

LUTON BOROUGH COUNCIL

Procedure for Oral Hearings

Licensing Committee/ Panels under the Scrap Metal Dealers Act 2013

Notes:

- i. An oral hearing before the Licensing Panel/ Committee under this Act is held where the Council proposes to refuse an application or to revoke or vary a licence and the Applicant has invoked their right to make representations.*
- ii. The hearing will normally be in public. However, the Panel/ Committee may decide to pass a resolution under section 100A of the Local Government Act 1972 to exclude the public from all or part of the hearing if it is likely that exempt information would be disclosed within Schedule 12A of the Act are met.*
- iii. If the Applicant submits any paperwork to the meeting, this should be passed directly to the Clerk (Solicitor) to check that it is in order to accept it. The paperwork should then be passed to the Licensing Officer to allow them the opportunity to raise objections. Any paperwork accepted by the Clerk will need to be photocopied for the record and the originals returned to the Applicant.*
- iv. Custom and practice is not to accept any character references from Councillors to avoid any perception of bias.*
- v. Criminal convictions should be taken as indisputable fact. It is not the role of the Panel / Committee to rehear a criminal case and the Clerk should remind the Panel / Committee of this if necessary.*
- vi. Applicants are not allowed to bring their own interpreters or have friends interpret for them. If necessary, the case should be deferred to a future meeting to allow for an official interpreter to be provided by the Council.*

PROCEDURE

1. The Chair will introduce the Members of the Panel / Committee to the Applicant and others present will introduce themselves.
2. The Panel / Committee will then decide whether to pass a resolution under section 100A of the Local Government Act 1972 to exclude the public from the hearing if any of the grounds in Schedule 12A of the Act are met (Note (ii) above applies).
3. The Clerk will give a very brief outline of the Procedure. He / she will ensure that those present understand the procedure to be followed.
4. The Chair or the Clerk will ask the Applicant if he knows any of the Members of the Panel / Committee.
5. The Chair or the Clerk will ask the Members of the Panel / Committee if they know the Applicant or anyone accompanying the Applicant.
6. The Licensing Officer will present the report on the application / renewal / review and state his / her case (which may include an objection to the application).
7. The Chair will ask the Applicant if they accept the factual accuracy of the report.
8. The Applicant may question the Licensing Officer.

9. The Panel / Committee may question the Licensing Officer.
10. The Licensing Officer may call any witness(es).
11. The Applicant may question any witness(es) called by the Licensing Officer.
12. The Panel / Committee may question any witness(es) called by the Licensing Officer.
13. The Licensing Officer may ask further questions of any witness in order to clarify any point brought out in questioning of the witness by the Applicant or the Panel / Committee.
14. The Applicant will present his / her case.
15. The Licensing Officer may question the Applicant.
16. The Panel / Committee may question the Applicant.
17. The Applicant may call any witness(es) and ask questions of them.
18. The Licensing Officer may question any witness(es) called by the Applicant.
19. The Panel / Committee may question any witness(es) called by the Applicant.
20. The Applicant may ask further questions of any witness in order to clarify any point brought out in questioning of the witness by the Licensing Officer or Panel / Committee.
21. The Licensing Officer will sum up his / her case.
22. The Applicant will sum up his / her case.
23. The Clerk will then raise any points that need to be raised before the Application is determined.
24. The Licensing Officer and Applicant will each be asked whether there is anything further they wish to say.
25. Members of the Panel / Committee will need to consider whether the public interest of holding their deliberations in private outweighs the public interest in holding their deliberations in public. Where Members consider that they should deliberate in private all persons other than the Members, the Clerk and any person present solely for the purpose of taking notes, shall withdraw from the room. Any advice given by the Clerk to the Panel in private will be repeated to all the parties before the Panel announces their decision.
26. The Clerk or the Chair will advise the Applicant that they can contact Licensing Unit after 10.00 a.m. the next day to hear the outcome of their Application, if they did not wish to wait. The Clerk will confirm the decision of the Panel / Committee to the Applicant in writing within 7 working days.
27. The Panel / Committee will come to a decision. If their deliberation had been in private, the Panel / Committee will pass a resolution to go back in public to orally inform the Applicant of their decision. (**Note:** The decision reached by the Panel / Committee must be legally robust. Therefore, Members should reach a consensus and give reasons why they have reached that particular decision. Any dissenting Members should have the opportunity to have their comments / views separately considered and noted).