

TEWKESBURY BOROUGH COUNCIL

The Licensing System, Protocol and Procedures

Adopted by Council on 28 January 2014

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I INTRODUCTION

i. The Licensing System

Tewkesbury Borough Council's Licensing Committee operates in a quasi-judicial way in determining licensing applications. Those applications which are not subject to objection are determined under powers delegated to the appropriate officer in accordance with the Council's Scheme of Delegation.

ii. The Licensing Committee

The Licensing Committee shall consist of at least 10 Members but no more than 15 Members. Sub-Committees shall each consist of three Members and be formed by the Members of the Licensing Committee.

The Committee (through either the Committee or Sub-Committees) deals with most of the Council's statutory licensing and registration responsibilities including: licensable activities under the Licensing Act 2003 (alcohol, regulated entertainment and late night refreshment); hackney carriages and private hire, street trading, body piercing, animals and boarding establishments, food premises, residential caravan sites, riding establishments, cinemas and theatres, hairdressers, pleasure boats, radio-active materials, scrap metal dealers and all other matters requiring a licence, consent, authorisation, permit or registration which are not either specified above or delegated to an officer or another Committee of the Council.

The decisions that the Committee/Sub-Committee makes can be significant. The Committee/Sub-Committee operates for the most part, under its extensive delegated powers and it, rather than any other Committees or Council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near and on the lives of applicants.

Some licensing legislation specifies procedures to be followed but, in all cases, human rights and natural justice considerations dictate that the Committee/Sub-Committee adheres to the following principles in that decisions must:

1. Be made on the individual merits of a case.
2. Have regard to all relevant national and local guidance.
3. Be made impartially and in good faith.
4. Be made by the body that receives all the relevant information and evidence.
5. Relate to the issue or question placed before the Committee/Sub-Committee.
6. Be based only on consideration of relevant and material matters.
7. Be rational and reasoned.
8. Be made in a way that does not give rise to public suspicion or mistrust.

The purpose of this local Code of Practice is to set out in detail how Members should act and the procedures which should be followed to ensure that Members not only act in a fair and proper manner but are also seen to do so.

This Code has been prepared with a particular emphasis on Members who serve on the Council's Licensing Committee/Sub-Committee, but its content is also relevant to all other Councillors and also to officers in all other services.

The Borough Council, along with all other local authorities, adopted a Code of Conduct which specifies the obligations imposed on Members and defines personal and prejudicial interests and how these will affect the way a Member behaves. This Code of Conduct, which every Member has signed up to, is the statutory base to which this Code of Practice is added. In some areas this Code of Practice will extend or go further than the Code of Conduct.

iii. The Role of Officers

The Licensing Officer's role is to outline the application and any relevant representations that are received in respect of an application. The Licensing Officer may also provide advice and assistance on any policy and statutory guidance.

The Legal Advisor's role is to provide advice to the Licensing Committee/Sub-Committee on questions of law, practice and procedure, policy and statutory guidance and any other issues relevant to the matter before the Licensing Committee/Sub-Committee.

The Legal Advisor may also assist the Licensing Committee/Sub-Committee, where appropriate, as to the formulating of reasons and the recording of those reasons. The Legal Advisor will not play any part in the findings of fact or the making of a decision.

The Member Services Officer role is to provide help and assistance with facilitating the meeting and to take the minutes of the meeting and to summarise and record decisions.

II LICENSING PROTOCOL AND PROCEDURE

A. THE DECISION-MAKING FRAMEWORK

A1. Registration and Declarations of Interest

A1.1. The Local Government Act 2000 and the Council's Code of Conduct place requirements on Members on the registration and declaration of their interests and the consequences for the Member's participation in consideration of an issue, in the light of those interests. Guidance on the registration and declaration of interests may be sought from the Council's Monitoring Officer. Ultimate responsibility for fulfilling the requirements rests individually with each Councillor.

A1.2. A register of Members' interests is maintained by the Council's Monitoring Officer, which is available for public inspection. A Member must provide the Monitoring Officer with written details of relevant interests within 28 days of his/her election, or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.

Disclosable Pecuniary Interests

A1.3 A Licensing Committee Member who has a disclosable pecuniary interest (as defined in Appendix A), that arises at a meeting at which they are present, or where they become aware that they have such an interest in any matter to be considered or being considered at the meeting they should leave the meeting and do not vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted).

A1.4 A Licensing Committee Member who has a disclosable pecuniary interest in a matter shall not agree to be called to sit on a Sub-Committee that is called to hear a matter.

Other Interests

- A.1.5 A Licensing Committee Member who has either an ‘other’ interest as specified in Appendix B or is involved (or the knowledge of the interest arises at a meeting at which the Member is present, or where the Member becomes aware they have such an interest in any matter to be considered or being considered at the meeting) in a matter where a decision on the matter might reasonably be regarded as affecting, to a greater extent than it would affect the majority of other Council taxpayers, ratepayers or inhabitants of the Ward affected by the decision, the Member’s wellbeing or financial position or the wellbeing or financial position of a member of their family, or any person with whom they have a close association, or who has a contractual relationship (including employment) with the Member, member of their family or close associate, the Member should:
- (i) disclose the interest to the meeting.
 - (ii) leave the meeting and not vote on the matter, participate, or participate further, in any discussion of the matter at the meeting (unless a dispensation has been granted or it is an excepted function), if:
 - (a) it affects the Member’s financial position, or the financial position of an interest specified in Appendix B (other interests) or the member of the Member’s family or person with whom the Member has a close association described above or who has a contractual relationship as described above; or
 - (b) it relates to the determination of any approval, consent, licence, permission or registration in relation to you or any person or body described above

and a reasonable member of the public knowing the facts would reasonably regard it as so significant that it is likely to prejudice your judgement of the public interest.

- A1.6 A Licensing Committee Member who has an ‘other’ interest (as defined in Appendix B) in a matter shall not agree to sit on a Sub-Committee that is called to hear a matter.

A2. Confidentiality

- A2.1 It will be unusual for licensing applications or other matters to be treated as confidential items discussed and determined after the exclusion of the press and public, but it may occur. The grounds why this may occur are set down in the Local Government Act 1972 and the Council’s Constitution and are most likely to be in relation to the conduct of legal proceedings, or disclosure of personal details. Members are expected to treat the information as confidential and are referred to the Code of Conduct which indicates that a breach of this confidentiality may be a breach of the Code of Conduct.

A3. Licensing Proposals submitted by Councillors and Officers; and Council

- A3.1 Proposals to their own authority by serving and former Councillors and officers and their close friends and relatives can easily give rise to suspicions of impropriety. So, indeed, can proposals for Council-owned premises.
- A3.2 It is perfectly legitimate for such proposals to be submitted. However, it is vital to ensure that they are handled in such a way that gives no grounds for accusations of favouritism.
- A3.3 Councillors of the Licensing Committee/Sub-Committee should not act as agents or submit licensing applications for other parties. To do so would give rise to suspicion that the Member was not impartial or may influence other Councillors in the decision-making process.

