

# LONDON LOCAL AUTHORITIES ACT 1991 RULES OF PROCEDURE



RULES GOVERNING APPLICATIONS FOR SPECIAL TREATMENT LICENCES BEING REGULATIONS MADE UNDER SECTION 7(4) AND 7(5) OF THE LONDON LOCAL AUTHORITIES ACT 1991

## INTERPRETATION

1. In these rules:  
The masculine always includes the feminine.  
'Licence' means any special treatment licence which the Council can grant under Section 6 of the Act. This includes any associated consent or permission.  
'Licensee' means the holder of such a special treatments licence.  
'Applicant' means the applicant for a licence or licensee as appropriate.  
'Application' means an application for one or more of the following, as the case may be:
  - (a) grant of a licence;
  - (b) transfer of a licence;
  - (c) renewal of a licence;
  - (d) variation of a licence (including waiver or modification of a licence condition);
  - (e) an amendment to a licence which would extend the licensed area, increase the accommodation capacity or extend the licensed hours.  
'Objector' means any person who has given Notice in accordance with Rule 14 hereof and who has complied with its terms.  
'Parties' means the applicant(s), any objector(s) to the grant of the application, including any Council Officer, in circumstances where he/she is making formal objection or seeking revocation.  
'Premises' means the place for which a licence is sought or for which a licence is in force.  
'Revocation' means the revocation of a licence under section 14 of the Act or a proposal to revoke the licence under this statutory provision.  
'Head of Trading Standards & Licensing' includes his/her representative/s.  
'Assistant Director, Planning & Transportation' or representative/s.  
'Council' means the London Borough of Enfield.  
'Licensing Panel' means the panel set up by the Council and consisting of a group of Councillors.

## COMPOSITION OF THE LICENSING PANEL

2. The Councillor for the Ward in which the applicants' or objectors' premises are situated shall not sit on the Licensing Panel when that application is to be considered.

## APPLICATION FORMS

3. An application for a licence shall be made on the form provided by the Council and *if required* shall be advertised in accordance with Nos. 7 and 8 of these Rules. If an application has not been determined within twelve months of its submission, the Council may require it to be re-advertised in accordance with Rules Nos. 7 and 8 unless an extension of time is granted by the Council. The form of application shall be signed by the applicant, or a solicitor or other duly authorised agent acting on behalf of the applicant.

## APPLICANTS

4.
  - (a) An application for a licence shall be made by the person who lawfully occupies or who will occupy the premises to be licensed by virtue of a freehold interest, a lease, an assignment of lease, an agreement for a lease or a tenancy or any other agreement in writing giving a substantial right of occupation and acceptable to the Council (documentary evidence of which *may* be required by the Council).
  - (b) Applications for the grant of a licence shall not be made by limited companies or other corporate bodies, unless the applicant is renewing an already existing licence.
  - (c) Applications to transfer a licence to a limited company or other corporate bodies shall not be made.

(d) Where the legal occupier of the premises is a limited company or other corporate body the applicant shall be a director of that company or with the consent of the Council a manager (or other responsible person) authorised by that company to make the application.

(e) Applicants, including directors of companies, shall disclose their normal residential address either on the form provided by the Council or in accompanying correspondence but this address need not be disclosed on any public notice.

## **PLANNING USE**

5. The applicant shall state on the application form the lawful planning use of the premises and shall submit with the application documentary evidence that either planning permission has been obtained for the use and hours sought under the licence, or that planning permission is not required. Should the Council so require "a certificate of lawful use" in respect of the planning position shall be supplied. The application will not be considered unless the Council is satisfied that the proposed activity would constitute a lawful planning use. **Notes :** (i) This rule shall not apply to applicants for transfer or renewal of a licence; (ii) It is open to the applicant to ask the Licensing Panel to waive the rule where it is considered there are exceptional circumstances.

## **PLANS AND SPECIFICATIONS**

6. An applicant shall submit such plans, line drawings and specifications of the premises concerned as may be required by the Council. **Note :** When the licence application forms are submitted to the Council, the Head of Trading Standards & Licensing will arrange for a survey to determine the suitability of the premises concerned with a view to ensuring public safety.

