



## **Licensing Act 2003**

## **Licensing Hearing Procedure**

**May 2005**

**I. Statement of intent**

- 1.1. The Licensing Authority (West Oxfordshire District Council) is committed to processing and determining applications made under the Licensing Act 2003 in an honest, efficient, and considerate manner. Each application will be considered on its individual merits and the Authority will endeavour to prevent negative impact on the four licensing objectives.

**2. Introduction**

- 2.1. Each application that is determined at a licensing hearing will be treated on its own merits, and The Licensing Authority will take its decision based upon:
- The merits of the application
  - The promotion of the four licensing objectives
  - The Statement of Licensing Policy, a copy of which can be obtained from Community Safety and Licensing, West Oxfordshire District Council, Woodgreen, WITNEY, Oxfordshire OX28 1NB, and is also available from the Council's web site – [www.westoxon.gov.uk](http://www.westoxon.gov.uk).
  - The Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State for Culture, Media and Sport.
  - Statutory Instrument 2005 No 44 – The Licensing Act 2003 (Hearings) Regulations 2005

- 2.2. In accordance with Policy GN 1 of the Statement of Licensing Policy, licensing hearings will give consideration to promoting the four licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention public nuisance; and
- the protection of children from harm

**3. Licensing Hearing Procedure**

- 3.1. In accordance with Policy GN 11 of the Statement of Licensing Policy a licensing hearing will be held to determine any of the following where an application has been made to the Licensing Authority and where a valid representation(s) has been made and not withdrawn:

- application for a Personal Licence;
- application for Personal Licence with unspent convictions; (in all cases as no objections or representations are required for this)
- application for Premises Licence or Club Premises Certificate;
- application for provisional statement;
- application to vary a Premises Licence or Club Premises Certificate;
- application to vary Designated Premises Supervisor;
- application for transfer of Premises Licence;
- application for interim authorities;
- application to review a Premises Licence or Club Premises Certificate;
- determination of a Police Representation to a Temporary Event Notice;
- decision to object when the Authority is a consultee and not the relevant authority considering the application.

- 3.2. The Licensing Authority shall arrange the date on which and time and place at which a hearing is to be held and shall give a notice of hearing in accordance with Regulations 5, 6 and 7. The Regulations provide for the timing of hearings and the notification

requirements to parties to a hearing of the date, time and place of a hearing and information to accompany that notification (regulations 4, to 7 and Schedules 1, 2 and 3). Schedules 1, 2 and 3 of the Licensing Act 2003 (Hearings) Regulations outline the following:

- The type of application – provision under which the hearing is held
  - Period of time by which the hearing must commence
  - Person whom the Notice of Hearing must be given
  - Documents to accompany the Notice of Hearing
- 3.3. The tables contained in the Regulations that show this information have been reproduced in the [Appendix](#) to this procedure.
- 3.4. A Notice of a Hearing will be sent to the applicant(s), interested parties, and responsible authorities in accordance with Regulation 34. The following information will also be made available:
- the rights of the party provided for in Regulations 15 and 16;
  - the consequences if a party does not attend or is not represented at the hearing;
  - this licensing hearing procedure;
  - any particular points on which the authority considers that it will want clarification at the hearing from the party
- 3.5. Where the applicant(s), responsible authority, or interested party intends to produce documents in support of their case, these should be supplied to the Licensing Authority not less than 7 working days prior to the hearing in order for this to be disclosed to all other parties. Regulation 18 allows additional information to be submitted (with consent) in relation to an existing representation at the time of the hearing.
- 3.6. The Licensing Authority will distribute hearing agendas, reports, and associated documents to the applicant(s), responsible authorities, and or interested parties five clear working days prior to the hearing. Agendas and reports will be published on the Licensing Authority's web site – [www.westoxon.gov.uk](http://www.westoxon.gov.uk). Agendas, reports, and associated documents will be available for public inspection at the offices of the West Oxfordshire District Council, Woodgreen, WITNEY, Oxfordshire OX28 1NB. They will also be available for inspection at licensing hearings.
- 3.7. Licensing Hearings will generally be held at the Council Offices referred to in paragraph 3.6 above. The premises have wheelchair access and will be available to all parties 30 minutes prior to, and after the conclusion of, a licensing hearing.
- 3.8. The Licensing Authority may dispense with holding a hearing if the applicant(s), responsible authority, and or interested party agree that such a hearing is unnecessary. A notice will be sent to the applicant(s), responsible authorities, and or interested party informing them that the hearing has been dispensed with.
- 3.9. The Hearing agenda will contain the following information:
- Date, time and place of the hearing
  - Scheduled membership of the Licensing Panel
  - Licensing Authority Contact information
  - Order of business
  - Information on where agendas, reports, and associated documents will be available for public inspection.
  - Information on where the Licensing Hearing Procedure will be available for public inspection

