assist the presentation of their case.

15. Both the applicant and objector may, subject to paragraph 16 below, produce documentary evidence (e.g. plans, photographs, etc.). A minimum of six copies must be submitted. The Council's officers will prepare a map showing the situation of the premises and surrounding property. The applicant is required to provide scale plans of the premises to which the application relates.
16. If during the course of the hearing, any document such as a statement from an objector who is not present is introduced for the first time, the Chair will ask if its introduction is opposed. Where all parties do not agree to the introduction of the document, it will be for members to decide whether it can be admitted. The legal adviser present may guide members in their decision and advise what "weight of evidence" can be placed on the document if accepted. When a new document is accepted, members will take into account the fact that the document author is not present to be cross-examined. At least six copies of the document should be presented to the Committee Clerk for distribution to those parties present. In view of the foregoing it is helpful if any documentation can be forwarded to the Council, at least two weeks prior to the hearing.
17. When all the evidence has been heard, the members will retire and then return (normally about 20-30 minutes later) for the Chair to announce the decision of the Sub-Committee to all those who choose to remain present. The decision of the Sub-Committee is confirmed in writing to the applicant and each of the objectors or to their legal representatives as appropriate.

### ***Appeals against the Decision of the Sub-Committee***

18. Any person who is refused a Special Treatments Licence or who feels that a decision to include any licence condition or restriction has been made unfairly, may appeal to the local Magistrates Court. In such cases the Court rehears all evidence that was given in support of and against the initial application. A further stage of the appeal exists beyond the Magistrates Court to the Crown Court.
19. An objector does not have the same right of appeal where he or she feels that the decision of the Council to grant an application is unjust. However, the objector is entitled to object again when the premises licence comes up for renewal. Additionally, the Council does not then ignore premises it has licensed. Premises are monitored by the Council and any complaint made about the running of any premises during the course of its licence will be investigated.