- A3.4 A Councillor or officer who either submits a licensing application or development proposal on their own behalf or acts as an agent for a person/body who submits a licensing application must, whether that Councillor or officer's involvement is apparent from the application documentation or not, notify the Head of Community Services and the Council's Monitoring Officer of the submission of the application or proposal. That notification must be in writing and must be sent at the same time as the submission of the application or proposal.
- A3.5 Applications made in respect of Council-owned premises must be dealt with on exactly the same basis as applications submitted by members of the public.

A4. Members Making Representations on Applications

- A4.1 Members who sit on a Licensing Committee/Sub-Committee must consider and determine an application in the interests of the Borough as a whole with regard to the relevant legislation, statutory guidance and any policy statements.
- A4.2 Councillors can however make representations in respect of applications. Councillors are "interested parties" under the Licensing Act 2003 and can make representations in their own right in response to a premises licence and club premises certificate applications in the area of the authority for which they are also Members. Councillors can also make representations under the Gambling Act 2005 if they live sufficiently close to the premises to be likely to be affected by the authorised activities. As an interested party a Councillor is also entitled to request a review of a premises licence.
- A4.3 Councillors can also represent another interested party (or parties) who has made a representation. In this case a Councillor does not need to have made a representation in their own right but they do need to ensure they can demonstrate that they have been asked to represent the interested party or parties in question.
- A4.4 Where a Councillor wishes to make a representation, they must do so in accordance with the guidance that applies to all interested parties i.e. the representation must be submitted within the statutory time frame and be a relevant representation.
- A4.5 If a Councillor submits a representation in their own right or is asked to act as a representative for other interested parties, and they are a Member of the Licensing Committee/Sub-Committee, the Councillor must not sit on the Committee; partake in any debate regarding the application or any decision regarding the application.

A5. Voting and Impartiality

- A5.1 Licensing Committee/Sub-Committee Members must vote in the interests of the Borough as a whole and must not vote on the basis of local Ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the Members and wider policies and guidance. The overriding duty of a Committee/Sub-Committee Member is to the whole community, rather than just the people living in their Ward.
- A5.2 Members of the Licensing Committee/Sub-Committee must not declare which way they intend to vote in advance of the consideration of an application by the Licensing Committee/Sub-Committee. To do so would, in effect, be pre-judging the application and expose the Council to the possibility of legal challenge or allegation of maladministration. Members must not make their minds up until they have read the relevant Committee/Sub-Committee reports and heard the evidence and arguments on both sides at the Committee/Sub-Committee meeting.

- A5.3 If a Member of the Licensing Committee/Sub-Committee does declare his/her support or opposition for a proposal before the matter has been put before the Committee/Sub-Committee, where that Member would be entitled to vote, he/she must make a declaration of their view to the Licensing Committee/Sub-Committee, and should withdraw from the Committee/Sub-Committee whilst that proposal is discussed so that the Member takes no part in the debate or voting on that particular item. This does not mean that the Members of the Licensing Committee/Sub-Committee cannot make a comment or reflect local concerns about a proposal before it is considered by the Licensing Committee/Sub-Committee, but the view or comment must not pre-determine or be seen to pre-determine the way that Member will consider and weigh in the balance all the issues or will exercise their vote.
- A5.4 Licensing Committee/Sub-Committee Members who are also Members of another relevant or public authority or a body to which they have been appointed or nominated by the Council as its representative must exercise particular care in reconciling their two roles in cases where that authority or body makes a representation either in support of or in opposition to a licensing application.
- A5.5 Members are under a legal obligation to approach decision-making with an open mind, prepared to listen to all sides of the argument. Dual-hatted Members who choose to vote in both capacities must make it very clear that their vote at the other authority or body represents a preliminary view and that they will reconsider the matter afresh at principal level. Where the application is one which is made under the Licensing Act 2003 and considered by a Sub-Committee, Members who have participated in a decision by another authority or body as described above, shall not agree to be called to sit on a Sub-Committee convened to discuss the application in which they have previously participated.
- A5.6 Councillors should not organise support for or against a licensing proposal and should not lobby other Councillors since this would also signal that they had made up their mind before hearing the evidence. Each Councillor should make up his or her own mind on the evidence and facts presented to the Committee/Sub-Committee.
- A5.7 Councillors must not favour or show bias for or against any particular person, company or group, or any particular site or locality. They should not put themselves in a position where they may appear to do so.
- A5.8 Given that the point at which a decision is made cannot occur before the Committee/Sub-Committee meeting, when all information is to hand and has been duly considered, any political group meeting beforehand must not be used to decide how Councillors should vote. The use of the party whip is incompatible with the role of the Licensing Committee/Sub-Committee and shall not be used. Less formal arrangements or understandings could also amount to maladministration. Group meetings which involve discussion of licensing applications should always commence by reference to the non-political nature of licensing decision-making and with a reminder of the need for Councillors to make their decision at the Committee/Sub-Committee meeting and not previously.

A6. Pre-Application Discussions/Informal Site Meetings

- A6.1 Councillors should not seek to advise applicants or agents about the likely acceptability of licensing proposals. They should advise prospective applicants to contact the appropriate Officer to advise on both merits and procedures. If Councillors do give an indication of their initial reaction to a proposal (e.g. this appears to accord with licensing policy) they should make it clear that they will only be in a position to take a final view after having considered the officer's reports, representations and heard any debate at the Licensing Committee/Sub-Committee meeting.

- A6.2 Formal meetings of Councillors with any parties involved with a licensing application should be undertaken in the presence of at least one officer and a written note should be made of that meeting.
- A6.3 Informal meetings with any of the parties may be misinterpreted by the public or any other party. A Councillor discussing issues on site or otherwise may be perceived to be more than merely receiving and absorbing information. Clearly, Councillors need to be able to respond to their constituents and on occasions visit a site/meet with a party in respect of a licensing application to hear concerns from constituents. A note should be taken by the Councillor and care should be exercised to ensure that all parties are treated equally.
- A6.4 The fact that Councillors have discussed any licensing proposal with any party must be made clear when the application is before the Committee/Sub-Committee for determination. Copies of notes (or emails) should be forwarded to the appropriate Officer to be placed on file.

