

SPELTHORNE BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

GUIDANCE NOTES ON PROCEDURE WHEN CONSIDERING PRIVATE HIRE OR HACKNEY CARRIAGE VEHICLE/DRIVER LICENCES

1. The Council's Legal representative will conduct election of Chairman (unless Chairman or Vice-Chairman of Licensing Committee is a Member of the Sub-Committee).
2. Chairman will ask Members of Sub-Committee if they have any Disclosures of Interest.
3. Chairman introduces Members of Sub-Committee and Officers.
4. Chairman will ask:-
 - Is the applicant/respondent present
 - The applicant/respondent to introduce themselves
 - If the applicant/respondent is legally represented.
 - If the applicant/respondent has any witnesses and if so give their names and position.
5. The Licensing Enforcement Officer will present the Report of the Deputy Chief Executive and:
 - a. explain the reasons for referral of the application to the Licensing Sub-Committee
 - b. call any witnesses in support
 - c. present the views of the Police, if any, who if present may be called upon to present their evidence/state their objections.
6. The applicant/respondent or his/her representative may ask the Licensing Enforcement Officer, the Council's witnesses or Police, questions about the Report before the Sub-Committee.
7. The Licensing Sub-Committee may also ask the Licensing Enforcement Officer, the witnesses or Police, questions about the report.
8. The applicant/respondent or his/her representative will put his/her case, calling any witnesses to speak on their behalf.
9. The Licensing Enforcement Officer may then ask questions of the applicant /respondent and any witnesses.
10. The Licensing Sub-Committee may question the Licensing Enforcement Officer, the applicant/respondent and any witnesses.
11. The Licensing Enforcement Officer may make a closing speech.
12. The applicant/respondent or his/her representative may make a closing speech.
13. The Sub-Committee will then retire to consider its decision in private, accompanied by its legal representative.

14. When it returns the Chairman will announce the Sub-Committee's decision with reasons, to all parties.
15. The decision of the Sub-Committee will subsequently be confirmed to the applicant in writing.

NOTES

Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a convention right.

The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following provisions: -

- Article 1 of the first protocol states that every person is entitled to the peaceful enjoyment of his/her possessions and the Licensing Authority, when taking into account this right will strike a fair balance between the applicant's interest and the interests of the public.
- Article 6 relates to the determination of civil rights and obligations and states everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

It is established that holding a Licence is a civil right within the meaning of Article 6 and therefore any hearing to determine licence applications, renewals or revocations would need to comply with the safeguards of the convention. The Council's hearings will be conducted fairly in accordance with the rules of natural justice and as applicants have a full right of appeal to an independent tribunal against any decision made by the Licensing Authority, the requirements of Article 6 will have been complied with.

- Article 8 states that
 - (1) Everyone has the right to respect for his private and family life, his home and his correspondence.
 - (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Like Article 1, the Licensing Authority, when considering this right must strike a fair balance between the applicant's interest and the interests of the public.