

NORTH LINCOLNSHIRE COUNCIL

LICENSING COMMITTEE

A GUIDE TO THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To consider approval of a Guide for applicants, licence holders and representatives attending the Licensing (Miscellaneous) Sub-Committee.

2. BACKGROUND INFORMATION

- 2.1 It has become apparent that often when applicants or licence holders are invited to attend a Licensing (Miscellaneous) Sub-Committee they do not always know what to expect. They are unprepared for the case beforehand and are unaware of what actually happens at the hearing.
- 2.2 Everyone is entitled to a fair hearing, therefore this guide has been written to prepare those that would be attending, giving them a fair chance to put their case to the members of the sub-committee.
- 2.3 The guide covers what the Licensing (Miscellaneous) Sub-Committee is, how to prepare for the case, who is involved, and what happens at the hearing, along with other aspects which will be helpful.
- 2.4 A copy of the guide is available at Appendix 1.

3. OPTIONS FOR CONSIDERATION

- 3.1 Option 1 – To approve the Guide for the Licensing (Miscellaneous) Sub-Committee.
- 3.2 Option 2 – To continue with the current process in place without a guide.

4. ANALYSIS OF OPTIONS

- 4.1 Option 1 – Approving the guide would promote all parties having a fair hearing.

4.2 Option 2 – Continuing with the current process may still lead to a misperception and lack of preparation for applicants and licence holders in attendance.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 There are no resource implications from this report.

6. OTHER RELEVANT IMPLICATIONS (CRIME AND DISORDER, EQUALITIES, COUNCIL PLAN, ENVIRONMENTAL, RISK ETC)

6.1 Not applicable.

7. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

7.1 The Council's Licensing Team have been consulted and support the introduction of the guide.

7.2 There are no conflicts of interest.

8. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTEREST

8.1 Not applicable.

9. RECOMMENDATIONS

9.1 That Option 1 be approved.

DIRECTOR: GOVERNANCE & PARTNERSHIPS

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Background Papers used in the preparation of this report – N/A

North Lincolnshire Council

**A Guide to a Licensing (Miscellaneous)
Sub-Committee**

**Contact Democratic Services on
01724 296235 / 296014**

This document provides information and guidance to help you through the Licensing (Miscellaneous) Sub-Committee process. It is hoped that after reading it you will have a clearer idea of how the process works and it will provide you with advice and help in preparing your case. The questions you may have and what this covers are as follows: -

- What is the Licensing (Miscellaneous) Sub-Committee?
- Can I attend the hearing?
- Can I bring someone with me or send someone on my behalf?
- How do I prepare my case?
- What will happen after I submit any supporting evidence?
- Who will be involved at the hearing?
- What happens at the hearing?
- How will I be informed about the outcome of the hearing?
- Can I appeal the decision if I am unhappy about the outcome?

If you have any enquiries about this guidance and the hearing process, our contact details are as follows: -

Democratic Services
Legal and Democracy
North Lincolnshire Council
Church Square House
Scunthorpe
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WHAT IS THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE?

The Licensing (Miscellaneous) Sub-Committee is made up of 5 Members of the full Licensing Committee of the Council, who will determine applications and review licences.

The public must be able to see that the sub-committee act in a fair and reasonable manner at all times. Therefore, all members of the sub-committee are permitted to attend training before they can sit on the committee.

Significant contact with the members of the sub-committee prior to a hearing by an applicant or licence holder may result in the said member being unable to determine an application or review a licence. This measure is in the interests of reducing a conflict of interest.

The sub-committee will determine applications for a licence and review licences in accordance with guidance, which is provided. The guidance has been approved as part of the Licensing Policy for Hackney Carriage and Private Hire.

Where an application, or consideration of an existing licence, is referred to the sub-committee, it will be determined on its own merits. Members of the sub-committee will take into consideration the information contained in the report, and hear the representations of the applicant or licence holder.

In the case of applications, the sub-committee are to consider that the applicant are a "fit and proper" person. Should they not be satisfied, then the application should be refused.

The sub-committee may also suspend, revoke or refuse to renew a licence. The grounds for this are that since the grant of the licence: -

- a) the person has either been convicted of an offence involving dishonesty or integrity.
- b) the person has been convicted of an offence under the Local Government (Miscellaneous Provisions) Act 1976 or the Town Police Clauses Act 1847.
- c) or any other reasonable cause.

CAN I ATTEND THE HEARING?

