



Rules Governing Reviews Of Decisions In Respect Of

Marriages - Approved Premises



**Marriage Act 1949 - Section 46a
The Marriages (Approved Premises) Regulations 1995 Reviews**

**Rules of Procedure at Hearings before the Licensing Committee to
Review Decisions made under the Marriages (Approved Premises)
Regulations 1995.**

Effective from 3 August 2000

Interpretation

1. In these rules the masculine always includes the feminine and the singular includes the plural and :

“Act” means the Marriage Act 1949 (as amended by the Marriage Act 1994).

“Regulations” means the Marriages (Approved Premises) Regulations 1995.

“Approval” means any approval granted under Section 46A of the Act.

“Approval Holder” means the holder of an approval granted under Section 46A of the Act.

“Applicant” means an applicant for an approval.

“Revocation” means the revocation of, or a proposal to revoke an approval under Regulation 8.

“Proper Officer” means the Proper Officer for the Registration Service for Births, Deaths and Marriages.

“Parties” means the applicant or approval holder as the case may be, the Proper Officer and the Business Unit Manager (who will call as his witnesses any person objecting to the grant of an approval or seeking revocation).

“Premises” means the place for which an approval is sought or for which an approval is in force.

“Submission” means the making of representations by a Member of the Council acting in his capacity as a Councillor under Rule 9.

“The Director“ means the Council’s Director Environment and Leisure, or other representative.

“The Business Unit Manager” means the Council’s Business Unit Manager (Licensing) or appropriate representative.

“The Licensing Policy Advisor” means the Council’s Licensing Policy Advisor, Client Manager (Licensing) or appropriate representative.

“Council” means Westminster City Council.

“Committee” means the Planning and Licensing Committee.

“Committee” means the Licensing Committee of the Planning and Licensing Committee.

“Licensing Officer Panel” means the Panel of officers set up to determine applications for approvals, renewal of approvals or proposals for revocation.

Composition Of The Committee

2. The Sub Committee shall normally consist of three members. However no business shall be transacted unless at least two members are present. The Councillor for the Ward in which the applicants' premises are situated or where either the applicant or the objectors live shall not normally sit on the Committee when that application is to be considered.

Terms Of Reference

3. The Committee shall review decisions of the Licensing Officer Panel to:
 - (a) refuse to grant an approval; or
 - (b) refuse to renew an approval; or
 - (c) attach to an approval conditions other than on those set out in Schedule 2 to the Regulations; or
 - (d) revoke an approval other than on the grounds set out on Regulations 8 (9) or 8 (10)

where the applicant is aggrieved by that decisions, has requested a review and (where relevant) paid the appropriate fee.

Review Hearing

General Procedure

4. The procedure at the hearing will be similar to that practised in a Court of Law. Although the strict rules of evidence will not apply, the Committee will nonetheless be guided by legal principles in determining whether evidence is both relevant and fairly admitted. In particular hearsay evidence may be admitted before the Committee, but consideration will always be given to the weight, if any, to be attached to such evidence, depending on the circumstances in which it arises. The Committee may seek advice or clarification of any procedural, technical or legal matter from the Legal Adviser or other relevant officer at any time during the hearing.
5. A report will be submitted to the Committee prepared by the Business Unit Manager. This report will contain the observations of the interested parties such as the Superintendent Registrar, the views of the Proper Officer, notice of any objection and the reasons given by the Chairman of the Licensing Officer Panel for his decision. In appropriate cases an Ordnance Sheet will be provided indicating (i) the locations of any objectors' and other premises within a suitable radius which have been granted an approval or which are licensed either as night cafes or for public entertainment and (ii) the residential

accommodation within this radius. A copy of the report will be sent to the applicant and the other parties in advance of the meeting.

- 6 It is open to the applicant to attend the Review hearing to make representations or to give evidence in person. Where the applicant is a body corporate anyone attending in person should be empowered to supply any undertaking sought by the Committee and to be able to demonstrate that the conditions of any approval can be complied with. The Business Unit Manager will call as his witnesses any relevant party who gave evidence at the original hearing.
7. The Committee is empowered to consider both written and oral evidence but will attach more importance to evidence that can be tested by questioning.

