

# LICENSING SUB-COMMITTEE

## Agenda

Members are requested to attend

**Date/Time:** Tuesday, 19 April 2011 - 10.00 am  
**Venue:** Public Gallery - Bexley Civic Offices  
**Contact Officer:** John Adams  
(john.adams@bexley.gov.uk)  
**Direct Line:** 020 3045 3591

<i>Item</i>	<i>Title</i>	<i>Page</i>	<i>Ward</i>
1.	Appointment of Chairman	-	
2.	Apologies for Absence	-	
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6.	To consider an application to classify nineteen (19) short films to be exhibited as part of the 'Rob Knox Film Festival 2011'	17 - 38	Various

### **Membership:**

Councillors Harry Persaud, Philip Read and Brad Smith

*Fire Procedure:* The fire alarm for Bexley Civic Offices is an intermittent klaxon which sounds like a motor horn. If this alarm sounds, please leave the building by the nearest fire exit and assemble on the lower deck car park area at the rear of the building. The Committee Officer will take charge of the evacuation.





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LICENSING SUB-COMMITTEE  
16 FEBRUARY 2011

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At a meeting of the LICENSING SUB-COMMITTEE held at London Borough of Bexley, Civic Offices, Broadway, Bexleyheath on Wednesday 16 February 2011 at 7.00pm.

**Present:** Councillors Brian Beckwith, Alan Deadman and Philip Read.

**1. APPOINTMENT OF CHAIRMAN**  
(Agenda No.1)

RESOLVED – That, Councillor Read be appointed as Chairman of the Sub-Committee for the meeting.

**2. APOLOGIES FOR ABSENCE**  
(Agenda No.2)

No apologies for absence were received.

**3. MINUTES OF THE MEETINGS HELD ON 10 NOVEMBER 2010 AND 22 DECEMBER 2010**  
(Agenda No.3)

RESOLVED – That, the minutes of the Sub-Committee meetings held on 10 November 2010 and 22 December 2010 be agreed and signed as a correct record.

**4. DISCLOSURES OF INTERESTS AND DISPENSATIONS**  
(Agenda No.4)

No disclosures were made.

**5. STANDING ORDER 65(6)**  
(Agenda No.5)

There were no items of late business.

**6. TO CONSIDER AN APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF CRAYFORD ARROWS SPORT CLUB, BAKERS FIELD, PERRY STREET, CRAYFORD, KENT, DA1 4DL**  
(Agenda No.6)

The Sub-Committee considered an application made by Mr Christopher Rust for the grant of a Premises Licence under the Licensing Act 2003 in respect of the premises known as Crayford Arrows Sport Club, Bakers Field, Perry Street, Crayford, Kent, DA1 4RL.

At the beginning of the Sub-Committee meeting, Mrs Diane Kraus, Bexley Licensing Manager, announced that the applicant, Mr Christopher Rust,

had been in contact with the Environmental Health Service to reach a compromise over the conditions that were being offered as part of the licence. She added that the applicant had originally stated his intent to install a CCTV system within the next twelve months, however, the view of the Environmental Health Service was that it was difficult to translate this into an offered condition. It was reported that this was because the manner in which any CCTV system was to be operated had not been confirmed and the designated areas where the system was to be installed were not clearly identified. Mrs Kraus announced that consequently, the applicant had decided to withdraw the offer of CCTV as a condition.

Mr Currell, Interested Party, addressed the Sub-Committee and informed Members that he had lived at his house on Claremont Crescent for over two years. He stated that when he moved there he was aware and accepted the fact that there would be occasional and mild disturbance from the football matches. He added that he had lived with the noise and foul language from the football games and tournaments, as well as from the several functions that took place at the premises, without feeling the need to actively complain. Mr Currell explained that his objection was due to the fact that Crayford Arrows Sport Club was intending to extend beyond its primary purpose as a sports club and run it as a business which sold alcohol up to 17 hours a day, 7 days a week.

Mr Currell told the Sub-Committee that he had to improve the security of his home due to trespassers entering his garden and added that there had been damage to his shed from a football which came over his garden from the field owned by Crayford Arrows. Mr Currell explained that he and other residents that lived in close proximity to Crayford Arrows Sports Club used to receive notice of when organised football tournaments were to be held there, but this ceased in 2009. He stated that this showed a clear disregard for local residents.

The Chairman asked if Mr Currell could elaborate on the section of his letter, which could be found on page 58 of the report, where he questioned the legality of the notice posted by the applicant on Perry Street. Mr Currell responded that the notice was posted during the Christmas period when there was heavy snow and it was not likely or convenient for it to be viewed by local residents. He added that the notice was situated in the non-residential area of open grassland along Perry Street rather than being displayed for the benefit of the majority of neighbours in the immediate vicinity of the Club who lived down Claremont Crescent. Mr Currell informed Members that residents were not notified of the application and questioned whether this was sufficient by law.

Mrs Kraus explained that the law only required the applicant to display notices at every fifty metres around the perimeter of the premises which adjoined a public highway. She stated, therefore, that in the case of

Crayford Arrows Sport Club, they were only required to display notices along the front of the premises on Perry Street. Mrs Kraus explained that this was because the other sides of the land owned by Crayford Arrows adjoined private land or the houses along Claremont Crescent. She added that Crayford Arrows had fully complied with the legal requirements, including the amount of days that the notice had to be displayed for.

Councillor Deadman questioned how many functions had been held at Crayford Arrows Sport Club over the past few years. Mr Currell responded that he did not record the exact amount of functions held there but stated that there were several in the year 2010 and several in the year before that. He informed the Sub-Committee that he did not object to the functions that had been held previously as they were sporadic and tended to be few and far between. He added that he opposed the present application as the Sports Club was now seeking a licence to serve alcohol until 12.30am, 7 days a week. Responding to a further question from Councillor Deadman, Mr Currell stated that when he was inside his house he could clearly hear loud music from the Sports Club when functions were being held, especially in the summer when the windows were open for ventilation. He added that there was also a common problem with the burglar alarm for Crayford Arrows Sports Club which sounded throughout the night on a number of occasions, often at least once a week.

