



Belfast City Council

Report to:	Licensing Committee
Subject:	Review of Procedures Governing the Licensing Committee
Date:	20 th August, 2014
Reporting Officer:	Trevor Martin, Head of Building Control, ext 2450
Contact Officer:	Stephen Hewitt, Building Control Manager, ext 2435

1	Relevant Background Information
1.1	Members may recall that, at your meeting on 22 nd January, the Committee endorsed the need for a protocol as a guide for this Committee in exercising its functions. The Committee agreed that the consultation document be referred to the Political Parties on the Council for consideration and noted that any comments would be incorporated into a revised document for submission to a future meeting.
1.2	A copy of the minute of that meeting is attached at Appendix 1.

2	Key Issues
2.1	Officers from Building Control and Legal Services met subsequently with each of the Political Parties to discuss the protocol and the procedures governing the operation of the Committee. Summary of feedback on operating protocols for the Licensing Committee <i>a) Applicants and objectors to hear each other's representations</i>
2.2	There was general agreement from all Parties that it would be appropriate to allow both applicants and objectors to be present whilst representations were being made in relation to licensing applications. This will enable both parties to hear everything that is said by the other in relation to the application and leave the Council in a stronger position to resist any potential legal challenge relating to the transparency of our decision making process. However, it is not intended that either party is present during the decision making process. Additionally, parties must remain silent when the other side is presenting and cannot engage in cross questioning of each other or the Committee.
2.3	Whilst it is recognised that this is a departure from the Council's current procedure of holding its Committee Meetings 'in camera', Members were generally content that this system could be introduced given that it will be a requirement that all Council and Committee meetings are open to the public after 31st March, 2015.

2.4	Some concerns were raised in connection with possible unfair pressure being placed on objectors either through 'force of arms' i.e. objectors who are mostly residents being intimidated by applicants' legal teams or residents' fear of exposing themselves to coercion. Whilst the former may be a consequence of the process, the latter can be taken care of by permitting the Chairman the right when there is demonstrable evidence of concern, and advised by officers, to revert to 'in camera' meetings.
2.5	Members queried how the process would be managed and felt it would be important that guidelines are drawn up to manage 'open' meetings generally and deal with matters such as ensuring order is maintained, preventing cross examination taking place between parties, determining the number of people that may attend for each party, etc. and to examine if there should be scope for rebuttal presentations to be made.
b) <u>Representations to Committee</u>	
2.6	There was agreement from Members on the need to ensure that the Committee is presented with better information from officers, applicants and objectors and that any contentious matters are clarified before the meeting. Early information from both parties means that officers have an opportunity to verify any statement made by either side or research any assertions or allegations in advance of the Meeting.
2.7	The idea of each party providing a prepared statement in advance of the meeting which would then be read out, or used as a basis for, presentation at Committee was discussed at Party briefings. These statements would be supplied to both parties along with any other supporting information in advance so that everyone is fully informed of the matters under discussion prior to the meeting. As with item 2.5 if deemed necessary measures will be taken to ensure anonymity of statements where there might be a risk of coercion or intimidation.
2.8	Generally Members saw merit in this proposal as they have concerns about the time taken by some applicants and objectors in making representation to Committee. A prepared statement forming the basis of the representations means everyone is fully cognisant of the matters under discussion, will speed the process for those making representations and focus the Committee Meeting directly on relevant matters only.
2.9	Some Members were uneasy about those making representations only being permitted to read out their prepared statement at Committee and not being allowed to depart from this if necessary so we intend to incorporate some degree of flexibility where it appears that the circumstances warrant it, and/or under legal advice from officers.
2.10	Discussion also took place about dealing with information that was submitted by parties just prior to Committee taking place including information which was circulated to Members by either party without the knowledge of officers.
2.11	All Members agreed that this was unacceptable as it put the other party concerned at a disadvantage and did not provide officers with sufficient time to verify or investigate any evidence submitted. Whilst all late submissions could not be ruled out it was suggested that all information, whether late or otherwise, must be tabled through the officers to ensure fairness, transparency and underpin the legal robustness of the process.
c) <u>Role of Committee Chairman</u>	
2.12	It was recognised that the Chairman is key to ensuring that all evidence is forthcoming, all issues are clarified and that matters are fully debated before any decision is made. The principle is that decisions made in the absence of information or those in which relevant considerations have not been taken into account are susceptible to intervention by the courts either on appeal or through judicial review.

2.13	<p>Whilst acknowledging that there are rules under the Council's Standing Orders generally all Elected Members expressed the desire that the Meetings have a better structure. They endorsed the idea of the Chairman being robust in exercising control within the Committee and acknowledged that clearer guidelines would lead to more efficient and effective meetings.</p> <p>d) <u>Legal advice</u></p>
2.14	<p>The final section of the protocol reaffirms the availability of legal advice to the Committee in making decisions and underscores the requirement for this to be properly considered before any decision is taken.</p>
2.15	<p>Members acknowledged the importance of being able to avail of legal advice at Committee meetings.</p>

3	Resource Implications
3.1	<p><u>Financial</u> None.</p>
3.2	<p><u>Human Resources</u> None</p>
3.3	<p><u>Assets and other Implications</u> None</p>

4	Equality Implications
4.1	<p>There are no equality and good relations issues.</p>

5	Recommendations
5.1	<p>Based on discussions at the Party briefings, Members are asked to confirm that the content of this report is a fair reflection of their views and that Officers should now proceed to develop detailed proposals that will include guidelines on matters including:</p> <ul style="list-style-type: none"> (i) arranging, making provision for and managing the meetings (ii) rules on submission of representations to Council (iii) rules on exchange of submissions between relevant parties (iv) guidance on the role of the Chairman
5.2	<p>Given that the governance arrangements for the new Council and its Committees are under review as part of the Local Government Reform process, the foregoing issues and those regarding the role of Members of Committee generally must be taken into account in the drafting of these guidelines. As this is not a delegated power, any recommendation must go to full Council for ratification. Additionally, a report will also be brought to the appropriate Transition Committee.</p>
5.3	<p>Members are asked to note that the outworking of the wider governance review may cause some delay with the formulation of the final protocol document.</p>

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Documents attached

Appendix 1 – Minute of meeting

Appendix 2 - Draft Protocol Document and Counsel Opinion (restricted)