Yes, you have the right to be at the hearing and present your case to the members. We encourage you to attend if possible as it assists the member's understanding of the individual circumstances of your case.

If you do not attend on the day or have stated that you will not attend or be represented at the hearing, the sub-committee may adjourn to a future date or they may proceed in your absence. When considering whether to adjourn or continue the hearing, the sub-committee may seek views of the parties present at the hearing.

In addition, if you decide not to attend the hearing and your case goes ahead, it may only be decided on the information available. However, whether you attend or not, the members will carefully consider all the written information that is submitted, if any.

CAN I BRING SOMEONE ELSE WITH ME OR SEND SOMEONE ON MY BEHALF?

Yes, you can bring somebody with you to support you or help you present your case. You may be accompanied or represented by a member of your family, a friend or a legal adviser, provided that this will not lead to a conflict of interest.

If you require the services of a translator or signer, please let Democratic Services know well in advance of the hearing.

HOW DO I PREPARE MY CASE?

The members of the sub-committee will be aware of the case in advance of your actual hearing, as all parties will have received the documentation regarding the case. It is very important therefore that you **provide all the information** that you wish the members to consider, including any supporting evidence. For example, if you have included a medical condition as part of your case, wherever possible you should support this with evidence such as a letter from your doctors or consultant and any other document or statement you consider appropriate.

WHAT WILL HAPPEN AFTER I SUBMIT ANY SUPPORTING EVIDENCE?

You will be sent all documentation, approximately 7 days before the hearing. Within this information, there will be the official procedure followed at the hearing, the report and any supporting evidence relating to your case submitted by yourself and the Licensing Authority.

Please be aware that any evidence submitted up to the date of the hearing will be decided by the members whether the information is to be considered. The members may decide not to consider it, taking into account its significance and the effect of a possible need to adjourn the hearing.

WHO WILL BE INVOLVED AT HEARING?

Along with the 5 members of the Licensing (Miscellaneous) Sub-Committee, there will be a number of people present in the room: -

The **Director: Operations or their Representative** requests that the applicant/licence holder confirm their name, address and date of birth and briefly introduces the case. They will have knowledge of the Licensing Policy for Hackney

Carriage and Private Hire, along with any other relevant guidance and advise the members accordingly during the decision making.

The **Legal Advisor** may be asked by the sub-committee to provide advice or clarification on any legal matter at any time during the hearing.

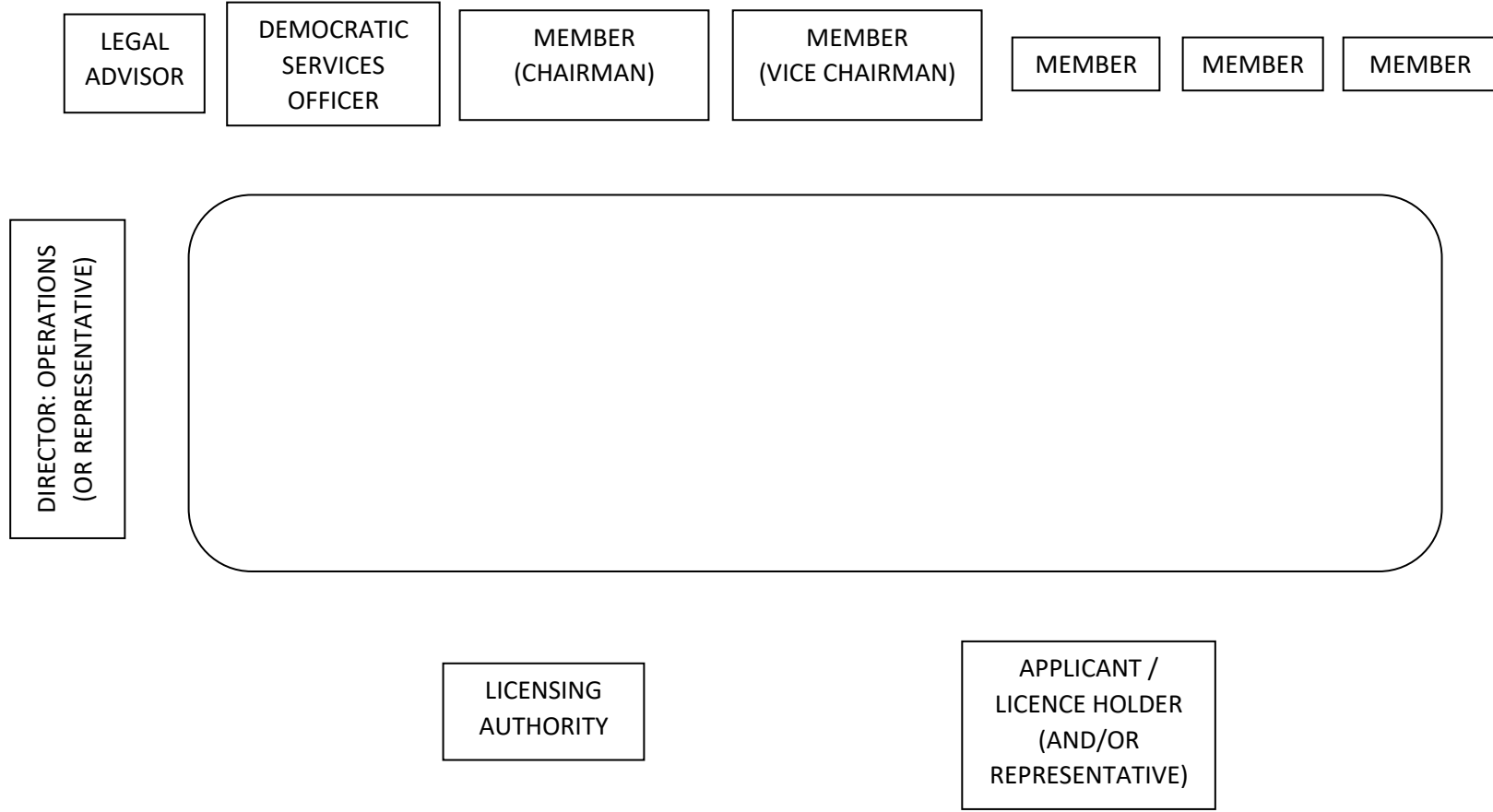
A **Democratic Services Officer** will be present, their role is to ensure that the hearing is heard within the correct framework and that the hearing is conducted fairly. The Democratic Services Officer is also responsible for recording the proceedings, decisions and reasons at the hearing. They will also notify all concerned of the member's decision.

