TOWER HAMLETS

LICENSING COMMITTEE

RULES OF PROCEDURE GOVERNING APPLICATIONS FOR PREMISES LICENCES AND OTHER PERMISSIONS UNDER THE LICENSING ACT 2003

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Document Owner:	**Paul Greeno**
Post Holder:	**Senior Corporate and Governance Legal Officer**
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1. Interpretation

1.1 These Procedures describe the way in which hearings will be conducted under the Licensing Act 2003, as set out in the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) ('the Hearings Regulations'). The Procedures take into account the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2005.

1.2 Except where otherwise stated, references in this Code are to the Licensing Committee and its Sub-committees and the expression 'Licensing Committee' should be interpreted accordingly.

1.3 The Hearings Regulations provide (Regulation 21) that a Licensing Authority shall, subject to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.

1.4 These Procedures, therefore, set out the way in which Licensing Committee Meetings will be conducted under the Licensing Act 2003, following the requirements of the Hearings Regulations.

1.5 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations (Regulation 31) save that in any case of such an irregularity, the Licensing Committee shall, if it considers that any person may have been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure the irregularity before reaching its determination (Regulation 32).

2. Composition of Sub-Committee

2.1 The Sub-Committee will consist of three (3) members and no business shall be transacted unless three (3) members of the Licensing Committee are present and able to form a properly constituted Licensing Sub-Committee. In such cases the Chair shall have a second or casting vote.

3. Procedure

3.1 The hearing shall take place in public save that the Licensing Committee may exclude the public from all or part of a hearing where it considers that, on balance, it is in the public interest to do so. The parties and any person representing them may be excluded in the same way as another member of the public. Any person so excluded may, before the end of the hearing, submit to the Licensing Committee in writing, any information which, they would have been entitled to give orally had they not been required to leave. Where there are a number of items on the agenda, the adjournment of that item for a short period, whilst another item is heard, may allow this process to be carried out effectively.

3.2 The Chair will begin by asking the parties to identify themselves and confirm whether or not they are represented.

3.3 The Licensing Committee should always satisfy itself that sufficient notice of the hearing has been given to all parties and if not satisfied, then the Licensing Committee should take such steps as it thinks fit to deal with that issue before reaching its determination and this could include adjourning that application to a later date.

3.4 The Licensing Committee will then consider any requests by a party for any other person to be heard at the hearing in accordance with the Regulations. Permission will not be unreasonably withheld provided proper notice has been given.

3.5 The Chair will then explain how the proceedings will be conducted, and indicate any time limits that may apply to the parties to the application. In setting time limits, the Licensing Committee will take into account the importance of ensuring that all parties receive a fair hearing, and the importance of ensuring that all applications are determined expeditiously and without undue delay. Further the Licensing Committee must have regard to the requirement to allow each party an equal amount of time.

3.6 If a party considers that any time limit is not sufficient then they should address the Licensing Committee and which will determine accordingly.

3.7 If any party has informed the Authority that they will not be attending or be represented at the hearing or any party does not give notice that they will not be attending but fails to attend and is not represented, the Licensing Committee may proceed in their absence or adjourn the hearing if it considers it to be necessary in the public interest. An adjournment will not be considered where due to the operation of the Hearing Regulations it would not be possible to adjourn.

3.8 If the Licensing Committee adjourns the hearing to a specified date it must specify the date, time and place to which the hearing has been adjourned and why it is considered necessary in the public interest.

3.9 If the Licensing Committee holds the hearing in the absence of a party, it will consider at the hearing the application, representation or notice given by that party.

3.10 The Chair will invite an Officer of the Licensing Section to present the report by briefly summarising the application and the number and type of the representations as set out in the papers circulated. The Officer will also advise of any discussions held with the parties; any amendments made to the application; any representations withdrawn; and any agreed conditions that the Licensing Committee is being asked to consider. The Officer shall not give

any opinion on the application or ask the Committee to make an inference based on such an opinion.

3.11 Members of the Licensing Committee can then ask questions of clarification of the Licensing Officer or seek legal advice from the Legal Adviser to the Licensing Committee if they require in respect of matters raised during the presentation by the Licensing Officer.

3.12 The Legal Adviser to the Licensing Committee will then give any relevant legal advice that the Licensing Committee need to take into consideration.

3.13 The Chair will then ask the applicant or their representative, if present, to present a summary of the nature and extent of the application. This should be brief, avoid repetition of material already available to the Licensing Committee in the Officer's report or otherwise, and include any reasons why an exception should be made to the Council's Licensing Policy, where appropriate, and respond to the written representations received. The submission may be followed by the evidence of any person who has been given permission by the Committee to give supporting evidence on behalf of the applicant or who has made a representation in favour of the application.

3.14 The application is to be presented within the time limit that has been set.

3.15 Where an applicant is unrepresented and having difficulty in presenting their application then the Legal Adviser to the Licensing Committee may ask questions of the applicant so that the relevant points are addressed and clarified for the Licensing Committee.

3.16 Members of the Licensing Committee may ask questions of the person presenting the case after their address as well as any other person who has spoken in support of the application. Members can also ask questions of the applicant as well as any other person present for the applicant who they consider can assist.

3.17 The Legal Adviser to the Licensing Committee may ask questions for the purpose of clarifying points for the Licensing Committee.

3.18 The Chair will then ask the persons who have made representations against the application to address the Licensing Committee within the time limit that has been set. They should not repeat what is already set out in their representations or notice or raise new matters. In their address they should provide clarification on any points previously requested by the Council. The submission may be followed by the evidence of any person who has been given permission by the Committee to give supporting evidence.

3.19 Members of the Licensing Committee may then ask questions of the persons making representations against the application and any other person who has

spoken in support of such representation. Members can also ask questions of any other person present who they consider can assist.

3.20 The Legal Adviser to the Licensing Committee may ask questions for the purpose of clarifying points for the Licensing Committee.

3.21 Petitions will be treated as representations provided they meet the requirements for relevant representations set out in the Licensing Act 2003. Members should proceed with caution when relying upon petitions used as evidence due to the structure and wording used.

3.22 The Licensing Committee will disregard any information given by a party, or any other person appearing at the hearing, which is not relevant to:

a) their application, representation or notice; and

b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the police.

3.23 The Chair will intervene at any stage of the hearing to prevent repetitious or irrelevant points being raised.

3.24 Cross examination of any party or any other person allowed to appear will not be allowed unless specifically permitted by the Chair.

3.25 There is no right for any party to sum up but they may be permitted to do at the discretion of the Chair and within time limits prescribed by the Chair.

3.26 The Licensing Committee will consider its decision in private save that the Legal Adviser and Democratic Services Officer will remain with them.

3.27 The Licensing Committee will normally return to open session to announce its decision but in cases where the prescribed time limit allows for a later determination and it is appropriate to determine the matter within that time then the Chair will advise the parties present that the decision will not be announced then but that the determination will take place within the prescribed time limit and that written notification will be dispatched to all parties advising then of the determination.

4. Exclusions

4.1 In addition to any exclusion under paragraph 3.1 above, The Licensing Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may refuse to permit the person to return; or allow them to return only on such conditions as Licensing Committee may specify.

4.2 Any person so excluded may, before the end of the hearing, submit to the Authority in writing, any information which, they would have been entitled to give orally had they not been required to leave.