In response to questions from Members, Mr Currell stated that he worked from home from Monday to Friday and although he thought it was unlikely that there would be a great deal of disturbance from the Sports Club during the daytime on these days, he expressed concern that there would be frequent loud noise and disturbance over the weekend when he and other residents wanted to enjoy their home. Mr Christopher Rust, Chairman of Crayford Arrows Sports and applicant of the licence, asked if Mr Currell had ever made a complaint to any member or employee of the Sports Club. Mr Currell responded that he had never felt the need to as functions had only been held on an ad-hoc basis in the past.

Mrs Lane, Interested Party, addressed the Sub-Committee and informed Members that she believed Crayford Arrows Sport Club did a lot of good work with young people in encouraging sport and exercise. She stated that her concern was that with so many young people present at the Sports Club whilst alcohol was being served, there was the potential for the two to mix. She also raised her concern that the sale of alcohol at the premises would lead to anti-social behaviour. Mrs Lane added that previous functions held at the premises had been really disruptive and the Public Address (PA) system that the club used was clearly audible from inside her house. Mrs Lane informed the Sub-Committee that she did not object to the occasional functions but was in objection to a licence that

would allow for a function at the venue every weekend and every night of the week.

Mrs Lane also notified the Sub-Committee that there had been severe problems with regard to parking when major events and tournaments were being held at the Sports Club. She stated that on occasions it had led to emergency vehicles not being able to access certain roads and there was significantly reduced visibility by parked cars obstructing the view of the road. Mrs Lane added that her concern was that she did not know how often and how late Crayford Arrows would hold functions and events at their Club and the amount of disturbance that it would cause.

Mr Rust asked if Mrs Lane had made any complaints about the previous seven functions that had been held at the venue. Mrs Lane responded that she had not complained as the events finished before midnight and were only on a temporary and occasional basis. She added that the only complaint that she had made was to her Ward Councillor with regard to the parking problems outside Crayford Arrows Sports Club. Councillor Deadman questioned what time the functions that were held at the Sports Club finished. Mrs Lane replied that 11.30pm was approximately the time that the events were over by. Councillor Beckwith asked Mrs Lane whether the P.A system was inside the premises or outside. She responded that she presumed it was inside the venue, but in the summer months the Sports Club often had the windows and doors open which made it clearly audible from inside her house.

Mr Bardrick, Interested Party, addressed the Sub-Committee and informed Members that he had lived at his house on Claremont Crescent for twenty-five years and had never had any real problems with the Sports Club before. He stated that he enjoyed watching the football matches and tournaments that were played there and did not object to the noise and disruption from this. Mr Bardrick added that the 17<sup>th</sup> and 18<sup>th</sup> birthday parties that had been held at the premises had caused considerable noise and he had also found bottles and faeces in his garden on a number of occasions. He stated that a licence for the sale of alcohol would exacerbate these problems and whilst the local residents currently had respite between the tournaments and functions held at the Sports Club, the proposed licence would allow the applicant to sell alcohol every night of the week until 12.30am.

Mr Bardrick notified Members that during the summer he had to close the windows of his house when events were being held at the Sports Club due to the level of noise coming from the venue. He also raised his concern about who would be regulating and managing the space where alcohol would be consumed. Mr Bardrick stated that presently he and his wife could plan when to be out of the house based on when the large and potentially disruptive tournaments or events were being held at the premises. He added that the licence would allow the premises to hold

such events every weekend and prevent local residents from enjoying their home at weekends.

Councillor Beckwith questioned whether Mr Bardrick had made any contact with the Sports Club about any of the problems that he had experienced. Mr Bardrick explained that he had spoken with the Club previously about the parking and football and they had been amicable. The Chairman asked how often bottles and faeces were found in his garden, to which Mr Bardrick responded that it was on an ad hoc basis, often when big tournaments were held on the premises. He added that when the Club took over the land they had agreed to put up a perimeter fence, but had still not followed this up.

Mr Kevin O'Brien-Wheeler, Senior Environmental Health Officer, addressed the Sub-Committee and informed Members that he had made a site visit on 17 January 2011 and noted that all requisite posters were in place and appeared correct. He added that the site was redeveloped 10 years ago and the clubhouse was part and parcel of the land. Mr O'Brien-Wheeler stated that if the Sports Club was run well with a licence it could benefit the land, however, if run badly then problems could arise. He notified Members that there were a number of Temporary Event Notices used for licensable activities at the venue between December 2010 and January 2011 and there was no recorded history of complaints from the operation of these events.

It was noted that there was originally a lack of clarity regarding some of the proposed control measures offered in the licensing application which included the offer of CCTV to be installed in designated areas within 12 months and the offer to record noise patrol visits around the perimeter of the premises. Mr O'Brien-Wheeler stated that there was also no indication of how risks to public safety from glasses being taken away would be controlled. Members were notified that some of these issues had been clarified in an email which was attached to the report on page 52. Following a question from Councillor Beckwith, Mr O'Brien-Wheeler stated that the noise patrol condition was offered by the applicant for when live or recorded music was provided and regular and hourly patrols along the boundary of the premises which adjoined neighbouring residents' properties would be conducted and volume levels consequently adjusted where necessary.

The Chairman asked if it was usual for licence applications to be granted when there was no condition for CCTV in place. Mr O'Brien-Wheeler responded that it depended on the confidence of the Sub-Committee in the applicant. He added that there was some concern about too much CCTV use where lots of young children would be present, however, in most cases licences tended not to be granted when there was no condition for CCTV. In response to further questions from Members, Mr O'Brien-Wheeler stated that due to the relatively quiet nature of the

locality, the additional control was sought for noise from the venue to be inaudible at the façade of nearby residential premises between the hours of 11.00pm and 07.00am.

Councillor Deadman asked if the Club chose to, could they simply turn the volume up again once the noise patrol had been conducted. Mr O'Brien-Wheeler replied that if the condition was viewed cynically then theoretically the volume could be turned up after the hourly patrols. Following questions regarding the travel of sound from the venue to residential housing, Mr O'Brien-Wheeler responded that as the Sports Club was situated on a field, noise could disperse equally in all directions and as the clubhouse was elevated, there was the likelihood that noise would perhaps have a more direct impact on the bedrooms of adjoining residential premises which were generally located on the first floor.

Mr O'Brien-Wheeler was asked by Members whether noise from the Sports Club would need to be particularly loud for local residents to be disturbed by it. He responded that the volume would need to be loud and if the Club failed to control the noise levels then it could cause serious problems for residents. The Chairman stated that the report indicated that residential housing on Claremont Crescent was approximately 135 metres from the clubhouse and asked what the distance was from the clubhouse to the residential housing situated on Perry Street. Mr O'Brien-Wheeler stated that housing on Perry Street was approximately 40 metres away from the Sports Club.