## **EXHIBITION OF A NOTICE AT THE PREMISES (Where appropriate - see Rule 3)**

7. (a) Within 7 days of the date on which the application is made the applicant for a new licence (and *if required* by the Council the applicant for variation of a licence) shall arrange for a notice or, (if the premises are large or front more than one street), notices of the application to be put up at the premises using the form provided by the Council.  
(b) The notice(s) must be put up and shall bear the date it was first exhibited. It shall then be kept exhibited for not less than 28 days on a part of the premises where it can easily be seen and read by persons in the street or any adjoining public place. With the consent of the Council the notice(s) may, if necessary, be exhibited near the premises.  
(c) The application is made on the date the application is delivered to the Council or, if posted, on the date shown on the postmark of the envelope addressed to the Council.  
(d) If this Rule is not strictly complied with the Council will require the notice to be re-dated and kept exhibited at the premises for 28 days from the date of re-exhibition.  
(e) This Rule shall not apply to an application for transfer or renewal of a licence unless the Council specifically so requires.  
(f) In appropriate cases the Council may waive this Rule for certain applications to vary the licence or extend the licensed area.

## **NEWSPAPER ADVERTISEMENTS (Where appropriate - see Rule 3)**

8. (a) Within 7 days of the date on which the application is made for a new licence, and if required by the Council for a variation of a licence, notice of the application in the form required by the Council shall be published (at the expense of the applicant) in a local newspaper which circulates in the locality in which the premises are situated or which is available at local newsagents. **Note :** A London wide newspaper, such as 'The Standard' is NOT regarded as a local newspaper for the purposes of this rule.  
(b) The applicant shall send one complete copy of the newspaper containing the advertisement to the Council.  
(c) The last day for objection shall be 21 days from the date of the newspaper advertisement or the date on which the complete copy of the newspaper has been received by the Council or 28 days from the date of the notice at the premises.  
(d) This Rule shall not apply to an application for a transfer or renewal of a licence unless the Council specifically so requires.  
(e) In appropriate cases the Council may waive this rule for certain applications to vary the licence or extend the licensed area.

## **NOTIFICATION TO THE POLICE AND FIRE AUTHORITIES**

9. The Licensing Unit will send a copy of your application, on your behalf, to the Commissioner of Police and to the London Fire and Emergency Planning Authority, for consultation purposes.

## **PHOTOGRAPHS**

10. Where instructed by the Head of Trading Standards & Licensing, the applicant shall provide photographs of those persons offering Special Treatments. The photographs must be 2 identical passport type photographs of each person offering treatments. Each photograph must be dated when it was taken, with the name of each person whose likeness it bears, and signed by the applicant.

## **CERTIFICATES**

11. Where instructed by the Head of Trading Standards & Licensing, the applicant shall provide certificates for each Special Treatment that each person is offering. The certificates must be originals and photocopies will not be accepted.

## **FEES**

12. The appropriate Special Treatment Licence fee must accompany the application.

## **MODIFICATION OR WAIVER OF CONDITIONS OF LICENCE OR EXTENSION OF LICENSED AREA**

13. A licensee applying (whether or not at the same time as an application for transfer or renewal) for the modification or waiver of any of the terms, conditions or restrictions of a licence or for an amendment of a licence relating to an extension of a licensed area shall comply where appropriate with Nos. 3, 7 and 8 of the rules as required by the Council.

