

Conducting Licensing Committees
 Christopher Grunert & Tim Shield

JG&P John Gourt & Partners
 Licensing Solicitors

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 @instlicensing
 #NTC2022

The Licensing Act 2003 (Hearings) Regulations 2005
 The starting point

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What do the regulations dictate?
 The Licensing Act 2003 (Hearings) Regulations 2005

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- When the hearing should take place (Regulations 4 & 5)
- Content and to whom Notice is given (Regulations 6 & 7)
- Dispensing with hearing when all parties agree (Regulation 9)
- Withdrawing Representations (Regulation 10)

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- Power to extend time (Regulations 11, 12, & 13)
- Hearing to be public (Regulation 14)
- Representations and Supporting information (Regulations 16 – 19)
- Procedure at hearing (Regulations 21 - 25)

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Procedure at hearing

- Licensing Authority can determine but must outline at the outset (Regulations 21 & 22)
- A hearing shall take the form of a discussion led by the authority
 - cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require. (Regulation 23)
- The authority must allow the parties an equal maximum period of time in which to exercise their rights of representation (Regulation 24)

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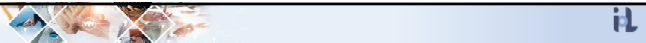
Procedure at hearing

- The authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may–
 - (a) refuse to permit that person to return, or
 - (b) permit him to return only on such conditions as the authority may specify,

but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave. (Regulation 25)




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*“a long line of cases shows that it is not merely of some importance but is of fundamental importance that **justice should not only be done, but should manifestly and undoubtedly be seen to be done.**”*

Lord Hewart, the then Lord Chief Justice of England
Rex v Sussex Justices, [1924] 1 KB 256.



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Familiarity breeds contempt

- Use of first names.
- Referring to ‘Our’ officer...
- Using past cases for comparison purposes.
- Discussing application without all parties present.
- Complaint over chateau-owning Middlesbrough Councillor cost £5k



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Time Constraints

- Misinterpretation of (Regulation 24) 'equal maximum period of time'.
- Richmond upon Thames – Infamous Green Light, countdowns.
- £Multi-million development / Livelihood – 5 minutes.
- Quick hearings – Not a Licensing Objective.

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Formality vs Free Exchange of views

- Formality favours the professional.
- Too much formality can inhibit and intimidate the public.
- Committee should facilitate the full exchange of (relevant) views.
- Allowing irrelevant evidence can potentially confuse all parties.

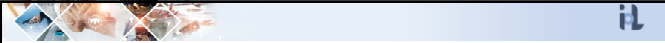
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The Value of Questions

- Proper questions can never undermine the purpose of the hearing.
- Questions can reveal real issues of the case.
- Questions can create clarity and identify common ground.
- Questions can reveal hypocritical and illogical arguments.

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When is a question not a question.

- When it is a statement.
- Betrays bias.
- A ground for Appeal.

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Types of Advocates

- The Script Writer
- The Wandering Raconteur
- The Dictator
- The Wishful Rumpole Wannabes
- The Recycler

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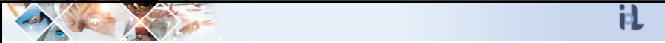
The Weight of Evidence

- 9.43 (s.182 Guidance) The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- Separating irrelevant from relevant.
- Misplaced loyalties and personal agendas.
- Cost of making bad, unjustified decisions.

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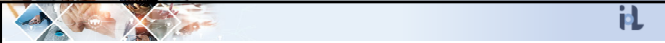


What are their role, and where are the boundaries?

- Licensing Officer – Presenting Report.
- Licensing Officer – As Responsible Authority, Committee.
- Legal Advisor to the Committee.
- Responsible Authorities
- Person(s) making Representation.

What do you do?






Thank you!

Chris Grunert & Tim Shield
Please contact us if you have any questions

www.john-gaunt.co.uk

0114 266 8664

cgrunert@john-gaunt.co.uk
tshield@john-gaunt.co.uk



All speakers views are their own and not necessarily the views of the IoL