Councillor's Submission

8. A Councillor may either:
 - (a) appear as a witness for the Business Unit Manager;
 - (b) appear as a witness for the applicant.
 - (c) give evidence by way of Councillor's submission as detailed in Rule 9 below.
9. If a Councillor, who is not appearing as a witness, wishes to make a submission to the Committee, he may either address the -Committee or may submit a written statement regardless of whether or not he is a witness called by any party as follows:
 - (a) If the Councillor wishes to address the Committee this will normally be done after the Business Unit Manager has introduced the report and called any evidence.

Note: Alternatively the Councillor may, with the agreement of the Committee, address the Committee at a later stage in the proceedings. Where this happens an opportunity will be given to the other parties to comment on that submission and if necessary call fresh evidence.

- (b) Before a Councillor addresses the Committee he must first make a declaration that he has not previously discussed the application with the Members of the Committee and will take no part in the determination of the application.
- (c) Any evidence given by the Councillor in addressing the Committee will be subject to questioning by any party or by members of the Committee.
- (d) Any evidence given by the Councillor in addressing the Committee shall only relate to those matters already known to the applicant by way of the report or by reason of the notice required under paragraph (e) below.
- (e) Notice in writing of any evidence to be given by the Councillor in addressing the Committee shall be provided to the Business Unit Manager at least 14 days before the date of the hearing, setting out in general terms the nature of the evidence.

- (f) If the submission is by way of written statement the Committee will take into account, in considering the weight to be attached to the submission. The fact that the Councillor was not available to be cross-examined.
- (g) A submission by way of written statement shall be provided to the Business Unit Manager at least 14 days before the date of the hearing.
- (h) The Business Unit Manager shall on receipt of any notice under paragraph (e) above or a written submission under paragraph (g) above send a copy to the applicant as soon as possible.
- (i) If a Councillor fails to comply with the time limits in paragraphs (e) or (g) above and there is an objection to the Councillor's submission being heard or admitted, the Committee may hear argument and may hear or admit the submission if it feels in all the circumstances it would be reasonable to do so.
- (j) Involvement by the Councillor under this rule is limited to making a submission and there is no right to question the parties or witnesses, to call witnesses or to make a closing address.

Order Of Proceedings

- 10. At the start of the hearing the Chairman will introduce himself and other members of the Committee.
- 11. There will be a list provided indicating the names of the persons appearing at the hearing and the Chairman will establish whether there are any additions or alterations to be made to it. The Chairman will then outline the procedure to be followed for the remainder of the hearing. The procedure shall be as follows and normally in the following order:
 - (a) The Business Unit Manager will introduce the report referred to in Rule 5 and will outline the matter before the Committee, giving any relevant background information and explain the reasons for his recommendations. He will then call any necessary person to give information in support of his recommendation. This will include persons who objected previously. These persons may be questioned by the applicant and by members of the Committee on any matter relating to their evidence and are be subject to further questioning by the Business Unit Manager.
 - (b) Any Council officer may be legally represented.
 - (c) Councillors may make representations under Rule 9 unless they wish to make representations later as provided for in Rule 9(a).
 - (d) The applicant (or his representative) is then entitled to address the Committee and call evidence in support of his application.
 - (e) When the applicant has called his evidence the Business Unit Manager may make a closing statement. No new evidence may be called at this stage and his closing statement must be limited to commenting on matters raised by the applicant either in the applicant's opening statement or the evidence called in support of the application.

- (f) When the Business Unit Manager has made his closing submission the applicant (or his representative) may make a closing statement to the Committee.

Note: As the matter before the Committee is a review of a Panel decision any person objecting to the grant of an approval or seeking revocation would be called by the Business Unit Manager.