Mr Michael Wearing, Neighbourhood Services Coordinator, addressed the Sub-Committee and informed Members that he had a number of concerns with the application in relation to the protection of children from harm. He stated that the applicant had indicated that children would be allowed on the premises prior to 8.00pm unaccompanied and although there was a proposed restriction on anyone under the age of 18 entering a designated area surrounding the bar, this area had not been clearly defined on the plan provided. He added that in such a large premises there was a real risk that children could access alcohol without staff being aware of it. Mr Wearing stated that alcohol might be left by adults on the decking area or in the changing rooms where children would have ready access to it. He notified Members that the Home Office advice stated that where it was known that unaccompanied children had been allowed access, there were extra steps necessary to protect children from harm.

Mr Wearing directed Members of the Sub-Committee to page 81 of the report where he had laid out suggested licence conditions for the premises and strongly recommended the first five conditions that were listed. He added that due to the likelihood of parties for people aged around 17 and 18 exploding into violence and trouble, he advised that for such events there should be accredited security and ticketed access only. Councillor Deadman asked what legitimate reason there would be for

unaccompanied children to be allowed inside a premises where alcohol was being sold. Mr Wearing replied that there were very few reasons to allow this and where it was allowed there should be a clear and physical partition of where alcohol was sold and consumed, and where unaccompanied children were permitted. He stated that the plan for the Crayford Arrows' clubhouse appeared to show one large room with no clearly defined area which restricted the access of unaccompanied children.

Members of the Sub-Committee requested to view the proposed layout of the clubhouse, which was agreed to by Interested Parties and the applicant. Mr Rust, applicant of the premises licence, addressed the Sub-Committee and informed Members that children would not be allowed on the carpeted area which surrounded the bar and covered a length of approximately 12 foot from the bar. He added that he and other officers of the Club were considering constructing a physical barrier on the edge of the carpeted area which was intended to clearly define the area where children would not be permitted.

Mrs Kraus clarified for Members that although children would not be allowed to access the carpeted area which surrounded the bar, there was no restriction on where adults could take and consume their alcohol. Mrs Kraus explained that adults could drink alcohol anywhere in the room, which included the non-carpeted area, the raised decking outside and the changing rooms, where children were freely allowed and would be permitted unaccompanied before 8.00pm.

Mr Rust stated that Crayford Arrows Sports Club was a junior and youth football club which had approximately 240 members aged between 6 and 25 and was regulated by the London Football Association which laid down strict codes for managing young people. He added that all managers of the Club had been checked by the Criminal Records Bureau and stated that the Club was a non-for-profit organisation, a registered charity and that any money earned went back into the Club.

Mr Rust notified the Sub-Committee that the Club had grown over a number of years and had received funding to rebuild the clubhouse. He added that recently the Club had been struggling to balance the books due to a number of factors which included increased rent. Mr Rust stated that the reason they wanted to provide a bar at the Club was to attract further income and the intention was to do so modestly and to encourage better social cohesion between parents of the children that were members.

Mr Rust informed Members that the Club would not hold any events for people celebrating their 16<sup>th</sup>, 17<sup>th</sup> or 18<sup>th</sup> birthday, no matter if it was booked by the young person or someone on their behalf, as they had potential to be more troublesome. Mr Rust stated that Mr David Neal, who

was present at the hearing, would be the Designated Premises Supervisor of the Club and had 15 years experience as a personal licence holder and was well known in Bexley.

Mr Rust advised the Sub-Committee that he had received no complaints about any of the previous Temporary Event Notices held at the Club and that he was willing to meet and talk with local residents to help alleviate their concerns. He stated that for 3 years up until 2009 the Club posted to local residents information detailing when large football tournaments would be held but since 2009 there had been no major tournaments held at the Club. Mr Rust added that it would be impossible to inform local residents of every single match that was being held at the Sports Club. He offered to submit to Members copies of the information sent to residents in previous years, however, the submission of such papers was objected to by Interested Parties.

Mr Rust added in conclusion that the Club did not use the P.A. system any longer and that he had worked closely with the Council and the Police regarding parking when busy events were being held at the Club. He stated that the Club's fields had been opened up on occasions to help alleviate some of the street parking problems.

Mr Currell asked how often events would be held, especially those in the evening. Mr Rust replied that although he could not guarantee the exact number of events and how long they would go on for, he stated that the intention was to have the bar open for several hours on a Friday, to have any planned functions on Saturdays and use the clubhouse on Sundays as a social facility for teams, parents and managers after the football games. He added that the opening hours currently proposed fell far shorter than many other venues throughout the Borough.

Mrs Lane questioned why Mr Rust was applying for a licence until 12.30am if the planning permission restricted the hours until 11.30pm. Mr Rust responded that he had no intention of violating the planning restrictions and stated that the Club would not be open past 11.30pm until planning permission had been sought first. Mrs Lane also asked who residents could contact at the Sports Club if they had any grievances. She was informed by Mr Rust that there was contact information on the Club's website for a number of officers that worked there.

Mr Bardrick questioned whether functions would regularly be held at the premises. Mr Rust replied that the Club would continue to hold functions if they arose, but stated that the main use of the Club's grounds was for football during the weekend, use by a local school during the week and they were seeking the possibility of setting up a bridge club. Mr Bardrick also asked what the maximum number of people allowed in the premises was. Mr Rust stated that the maximum number of people allowed at the Club was 120 and that functions would not be booked for more than this

amount of people. The Chairman asked to clarify whether the 120 was people inside the clubhouse or whether this included on the terrace area also. Mr Rust stated that they had been advised that due to health and safety regulations they weren't allowed more than 120 people inside and sitting down. He added that they would therefore not be booking functions for more than this number of people.

Councillor Deadman asked what steps would be in place to ensure that people did not take their drinks onto the football pitch. Mr Rust responded that the terrace area had railings around all sides except where there was a disabled ramp and one set of steps. He stated that signs would be displayed where the steps and ramp were situated reminding customers not to take their drinks on to the field and added that the condition would be strictly enforced.

