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Speaking time limits: the potential for injustice

Brevity may be the soul of wit, but it may also be the cause of deep injustices. Some authorities, the minority, still insist on unrealistic and inflexible speaking time limits at licensing hearings. Regardless of the type of hearing or the seriousness of the potential consequences for an operator or other party, and ignoring the complexities and number of issues to be dealt with - the time-limit must be obeyed. The applicant who seeks an extra half an hour trading for his late-night café addressing a single residential objection is afforded the same time, no more no less, as the nightclub operator at whose premises an escalation of violence over the years ends up in a customer being shot dead in an alleged gangland shooting leading to a summary review with 60 residents additionally complaining of public nuisance. Some authorities, remarkably, will only allow three minutes, others a more relaxed five minutes, a few even afford the relative luxury of 10 minutes. Farcically, the debate about whether the time-limit should be extended in a particular case often lasts longer than the time-limit itself.

> "My call is not for long-winded bombastic advocates to have a forum. It is for licensing authorities to have the wisdom not to be overly inflexible or swingeing in setting speaking time-limits in complex matters, but rather to fit the rules to the justice of the particular case and not the other way round."

Time-limits were often set at the transition from the old to the new licensing regimes owing to a fear of more hearings than an authority could handle in a compressed period. As circumstances changed, most authorities modified their hearing procedures accordingly.

The wiser licensing authorities adopted a more flexible approach: either not setting time-limits at all, or dis-applying them in appropriate cases. The dangers of too rigorous approach are numerous but include:

1) The operator (or responsible authority or other person) cannot put his case fully and properly and so leaves with a sometimes justified sense that he has been deprived of his right to a fair hearing.
2) The licensing authority denies itself the opportunity to hear the best evidence or explanations available.
3) The licensing authority risks diminishing its own authority and reputation as the dispenser of justice in the licensing setting.
4) When viewed at an appeal, probably listed over several days, a sub-committee hearing that was so time restricted as to be practically worthless will not play well with the magistrates. On being told of the procedures below, the appeal courts are less likely to place due weight on the decision made below, hampering the chances of a council defending its probably correct decision.

Sometimes, often, cross-examination of witnesses can assist sub-committees to reach better decisions on evidence improved by being challenged. To cross-examine well does not mean to examine crossly. It is to fire a well-aimed harpoon into the heart of the other side's case or to elicit crucial further information that may turn a case. Why should a sub-committee deny itself the opportunity - that the appeal court will enjoy - to hear such evidence ?

The good advocate will not take bad points, repeat himself, or pursue irrelevant lines of questioning. But if he does, then a strong chairman can and should rein him in or call a stop. The good advocate in a complex case may need a little time to elaborate a case which has, hopefully, been set out in well-organised paper submissions served well before the hearing date. That paperwork can run into many hundreds of pages in heavyweight licence reviews. Busy councillors are often assisted by being taken to the salient points in a morass of documents. An operator defending a review may need a little more time than the police applying for revocation. It takes a moment for the police to fire a forensic bullet, but it may take longer for the operator to plot the bullet's trajectory and repair the damage.

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