

North Yorkshire Council
Statutory Licensing Committee

24 May 2023

Sub-Committee Hearing Procedure

Report of the Corporate Director of Environment.

1.0 PURPOSE OF REPORT

1.1 To adopt a procedure for Sub-Committee hearings.
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2.0 SUMMARY

2.1 It is necessary to agree a procedure to follow at hearings before the Statutory Licensing Sub-Committees.

3.0 BACKGROUND

3.1 The Statutory Licensing Committee has responsibility for functions pertaining to the Council's powers under the Licensing Act 2003 and Gambling Act 2005. The Statutory Licensing Sub-Committees have been delegated powers to hold hearings to determine applications and other matters made under those Acts.

4.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

4.1 Hearings held under the above-named Acts are subject to specific regulations, namely, the Licensing Act 2003 Hearings Regulations 2005 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.

4.2 Pursuant to its delegated functions the Statutory Licensing Committee has authority to determine the procedure (subject to compliance with the relevant Regulations) to be followed at hearings of its Sub-Committees.

4.3 Appendix 1 contains a proposed procedure for the Statutory Licensing Committee to consider and approve (with or without amendments).

5.0 ALTERNATIVE OPTIONS CONSIDERED

5.1 Members could decide that the Sub-Committees agree a procedure at each individual hearing. This is not recommended as it would waste time, lead to inconsistency and risk non-compliance with legal requirements.

5.2 Members could decide that the Sub-Committees considers matters without a procedure. This is not recommended as it could result in non-compliance with legal requirements.

6.0 FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising from adopting a procedure for Sub-Committee hearings.

7.0 LEGAL IMPLICATIONS

7.1 To operate without an adopted standard procedure could result in Sub-Committees not complying with the relevant legislation and create procedural unfairness. This would leave the Council at risk of successful challenge to decisions of the Sub-Committees. The Legal Services Team have produced this report and the proposed procedure.

8.0 EQUALITIES IMPLICATIONS

8.1 No impacts have been identified. See the Equalities Impact Assessment screening form at Appendix 2.

9.0 CLIMATE CHANGE IMPLICATIONS

9.1 None identified, initial screening confirmed in Appendix 3.

10.0 POLICY IMPLICATIONS

10.1 Having a standard procedure for hearings ensures that any policy requirements are complied with.

11.0 CONCLUSIONS

11.1 A proposed procedure for the Statutory Licensing Committee to consider and approve is attached at Appendix 1. It is recommended that the Committee adopts this procedure (with or without amendments).

12.0 REASONS FOR RECOMMENDATIONS

12.1 To not adopt a procedure would waste time at hearings, lead to inconsistency and risk non-compliance with legislative requirements.

13.0 RECOMMENDATION(S)

13.1 That the Statutory Licensing Committee considers and adopts (with or without amendments) the Statutory Licensing Sub-Committee procedure attached at Appendix 1.

APPENDICES:

Appendix 1 – Proposed procedure for the Sub-Committees of the Statutory Licensing Committee

Appendix 2 – Equalities Impact Assessment screening

Appendix 3 – Climate Impact Assessment screening

BACKGROUND DOCUMENTS: None

Karl Battersby
Corporate Director – Environment
County Hall
Northallerton
5 May 2023

Report Author – Laura Venn, Legal Manager
Gareth Bentley, Food, Licensing and Occupational Safety Manager

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.



Statutory Licensing Sub Committee

Procedure

Introduction

1. The Sub-Committee will conduct its hearings fairly, observing the basic rules of natural justice.
2. Each hearing will take the form of a discussion led by the Chairman and cross examination will not be permitted unless the Sub-Committee considers that cross examination is necessary.
3. Hearings will be held in public but the Sub-Committee may decide to exclude the public from all or part of a hearing where it considers the public interest in doing so outweighs the public interest in the hearing taking place in public. In this context "public" includes any party to the hearing or any representative of a party.

Procedure

4. At the beginning of the meeting the Chairman shall:-
 - a) ask those present to introduce themselves;
 - b) explain the procedure;
 - c) ask the parties whether they wish permission for another person to appear at the hearing.
5. The Sub-Committee will consider requests from the parties for permission for other persons to appear at the meeting. Such permission will not be unreasonably withheld.
6. The Chairman will conduct the hearing taking representations from the parties in the following order:
 - a) the Licensing Officer who will outline the background to the case. The licensing officer's role is to provide factual information to the Sub-Committee.
 - b) the applicant/licence holder (including any person appointed to represent the party or any other persons who have been given permission to assist the party).
 - c) any party making representations (including any person appointed to represent the party or any persons who have been given permission to assist the party).
7. Before determination the applicant/licence holder will be given the final opportunity to address the Sub-Committee.
8. Each party will be given an equal maximum period of time in which to put forward any additional information requested by the Council, to question other persons (if given permission by the Sub-Committee) and address the Sub-Committee.
9. The Sub-Committee may exclude disruptive persons in certain circumstances.
10. The Sub-Committee may adjourn the hearing in certain circumstances.