Mr O'Brien-Wheeler asked if Mr Rust could clarify that the offered condition of CCTV was now being withdrawn and that only bottles made of toughened glass would be used at the premises. This was confirmed by Mr Rust. Mr O'Brien-Wheeler also asked if Mr Rust could confirm that noise patrols would be conducted on an hourly basis along the perimeter of the land which met with neighbouring residents properties when live or recorded music was being provided. Mr Rust confirmed that this was an offered condition.

Mr Wearing asked on what occasions unaccompanied children were expected to be in the clubhouse. Mr Rust replied that children might not be directly accompanied by one adult and added that when football teams visited the Club there might be occasions when one adult was responsible for a number of children. Mr Rust stated that before 8.00pm children might also use the toilets that were situated in the clubhouse and might therefore be unaccompanied. Mr Wearing stated that the terrace area was a large space and was mostly out of view from the bar where staff would be working. He questioned how they would ensure that children did not have access to alcohol. Mr Rust responded that at private functions it would be the parent's responsibility for their child and the responsibility of adults in charge of youth football teams.

Councillor Deadman asked what specific conditions the Club would have in place to ensure that children and alcohol did not mix. Mr Rust stated that they would make customers aware of their responsibility for any children accompanying them and have a vetting procedure for when people were seeking to hire out the venue. He added that they were willing to offer regular patrols of the terrace, but added that it was not feasible to have a member of staff outside constantly. Mr Rust suggested the possibility of having hourly patrols of the terraced area.

Councillor Deadman asked who else would be supporting the Designated Premises Supervisor, Mr Neal, at the Club as he would be working well

over 80 hours a week if he was working alone and the Club was serving alcohol from 10.00am to 12.30am, seven days per week. Mr Rust replied that they would consider employing another licence holder to support the Club if it was open for the full amount of hours that they were requesting.

Councillor Beckwith questioned how guests would be monitored in line with their offered condition on page 29 of the report which stated that alcohol would only be sold or supplied to members of Crayford Arrows Sports Club, including associate members, their bona fide guest and persons attending a pre-booked function. Mr Rust responded that they would use membership cards and identity cards to check people attending. Following questions from Members, Mr Rust responded that the offered condition was built around allowing visiting football teams and guests of the teams being allowed to use the bar facilities.

The Chairman asked what the applicant regarded as an 'associate member.' Mr Rust answered that it was a reference to people that wanted to use the club for facilities other than football, such as a darts club or bridge club that they hoped to establish. The Chairman asked if they would allow someone to become an associate member just to use the bar. Mr Rust responded that they would use a vetting process to ensure that people did not join simply to use the bar.

Mrs Kraus stated that an 'associate member' was somewhat different to what the applicant had described it as. She stated that what Mr Rust was describing would be a fully paid member of the club albeit a non football playing one. She explained that an associate member was quite different and offered the example of when someone joint a Working Men's Club they would be an associate member of any linked venue. Mrs Kraus added that there still remained a lack of clarity as to how visiting teams would be identified and permitted entry into the clubhouse. Mr Rust responded that they would use the match list to establish who was and was not a member of a visiting football team. He added that the Club would also hold a guest book to record and verify bona fide guests of the Club.

In summation on behalf of Interested Parties, Mrs Lane stated that she had a serious concern about the possibility of anti-social behaviour from the young adults that would be drinking at the premises. Mr Bardrick summarised his representation in stating that his worry was the unknown about how often and how disruptive the premises would become, but added that if the licence was granted, then strong remedies would need to be in place.

On behalf of the Environmental Health Service, Mr O'Brien-Wheeler summarised that if the Sub-Committee had heard concerns it was their duty to take action in response to this. In summary on behalf of Neighbourhood Services, Mr Wearing stated that he was not convinced

that there was a justified reason as to why children should be permitted in the clubhouse at any time unaccompanied when alcohol was being sold. He added that in light of this, he strongly recommended that conditions 1 to 5 on page 81 of the report be implemented if the Sub-Committee chose to grant the licence.

Mr Rust summarised that he and other officers at the Club had been involved in youth football for many years and took their responsibility very seriously. He added that the Club was only applying for a premises licence and looking to sell alcohol as an additional source of income to keep the Club running. Mr Rust also announced his surprise that local residents had been in opposition to the application as he felt that the Club had always tried to maintain good relations with its neighbours.

The Sub-Committee was adjourned at 9.05pm for deliberations, returning at 9.52pm. The Chairman then informed those present of the Sub-Committee's decision.

Members of the Licensing Sub-Committee have carefully considered the application made by Crayford Arrows Sports Club Limited for the grant of a Premises Licence under the Licensing Act 2003 in respect of the premises known as Crayford Arrows Sport Club, Bakers Field, Perry Street, Crayford, Kent, DA1 4RL and in reaching a decision have considered:

- The information set out in the written report including the representations made by those persons not present today;
- The further evidence heard from the Responsible Authorities
- The further evidence from the Interested Parties
- The further evidence from the applicant including the offering of certain conditions
- The Council's Statement of Licensing Policy
- The Statutory Guidance of the Secretary of State

After taking into account the licensing objectives and all relevant considerations the Sub-Committee has decided to: -

Refuse the application in its entirety

The Sub-Committee has heard that the application has been made for a premises licence, the type of application which is usually associated with public houses. The applicants have given evidence to the Sub-Committee

that one of the main objectives of the application is to allow the hiring out of the premises for functions in order to boost the income of the club. However the Sub-Committee is not convinced that the applicant has thoroughly considered the impact of the application and particularly how controls will be used to prevent children gaining access to alcohol when the premises are hired out and protect the local residents from further nuisance and disturbance. The application plan was unclear, the answers to questions were vague and this gave the Sub-Committee the impression that the application was being made up as the hearing progressed. The application as currently presented would therefore not promote the licensing objectives, particularly the prevention of public nuisance and the protection of children from harm. However this should not prevent the club, which is well respected in the Borough, re-applying with a more specific operating schedule that fully sets out how the licensing objectives will be promoted.

The applicant, responsible authorities and interested parties should be aware that they have the right to appeal the decision of the Sub-Committee, and that any such appeal must be made to the Bexley Magistrates Court within 21 days.

*The Sub-Committee rose at 9.54*

## DECLARATIONS OF INTERESTS - Summary guide only – please seek advice from officers if required

The table below is intended to give Members very brief guidance on the type of interest and the wording to be used when declaring interests at meetings.