A7. Pre-Committee/Sub-Committee Briefing of Members

- A7.1 The Chair and Vice-Chair of the Licensing Committee will, once the Agenda for the meeting has been produced, receive a pre-Committee briefing on matters pertaining to the management of the business of the Committee. The pre-briefing will be given by the Licensing Officer. The Legal Advisor to the Committee will also attend. Each Political Group is entitled to be represented at the Chair's briefing meeting, by a nominated "Group Spokesperson", to observe the briefing meeting and to enable items of information which are imparted at the briefing to be passed on to his/her Political Group. The sole purpose for the Chair's briefing meeting is to enable the efficient management of the business of the Committee. The merits and/or de-merits of any licensing application must not be debated at the briefings and Councillors must not express a view at that briefing as to how they intend to vote on any application.
- A7.2 For meetings of a Licensing Sub-Committee, Members of the Sub-Committee only will receive a briefing. The pre-briefing will be given by the Licensing Officer. The Legal Advisor to the Committee will also attend. The sole purpose for the briefing meeting is to enable the efficient management of the business of the Sub-Committee. The merits and/or de-merits of any licensing application must not be debated at the briefings and Councillors must not express a view at that briefing as to how they intend to vote on any application.

B. THIRD PARTY RELATIONSHIPS

B1 Lobbying of Councillors and Circulation of Unofficial Information

- B1.1 Lobbying is an attempt to influence a Councillor's view in order to achieve a particular decision. It is a normal part of the political process but where Councillors are making statutory decisions, such as licensing decisions, it can result in decisions being made improperly, or being perceived to be made improperly with undue influence from any parties resulting in inconsistent or erratic decision-making.

B1.2 Members should treat lobbying with care and should ensure that “unofficial” views, promises or documents do not unduly influence them. Members should advise lobbyists to present their views in writing to the licensing Case Officer in order that they can be formally considered in a balanced way at the Licensing Committee/Sub-Committee meeting. Alternatively, Members may choose to pass on the views and or submissions of lobbyists to the Officer but should make clear that they are not giving their own views as this is a matter for formal consideration by the Licensing Committee/Sub-Committee. Licensing decisions must be rational and be made strictly on the basis of the relevant facts, guidance and policies relating to each case. Members must not only act in a way that is fair to all parties but must be seen to do so. In particular, Members must not prejudge proposals before they have read the Officer’s reports and considered all the evidence.

Lobbying can take two forms:

- Lobbying of Councillors by any party.
- Lobbying by other Councillors.

Lobbying may be verbal or by the circulation of letters or documents to all or some Councillors.

Lobbying can be particularly problematical if Councillors are given information or assurances by applicants that do not form part of their formal application and are, therefore, unenforceable. Problems can also arise if Councillors are given information by objectors which may be misleading, untrue or irrelevant. Officers face particular difficulties if they are unaware of submissions by applicants and objectors and are therefore unable to consider them and advise the Licensing Committee/Sub-Committee about them. This would cause particular problems if the Committee based a refusal on matters which neither Officers, applicant(s) nor objectors had had an opportunity to consider and comment upon.

Circulation of unofficial papers (this does not include late papers submitted by applicants, consultees or Officers) at a Committee meeting also constitutes a form of lobbying.

B2. Member Training

B2.1 Councillors will be required to attend initial training sessions when first serving on the Licensing Committee (within three months of appointment, and, in any event, prior to serving on any Sub-Committee). Councillors who do not participate in training will be advised that such training is necessary, and Group Leaders will be asked to encourage them to participate and review their nomination for the Committee at the annual Council meeting if an acceptable level of attendance is not achieved.

B2.2 Councillors will be given regular updates to keep them informed of important changes in legislation, procedures or practices verbally at meetings, or in briefing notes (for example in the Members’ Update Sheet) and be required to participate in the continuing Member Development Programme.

B3. Gifts and Hospitality

B3.1 The Licensing Committee operates in a quasi-judicial way when determining applications. Councillors and Officers involved in the licensing process should avoid receiving gifts and hospitality from any of the parties.

B4. Impartiality and Respect

- B4.1 Officers must always act impartially and declare any outside interests or affiliation they may have in the questionnaire provided each year for this purpose.
- B4.2 If Officers have a personal interest (which would include matters relating to their own financial interests, and matters which might reasonably be regarded as affecting the wellbeing or financial interest of themselves, a relative or a friend) or a suspicion that they may be perceived to have a personal interest, which may affect or be perceived to affect their objective, impartial, professional advice, they should declare an interest and have no dealings with the application. The interest should be recorded in writing on all files held by the Council relating to the application and a copy should be sent to the Monitoring Officer. If the matter is considered at Licensing Committee/Sub-Committee the Officer's declaration shall be made at the Licensing Committee/Sub-Committee meeting.
- B4.3 Members and Officers should treat each other with respect at all times and not do anything which is likely to compromise the impartiality of those involved in the process or to create a perception that decisions are not well-founded.

C. HEARING PROCEDURES

C1. Licensing Act 2003/Gambling Act 2005

- C1.1 The hearing procedure for dealing with applications under the Licensing Act 2003 will be as set out in Appendix C and the Gambling Act 2005 will be as set out in Appendix D.

C2. Other Licensing Applications

- C2.1 The hearing procedure for dealing with all other licensing applications will be as set out in Appendix E.

Disclosable Pecuniary Interests

The interests set out below are “Disclosable Pecuniary Interests” in accordance with the Localism Act 2011 and Members must notify the Monitoring Officer in accordance with Paragraphs 8(1)-(3) of the Code of Conduct of any interest which is an interest of **the Member or of any of the following**:

- the Member’s spouse or civil partner;
- a person with whom the Member is living as husband and wife; or
- a person with whom the Member is living as if they were civil partners;

and the Member is aware that that other person has the interest.

Subject	Disclosable Pecuniary Interest
Employment, Office, Trade, Profession or Vocation.	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship.	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a Trade Union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992(a).
Contracts.	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land.	Any beneficial interest in land which is within the area of the relevant authority.
Licences.	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate Tenancies.	Any tenancy where (to M’s knowledge) – (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.

Securities.

Any beneficial interest in securities of a body where:

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either:

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

- (a) "the Act" means the Localism Act 2011;
- (b) "body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
- (c) "director" includes a member of the Committee of management of an industrial and provident society;
- (d) "land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
- (e) "M" means a Member of a relevant authority;
- (f) "member" includes a co-opted member;
- (g) "relevant authority" means the authority of which M is a member;
- (h) "relevant period" means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
- (i) "relevant person" means M or any other person referred to in section 30(3)(b) of the Act; and
- (j) "securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000(b) and other securities of any description, other than money deposited with a building society.

Other Interests

The interests set out below are “other interests” which must be notified to the Monitoring Officer in accordance with Paragraphs 8(1), 8(2) and 8(4) of the Code of Conduct.

A Member must notify the Monitoring Officer of any interest held by **the Member** in any of the categories set out below:

Subject	Other Interest
Management or Control.	Any body of which the Member is in a position of general control or management and to which he/she is appointed or nominated by the Council.
Public/Charitable and Other External Bodies.	Any body – (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or Trade Union). of which the Member of the Council is a member or in a position of general control or management.
Employer.	Any person or body who employs, or has appointed, the Member.
Gifts and Hospitality.	The name of any person, organisation, company or other body from whom the Member has received, by virtue of his Office, gifts or hospitality worth an estimated value of £50 or more.

