

## APPENDIX Q – HEARING PROCEDURES

### I. Key

- (1) **“Licensing Officer”** - the member of the Licensing Services Team who will be presenting any written report.
- (2) **“Applicant/Licence-Holder”** – this procedure applies in all cases in which a person appears before the Committee other than an appeal against penalty points, i.e. both an applicant for a licence and an existing licence holder whose licence is being reviewed.
- (3) **“Representative”** – in all instances the Applicant/Licence-holder is entitled to be accompanied by a representative, who may be, but does not need to be, a legal representative. In the interests of simplification, no reference to the representative appears in the remainder of this document. It may be taken that at each stage either the Applicant/Licence-holder or the Representative may take the lead in addressing the Committee, asking questions and, subject to any expressed wish of the members thereof, answering them. It is a matter for them how they wish to present their case. Questions may be asked of either of them, at the relevant stages.

### 2. Interpreters

- 2.1 If applicants and licence holders wish to use an interpreter to assist them making representations to the Committee then they must make their own arrangements to employ an independent accredited interpreter. This will be the normal practice; however, alternatives will be considered in exceptional circumstances.

### 3. Procedure

- 3.1 The Licensing Officer and the Applicant/Licence holder are invited into the room where the Committee is meeting. The members of the Committee and applicant/licence holder will have received a report about the matter in advance of the meeting.
- 3.2 The Chair introduces the members of the Committee and ask others in attendance to state their name and position in relation to the hearing. This will include the Council’s legal adviser, the Member Services Officer, the Licensing Officer and any other officers who may be present.
- 3.3 The legal adviser will confirm with the Applicant/Licence holder that they have received the report about them and ask them to confirm the personal details contained therein are correct. If the Applicant/Licence holder is unaccompanied, the Chair confirms whether he is aware that he could be accompanied by a legal or other representative.

- 3.4 If it should occur that the applicant/licence-holder does not accept that he has received the report or that his personal details are as stated in the report are incorrect, then such matters will be addressed at this stage. Depending on what emerges, the Committee may resolve to adjourn the matter in order that any queries may be addressed. If it involves the report not having been received or read by the applicant, the matter may be stood-down for a while in order to enable him to read the report. It may be that if the report is more complex it would be necessary to defer the matter to another day. If the problem relates to a dispute as to the personal details contained in the report it is likely that the matter will be adjourned in order that the Applicant/Licence-Holder, and the Licensing Manager as appropriate, may investigate the matter.
- 3.5 The legal adviser will explain the procedure to be followed at the hearing.
- 3.6 The licensing officer presents the facts of the case by taking the Committee through the written report (and calls any witnesses whom he may have).
- 3.7 Any additional people who have expressed a wish to make representations are then invited to speak.
- 3.8 The applicant/licence holder or their representative can put relevant questions to the licensing officer and any third party who has submitted evidence or made a statement to the Committee.
- 3.9 Members of the Committee have the opportunity to put relevant questions to the licensing officer and, on matters of law and licensing procedure as appropriate and also to the legal adviser. They may also ask questions of any third party who has submitted evidence or made a statement to the Committee.
- 3.10 The applicant/licence holder or representative presents the matters which he wishes to say in support of his case, including an explanation of the matters mentioned in the report. Witnesses may be called at this stage by the applicant/licence holder.
- 3.11 The licensing officer and any third party can put questions to the applicant/licence holder and to any witnesses that may have submitted evidence.
- 3.12 The Members of the Committee can put questions to the applicant/licence holder and his witnesses. At the invitation of the Chair, the legal adviser may also ask questions if they consider that any matters within their remit require clarification.
- 3.13 The Chair asks both the licensing officer and the applicant/licence holder if they have anything further to say to sum up their case.
- 3.14 The Chair then asks the principal parties to withdraw to allow discussion of the issue in private. The licensing officer, the applicant/licence-holder and all persons connected with him, and any independent persons all leave the room. The Council's legal adviser and member services officer remain present to advise on points of law and procedure and to take a record of the proceedings as appropriate.

- 3.15 If it should prove necessary to recommence the asking of questions and recall any party to provide further information or clarification, all persons who have withdrawn from the hearing are invited to return. After that question has been determined they all withdraw again.
- 3.16 The Committee considers all the evidence and decides what action, if any, to take.
- 3.17 Once the Committee has reached its conclusions, all parties are recalled, and the decision is announced to the applicant/licence holder by the Chair. This will include mention of any specific conditions and any penalties which may have been imposed. If necessary, the legal adviser or licensing officer will provide further clarification of the decision and its implications.
- 3.18 The decision will be confirmed in writing including reasons for the decision and if relevant any rights of appeal. If the decision is to issue a verbal warning, then this will be delivered by the Chair.
- 3.19 If the decision is to suspend or revoke the licence of an existing licence-holder, and the Committee also passes a resolution that the decision shall have immediate effect, pursuant to Section 52 of the Road Safety Act 2006, this fact will be specifically mentioned by the legal adviser. The legal adviser will then explain the meaning of that decision and its implications for the driver. (Again, the decision letter will explain such a decision, if applicable.)
- 3.20 The hearing is then pronounced concluded by the Chair and the applicant/licence-holder will depart from the meeting.
- 3.21 The Committee's decision is confirmed in writing by the Licensing Manager, with the reasons, to the applicant/licence holder as soon as possible after the conclusion of the meeting but certainly after no more than 10 working days. The letter will include details of the statutory rights of appeal were relevant.