

Subject:	Remote Licensing Panel Meetings – Licensing Act 2003 functions		
Date of Meeting:	7 May 2021		
Report of:	Executive Lead Strategy Governance and Law		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

By reason of the special circumstances, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency for the following reason.

A decision is required before the next Licensing Panel meeting on 12th May 2021.

Note: The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that an urgent decision is required to clarify the remote meeting arrangements.

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The report sets out the position in relation to the powers of the Licensing Committee to make its own arrangements in relation to the conduct of Licensing Panels convened under the Licensing Act 2003 (Licensing Panels).
- 1.2 The report proposes that Licensing Panels continue to take place remotely for a period up to the end of July 2021 in order to reduce the risk of transmission of Covid19 and to keep to a minimum the number of face to face meetings that take place during this period.

2. RECOMMENDATIONS:

- 2.1 That the Urgency Sub-Committee agrees that Licensing Panels convened under the Licensing Act 2003 should continue to meet remotely from 7th May 2021 until the end of July 2021.
- 2.2 That the Urgency Sub-Committee notes that this position will be kept under review in the light of public health advice and Government Guidance.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Following the outbreak of the Covid-19 pandemic, the Government introduced legislation under the Coronavirus Act 2020 in the form of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020 ('the Regulations'). The Regulations authorised local authorities to hold "virtual" meetings of the Council and its committees, providing members are able to follow the proceedings and the public are able to hear, and if possible, view the proceedings
- 3.2 The Regulations expire on 7th May 2021 and a recent Court decision has confirmed that the Council will have to run those of its meetings which are governed by the Local Government Act 1972 with members and the public in attendance at a physical meeting.
- 3.3 However, Licensing Panels are established under different legislation (the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.) This means that Licensing Committees are empowered to regulate their own procedures and those of its sub-committees (the Licensing Panels).
- 3.4 In order to ensure clarity going forward, it is proposed that the Licensing Committee agree that virtual Licensing Panels convened under the Licensing Act 2003 will continue for a period of 12 weeks, pending further review and analysis of public health and government guidance. This recognises the high number of Panel meetings that are required to take place (6 in May 2021) and the need to take steps to mitigate the risks of Covid 19 infection by reducing the number of face to face meetings at this stage where this is possible.
- 3.5 As had been the case throughout the pandemic when virtual Licensing Panel meetings have been taking place, arrangements will continue to be made for the press and public to attend the virtual meeting. In addition, applicants and those making representations will be invited to attend remotely. Where this is not possible due to connection issues, arrangements will be offered whereby access to a computer at Hove Town Hall will be made available.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 A high number of Licensing Panels convened under the Licensing Act 2003 are due to take place in the coming months, with 6 Panels taking place in May alone. The Council is required by law to determine these applications within the statutory timeframe.
- 4.2 The Licensing Committee does have the option of returning to in person meetings for these Panel Hearings, requiring attendance in person from elected members, the parties and those making representations as well as officers. A risk assessment could be undertaken to ensure that safety measures were put in place to mitigate against the risk of infection as far as is possible. However, this approach would conflict with Government advice to work at home where this is possible in order to reduce the amount of face to face contact that is taking place.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 In view of the urgent need to determine the procedure for Licensing Panels in the light of other Committees returning to (reduced) face to face meetings public consultation has not been possible. However, the proposals ensure that all arrangements that are currently in place will continue to enable the public, press and all parties to the proceedings to be able to see and hear them and participate as appropriate.

6. CONCLUSION

- 6.1 It is lawful for Licensing Panels to continue to take place remotely. This is not the case with other Council Committees, regulated by the Local Government Act 1972, where a recent Court case has made it clear that in person arrangements are required to be put in place from 7th May 2021.
- 6.2 The high volume of Licensing Act Panel meetings and the potentially high number of attendees mean that an approach is proposed whereby the Licensing Committee exercises its powers to agree its own procedures and to hold remote Licensing Act panel hearings for a further period of 12 weeks until the end of July 2021 in order to reduce the risk of transmission of Covid19.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no additional financial implications arising from the recommendations in this report.

Finance Officer Consulted: Jeff Coates

Date: 05/05/21

Legal Implications:

- 7.2 Unlike Committee meetings governed by the Local Government Act 1972, remote licensing Sub-Committees do not require legislative permission. The Licensing Committee can determine its own procedures for its sub-committees (hearing panels) pursuant to s 9 Licensing Act 2003.

Lawyer Consulted: Elizabeth Culbert

Date: 05/05/21

Equalities Implications:

- 7.3 The Council has a public sector equality duty under s149 of the Equality Act 2010. In the exercise of its functions the Council must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those that do not.
- 7.4 The Council's public sector equality duty has been considered by officers and the proposals of this report have been assessed for their equalities impact. The proposals to continue remote meetings for a period of 12 weeks balances the risk to health of vulnerable groups against the risk that some who may wish to access

the meetings are not able to due to connectivity issues. There are plans in place to mitigate this by offering access to a computer at Hove Town Hall to anyone impacted by the application being heard.

Sustainability Implications:

- 7.5 There will be less travel to and from the physical location of the meeting if the Panels operate remotely during this period.