11. The Sub-Committee will ask the parties to withdraw so that it can consider its determination. In considering its determination, the Sub Committee may ask its Legal Advisor to provide it with legal and procedural advice. The nature of this advice will be notified to the parties.
12. The Sub-Committee will make its determination at the end of the meeting and this will be confirmed in writing.

Failure of Parties to Attend a Hearing

13. If a party has informed the Council that they do not intend to attend or be represented at a hearing, the hearing may proceed in their absence.
14. Where a party has not so indicated fails to attend or be represented at a hearing the Sub-Committee may:
 - a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
 - b) hold the hearing in the party's absence.
15. Where the hearing is held in the absence of a party, the authority shall consider at the hearing of the application, representation or notice made by that party.
16. Where a hearing is adjourned to a specified date the Council will notify the parties of the date, time and place to which the hearing has been adjourned.

April 2023

Initial equality impact assessment screening form			
This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
Directorate	Environment		
Service area	Licensing		
Proposal being screened	Procedure for Sub-Committee hearings		
Officer(s) carrying out screening	Gareth Bentley, Food, Licensing and Occ Safety Man		
What are you proposing to do?	Create a procedure for Sub-Committee Members to follow when considering an individual licence application		
Why are you proposing this? What are the desired outcomes?	To ensure that decisions are made in compliance with the relevant law and that hearings are held fairly and consistently.		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No		
Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYC's additional agreed characteristics			
As part of this assessment, please consider the following questions:			
<ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? 			
If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt.			
Protected characteristic	Potential for adverse impact		Don't know/No info available
	Yes	No	
Age		N	
Disability		N	
Sex		N	
Race		N	
Sexual orientation		N	
Gender reassignment		N	
Religion or belief		N	
Pregnancy or maternity		N	
Marriage or civil partnership		N	
People in rural areas		N	
People on a low income		N	
Carer (unpaid family or friend)		N	
Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.	No. The proposed procedure can be delivered anywhere in the County with practical adaptations to the environment if needed		
Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.	No. It just relates to the Council's Sub-Committees		

Appendix 2

Decision (Please tick one option)	EIA not relevant or proportionate:	✓	Continue to full EIA:	
Reason for decision	The procedures can be delivered anywhere in the County and arrangements can be adapted to take account of any specific need e.g. hold the hearing near to the interested parties, in a building with good disabled access, use a translator, use a room with a hearing loop etc.			
Signed (Assistant Director or equivalent)	Paul Thompson			
Date	26/04/2023			

Initial Climate Change Impact Assessment (Form created August 2021)

The intention of this document is to help the council to gain an initial understanding of the impact of a project or decision on the environment. This document should be completed in consultation with the supporting guidance. Dependent on this initial assessment you may need to go on to complete a full Climate Change Impact Assessment. The final document will be published as part of the decision-making process.

If you have any additional queries, which are not covered by the guidance please email climatechange@northyorks.gov.uk

Title of proposal	Sub-Committee hearing procedures for Statutory Licensing Committee and General Licensing and Registration Committee
Brief description of proposal	It is necessary to agree a procedure to follow at hearings before the two Sub-Committees. The General Licensing and Registration Committee has responsibility for functions pertaining to the Council's licensing and registration powers as set out in Schedule 1, Part B of Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The General Licensing and Registration Sub-Committees have been delegated powers to hold hearings to consider and determine matters relating to individual approvals, consents, licences, permissions or registrations included in Schedule 1, Part B of Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
Directorate	Environment
Service area	Licensing
Lead officer	Laura Venn and Gareth Bentley
Names and roles of other people involved in carrying out the impact assessment	None.

Appendix 3

The chart below contains the main environmental factors to consider in your initial assessment – choose the appropriate option from the drop-down list for each one.

Remember to think about the following;

- Travel
- Construction
- Data storage
- Use of buildings
- Change of land use
- Opportunities for recycling and reuse

Environmental factor to consider	For the council	For the county	Overall
Greenhouse gas emissions	No effect on emissions	No Effect on emissions	No effect on emissions
Waste	No effect on waste	No effect on waste	No effect on waste
Water use	No effect on water usage	No effect on water usage	No effect on water usage
Pollution (air, land, water, noise, light)	No effect on pollution	No effect on pollution	No effect on pollution
Resilience to adverse weather/climate events (flooding, drought etc)	No effect on resilience	No effect on resilience	No effect on resilience
Ecological effects (biodiversity, loss of habitat etc)	No effect on ecology	No effect on ecology	No effect on ecology
Heritage and landscape	No effect on heritage and landscape	No effect on heritage and landscape	No effect on heritage and landscape

If any of these factors are likely to result in a negative or positive environmental impact then a full climate change impact assessment will be required. It is important that we capture information about both positive and negative impacts to aid the council in calculating its carbon footprint and environmental impact.

Decision (Please tick one option)	Full CCIA not relevant or proportionate:	<input checked="" type="checkbox"/>	Continue to full CCIA:	<input type="checkbox"/>
Reason for decision	The procedure to be followed at a hearing has no impact on climate considerations.			
Signed (Assistant Director or equivalent)	Paul Thompson			
Date	10/05/23			