

Street Trading Appeal Hearings
Model Guidance and Procedural Note

- 1) Upon notification of a appeal hearing, the appellant shall, as soon as possible, give notice to the Markets Office:-
 - a) stating whether they intend to be present and/or represented at the appeal hearing,
 - b) requesting permission to call any witnesses that they wish to appear at the hearing and to include details of the name of any such person(s) and a brief description of the point(s) upon which they may be asked to address the hearing,
 - c) giving a time estimate for their presentation/representations to the hearing, and,
 - d) producing any additional material to be referred to in support of their appeal.
- 2) Any one invited to attend the Committee may bring legal or other professional representatives with them if they so wish. Advocates are, however, reminded that these are civil proceedings and inquisitorial rather than adversarial in nature. **Aggressive advocacy is not encouraged and will not be tolerated.**
- 3) Copies of the Markets and Fairs Service Manager's report and all documentation referred to will have been circulated to members prior to the hearing. In addition, any documentation received by the Authority from the appellant in support of their appeal will be sent to members of the Committee before the hearing if at all possible.
- 4) The hearing will focus on those areas of the report which are in dispute. Parties are asked not to unduly prolong their representations and should be aware that the chair may impose a time limit on any representations if it becomes appropriate to do so.
- 5) Material produced on the day of the hearing can only be admitted with the consent of all other parties.
- 6) Where a party does not attend the hearing and is not represented the Committee may
 - a) continue with the appeal hearing and consider any written material submitted by the party and come to a decision, or
 - b) adjourn the hearing if it is in the public interest to do so.

Hearing Procedure

- 7) The presumption will be that Parties may call witnesses in support of their case and that other parties will be entitled to ask questions of those witnesses. However the Committee retains the power to refuse to permit witnesses to speak and to refuse to allow other parties to ask questions. These powers may be used where, for example, evidence may be duplicated, or where it appears irrelevant. The following procedure will ordinarily be followed at the appeal hearing:
- a) The Chair will introduce the Committee and relevant officers. The Chair will also ask the Markets and Fairs Service Manager and the Appellant to introduce themselves.
 - b) The Chair will indicate the procedure to be followed at the hearing as outlined in this note.
 - c) The Markets and Fairs Service Manager will be asked to present their case. Where witnesses are to be called the Manager will outline the matters on which they may assist the Committee and seek permission for them to speak. If granted, parties will normally be permitted to ask questions of the witness at the end of their evidence. The order for asking questions will be:
 - The Appellant
 - Committee members
 - Legal advisor to the Committee (where appropriate)
 - d) The Appellant will be asked to present their appeal. Where witnesses are to be called the Appellant will outline the matters on which they may assist the Committee and seek permission for them to speak. If granted, parties will normally be permitted to ask questions of the witness at the end of their evidence. The order for asking questions will be:
 - The Markets and Fairs Service Manager
 - Committee members
 - Legal advisor to the Committee (where appropriate)
 - e) Once all the evidence has been given the Markets and Fairs Service Manager will be given an opportunity to sum up his representations. The Appellant will then be given an opportunity to sum up and have the final word.
 - f) Whilst Hearings will normally be conducted in Public the Committee does have powers of exclusion (which cover the public, the press, and even appellants and their representatives) in appropriate circumstances. The Committee will however always exclude the press and public whilst it discusses the appeal and makes its decision.

- g) The decision and reasons for it will normally be announced in public at the end of the hearing and transmitted in writing.

8) Adjournments

- a) Due to the time constraints upon the Committee, applications for adjournments will only be granted where absolutely necessary. Do not automatically assume that a request will be granted.
- b) Once a hearing has been set **it is for the parties to ensure that they attend or are represented or submit written material for consideration.** Hearings may proceed in the absence of a party and in such circumstances the party's original representations will be taken into account together with any further material in support of that representation which has been served on all parties before the day of the hearing.
- c) If it is not possible for a party or their witness to attend a hearing the Committee would normally expect to consider their representation in their absence.
- d) If it is necessary to make an application for an adjournment the party seeking the adjournment should seek the consent of all other parties to the application and notify the Markets Office as soon as possible that an adjournment may be sought. If all parties agree the matter may be adjourned administratively.
- e) If not agreed administratively the matter will remain listed before the committee to hear the application and determine whether to agree the adjournment or proceed, if necessary in the absence of some or all of the parties.
- f) The Committee may adjourn proceedings where it considers it necessary for its consideration of any application, representations or notice made or where it considers it to be in the interests of justice.
- g) Where an adjournment is granted all parties will be given notice of the adjournment and the new hearing date.