- 3.10. The applicant(s) will have the right to be accompanied to a hearing by his or her representative who may present the case to the Licensing Panel for or on behalf of the applicant(s).
- 3.11. Hearings will be held in public unless the Licensing Authority considers that the public interest in not doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public in which [case] the applicant(s), those assisting the applicant(s), responsible authorities, or other interested parties can be excluded.
- 3.12. At the conclusion of the Hearing the Licensing Panel will deliberate and determine the application. This process will be carried out in private session.
- 3.13. A record of proceedings will be kept for six years from the date of decision or the disposal of any appeal. The purpose of this is to provide an accurate record of proceedings, and a summary of the key points. The record will also include:
  - Membership of the Panel
  - Any declarations of interest
  - Confirmation that the agreed procedure was followed
  - Details of the decision taken and of the reasons for that decision

#### **4. Licensing Hearing Process**

- 4.1. The Chair of the Licensing Panel will at the start of the hearing outline the process, introduce the other members of the panel, and ask the applicant(s), and any responsible authorities or interested parties, to introduce themselves.
- 4.2. The Hearing will begin with a presentation by an officer of the Council, when the application will be outlined.
- 4.3. In accordance with the Regulations:
  - (i) the applicant(s) (or his/her representative) will be invited to address the Panel if they have indicated they wish to and in accordance with the Regulations;
  - (ii) each responsible authority will then be invited to address the Panel if they have indicated they wish to and in accordance with the Regulations; and
  - (iii) Each interested party (whether supporting the application or objecting to it) will then be invited to address the Panel if they have indicated they wish to and in accordance with the Regulations.
- 4.4. The applicant(s) (or his/her representative) will be invited to sum up their application and to address issues raised by the responsible authorities / interested parties.
- 4.5. The Licensing Panel may ask questions of any of the parties following their address.
- 4.6. Regulation 23 states that cross-examination cannot take place unless specified by the Licensing Authority. All parties present at a hearing will be allowed to ask questions of one another through the Chair of the Panel.
- 4.7. The applicant(s) (or his or her representative), responsible authorities, and or interested parties will be allowed and equal period of time (per party) allowed in which all parties can exercise their rights. This will be determined on a case by case basis.
- 4.8. New evidence by the applicant(s), and any responsible authority or interested party will only be considered with the agreement of all parties present at the hearing. The Licensing Authority expects any such evidence to be submitted to the Head of Community Safety & Licensing 48 hours prior to a hearing to allow the Panel, applicant(s), any responsible authority, or interested party the opportunity to consider it.