**TEWKESBURY BOROUGH COUNCIL
LICENSING ACT 2003
HEARINGS PROCEDURE**

HEARING TO DETERMINE OBJECTIONS/REPRESENTATIONS

PROCEDURE FOR DEALING WITH APPLICATIONS UNDER THE LICENSING ACT 2003

1. RIGHT TO DISPENSE WITH HEARING UNDER THE ACT

- 1.1 The Act specifies various situations when a licensing authority (the Council) must hold a hearing to consider either relevant representations from interested parties or representations from responsible authorities to an application. The Regulations authorise the Council to dispense with holding a hearing if all relevant persons have notified the authority that they consider a hearing unnecessary. If the Council agrees that no hearing is necessary, it must forthwith give notice to all parties that the hearing has been dispensed with.

2. TIMING OF HEARING UNDER THE ACT

- 2.1 In relation to applications received under the Act, the Council must arrange for hearings to be held within the periods of time specified in the schedule attached to this procedure (column C).

3. NOTICE OF HEARING

- 3.1 The Council shall give due notice (schedule, column D) of any hearing held under the Act to those persons specified in the schedule attached to this procedure (schedule, column E (the party)) together with any documents required (schedule columns F and G).
- 3.2 In all cases the notice of hearing sent to the party will include the following information:
- (a) the date, time and place of the hearing;
 - (b) the right of the party to be represented at the hearing by another person, whether that person is legally qualified or not;
 - (c) the right of the party at the hearing to give further information and call any witness in support of their application, representations or notice (as applicable); to question any other party or witness; and to address the hearing, subject to any maximum time-limit imposed by the Sub-Committee;
 - (d) the consequences if the party fails to attend or is not represented at the hearing;
 - (e) the procedure to be followed at the hearing;
 - (f) any particular points on which the Council considers that it will want clarification from a party at the hearing; and

- (g) any information the Council has received in support of, or opposition to, the application (or a summary thereof, if appropriate).

3.3 In the notice of hearing the party will be asked if he/she has any special needs or requirements at the hearing and will be requested to notify the Council accordingly.

4. RESPONSE TO NOTICE OF HEARING

4.1 Following receipt of the notice of hearing the party must give to the Council, within the period of time specified in the schedule (column H), a notice stating:

- (a) whether he/she intends to attend or be represented at the hearing;
- (b) whether he/she intends calling any witness at the hearing and, if so, the name of any witness; or
- (c) whether he/she considers a hearing to be unnecessary.

4.2 The party must include with his/her notice a written summary of the representations, which he/she wishes to make to the Sub-Committee together with any documentary or other evidence in support of his/her case. If the hearing proceeds in the party's absence, the Sub-Committee will consider these written representations.

5. POWER TO EXTEND TIME

5.1 The Council may extend time-limits specified in the Regulations for a specified period where it considers this necessary in the public interest. Notice of any extension must be given to the parties forthwith stating the reasons.

5.2 The Council may adjourn a hearing to a specified date or arrange for it to be held on specified additional dates, where it considers this necessary for its consideration of any representations or notice made by a party. Notice of the date, time and place to which the hearing has been adjourned or specified additional date on which and time and place at which the hearing is to be held, must be given to the parties forthwith.

5.3 In any other case the Sub-Committee may adjourn a hearing where it considers this necessary in the public interest and must do so if it considers this necessary to prevent any breach of natural justice.

6. PUBLIC ACCESS TO HEARINGS

6.1 The Sub-Committee will hear all matters in public except:

- (a) where it considers the public interest in excluding the public outweighs the public interest in the hearing (or part of it) taking place in public, and/or
- (b) to the extent that the public may be excluded under Section 100A of the Local Government Act 1972, and/or
- (c) that it may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing and may:
 - (i) refuse to permit that person to return; or

- (ii) permit them to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Council in writing any information which he/she would have been entitled to give orally had they not been required to leave.

7. PROCEDURE AT HEARING

- 7.1 The three Members of the Licensing Sub-Committee will be drawn by the Corporate Director from the 15 Members of the Licensing Committee. The first item of business will be the election of a Chair for the hearing. Upon election, the Chair will remind Members of the Sub-Committee of their obligation to declare any disclosable pecuniary interests or other interests (see Appendix A and B).
- 7.2 The Chair will identify the Licensing Officer, Legal Adviser and the Member Services Officer for the benefit of those attending the hearing. The Chair will explain that the Member Services Officer's role is to record the Minutes of the hearing and the Legal Adviser's role is to provide legal advice to the Sub-Committee.
- 7.3 The Chair will explain the procedure to be followed at the hearing and ensure that all parties understand the proceedings.
- 7.4 Each matter to be dealt with by the Sub-Committee will be called in turn, usually in the order listed on the Sub-Committee Agenda. However, the Chair may change the order at his/her discretion.
- 7.5 As each matter is called, the Chair will ask the parties in the case to identify themselves and consider any requests made by them to be assisted or represented by any person whether or not that person is legally qualified and such permission shall not be unreasonably withheld.
- 7.6 If a party has informed the Council that he/she will not be attending or be represented at the hearing, it may proceed in his/her absence. If a party who has not informed the Council that he/she will not be attending or represented fails to attend or be represented, the Sub-Committee will decide if, in the interests of justice, the hearing of the matter should be adjourned until a specified date. If the Sub-Committee proceeds without that party present, the Sub-Committee must give full reasons for proceeding in his/her absence. These reasons will be recorded by the Member Services Officer and the applicant will be informed of the decision.
- 7.7 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application together with any representations made or notice given by that party.
- 7.8 The Chair will ask the Council Officer who is presenting the case (the Officer) to identify him/herself. If the case is being held in private, the Chair will direct all members of the public and all other Officers, apart from the presenting Officer, Member Services Officer and Legal Adviser, to leave the room.
- 7.9 The case will be opened with an outline of the relevant facts by the appropriate Officer. The Sub-Committee may impose a maximum time-limit on the Officer's representations.
- 7.10 The Members of the Sub-Committee and the parties may ask questions of the Officer and any witnesses called by the Officer.