12. When a person gives evidence as a witness:

- (a) He is first asked to state his full name and address. A witness may withhold his address but to do so may result in no weight being given to his evidence if his address is relevant to any issue in the case.
- (b) He may either make a statement or give evidence in answer to questions from his representative.
- (c) He may then be questioned by the other parties or their representatives. Members of the Committee and its legal and policy advisers may ask questions at any stage but will usually ask them at this stage. The Business Unit Manager or the applicant may ask questions arising out of a new matter raised by a question from the Committee or its legal and policy advisers. A witness may decline to answer questions but less, if any, weight will then be attached to his evidence.
- (d) If represented, he may then be re-questioned by his representative but only on matters arising out of the questions from others.

Documentary Evidence

- 13. Documentary evidence upon which any party intends to rely shall be submitted to the Business Unit Manager not less than 14 days before the date of the hearing in order that it may be included with the report to be submitted to the Committee. A copy of this report will be supplied to all parties prior to the hearing. If documents are not easy to photocopy to A4 size (e.g. photographs) then normally eight copies of any document must be supplied.
- 14. Any document submitted to the Business Unit Manager after the report has been despatched to the parties and on which one party wishes to rely shall be the subject of the following procedure before it may be taken into account by the Committee in reaching its decision:
 - (a) the document must be shown to all the other parties to the hearing wherever possible before the hearing commences.
 - (b) the party wishing to rely on the document shall be asked to explain why the document was not submitted in advance and may make any representations as to why it should be taken into account by the Committee in reaching its decision.
 - (c) The other party or parties to the hearing shall indicate whether, because of its late submission, they have any objection to the Committee taking the document into account in reaching its decision.

- (d) the Committee may consider whether it is necessary to grant an adjournment to any party as a result of the late submission of any document.
- (e) taking into account its power to grant an adjournment (including the possible delay and cost caused thereby) and any representations or objections made by the parties the Committee shall consider whether it would be fair in all the circumstances for the document to be taken into account in reaching its decision.

- Note:**
- 1. This rule will be interpreted flexibly in relation to models, colourboards etc. A party wishing to produce such models etc should give notice in advance to the Committee.
 - 2. At least 8 copies should be provided of any document, which is to be submitted at the meeting.

Video Evidence

- 15. If one of the parties wishes to show video evidence at the hearing the Licensing Business Unit Manager should be advised at least 14 days in advance of the hearing. At least one copy of the video evidence shall be supplied to the Business Unit Manager so that the opposing party or parties may have the opportunity to view the evidence in advance of the hearing. Provided the appropriate notice has been given the Council will normally provide the necessary viewing equipment.
- 16. At the oral hearing the Chairman will establish whether any party objects to the video being shown. If an objection is raised then the parties concerned should give their reasons for and against the proposed showing of the video. The Legal Adviser to the Committee may also give advice before the Committee decides whether or not to see the video evidence.

Decision

- 17. At the end of a hearing the Chairman will invite the Committee to pass a resolution under Section 12A of the Local Government Act 1972 to exclude the press and public so as to enable the Committee to deliberate in private. If the resolution is passed the Chairman will announce that the Committee will retire to another room and will return as soon as possible to announce their decision (which can be reached by majority decision). The Committee will normally be accompanied by the Committee officer and the legal and policy advisers but the decision shall be arrived at by Members of the Committee only.
- 18. The Committee may:
 - (a) Confirm the original decision;
 - (b) Vary the original decision to grant or renew an approval, in particular by removing conditions attached under Regulation 6 (1) (b) or by attaching new or different conditions; or

- (c) Substitute a different decision, which may, where the original decision was to revoke an approval, be a decision that the approval should not be revoked but should be subject to new or different conditions than those that were previously attached to it.

Notification Of A Decision

- 19. The Chairman will announce the Committee's decision in public at the end of the hearing, the reasons for that decision and (except where the original decision is confirmed) the date from which it takes effect.. This decision will be communicated in writing to the parties as soon as possible after the hearing.

Waiver Of Rules

- 20. In any particular case any of these Rules (except 17, 18 and 19) may be waived, altered or modified by the Committee or its Chairman.