## **INFORMATION ON HOW TO OBJECT**

14. A person who wishes to object to an application shall within the time specified in the notice put up at the premises or contained in the newspaper advertisement relating to the application, write to the Head of Trading Standards & Licensing giving in detail the reasons for objection. The Council is unable to consider anonymous objections.
15. Within 14 days of the last day for lodging objections, the Head of Trading Standards & Licensing shall forward to the applicant a copy of every valid written objection.
16. If an objection is made by an Association it shall be confirmed at any Licensing Hearing that the objection has been formally authorised by that Association. This confirmation should be by the Chair, Secretary or other duly authorised officer of the Association.
17. Petitions shall bear the grounds of objection of that petition on each page and a warning to potential signatories that a copy of the petition will be supplied by the Council to the applicant. Each person signing should also print his/her name and address preferably written in black ink. Each page of the petition should be dated.
18. A late objection will only be accepted by the Council in exceptional circumstances.
19. The Council will not accept an objection or any individual ground of an objection when it considers that either the objection as a whole or the individual ground is irrelevant to the decision to be reached.
20. Unless the objection relates to the character of the applicant Council officers may seek to mediate between the parties to see if agreement can be reached without the need for a licensing hearing.
21. An opposed application shall be decided at a hearing where evidence (oral and written) is given orally and in public unless the Licensing Panel decides otherwise.

22. (a) At any oral hearing in public of an application an objector shall not be allowed to raise any matter not referred to in the written objection lodged by the objector concerned unless there are exceptional reasons for so doing and the objector is able to justify why the new material should be placed before the Licensing Panel.  
(b) Any such application to introduce new matters will be open to representations by the applicant or his/her legal representative as to whether such matters should be considered by the Licensing Panel. When representations have been made by both parties, the Licensing Panel will decide whether the new material should be placed in evidence.  
(c) If the objector's application is granted, an adjournment of the hearing may have to be permitted in order to allow the applicant time to consider the new material and respond. In consideration of the extra costs likely to be incurred by all parties occasioned by an adjournment, any application by the objector must demonstrate exceptional grounds before it is granted.
23. At any oral hearing in public of an application the applicant and the objector shall attend in person or, if the application or objection is made by a body corporate, business firm, society, association or other group, a duly authorised representative shall be present who is able to speak on behalf of the body corporate and who, in the case of the applicant, is empowered to supply any undertaking requested by the Licensing Panel or demonstrate that any conditions attached to the licence will be complied with. **Note** : All objectors and applicants are reminded of their right to have a legal representative at the Hearing.
24. If any person who has written to Head of Trading Standards & Licensing, objecting to the grant etc. of a licence, fails to attend the oral hearing in public, the Licensing Panel will hear and consider any evidence and arguments put forward by or on behalf of the applicant in relation to the written objection received. The Licensing Panel will take into account, in considering the importance to be attached to the objection, that the objector was not available to be questioned about his/her statements.

#### **PROCEDURE AT AND AFTER ORAL HEARINGS IN PUBLIC**

25. The procedure at the meeting will, in general, be similar to that in a Court of Law. Although the strict rules of evidence will not apply, they will be observed to a great extent because this is the best way of hearing the evidence from all parties. Members may seek clarification of any procedural, technical or legal matter from officers at any time during the proceedings.
26. A report will be put before the Licensing Panel, prepared by the appropriate officer of the Council. In addition, where necessary, an appropriate officer will provide a detailed plan of the premises. A copy of the report will be sent to the applicant in advance of the meeting.

#### **WARD COUNCILLOR'S SUBMISSION**

27. The Councillor for the Ward in which the applicants or objectors premises are situated may either:  
(a) Object to an application in accordance with numbers 14 to 24 of these rules; or  
(b) Appear as a witness on behalf of an applicant or objector; or  
(c) Give evidence by way of Ward Councillor's submission as detailed in rule 28 below.
28. If a Councillor for the Ward, who has not made a formal objection, wishes to give evidence he/she may either address the Licensing Panel or may submit written representations in respect of the application regardless of whether or not he/she is an objector called by any party as follows:  
(a) If a Ward Councillor wishes to give oral testimony this will normally be given after the Chair of the Licensing Panel has introduced the report and any evidence of objectors has been heard.  
(b) Before a Ward Councillor addresses the Licensing Panel he/she must first make a declaration that he/she has not previously discussed the application with the Members of the Licensing Panel and will take no part in the determination of the application.  
(c) Evidence given by way of oral testimony is subject to questioning by the parties to the application and by members of the Licensing Panel.  
(d) If representation is given by way of written submission the Chair will indicate that the Licensing Panel will take into account the fact that the submission of the Ward Councillor cannot be tested by questioning.