- 7.11 Any witness called by any party will provide appropriate identification to the Sub-Committee i.e. name, capacity etc.
- 7.12 The Chair will invite responsible authorities who are present and have given proper notice to the Council of their intention to make representations at the hearing, to present their case, in the order determined by the Chair, including any evidence and/or the calling of witnesses in support of their case. The Sub-Committee may impose a maximum time limit on the responsible authorities' representations.
- 7.13 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.14 and 7.16, may ask questions of clarification of the responsible authorities and any witnesses called by them.
- 7.14 The Chair will invite any interested parties who are present and have given proper notice to the Council of their intention to make representations at the hearing, to present their case, in the order determined by the Chair, including any evidence and/or the calling of witnesses in support of their case. The Sub-Committee may impose a maximum time limit on the interested parties' representations.
- 7.15 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.12 and 7.16, may ask questions of clarification of the parties referred to in Paragraph 7.14 and any witnesses called by them.
- 7.16 The Chair will ask the applicant to present his/her case, including any evidence and/or the calling of witnesses in support of the application. The Sub-Committee may impose a maximum time-limit on the applicant's representations.
- 7.17 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.12 and 7.14, may ask questions of clarification of the applicant and any witnesses called by him/her.
- 7.18 The hearing shall take the form of a discussion led by the licensing authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the cases put by the parties.
- 7.19 Where an interested party has made written representations to the Sub-Committee, it will consider these.
- 7.20 Where the Sub-Committee sets a maximum time-limit for each party to present their case, this time-limit must be equal for all parties.
- 7.21 The content of any representations and/or evidence should have been disclosed to all parties prior to the hearing within the periods of time specified in the schedule (column H) to this procedure. Additional representations and/or evidence, of which proper notice has not been given, may only be made or submitted at the hearing with the consent of all the other parties.
- 7.22 The Sub-Committee shall disregard any information given or evidence produced by a party or a witness which is not relevant to their application, representations or notice (as applicable).
- 7.23 The Chair will invite any final comments to be made by the Officer and any of the parties referred to in Paragraphs 7.12 and 7.14 above.
- 7.24 The Chair will invite the applicant (or his/her representative) to exercise a final right of reply.

8. EVIDENCE

8.1 The strict legal rules of evidence will not apply, and evidence will not be taken on oath.

9. LEGAL ADVICE

9.1 The role of the Sub-Committee's Legal Adviser is to provide the Members with advice on:

- (i) questions of law;
- (ii) matters of practice and procedure;
- (iii) the options available to the Sub-Committee in making its decision;
- (iv) any relevant decisions of "superior courts" or other guidelines (e.g. - Government Guidance on the 2003 Act and the Council's Licensing Policy);
- (v) other issues relevant to the matter before the Sub-Committee (e.g. any consultation currently in progress through Council etc.); and
- (vi) where appropriate, to assist in formulating the reasons for its decision.

9.2 The Legal Adviser may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.

9.3 The Legal Adviser has a duty to ensure that every case is conducted fairly.

10. DETERMINATION OF APPLICATIONS

10.1 When all the representations have been heard and considered, the Sub-Committee will debate the application and make its decision. In certain cases, the Committee may withdraw to consider its decision. In these circumstances, the Legal Adviser will only withdraw with the Sub-Committee if requested to give legal or procedural advice but not otherwise and will then return to the Sub-Committee room while the Members make their decision. The Legal Adviser will explain to applicants/parties the reason for him/her being called to where the Members were deliberating (i.e. to advise on a point of law etc.).

10.2 In the event that the Sub-Committee has withdrawn to consider its decision and needs to ask any further questions of either the applicant or any other party, all parties will be asked to return before the Sub-Committee.

10.3 In the case of hearings held under the following sections of the Act, the Sub-Committee must make its determination at the conclusion of the hearing:

- (i) Hearing to consider police objection to temporary event notice [s.105(2)(a)].
- (ii) Hearing to consider review of premises licence following closure order [s.167(5)(a)].
- (iii) Hearing to determine application for conversion of existing licence to a new "premises" licence [Schedule 8, para 4(3)(a)].

- (iv) Hearing to determine application to vary a premises licence or premises supervisor made at the same time as application to convert [s.34 or 37].
- (v) Hearing to determine application for conversion of existing club certificate to a new "club premises" certificate [Schedule 8, para 16(3)(a)].
- (vi) Hearing to determine application to vary a club premises made at the same time as application to convert [s.85].
- (vii) Hearing to determine application for grant of personal licence [Schedule 8, para 26(3)(a)].

In any other case the Council must make its determination within the period of five working days beginning with the day (or the last day) on which the hearing was held.

- 10.4 The determination will be confirmed in writing giving reason(s) for the determination and details of any appeal rights. The determination notice/letter will be sent as soon as practicable after the meeting and in accordance with any statutory deadlines.
- 10.5 Where a hearing has been dispensed with [under Paragraph 1.2 above], the Council must make its decision within the period of 10 working days beginning with the day on which it gives notice to the parties.

11. QUORUM

- 11.1 The quorum for any hearing of a Licensing Sub-Committee shall be three Members.

12. RECORD OF PROCEEDINGS

- 12.1 The Council shall provide for a record to be taken of the hearing in a permanent and intelligible form and kept for six years from the date of the decision or, where an appeal is brought against the decision of the Council, the disposal of that appeal. This shall be the responsibility of the Member Services Officer.

13. IRREGULARITIES

- 13.1 Any irregularity resulting from any failure to comply with any provision of the Regulations before the Council has made a decision shall not of itself render the proceedings void.
- 13.2 In the case of any such irregularity, where it considers that any person may have been prejudiced as a result, the Council shall take such steps as it thinks fit to remedy the irregularity before reaching its decision.
- 13.3 The Council may correct clerical mistakes in any document recording a decision of the authority or errors arising in such a document from an accidental slip or omission.

14. FORM OF NOTICES

14.1 Any notices required to be given under this procedure must be given in writing.

14.2 The requirement that any notice must be given in writing is satisfied where:

- (a) the text of the notice
 - (i) is transmitted by electronic means;
 - (ii) is received in legible form; and
 - (ii) is capable of being reproduced in written form and used for subsequent reference;
- (b) the person to whom the notice is to be given has agreed that such a notice may be given to them by those electronic means; and
- (c) forthwith on sending the text of the notice by electronic means the notice is given to the recipient in writing.

14.3 Where the text of the notice is transmitted by electronic means, the giving of the notice shall take effect at the time the text of the notice is received by the recipient in accordance with Paragraph 14.2(a).

**PROCEDURE FOR DEALING WITH APPLICATIONS UNDER THE LICENSING ACT 2003
THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

SCHEDULE

Statutory Instrument 2005 No. 44

A	B	C	D	E	F	G	H
		Schedule 1		Schedule 2	Schedule 3		
	Provision under which hearing is held	Period of Time within which hearing must be commenced	Time by which notice of hearing must be given	Persons who must be given notice of hearing	Person to whom notice of hearing is given	Documents to accompany notice of hearing	Time within which applicant must give notice to the authority under R.8
1.	Section 18(3)(a) (determination of application for premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).	No later than 10 working days before hearing.	(1) the person who has made the application under section 17(1); (2) persons who have made relevant representations as defined in section 18(6).	The person who has made the application under section 17(1).	The relevant representations as defined in section 18(6) which have been made.	No later than 5 working days before the day or the first day on which the hearing is to be held.
2.	Section 31(3)(a) (determination of application for a provisional statement).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 30.	No later than 10 working days before hearing.	(1) the person who has made the application under section 29(2); (2) persons who have made relevant representations as defined in section 31(5).	The person who has made the application under section 29(2).	The relevant representations as defined in section 31(5) which have been made.	No later than 5 working days before the day or the first day on which the hearing is to be held.