- 4.9. The Panel may retire at any point during the hearing to consider interim points as they arise.
- 4.10. Agendas, reports, and associated documents relating to the application will be distributed to the Panel prior to the hearing. Panel Members will read and have taken into account the information relating to the application. Applicant(s) (or his/her representative), responsible authorities, and interested parties should in the interest of fairness, efficiency and cost-effectiveness, ensure that their address is factual, and outlines 'key points' relating to the application and the positive or negative impact on the licensing objectives. The Licensing Panel can only consider the impact of an application on the four licensing objectives and will disregard information relating to other matters.
- 4.11. At the conclusion of the public hearing, the Panel will retire to carry out its deliberations and determination of the application. The Panel may have support in the process from an officer of the Licensing Authority, usually a Solicitor or a representative of the Chief Executive. Any advice given to the Panel by an officer of the Council will be disclosed to the applicant(s) (or his/her representative), responsible authorities, and interested parties. Following the deliberation, the Panel will determine the application and announce the decision. This may include:
  - (i) Granting the licence in accordance with the operating schedule
  - (ii) Granting the licence in accordance with the operating schedule, but taking into account representations made by the responsible authorities and or interested parties
  - (iii) Applying condition(s) taken from the Licensing Authority's Pool of Conditions or constructing a condition(s) to address the negative impact of an application on one or more of the four licensing objectives
  - (iv) Refusing the application based on the likely negative impact of the proposal on one or more of the licensing objectives
  - (v) Deferring the determination, or adjourning the hearing.

## 5. Information

- 5.1. Licensing Panels will consist of three elected members of the Licensing Authority (West Oxfordshire District Council). They will all be members of the Licensing Committee required to be established by virtue of the Licensing Act 2003, and will have received prior training on the Licensing Act 2003 and Panel Procedures.
- 5.2. The applicant(s), responsible authorities, and interested parties will be notified of the Panel's decision in writing.
- 5.3. In cases where a decision cannot be given at the end of the hearing, the Licensing Authority will inform the applicant(s) when they will be notified of the decision within five working days.
- 5.4. Decisions will generally be taken regardless of whether the applicant(s) is present, unless an application for an adjournment has been made and granted.
- 5.5. The record of the hearing will be published 10 working days after the hearing on the Licensing Authority's web site - [www.westoxon.gov.uk](http://www.westoxon.gov.uk) and will be available for public inspection at West Oxfordshire District Council, Woodgreen, WITNEY, Oxfordshire OX28 1NB.
- 5.6. The Licensing Authority may remove disruptive persons from the hearing. These persons will be allowed to submit for consideration, before the end of the hearing, any written representations that relate to the licensing objectives they had wished to make orally to the hearing.

- 5.7. Clerical errors do not render the licensing hearing procedure void. The Licensing Authority will seek to cure any irregularity or error as soon as practicable.
- 5.8. Written correspondence and documentation relating to the application, both in support and in objection will be made available in its entirety to the Licensing Panel, the applicant(s), responsible authorities, interested parties, and the public so that they can prepare for the hearing and, in the case of the Panel, make an informed decision on the application.

## **6. Appeals**

- 6.1. Applicant(s), responsible authorities, and interested parties have a right to appeal against the decision of a Licensing Panel. Details can be obtained from Community Safety and Licensing, West Oxfordshire District Council, Woodgreen, WITNEY, Oxfordshire OX28 1NB. Telephone: (01993) 861636. Email: [licensing@westoxon.gov.uk](mailto:licensing@westoxon.gov.uk).

**APPENDIX****SCHEDULES 1, 2 & 3 OF THE LICENSING ACT 2003(HEARING ) REGULATIONS**

<b>Schedule 1</b>		<b>Schedule 2</b>		<b>Schedule 3</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision under which hearing is held.</b>	<b>Period of time within which hearing must be commenced.</b>	<b>Provision under which hearing is held.</b>	<b>Persons to whom notice of hearing is to be given</b>	<b>Provision under which hearing is held</b>	<b>Person to whom notice of hearing is given</b>	<b>Documents to accompany notice of hearing</b>
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).	Section 18(3)(a) (determination of application for premises licence).	(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).	Section 18(3)(a) (determination of application for premises licence).	The person who has made the application under section 17(1).	The relevant representations as defined in section 18(6) which have been made.
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.	Section 31(3)(a) (determination of application for provisional statement).	(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).	Section 31(3)(a) (determination of application for provisional statement).	The person who has made the application under section 29(2).	The relevant representations as defined in section 31(5) which have been made.