TYPE OF INTEREST	DESCRIPTION	ACTION TO BE TAKEN
<b>Personal</b>	<p>When it relates to or is likely to affect:</p> <ul style="list-style-type: none"> <li>• An interest that you must register</li> <li>• An interest not on your register but where the well being<sup>1</sup> or financial position of you or members of your family or people with whom you have a close personal association are likely to be affected, more than it would the inhabitants of the ward or the inhabitants of the authority's area (in other cases)</li> </ul> <p>An exception is made if your Personal Interest (not prejudicial) arises solely from the membership of or position of control or management of any body, to which you were appointed or nominated by the authority, or of any other body exercising functions of a public nature. In those cases you need only declare your interest if and when you speak.<sup>2</sup></p>	<p>Disclose the existence and nature of the interest at the commencement of consideration of the matter or as soon as the interest becomes apparent. You may remain and speak and vote unless the interest is also <b>prejudicial</b>.</p>
<b>Prejudicial</b>	<p>Personal Interests will also be prejudicial if <u>all</u> of the following apply:</p> <ul style="list-style-type: none"> <li>• It does not fall within one of the exempt* categories</li> <li>• The matter affects your financial interests, the financial interests of any person or body through which you have a personal interest, or relates to a licensing or regulatory matter in which you have an interest</li> <li>• A member of the public who knows the relevant facts would reasonably think that your Personal Interest is so significant that it is likely to prejudice your judgement of the public interest</li> </ul> <p>Examples of a prejudicial interest</p> <ul style="list-style-type: none"> <li>• An application for grant funding to a body on your register of interests, a contract for services between the authority and that body, or leasing a property to or from a close associate or member of your family. Your financial position can be affected directly or indirectly, favourably or unfavourably, substantially or</li> </ul>	<p>If you have a <b>Personal &amp; Prejudicial Interest</b> then:</p> <ul style="list-style-type: none"> <li>• You must declare it and the nature of it as soon as becomes apparent to you</li> <li>• You should then leave the room <i>unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If that is the case, then you can attend for that purpose – however you must immediately leave the room once you have finished or when directed by the meeting. You cannot remain to observe even in the public gallery. Please note that committees included in this category have or will soon be adopting specific procedures regarding this right.</i></li> </ul> <p>In addition you must not seek to improperly influence the decision in which you have a Personal &amp;</p>

<sup>1</sup> The term well being can be described as a condition of contentedness and happiness. Anything that could affect your quality of life either positively or negatively is likely to affect your well-being.

<sup>2</sup> Eg you are at Council in a debate about education generally (eg not about the specific school) and you are a Governor you only need to declare an interest if any when you speak. If you do not speak you may vote without declaring an interest.

TYPE OF INTEREST	DESCRIPTION	ACTION TO BE TAKEN
	<p>marginally. /continued overleaf</p> <ul style="list-style-type: none"> <li>• A planning or licensing application made by you or a body on your register of interests. Also note other licences from the Council would constitute a prejudicial interest: e.g. pet shop, street trading, or approval or permission pursuant to a contractual document such as a lease or contract.</li> <li>• You would have a Personal &amp; Prejudicial Interest in a planning application proposal if a member of your family would be affected by the application to a greater extent than the majority of the ward. You have the Personal Interest and the close tie means that a reasonable member of the public might think that it would prejudice your view. It does not matter whether it actually would or not.</li> </ul> <p>* Exempt categories: these include</p> <ul style="list-style-type: none"> <li>• Housing: if you hold a tenancy or lease with the authority, as long as the issue under consideration does not relate to your particular tenancy or lease;</li> <li>• School meals or school transport and travelling expenses: if you are a parent or guardian of a child in full-time education or you are a parent governor, unless the issue relates to the particular school your child attends.</li> <li>• Statutory sick pay: if you are receiving this, or are entitled to this</li> <li>• An allowance, payment or indemnity for members</li> </ul>	<p>Prejudicial Interest.</p>

Any Member seeking further advice on the declaration of interests should contact the Head of Legal Services or the Head of Committee Services and Scrutiny.

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**LICENSING SUB-COMMITTEE - 19 APRIL 2011****STANDING ORDER 65(6)****1. INTRODUCTION**

Standing Order 65(6) provides an opportunity for Members of the Licensing Sub-Committee to consider items of late business.

Items of late business will only be dealt with if the Chairman is satisfied that by reason of special circumstances the item should be considered as a matter of urgency.

The issue should be reported in advance of the meeting to the Committee Officer to enable the Chairman to take a view on whether the item is to be added to the agenda and, if so, for relevant information to be circulated in advance of the meeting.

**2. SUMMARY OF FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

**3. SUMMARY OF LEGAL IMPLICATIONS**

There are no legal implications arising from this report.

**4. SUMMARY OF OTHER IMPLICATIONS**

There are no other implications arising from this report.

**Local Government Act 1972 – section 100d**  
**List of Background Documents**

There are none.

<b>Contact Officer:</b>	John Adams, Committee Officer John.adams@bexley.gov.uk	Tel: 020 3045 3591
<b>Reporting to:</b>	Kevin Fox, Head of Committee Services and Scrutiny	



**LICENSING SUB-COMMITTEE - 19 April 2011****SUMMARY:**

To consider an application to classify nineteen (19) short films to be exhibited as part of the 'Rob Knox Film Festival 2011'.

**INSTRUCTIONS ARE REQUESTED.****1. Introduction**

The Sub-Committee is asked by Mr Michael Wearing of the Council's Neighbourhood Services to classify nineteen (19) short films, which are proposed to be exhibited at several locations throughout the Borough, as part of the 'Rob Knox Film Festival 2011'.

**2. Background information**

The exhibition of a film in the presence of an audience for purposes which include entertaining that audience is prescribed under the Licensing Act 2003 as "regulated entertainment". The Act goes on to specify that regulated entertainment may only be provided at premises that have a Premises Licence, which authorises the specific entertainment being provided, or at premises operating under a Temporary Event Notice.

Where a premises has the benefit of a Licence issued under the Licensing Act 2003, which authorises the provision of regulated entertainment by way of the exhibition of films, it is a mandatory condition of the Licence that:

- The admission of children, that is persons under 18 years of age, to the exhibition of any film shall be restricted in accordance with any recommendation made by the British Board of Film Classification (BBFC) or by Bexley Council.