3.	Section 35(3)(a) (determination of application to vary premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 34(5).	No later than 10 working days before hearing.	(1) The holder of the premises licence who has made the application under section 34(1); (2) Persons who have made relevant representations as defined in section 35(5).	The holder of the premises licence who has made the application under section 34(1).	The relevant representations as defined in section 35(5) which have been made.	No later than 5 working days before the day or the first day on which the hearing is to be held.
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5).	No later than 10 working days before hearing.	(1) The holder of the premises licence who has made the application under section 37(1); (2) Each chief officer of police who has given notice under section 37(5); (3) The proposed individual as referred to in section 37(1).	(1) the holder of the premises licence who has made the application under section 37(1). (2) the proposed individual as referred to in section 37(1).	The notices which have been given under section 37(6).	No later than 5 working days before the day or on the first day on which the hearing is to be held.

5.	Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6).	No later than 10 working days before hearing.	<p>(1) The person who has made the application under section 42(1);</p> <p>(2) Each chief officer of police who has given notice under section 42(6);</p> <p>(3) The holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made.</p>	<p>(1) The person who has made the application under section 42(1).</p> <p>(2) The holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made.</p>	The notices which have been given under section 42(6).	No later than 5 working days before the day or on the first day on which the hearing is to be held.
6.	Section 48(3)(a) (cancellation of interim authority notice following police objections).	5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2).	No later than 2 working days before hearing.	<p>(1) The person who has given notice under section 47(2).</p> <p>(2) Each chief officer of police who has given notice under section 48(2).</p>	The person who has given notice under section 47(2).	The notices which have been given under section 48(2).	No later than 1 working day before the day or the first day on which the hearing is to be held.

7.	Section 52(2) (determination of application for review of premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c).	No later than 10 working days before hearing.	(1) The holder of the premises licence in respect of which the application has been made; (2) Persons who have made relevant representations as defined in section 52(7); (3) the person who has made the application under section 51(1).	The holder of the premises licence in respect of which the application has been made.	The relevant representations as defined in section 52(7) which have been made.	No later than 5 working days before the day or on the first day on which the hearing is to be held.
8.	Section 72(3)(a) (determination of application for club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c).	No later than 10 working days before hearing.	(1) The club which has made the application under section 71(1). (2) Persons who have made relevant representations as defined in section 72(7).	The club which has made the application under section 71(1).	The relevant representations as defined in section 72(7) which have been made.	No later than 5 working days before the day or on the first day on which the hearing is to be held.

9.	Section 85(3) (determination of application to vary club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4).	No later than 10 working days before hearing.	(1) The club which has made the application under section 84(1). (2) Persons who have made relevant representations as defined in section 85(5).	The club which has made the application under section 84(1)	The relevant representations as defined in section 85(5) which have been made	No later than 5 working days before the day or the first day on which the hearing is to be held
10.	Section 88(2) (determination of application for review of club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c).	No later than 10 working days before hearing.	(1) The club which holds the club premises certificate in respect of which the application has been made; (2) Persons who have made relevant representations as defined in section 88(7); (3) The person who has made the application under section 87(1).	The club which holds the club premises certificate in respect of which the application has been made.	The relevant representations as defined in section 88(7) which have been made.	No later than 5 working days before the day or the first day on which the hearing is to be held.

11.	Section 105(2)(a) (counter notice following police objection to temporary event notice).	7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2).	No later than 2 working days before hearing.	(1) The premises user; (2) Each chief officer of police who has given notice under section 104(2).			No later than 1 working day before the day or on the first day on which the hearing is to be held.
12.	Section 120(7)(a) (determination of application for grant of personal licence).	20 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 120(5).	No later than 10 working days before hearing.	(1) The person who has made the application under section 117(1). (2) The chief officer of police who has given notice under section 120(5).	The person who has made the application under section 117(1).	The notice which has been given under section 120(5).	No later than 5 working days before the day or on the first day on which the hearing is to be held.
13.	Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 121(3).	No later than 10 working days before hearing.	(1) The person who has made the application under section 117(1). (2) The chief officer of police who has given notice under section 121(3).	The person who has made the application under section 117(1).	The notice which has been given under section 121(3).	No later than 5 working days before the day or on the first day on which the hearing is to be held.

14.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 124(3).	No later than 10 working days before hearing.	(1) The holder of the licence in respect of which the notice has been given. (2) The chief officer of police who has given notice under section 124(3).	The holder of the licence in respect of which a notice has been given.	The notice which has been given under section 124(3).	No later than 5 working days before the day or the first day on which the hearing is to be held.
15.	Section 167(5)(a) (review of premises licence following closure order).	10 working days beginning with the day after the day the relevant licensing authority receives the notice given under section 165(4).	No later than 5 working days before hearing.	(1) The holder of the premises licence in respect of which the review has been made. (2) Persons who have made relevant representations as defined in section 167(9).	The holder of the premises licence in respect of which the review has been made.	The relevant representations as defined in section 167(9) which have been made.	No later than 2 working days before the day or the first day on which the hearing is to be held.
16.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8.	No later than 5 working days before hearing.	(1) the person who has made the application under paragraph 2(2) of Schedule 8. (2) each chief officer of police who has given notice under paragraph 3(2) or (3) of Schedule 8.			No later than 2 working days before the day or on the first day on which the hearing is to be held.

17.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 15(2) or (3) of Schedule 8.	No later than 5 working days before hearing	(1) The club which has made the application under paragraph 14(2) of Schedule 8. (2) Each chief officer of police who has given notice under paragraph 15(2) or (3) of Schedule 8.			No later than 2 working days before the day or the first day on which the hearing is to be held.
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 25(2) of Schedule 8.	No later than 5 working days before hearing	(1) The person who has made the application under section 117 to which paragraph 23(1) of Schedule 8 applies. (2) The chief officer of police who has given notice under paragraph 25(2) of Schedule 8.			No later than 2 working days before the day or the first day on which the hearing is to be held.

**TEWKESBURY BOROUGH COUNCIL
GAMBLING ACT 2005
HEARINGS PROCEDURE**

HEARING TO DETERMINE OBJECTIONS/REPRESENTATIONS

**PROCEDURE FOR DEALING WITH APPLICATIONS UNDER THE GAMBLING ACT
2005**

1. RIGHT TO DISPENSE WITH HEARING UNDER THE ACT

- 1.1 The Act specifies various situations when a licensing authority (the Council) must hold a hearing to consider either relevant representations from interested parties or representations from responsible authorities. The Regulations authorise the Council to dispense with holding a hearing if all relevant persons have notified the authority that they consider a hearing unnecessary. If the Council agrees that no hearing is necessary, it must forthwith give notice to all parties that the hearing has been dispensed with.