A member of the **Licensing Authority** will be at the hearing and is responsible for presenting the case, explaining why the applicant or licence holder have been brought before the sub-committee.

The decision making is entirely the responsibility of the members. The Director: Operations or their representative, Legal Advisor and Democratic Services Officer will remain with the members of the sub-committee however, they are solely there to advise the members when making their decision.

Sometimes there may be an observer. This may be someone who is training within the Licensing Authority or Legal and Democratic Services.

Layout of the room during a Licensing (Miscellaneous) Sub-Committee Hearing



WHAT HAPPENS AT THE HEARING?

Chairman welcomes all interested parties to the room, explains the procedure and asks everyone in attendance to identify themselves and state in what capacity they are attending the sub-committee

Licensing Officer provides background circumstances and reason for the application being referred to the sub-committee for determination, referring to any council policy or statutory guidance (witnesses may be called if appropriate.)

The applicant/licence holder or legal representative may then address the sub-committee providing additional information to support the application for grant/renewal of the Private Hire or Hackney Carriage Licence (witnesses may be called if appropriate).

Members of the sub-committee will get the opportunity to ask both parties questions after they have submitted their side of the case.

Both parties will have the opportunity to sum up their case and add anything which may be relevant for the sub-committee to consider.

The Chairman of the sub-committee will then conclude the hearing, the Licensing Authority and yourself along with any representatives that supported you will leave the room. This leaves the sub-committee to consider the decision and seek advice where necessary from the remaining people on the room.

HOW WILL I BE INFORMED OF THE OUTCOME OF THE HEARING?

After the hearing the members will then consider your case in private. The Democratic Services Officer, Legal Adviser and Director: Operations or representative, will stay in the room but is not involved in the decision making process. They are there to help the members on matters of evidence or procedure and to record the decision.

The Democratic Services Officer will then notify you of the decision in writing. The letter will be posted as soon as possible after the hearing but not later than 5 working days, unless there is good reason. It will not be possible to let you know the decision in advance over the phone.

CAN I APPEAL THE DECISION IF I AM UNHAPPY ABOUT THE OUTCOME?

Parties aggrieved by a decision of the Licensing (Miscellaneous) Sub-Committee have a right of appeal. This should be lodged with the Magistrates Court within 21 days of the notification of a decision. Should the Magistrates uphold the decision, parties have further recourse to the Crown Court.