(e) Any evidence presented by a Ward Councillor by way of a Ward Councillor's submission shall only relate to those issues already known to the applicant by way of the Report to the Licensing Panel or otherwise.

(f) (i) Evidence given by way of written submission under this rule shall be provided to the Head of Trading Standards & Licensing at least 7 days in advance of the Hearing. (ii) Notice of evidence to be given by way of oral testimony under this rule shall be provided to the Head of Trading Standards & Licensing at least 7 days in advance of the hearing. If he/she wishes to raise issues which are not already known to the applicants, such notice shall be in writing and shall set out in general terms the issues to be raised. (iii) The Head of Trading Standards & Licensing shall on receipt of evidence under (i) or a notice under (ii) above send a copy to the applicant as soon as possible and at least 5 days in advance of the hearing.

(g) If there is an objection to the Ward Councillor's submission, the Ward Councillor and both parties may give their reasons for or against the submission to the Licensing Panel. The Legal Advisor to the Licensing Panel may also give advice before the Licensing Panel decides whether to allow the submission in as evidence. If the Licensing Panel decides to hear the submission it may be appropriate to adjourn the proceedings after it has been made so as to allow the party objecting to it time to consider the submission in detail.

**Note :** It should be noted that a Ward Councillor's involvement in a hearing under this rule is limited solely to making representations i.e. there is no right of questioning of other parties or making a closing address.

## ORDER OF PROCEEDINGS

29. At the start of the hearing the Chair will introduce himself/herself and other members of the Licensing Panel.
30. The Chair will then check that there are no additions or alterations to the list of those appearing at the hearing which will have been prepared in advance by the appropriate officer and he will then briefly introduce the report and outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:
  - (a) The Chair of the Licensing Panel may call at any time any necessary officer(s) to give factual information (e.g. as to the technical arrangements of the premises). These officers can be questioned by any of the parties present or questioned by members of the Licensing Panel on matters relating to that evidence.
  - (b) Any Council officer(s) who are making a formal objection will then be required to present their respective cases and call any evidence in support.
  - (c) All other objectors will then be required to present their cases and call any evidence in support.
  - (d) The objectors present their case by addressing the Licensing Panel and/or calling evidence. The objector may address the Licensing Panel either before or after calling his evidence. **Note :** In appropriate cases the Licensing Panel may during or at the end of the objector's case wish to establish whether the objectors are opposed to the application in its entirety or, for example are objecting to the lateness of the hours sought and not to the grant of the licence itself.
  - (e) The applicant (or his/her representative) is then entitled to address the Licensing Panel and call evidence in support of his/her application.
  - (f) When the applicant has called his/her evidence the objectors may each make a closing statement. An objector is not entitled to call new evidence at this stage and his/her closing statement must be limited to commenting on matters raised by the applicant either in the applicant's opening statement or the evidence called in support of the application.
  - (g) When the objectors have made their closing statements the applicant (or his/her representative) may make a closing statement to the Licensing Panel.
31. Each person giving evidence may be questioned by the opposing party or parties and by Members of the Licensing Panel. A person may decline to be questioned but less importance would then be attached to his/her evidence. **Note :** Objectors to an application may not question each other but an objector may question his/her witness(es).
32. When a person gives evidence:
  - (a) He/She is first asked to state his/her full name and address.
  - (b) He/She either makes a statement or, if appropriate, is questioned by the person calling him/her.
  - (c) He/She may be questioned by the other party or parties or their representative.

(d) Throughout the presentation of the respective cases for the Objector and the Applicant questions may be put by Members of the Licensing Panel. Such questions will normally be put immediately following the questions by the opposing party or parties. Following the questions by Members of the Licensing Panel they may have to consider whether another opportunity for further questioning should be afforded to the other party or parties on “new” evidence introduced as a result of the replies to Members’ questions.

(e) He/She may be questioned further (if appropriate) by the person who called him/her. These questions must be limited to matters which have already arisen in previous examination or Members’ question. This is solely an opportunity to ask questions and not a time to make statements. No new matters may be raised at this stage.