2. TIMING OF HEARING UNDER THE ACT

- 2.1 In relation to applications received under the Act, the Council must arrange for hearings to be held as soon as is reasonably practicable after the expiry of any period for representations made by interested parties or responsible authorities. Where a hearing is to be held on more than one day, it must be arranged for consecutive working days.

3. NOTICE OF HEARING

- 3.1 The Council shall give due notice of any hearing held under the Act to those persons specified in the schedule attached to this procedure (schedule column 2 (the party)) together with any documents required (schedule column 3).
- 3.2 In all cases, the notice of hearing sent to the party will include the following information:
- (i) the date, time and place of the hearing;
 - (ii) the right of the party to be represented at the hearing by another person, whether that person is legally qualified or not;
 - (iii) the right of the party at the hearing to give further information and call any witness in support of their application, representations or notice (as applicable); to question any other party or witness; and to address the hearing, subject to any maximum time-limit imposed by the Sub-Committee;
 - (iv) the consequences if the party fails to attend or is not represented at the hearing;

- (v) the procedure to be followed at the hearing;
- (vi) any particular points on which the Council considers that it will want clarification from a party at the hearing; and
- (vii) any information the Council has received in support of, or opposition to, the application (or a summary thereof, if appropriate).

3.3 In the notice of hearing the party will be asked if he/she has any special needs or requirements at the hearing and will be requested to notify the Council accordingly.

4. RESPONSE TO NOTICE OF HEARING

4.1 Following receipt of the notice of hearing the party must give to the Council, within the period of time specified in the schedule (column H), a notice stating:

- (i) whether he/she intends to attend or be represented at the hearing;
- (ii) whether he/she intends calling any witness at the hearing and, if so, the name of any witness; or
- (iii) whether he/she considers a hearing to be unnecessary.

4.2 The party must include with his/her notice a written summary of the representations, which he/she wishes to make to the Sub-Committee together with any documentary or other evidence in support of his/her case. If the hearing proceeds in the party's absence, the Sub-Committee will consider these written representations.

5. POWER TO POSTPONE

5.1 The Council or Committee may postpone the hearing to a specified date, or arrange for an additional date for the hearing, acting either before or at the hearing. The grounds for postponement are that it needs to consider information or documents provided by a party in response to a hearing or at the hearing itself or there is difficulty in getting a party to the hearing.

6. PUBLIC ACCESS TO HEARINGS

6.1 The Sub-Committee will hear all matters in public except:

- (i) where it considers the public interest in excluding the public outweighs the public interest in the hearing (or part of it) taking place in public, and/or
- (ii) to the extent that the public may be excluded under Section 100A of the Local Government Act 1972, and/or
- (iii) any unfairness to a party that is likely to result from hearing in public and the need to protect as far as possible, the commercial or other legitimate interests of a party, and/or

- (iv) that it may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing and may:
 - (a) refuse to permit that person to return; or
 - (b) permit them to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Council in writing any information which he/she would have been entitled to give orally had they not been required to leave.

7. PROCEDURE AT HEARING

- 7.1 The three Members of the Licensing Sub-Committee will be drawn by the Corporate Director from the 15 Members of the Licensing Committee. The first item of business will be the election of a Chair for the hearing. Upon election, the Chair will remind Members of the Sub-Committee of their obligation to declare any disclosable pecuniary interests or other interests (see Appendix A and B).
- 7.2 The Chair will identify the Licensing Officer, Legal Adviser and the Member Services Officer for the benefit of those attending the hearing. The Chair will explain that the Member Services Officer's role is to record the Minutes of the hearing and the Legal Adviser's role is to provide legal advice to the Sub-Committee.
- 7.3 The Chair will explain the procedure to be followed at the hearing and ensure that all parties understand the proceedings.
- 7.4 Each matter to be dealt with by the Sub-Committee will be called in turn, usually in the order listed on the Sub-Committee Agenda. However, the Chair may change the order at his/her discretion.
- 7.5 As each matter is called, the Chair will ask the parties in the case to identify themselves and consider any requests made by them to be assisted or represented by any person whether or not that person is legally qualified and such permission shall not be unreasonably withheld.
- 7.6 If a party has informed the Council that he/she will not be attending or be represented at the hearing, it may proceed in his absence. If a party who has not informed the Council that he/she will not be attending or represented fails to attend or be represented, the Sub-Committee will decide if, in the interests of justice, the hearing of the matter should be adjourned until a specified date. If the Sub-Committee proceeds without that party present, the Sub-Committee must give full reasons for proceeding in his/her absence. These reasons will be recorded by the Member Services Officer and the applicant will be informed of the decision.
- 7.7 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application together with any representations made or notice given by that party.

- 7.8 The Chair will ask the Council Officer who is presenting the case (the Officer) to identify him/herself. If the case is being held in private, the Chair will direct all members of the public and all other Officers, apart from the presenting Officer, Member Services Officer and Legal Adviser, to leave the room.
- 7.9 The case will be opened with an outline of the relevant facts by the appropriate Officer. The Sub-Committee may impose a maximum time-limit on the Officer's representations.
- 7.10 The Members of the Sub-Committee and the parties may ask questions of the Officer and any witnesses called by the Officer.
- 7.11 Any witness called by any party will provide appropriate identification to the Sub-Committee i.e. name, capacity etc.
- 7.12 The Chair will invite responsible authorities which are present and have given proper notice to the Council of their intention to make representations at the hearing, to present their case, in the order determined by the Chair, including any evidence and/or the calling of witnesses in support of their case. The Sub-Committee may impose a maximum time limit on the responsible authorities' representations.
- 7.13 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.14 and 7.16, may ask questions of clarification of the responsible authorities and any witnesses called by them.
- 7.14 The Chair will invite any interested parties who are present and have given proper notice to the Council of their intention to make representations at the hearing, to present their case, in the order determined by the Chair, including any evidence and/or the calling of witnesses in support of their case. The Sub-Committee may impose a maximum time limit on the interested parties' representations.
- 7.15 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.12 and 7.16, may ask questions of clarification of the parties referred to in Paragraph 7.14 and any witnesses called by them.
- 7.16 The Chair will ask the applicant to present his/her case, including any evidence and/or the calling of witnesses in support of the application. The Sub-Committee may impose a maximum time-limit on the applicant's representations.
- 7.17 The Members of the Sub-Committee, and the parties referred to in Paragraphs 7.12 and 7.14, may ask questions of clarification of the applicant and any witnesses called by him/her.
- 7.18 The hearing shall take the form of a discussion led by the licensing authority and cross-examination shall not be permitted unless the Chair of the Sub-Committee considers that cross-examination is required for it to consider the cases put by the parties.
- 7.19 Where an interested party has made written representations to the Sub-Committee, it will consider these.