<b>Schedule 1</b>		<b>Schedule 2</b>		<b>Schedule 3</b>		
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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).	Section 35(3)(a) (determination of application to vary premises licence).	(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).	Section 35(3)(a) (determination of application to vary premises licence).	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.
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 a notice under section 37(5).	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	(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).	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	(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).

<b>Schedule 1</b>		<b>Schedule 2</b>		<b>Schedule 3</b>		
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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 a notice under section 42(6).	Section 44(5)(a) (determination of application for transfer of premises licence).	(1) The person who has made the application under section 42(1); (2) each chief officer of police who has given notice under section 42(6); (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.	Section 44(5)(a) (determination of application for transfer of premises licence).	(1) The person who has made the application under section 42(1); (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.	The notices which have been given under section 42(6).

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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 a notice under section 48(2).	Section 48(3)(a) (cancellation of interim authority notice following police objections).	(1) The person who has given notice under section 47(2); (2) each chief officer of police who has given notice under section 48(2). <i>(Two days notice by virtue of Regulation 6)</i>	Section 48(3)(a) (cancellation of interim authority notice following police objection).	The person who has given notice under section 47(2).	The notices which have been given under section 48(2).
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).	Section 52(2) (determination of application for review of premises licence).	(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).	Section 52(2) (determination of application for review of premises licence).	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.

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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).	Section 72(3)(a) (determination of application for club premises certificate).	(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).	Section 72(3)(a) (determination of application for club premises certificate).	The club which has made the application under section 71(1).	The relevant representations as defined in section 72(7) which have been made.
9. Section 85(3)(a) (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).	Section 85(3)(a) (determination of application to vary club premises certificate).	(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).	Section 85(3)(a) (determination of application to vary club premises certificate).	The club which has made the application under section 84(1).	The relevant representations as defined in section 85(5) which have been made.

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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).	Section 88(2) (determination of application for review of club premises certificate).	(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).	Section 88(2) (determination of application for review of club premises certificate).	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.
11. Section 105(2)(a) (counter notice following police objection to temporary event notice).	7 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).	Section 105(2)(a) (counter notice following police objection to temporary event notice).	(1) The premises user; (2) each chief officer of police who has given notice under section 104(2). <i>(Two days notice by virtue of Regulation 6)</i>			

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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 the chief officer of police may give a notice under section 120(5).	Section 120(7)(a) (determination of application for grant of personal licence).	(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).	(No 11) Section 120(7)(a) (determination of application for grant of personal licence).	The person who has made the application under section 117(1).	The notice which has been given under section 120(5).
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 the chief officer of police may give a notice under section 121(3).	Section 121(6)(a) (determination of application for renewal of personal licence).	(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).	(No 12) Section 121(6)(a) (determination of application for renewal of personal licence).	The person who has made the application under section 117(1).	The notice which has been given under section 121(3).
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).	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	(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).	(No 13) Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	The holder of the licence in respect of which the notice has been given.	The notice which has been given under section 124(3).

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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).	Section 167(5)(a) (review of premises licence following closure order).	(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). <i>(Five days notice by virtue of Regulation 6)</i>	(No 14) Section 167(5)(a) (review of premises licence following closure order).	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.
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.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	(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. <i>(Five days notice by virtue of Regulation 6)</i>			

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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.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	(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. <i>(Five days notice by virtue of Regulation 6)</i>			
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 the chief officer of police may give a notice under paragraph 25(2) of Schedule 8.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	(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. <i>(Five days notice by virtue of Regulation 6)</i>			

**Copies of the Licensing Hearing Procedure are available from:**

Community Safety and Licensing  
West Oxfordshire District Council  
Woodgreen  
WITNEY  
Oxfordshire  
OX28 1NB

Telephone: (01993) 861636  
Email: [licensing@westoxon.gov.uk](mailto:licensing@westoxon.gov.uk)

Copies can also be downloaded on the Council's web site – [www.westoxon.gov.uk](http://www.westoxon.gov.uk).