## DOCUMENTARY EVIDENCE

33. Documentary evidence on which it is intended to rely shall be submitted to the Head of Trading Standards & Licensing not less than 7 days before the date of the Hearing so that it may be included with the report to be submitted to the Licensing Panel. If documents are not easy to photocopy on an A4 machine, (e.g. photographs) then normally eight copies must be supplied.
34. Where one of the parties wishes to submit a document at the hearing the following procedure should be followed:
- (a) The party concerned should explain why the document concerned was not submitted in advance.
  - (b) If the Chair accepts the explanation he/she shall then establish whether the opposing party or parties (or their representatives) have already seen the document and whether they have any objection to its submissions.
  - (c) If the other parties have not previously seen the document the Chair will request that it first be passed to them (or to their representative) so that they can decide whether they object to it being submitted to the Licensing Panel and if so the grounds of their objection. **Note** : For this purpose it may be necessary to allow time for the study of the document.
  - (d) If there is an objection to the submission of the document both parties may give their reasons for or against the proposed submission to the Licensing Panel. The Legal Adviser to the Licensing Panel may also give advice before the Licensing Panel decide whether to allow the document to be submitted. **Notes** : (i) In some cases it may be necessary for them to see the document before making a decision; (ii) Clearly rules 33 and 34 have to be interpreted flexibly in relation to models, colour-boards etc. A party wishing to produce such models etc. should give notice in advance to the Head of Commercial Standards.
35. If there has been no objection to the submission of a document or if the Licensing Panel has ruled that it may be submitted, the document will normally be read aloud by the party submitting it or by his/her representative. If the submission is a letter or written statement by someone who is not present and its submission has been opposed by one of the parties, the Chair (if the Licensing Panel have ruled that it should be admitted) will indicate that the weight of evidence (importance) that the Licensing Panel will attach to the document will take into account the fact that the signatory of the letter or the maker of the statement is not present to be questioned. In some cases it may be appropriate to adjourn the proceedings so as to allow the party objecting to the submission time to consider the submission in detail. **Note** : At least 6 copies should be provided of any document which is to be submitted at the meeting.

## DECISION

36. At the end of a hearing the Chair will announce that the hearing is adjourned to enable the Licensing Panel to deliberate in private and will return as soon as possible to announce their decision (which can be reached by majority decision). The Licensing Panel will normally be accompanied by the relevant officers of the Council but the decision shall be arrived at by Members of the Licensing Panel only. Sometimes the Licensing Panel will go to a private room or they may ask the parties concerned and their witnesses and the public to leave. **Note** : Any officer retiring with the Licensing Panel must be completely impartial.
37. The Licensing Panel may decide to grant the application in whole or in part, to refuse the application, or to make a revocation and if granting or varying a licence, may attach any conditions they consider appropriate.

## **NOTIFICATION OF A DECISION**

38. The Chair will normally announce the Licensing Panel's decision in public at the end of the hearing and the reasons for this decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

## **WAIVER OF RULES**

39. In any particular case, any of these rules may be waived, altered or modified by the Director of Environment, Street Scene and Parks or Licensing Panel or by the Head of Trading Standards & Licensing in the case of Rules 3, 6, 7, 8, 10, 11 and 15. **Note** : A person refused an application for a licence or a licensee aggrieved by any term, condition or restriction attached to the licence can appeal to a Magistrate's Court. The Council is the party who defends any such appeal but the Court rehears all the evidence for and against the grant of the application or the imposition of the term, condition or restriction as the case may be. A person aggrieved by the order of a Magistrates Court on such an appeal has a right of appeal to the Crown Court. An objector aggrieved by the decision of the Licensing Panel does not have these rights of appeal but is entitled to object again when the licence comes up for renewal or may be called by the Council as a witness on the hearing of any appeal by the applicant.

## **ADDITIONAL PROVISIONS**

40. The licence shall be for such a period as may be determined (usually 1 year) but not exceeding 18 months.