- 7.20 Where the Sub-Committee sets a maximum time-limit for each party to present their case, this time-limit must be equal for all parties.
- 7.21 The content of any representations and/or evidence should have been disclosed to all parties prior to the hearing. The Sub-Committee may consider documentary or other information in support of the application which is produced at the hearing with the consent of all other parties.
- 7.22 The Sub-Committee shall disregard any information given or evidence produced by a party or a witness which is not relevant to their application, representations or notice (as applicable).
- 7.23 The Chair will invite any final comments to be made by the Officer and any of the parties referred to in Paragraphs 7.12 and 7.14 above.
- 7.24 The Chair will invite the applicant (or his/her representative) to exercise a final right of reply.

8. EVIDENCE

- 8.1 The strict legal rules of evidence will not apply, and evidence will not be taken on oath.

9. LEGAL ADVICE

- 9.1 The role of the Sub-Committee's Legal Adviser is to provide the Members with advice on:
- (i) questions of law;
 - (ii) matters of practice and procedure;
 - (iii) the options available to the Sub-Committee in making its decision;
 - (iv) any relevant decisions of superior courts or other guidelines (e.g. - Government Guidance on the 2005 Act and the Council's Statement Licensing Policy under the Gambling Act 2005);
 - (v) other issues relevant to the matter before the Sub-Committee (e.g. any consultation currently in progress through Council etc.); and
 - (vi) where appropriate to assist in formulating the reasons for its decision.
- 9.2 The Legal Adviser may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.
- 9.3 The Legal Adviser has a duty to ensure that every case is conducted fairly.

10. DETERMINATION OF APPLICATIONS

- 10.1 When all the representations have been heard and considered, the Sub-Committee will debate the application and make its decision. In certain cases, the Sub-Committee may withdraw to consider its decision. In these circumstances, the Legal Adviser will only withdraw with the Sub-Committee if requested to give legal or procedural advice but not otherwise and will then return to the Sub-Committee room while the Members make their decision. The Legal Adviser will explain to applicants/parties the reason for him/her being called to where the Members were deliberating (i.e. to advise on a point of law etc.).
- 10.2 In the event that the Sub-Committee has withdrawn to consider its decision and needs to ask any further questions of either the applicant or any other party, all parties will be asked to return before the Sub-Committee.
- 10.3 The Council must make its determination within the period of five working days beginning with the day (or the last day) on which the hearing was held.
- 10.4 The determination will be confirmed in writing giving reason(s) for the determination and details of any appeal rights. The determination notice/letter will be sent as soon as practicable after the meeting and in accordance with any statutory deadlines.
- 10.5 Where a hearing has been dispensed with [under Paragraph 1.1 above] the relevant Sub-Committee must, as soon as reasonably practicable, (a) notify all the parties that the hearing has been dispensed with and (b) determine the application or review.

11. QUORUM

- 11.1 The quorum for any hearing of a Licensing Sub-Committee shall be three Members.

12. RECORD OF PROCEEDINGS

- 12.1 The Council shall provide for a record to be taken of the hearing in a permanent and intelligible form and kept for six years from the date of the decision or, where an appeal is brought against the decision of the Council, the disposal of that appeal. This shall be the responsibility of the Member Services Officer.

13. IRREGULARITIES

- 13.1 Any irregularity resulting from any failure to comply with any provision of the Regulations before the Council has made a decision shall not of itself render the proceedings void.
- 13.2 In the case of any such irregularity, where it considers that any person may have been prejudiced as a result, the Council shall take such steps as it thinks fit to remedy the irregularity before reaching its decision.

13.3 The Council may correct clerical mistakes in any document recording a decision of the authority or errors arising in such a document from an accidental slip or omission.

14. FORM OF NOTICES

14.1 Any notices required to be given under this Procedure must be given in writing.

14.2 The requirement that any notice must be given in writing is satisfied where:

(a) the text of the notice

(i) is transmitted by electronic means;

(ii) is received in legible form; and

(iii) is capable of being reproduced in written form and used for subsequent reference;

(b) the person to whom the notice is to be given has agreed that such a notice may be given to them by those electronic means; and

(c) forthwith on sending the text of the notice by electronic means the notice is given to the recipient in writing.

14.3 Where the text of the notice is transmitted by electronic means, the giving of the notice shall take effect at the time the text of the notice is received by the recipient in accordance with Paragraph 14.2(a).

**PROCEDURE FOR DEALING WITH APPLICATIONS UNDER THE GAMBLING ACT
2005**

THE GAMBLING ACT 2005 (HEARINGS) REGULATIONS 2005

SCHEDULE

Column 1	Column 2	Column 3
Procedure in relation to which a hearing is required to be held	Persons to whom notice must be given	Copies of documents to accompany the notice of hearing
Application for a premises licence under Section 159.	(1) The applicant. (2) Any person who has made (and not withdrawn) representations about the application.	Representations made in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application).
Application to vary a premises licence under Section 187.	(1) The applicant. (2) Any person who has made (and not withdrawn) representations about the application.	Representations made in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application).
Application for a premises licence to be transferred under Sections 188 and 189.	(1) The applicant. (2) Any person who has made (and not withdrawn) representations about the application. (3) The licensee.	Representations made in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application).
Application for a licence to be reinstated under Sections 195 and 196.	(1) The applicant. (2) Any person who has made (and not withdrawn) representations about the application.	Representations made in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application).
Application for a provisional statement under Section 204.	(1) The applicant. (2) Any person who has made (and not withdrawn) representations about the application.	Representations in relation to the application (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the application).

<p>Review of a premises licence under Section 201</p>	<p>(1) The applicant</p> <p>(2) Any person who has made (and not withdrawn) representations about the review</p> <p>(3) The licensee</p>	<p>Representations made in relation to the review (unless the relevant Committee considers that the representations are vexatious, frivolous or will certainly not influence the determination of the review)</p>
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TEWKESBURY BOROUGH COUNCIL

Licensing Applications

Hearing procedure

1. The Chair will briefly explain the procedure to members of the public.
2. The Licensing Officer will open the hearing with an outline of the relevant details of the application.
3. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Committee.
4. The Committee may then invite representations from Officers and from the representatives of bodies who have submitted a representation in respect of an application. The Committee may then invite representations from other objectors who have submitted a representation in respect of an application. Again, opportunities to ask questions will be afforded to all of those present.
5. The applicant will then be allowed to make a final statement in response to any representations that have been raised.
6. At the conclusion of the hearing, the Committee will deliberate upon the application. Where the Committee determine it necessary and appropriate the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information, or clarification, all parties at the hearing must be invited to return. The Committee may request that the Legal Advisor and Member Services Officer remain.
7. When the Committee has reached its conclusions the parties, if they have been asked to withdraw, will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence.