



Procedures for Licensing Hearings

March 2005

All Hearings will be heard and determined in accordance with the four Licensing Objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

How Licensing Hearings will be Dealt with

Eastleigh Borough Council have established a Licensing Committee of 15 members. From these 15, three members will be called upon to form a Licensing Panel when a hearing is convened. A fourth member will be in attendance at the Civic Offices to stand as substitute for a panel member where there may be a conflict of interest, absence or incapacity.

A hearing may be deemed necessary where an application for either a Premises Licence, Personal License or Temporary Event Notice receives representation from any interested party or responsible authority. Generally these must be made at any time up to and including 28 consecutive days after the day on which the application was received. Representations received after this date will only be accepted in exceptional circumstances.

Members of the Licensing Panel are required to balance the needs of an important sector with those of local residents, and the population at large and whilst serving on the Licensing Committee act in a quasi judicial manner. They will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

The Monitoring Officer and Standards Board will provide further guidance to Members on the Code of Conduct.

Period of time within which a hearing will be held and notice to be given

Hearing	Hearing must be commenced within (working days)	Notice to be given
Premises licence application S18(3)(a), S72(3)(a)	20 days after the end of the prescribed consultation period	5 working days
Variation of premises licence S35(3)(a), S85 (3)	20 days after the end of the prescribed consultation period	10 working days
Change of DPS (Designated Premises Supervisor) S39 (3)(a)	20 days after the end of the period within which a chief officer of police may give notice under S37(5)	5 working days
Review of premises licence S52(2), S88(2)	20 days after the end of the prescribed consultation period	5 working days
Counter notice following police objection to TEN S105(2)(a)	7 days after the end of the period within which a chief officer of police may give notice under S104(2)	2 working days
Personal licence	20 day after the end of the	5 working days

application S 120(7)(a)	period within which a chief officer of police may give notice under S105(5)	
Review, following closure order S167(5)(a)	10 days after receiving notice under S165(4)	2 working days

If a hearing is to be held on more than one day, the hearing will, wherever possible be arranged to take place on consecutive working days.

Notice of hearing will be provided to interested parties and will be published on the EBC website and will include:

Copy of the application
The proposed Operating Schedule
Plans of the establishment
Copies of relevant representations

Immediately Prior to the start of the hearing

The Clerk to the Licensing Panel will introduce him/herself to all parties and ascertain whether all papers relating to the application have been received.

At the Hearing

In addition to the following guidelines, reference will be made to The Licensing Act 2003 (Hearings) Regulations 2005 and any subsequent amendments thereof.

- General matters of housekeeping and health and safety will be read out by the **Chair**
- The **Chair** will introduce members and officers to the applicant and outline the procedure.
- The **Clerk** will ask the **Applicant, or their representative** together with the **Objectors or their representatives** to confirm their identity to the Panel .
- The **Clerk** will present the relevant facts with regard to the application and reasons for a hearing . The **Panel** and other interested parties may ask questions with regard to the facts of the application.
- The **Applicant or their representative** will present their case. The **Panel** may ask questions, and may permit cross examination.
- **Objectors** will present their case
The **Panel** may ask questions, and may permit cross examination.

- The **Clerk to the Licensing Panel** will outline that any decision will be made on the application and objections, and in accordance with the Licensing objectives and the Eastleigh Borough Council Statement of Licensing Policy
- The **Panel** determine the application, the determination may be undertaken in private and Panel members alone, may withdraw from the hearing.

ADDITIONAL NOTES

- i. No discussion (neither formal nor informal) or determination will be undertaken prior to the hearing.
- ii. If the Committee, have retired to consider the application and need to question or clarify a matter with either the Clerk to the Licensing Panel or applicant then they shall do so in the presence of all parties, or the Clerk may be called upon to advise.
- iii. Members must be present throughout the hearing and must not communicate with any officer, the applicant or other third party except in accordance with the procedure rules.

Decision Making

Reasons for decision made must be clearly documented so that any subsequent accusations of bias etc can be defended. It is critical that it is clear that decisions are made according to the Licensing Objectives as well as the Council's Licensing Policy.

No pre-hearing meetings or discussions directly related to any application will take place.