Where a premises is exhibiting a film under a Temporary Event Notice there is no such mandatory condition.

**3. Application under consideration**

Mr Michael Wearing of the Council's Neighbourhood Services has asked the Sub-Committee to classify nineteen (19) short films. The films are scheduled to be exhibited as part of the 'Rob Knox Film Festival' which is due to take place on 8 June 2011 at Cineworld Multiplex Cinema, 28-70 Broadway, Bexleyheath, Kent DA6 7LL.

In addition the films are likely to be exhibited at the Erith Riverside Festival, Bexley College and the New Generation Church. Other community venues may also screen the films but at the time of writing this is still to be confirmed.

The applicant, Mr Wearing has provided a schedule which details the film title, running time, together with a brief synopsis of the film. A copy of the schedule provided by Mr Wearing is attached at **Appendix A** to the report.

#### 4. Relevant matters

##### Licensing Act 2003

The Licensing Act 2003 provides at Section 20 that a mandatory condition relating to the admission of children must be imposed on any Premises Licences that authorise the exhibition of films. The condition specifies that only films classified by the British Board of Film Classification (BBFC) or by Bexley Council may be exhibited. The licensing authority is therefore permitted to consider the classification of films, and such considerations have been delegated to this Sub-Committee.

When considering the classification of a film the Sub-Committee should have regard to the Licensing Act 2003, which requires the licensing authority to carry out its functions under the Act with a view to promoting the licensing objectives, which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

In carrying out its Licensing functions, a licensing authority must also have regard to:

- Its licensing statement; and
- The Guidance issued under section 182 of the Act.

Section 4 of Bexley's Statement of Licensing Policy sets out the licensing objectives and is relevant to this application, in particular paragraphs 4.12 to 4.22 which deal with protecting children from harm.

The parts of the Guidance issued under section 182 of the Act that are of particular relevance to this application are:

- Section 2 - The licensing objectives.
- Section 3 - The licensing activities - paragraphs 3.8 and 3.9.
- Section 10 - Conditions attached to premises licences and club premises certificates - paragraph 10.73.
- Section 13 - Statements of licensing policy – paragraphs 13.43 to 13.53

However, it is recognised that the Council's Statement of Licensing Policy and Statutory Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Therefore subject to both the Policy and Guidance having been properly and carefully considered, licensing authorities may depart from them if they have a justifiable reason to do so. If doing so, licensing authorities will need to give full reasons for their actions.

##### British Board of Film Classification (BBFC)

The British Board of Film Classification (BBFC) classifies films on behalf of local authorities who licence cinemas under the Licensing Act 2003.

The classification categories are:

- Uc/U** Universal - Suitable for all
- PG** Parental Guidance – General viewing, but some scenes may be unsuitable for young children
- 12A/12** Suitable for 12 years and over. No-one younger than 12 may see a “12A “ film in a cinema unless accompanied by an adult.
- 15** Suitable only for 15 years an over. No-one younger than 15 may see a “15” film in a cinema
- 18** Suitable only for adults. No-one younger than 18 may see a “18” film in a cinema
- R18** To be shown only for adults in specially licensed cinemas.

Further information on the above categories, as supplied on the BBFC’s web site, is attached at **Appendix B** to the report, together with information on some of the issues the BBFC take into consideration when classifying a film.

## **5. Determining the Application**

### Considerations

The Sub-Committee must when reaching a decision take into account the promotion of the licensing objectives.

### Appeal Rights

There is no right of appeal against the decision of the Sub-Committee.

## **6. Summary of Financial Implications**

There is no fee payable with regard to applications for the Council to classify films.

## **7. Summary of Legal Implications**

There are no specific legal implications arising from this report.

## **8. Summary of other Implications**

A representative of Bexley Police will attend the hearing and view the films in order to provide Members with any relevant consideration in relation to crime and disorder issues. There are no environmental impact issues in respect of the application to classify the films.

Human rights issues are considered in **Appendix C** to the report and in addition the Council’s Solicitor will attend the hearing and view the films to advise should there be equal opportunities issues that the Sub-Committee should have regard to.

**LOCAL GOVERNMENT ACT 1972 - SECTION 100D****List of Background Documents**

1.	Licensing Act 2003		
2.	Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003		
3.	Bexley Council's Statement of Licensing Policy		
4.	British Board of Film Classification - guidance on film classification		
<b>Contact officer:</b>	Samantha Laing, Senior Licensing Officer	<b>Tel:</b>	020 3045 5671
<b>Reporting to:</b>	Deputy Director, Environment & Regeneration Services (Development and Public Protection)		

## APPENDIX A

Film Title	Approx. running time	Film Maker	Synopsis
Mr Miller	5 Mins	Lee Hutchings Films	A Hitchcock inspired thriller where nothing is what it seems following a chance encounter with a beautiful blonde woman Mr Miller soon finds himself confronting a dark and sinister secret one he would rather forget!
Bernard the Bee goes to Chelsea	10 Mins	Sound Minds Charity	Bernard the bee stumbles upon the Chelsea flower show and thinks he is heaven. The film explores the vivid and sometimes ambivalent relationships we have with bees, contributions from Rob Bryoon, Dr David Bellamy, Miss Barbados, Robin Hood and Maid Marion.
Making Faith Visible	52 Mins	N/A	Promoted by the Bexley Standing Advisory Council on religious educational with the aid of £5900 grant funding students will be interviewing a range of people from a number of faith stances asking why their faith is important to them.
Bexley in Film	5 Mins		This is a film showing local features of Bexley such as churches, local parks, town centre and the mall along to a piece of music called Soarin by Jerry Goldsmith.
A Little Bit of Grief	12 Mins	N/A	Peg wakes in an unfamiliar hotel room. His thumping head tells tales of a riotous night of excess, but one that makes no sense. A phone call from a friend begins to cast some light however the enigmatic Tommy remains asleep in the room next door and he wants paying. Its clear that someone is playing a game but what's not clear is who.
Yogurt	23 Mins	Cupsogue Pictures	Yogurt is a short romantic comedy written and starring Bexleyheath born stand up comedian Tom Toal. Exploring the idea of fate and how the most random event in our lives can spark off something complete wonderful and fulfilling by putting your complete trust in a strangers hands. In yogurt such chance event leads Jane to meet the enigmatic Luke. Set over the course of a single evening and offer of a lift leads these two strangers to find more than they bargained.

## 6

Film Title	Approx. running time	Film Maker	Synopsis
£20.30	20 Mins	N/A	Emily is a single mother struggling to budget for everything that she and her young son (Daniel) need. When Daniel is picked for the school football team, finding him a pair of boots is yet another burden that she must find the solution for.
I am a Robot	4 Mins	A thyme machine production	A music video by the thyme machine, filmed in Tom's nans garage and Kris and Tristan's flat. The video depicts the tale of an engineer who makes a robot for a lazy man. He performs manual tasks for the lazy man.
Monday Exam	3 Mins		Monday, an exam, surely nothing will go wrong.
Masks	5 Mins	Maddrim Media	Drug abuse causes a girl to lose her identity
Faden	3 Mins		A small girl with a troubled family background escapes real life and enters her dream, but will it give relief to her.
Don't judge a book by its cover	3 Mins	Bexley College	The ugly betrayal of domestic violence as a violent relationship gets worse.
Echoes	4 Mins	Red Chord Productions	Do not enter the Forest, Don't look at it, don't even go near it. The forest is unforgiving. Those who enter never return. This film is not about Characters or a story. It is purely what happens in the forest. If you are confused good.
The Job Interview	3 Mins		How far would you go and what would you do to secure the coveted position you have been dreaming of... And If you realised the interviewer was a horny little scoundrel would you try and seduce him?
Borderline	6 Mins	Canterbury Christchurch University	During a forensic examination Chris feels the presence of the examiner and deals wit him in an unconventional manner
Shrapnel	12 Mins	Subfilm	An ex soldier gets talking to a young woman on a train and discovers he is talking to his long lost daughter a chance meeting that forces him to face up to a painful past and a bleak future.
Nightwalking	3 Mins	Actaeon films	A woman is being followed but what are the followers intentions?

<b>Film Title</b>	<b>Approx. running time</b>	<b>Film Maker</b>	<b>Synopsis</b>
Mystery Adventure	7 Mins	Noddingdog films	It is sometime in the future no mind, ice girl, dotty, random, Jim Bob, Usan Bolt and skateboy meet in a secret underground location to recover their super powers they will have to embark on a dangerous journey to find the lost stone.
Walking Away	16	Red Rose Chain	Life could be so different for 17 year old Falaize if only people cared a bit more





British Board of Film Classification

## ‘U’



**Universal – Suitable for all**

It is impossible to predict what might upset any particular child. But a ‘U’ film should be suitable for audiences aged four years and over. ‘U’ films should be set within a positive moral framework and should offer reassuring counterbalances to any violence, threat or horror.

If a work is particularly suitable for a pre-school child to view alone, this will be indicated in the Consumer Advice.

### **Discrimination**

No discriminatory language or behaviour unless clearly disapproved of.

### **Drugs**

No references to illegal drugs or drug misuse unless they are infrequent and innocuous, or there is a clear educational purpose or anti-drug message suitable for young children.

### **Horror**

Scary sequences should be mild, brief and unlikely to cause undue anxiety to young children. The outcome should be reassuring.

### **Imitable behaviour**

No potentially dangerous behaviour which young children are likely to copy. No emphasis on realistic or easily accessible weapons.

### **Language**

Infrequent use only of very mild bad language.

# 6

## **Nudity**

Occasional natural nudity, with no sexual context.

## **Sex**

Mild sexual behaviour (for example, kissing) and references only (for example, to 'making love').

## **Theme**

While problematic themes may be present, their treatment must be sensitive and appropriate for young children.

## **Violence**

Mild violence only. Occasional mild threat or menace only.



British Board of Film Classification

## ‘PG’



**Parental Guidance**

### **General viewing, but some scenes may be unsuitable for young children**

Unaccompanied children of any age may watch. A ‘PG’ film should not disturb a child aged around eight or older. However, parents are advised to consider whether the content may upset younger or more sensitive children.

#### **Discrimination**

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of or in an educational or historical context. Discrimination by a character with which children can readily identify is unlikely to be acceptable.

#### **Drugs**

References to illegal drugs or drug misuse must be innocuous or carry a suitable anti-drug message.

#### **Horror**

Frightening sequences should not be prolonged or intense. Fantasy settings may be a mitigating factor.

#### **Imitable behaviour**

No detail of potentially dangerous behaviour which young children are likely to copy. No glamorisation of realistic or easily accessible weapons.

#### **Language**

Mild bad language only.

# 6

## **Nudity**

Natural nudity, with no sexual context.

## **Sex**

Sexual activity may be implied, but should be discreet and infrequent. Mild sex references and innuendo only.

## **Theme**

Where more serious issues are featured (for example, domestic violence) nothing in their treatment should condone unacceptable behaviour.

## **Violence**

Moderate violence, without detail, may be allowed, if justified by its context (for example, history, comedy or fantasy).

## '12A'/'12'



### **Suitable for 12 years and over**

Exactly the same criteria are used to classify works at '12A' and '12'. These categories are awarded where the material is suitable, in general, only for those aged 12 and over. Works classified at these categories may upset children under 12 or contain material which many parents will find unsuitable for them.

The '12A' category exists only for cinema films. No one younger than 12 may see a '12A' film in a cinema unless accompanied by an adult, and films classified '12A' are not recommended for a child below 12. An adult may take a younger child if, in their judgement, the film is suitable for that particular child. In such circumstances, responsibility for allowing a child under 12 to view lies with the accompanying adult.

The '12' category exists only for video works. No one younger than 12 may rent or buy a '12' rated video work.

### **Discrimination**

Discriminatory language or behaviour must not be endorsed by the work as a whole. Aggressive discriminatory language or behaviour is unlikely to be acceptable unless clearly condemned.

### **Drugs**

Any misuse of drugs must be infrequent and should not be glamorised or give instructional detail.

### **Horror**

Moderate physical and psychological threat may be permitted, provided disturbing sequences are not frequent or sustained.

# 6

## **Imitable behaviour**

Dangerous behaviour (for example, hanging, suicide and self-harming) should not dwell on detail which could be copied, or appear pain or harm free. Easily accessible weapons should not be glamorised.

## **Language**

Moderate language is allowed. The use of strong language (for example, [REDACTED]) must be infrequent.

## **Nudity**

Nudity is allowed, but in a sexual context must be brief and discreet.

## **Sex**

Sexual activity may be briefly and discreetly portrayed. Sex references should not go beyond what is suitable for young teenagers. Frequent crude references are unlikely to be acceptable.

## **Theme**

Mature themes are acceptable, but their treatment must be suitable for young teenagers.

## **Violence**

Moderate violence is allowed but should not dwell on detail. There should be no emphasis on injuries or blood, but occasional gory moments may be permitted if justified by the context. Sexual violence may only be implied or briefly and discreetly indicated, and must have a strong contextual justification.



British Board of Film Classification

## '15'



**Suitable only for 15 years and over**

No one younger than 15 may see a '15' film in a cinema. No one younger than 15 may rent or buy a '15' rated video work.

### **Discrimination**

The work as a whole must not endorse discriminatory language or behaviour.

### **Drugs**

Drug taking may be shown but the film as a whole must not promote or encourage drug misuse. The misuse of easily accessible and highly dangerous substances (for example, aerosols or solvents) is unlikely to be acceptable.

### **Horror**

Strong threat and menace are permitted unless sadistic or sexualised.

### **Imitable behaviour**

Dangerous behaviour (for example, hanging, suicide and self-harming) should not dwell on detail which could be copied. Easily accessible weapons should not be glamorised.

### **Language**

There may be frequent use of strong language (for example ██████████). The strongest terms (for example, ██████████) may be acceptable if justified by the context. Aggressive or repeated use of the strongest language is unlikely to be acceptable.

# 6

## **Nudity**

Nudity may be allowed in a sexual context but without strong detail. There are no constraints on nudity in a non-sexual or educational context.

## **Sex**

Sexual activity may be portrayed without strong detail. There may be strong verbal references to sexual behaviour, but the strongest references are unlikely to be acceptable unless justified by context. Works whose primary purpose is sexual arousal or stimulation are unlikely to be acceptable.

## **Theme**

No theme is prohibited, provided the treatment is appropriate for 15 year olds.

## **Violence**

Violence may be strong but should not dwell on the infliction of pain or injury. The strongest gory images are unlikely to be acceptable. Strong sadistic or sexualised violence is also unlikely to be acceptable. There may be detailed verbal references to sexual violence but any portrayal of sexual violence must be discreet and have a strong contextual justification.



British Board of Film Classification

## '18'



### **Suitable only for adults**

No-one younger than 18 may see an '18' film in a cinema.

No-one younger than 18 may rent or buy an '18' rated video.

In line with the consistent findings of the BBFC's public consultations and The Human Rights Act 1998, at '18' the BBFC's guideline concerns will not normally override the principle that adults should be free to choose their own entertainment. Exceptions are most likely in the following areas:

- where the material is in breach of the criminal law, or has been created through the commission of a criminal offence
- where material or treatment appears to the BBFC to risk harm to individuals or, through their behaviour, to society – for example, any detailed portrayal of violent or dangerous acts, or of illegal drug use, which may cause harm to public health or morals. This may include portrayals of sexual or sexualised violence which might, for example, eroticise or endorse sexual assault
- where there are more explicit images of sexual activity which cannot be justified by context. Such images may be appropriate in 'R18' works, and in 'sex works' (see below) would normally be confined to that category.

In the case of video works (including video games), which may be more accessible to younger viewers, intervention may be more frequent than for cinema films.

### **Sex education at '18'**

Where sex material genuinely seeks to inform and educate in matters such as human sexuality, safer sex and health, explicit images of sexual activity may be permitted.

# 6

## **Sex works at '18'**

Sex works are works whose primary purpose is sexual arousal or stimulation. Sex works containing only material which may be simulated are generally passed '18'. Sex works containing clear images of real sex, strong fetish material, sexually explicit animated images, or other very strong sexual images will be confined to the 'R18' category. Material which is unacceptable in a sex work at 'R18' is also unacceptable in a sex work at '18'.

## 'R18'



**To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults of not less than 18 years**

The 'R18' category is a special and legally restricted classification primarily for explicit works of consenting sex or strong fetish material involving adults. Films may only be shown to adults in specially licensed cinemas, and video works may be supplied to adults only in licensed sex shops. 'R18' video works may not be supplied by mail order. The following content is not acceptable:

- any material which is in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959
- material (including dialogue) likely to encourage an interest in sexually abusive activity (for example, paedophilia, incest or rape) which may include adults role-playing as non-adults
- the portrayal of any sexual activity which involves lack of consent (whether real or simulated). Any form of physical restraint which prevents participants from indicating a withdrawal of consent
- the infliction of pain or acts which may cause lasting physical harm, whether real or (in a sexual context) simulated. Some allowance may be made for moderate, non-abusive, consensual activity
- penetration by any object associated with violence or likely to cause physical harm
- any sexual threats, humiliation or abuse which does not form part of a clearly consenting role-playing game. Strong physical or verbal abuse, even if consensual, is unlikely to be acceptable.

**These Guidelines will be applied to the same standard regardless of sexual orientation.**



## HUMAN RIGHTS ISSUES

The right to engage in business is a civil right. Article 6 of convention is therefore applicable and it is reproduced below: -

- (1) *In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*
- (2) *Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.*
- (3) *Everyone charged with a criminal offence has the following minimum rights:*
- (a) *to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;*
  - (b) *to have adequate time and facilities for the preparation of his defence;*
  - (c) *to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;*
  - (d) *to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; and*
  - (e) *to have the free assistance of an interpreter if he cannot understand or speak the language used in court.*

Applicants are afforded by law the above rights. The right is primarily designed to afford a fair hearing to Applicants.

The rights of the Applicants including the right to engage in business must be balanced against the rights of those affected by the engaging in that business.

Article 8 is applicable - Article 8 provides:

1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

Issues such as noise and its effect on an individual's enjoyment of his home can be a breach of Article 8. A balance needs to be struck between the competing interests of the Applicant and the residents and the community as a whole. A whole range of considerations need to be balanced including:

- The right of the Applicant to engage in business
- The right of residents to enjoyment of their homes
- The economic well-being of the community

There is an onus on the Sub-Committee to find, where possible, a fair balance between the competing rights, such which might be achieved by conditions being attached to any licence. In essence therefore it is the role of the sub-committee to strike a balance between the various factors and rights when coming to a decision.

