

## **PROTOCOL FOR LICENCING HEARINGS UNDER THE LICENSING ACT 2003**

This protocol allows the Council to deal with Licensing Act 2003 matters during the pandemic emergency.

During this period, the Council will convene remote hearings using video and audio technology. Licensing hearings are governed by specific provisions in the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005. They provide a wide degree of flexibility to Licensing Authorities in determining their own hearing procedures. This Protocol is part of the Council's Hearing Procedures.

### **Consultation periods and representations**

1. The Council website will indicate that all representations in relation to a new application should be submitted on line or by e-mail to reduce the risk that they may not be received or considered by the authority.
2. Officers will ensure that they are in receipt of any representations received within the consultation period, before agreeing to the grant of any application by delegated authority.

### **Time for submission of documentation supporting application/representation**

3. Documentation in support of applications and representations to be provided at least 10 working days prior to the hearing date. Any documentation received after that date will only be considered in exceptional circumstances at the Chair's discretion. Where information about the exceptional nature of the delay is not provided it will not be forwarded to the Chairman for consideration.
4. Information and documentation will only be considered if the contents are in support of a ground for objection or representations already made during the consultation period and must be relevant to the licensing objectives. Only written documentation should be provided.
5. CCTV and audio evidence will only be admitted in exceptional circumstances where it is necessary in the interests of justice. No CCTV or audio evidence will be sent to the Chairman for consideration without an explanation of why it is exceptional and why it is necessary to admit it in the interests of justice.

### **Notice of hearing**

6. A Notice of Hearing will be sent to all parties five clear working days before the meeting. In some cases, a shorter period of notice will be necessary due to statutory timescales involved in notifying the Council of the application or determining the application. The Notice will provide details of the date and time of the online hearing, and a link for joining the meeting, the hearings procedure note and the report from the Council's Licensing Officer with relevant objections attached.

7. The Chair will decide a practical protocol for management of the debate and decision-making in an online environment - e.g. calling of speakers, self-introduction before speaking, etc. Such a protocol can be amended from time to time and does not require Committee approval for any change.
8. Parties must submit their written submission on the written evidence by email at least 72 hours before the hearing is due to start, summarising the points they wish to make at the hearing and the outstanding issues. The written submission should be no longer than one side of A4 sized paper. These written submissions will assist in the conduct of the remote hearing and the decision-making process.
9. Applicants are encouraged to attend the hearing online but are also advised that they may elect not to attend the hearing and instead allow the decision to be considered on the basis of written representations, and that the hearing will be decided on the information available at the hearing
10. A party may be assisted or represented by a person who does not have to be legally qualified.

#### Agenda documents

11. Agenda Documents will be accessible online or sent via email in a format and pagination common to all participants this will usually be a single PDF document bundle.

#### The Online hearing

12. The normal committee hearing procedure will be followed (included in the pack sent to the party) with the following changes during the pandemic period:
13. Members, officers, and all relevant parties, including applicants, interested parties, responsible authorities will be invited to join (attend) the meeting remotely via Microsoft Teams. This application enables individuals to view and participate in a video-conference using a desktop computer, lap-top, tablet device or even smart-phone. The press and members of the public are also invited to observe the meeting, but not participate.
14. When making a representation all relevant evidence up to the point of making the representation must be included and submitted. Matters arising after the date of submission may be submitted but must only be submitted if relevant to the initial submission and could not have been submitted at the date of the original submission. Justification for later submission of evidence should be submitted with clear justification as to why there is need for a further submission. This could be due to further breaches of conditions after the initial submission or the service of a notice for example.
15. Matters included in any submission must:
  - Detail how the applicant has complied with Section 182 of the Guidance and what attempts have been made to resolve the matter informally

- focus on the four licensing objectives and the potential impact of any application on those
  - Adhere to local policies
  - Be relevant
  - Be evidence led not based on speculation
16. Video evidence must be in MP4 format. The recording must be edited down to the highlights, containing only relevant matters which relates to the written representation submitted. In addition, a description of how, when and where the video was recorded and what it contains must be submitted in evidence. The Chair will decide if it is necessary in the interests of justice for the video evidence to be reviewed.
  17. If any video evidence is to form part of the relevant parties 5 minute opening submission it must be supplied at least 10 working days before the hearing in the correct format and in accordance with the requirements in paragraph 16 above.
  18. Parties are reminded that, even where an application has attracted representations, applications can be determined without the need for a hearing where all parties consent to dispense with a hearing by virtue of regulation 9 of the Hearing Regulations. In these cases, written representations may be submitted and considered before a determination is made.
  19. The Chair will invite the participants to join the meeting, introduce themselves and the panel members and outline the procedure to be followed.
  20. Each party will be allowed 5 minutes to speak (their written representations having been considered).
  21. When not speaking their microphone will be muted by the meeting producer.
  22. Members' deliberations will take place without other participants, the press, and members of the public, being able to hear or see those deliberations by way of a separate conference with Members, Legal Officer, and an officer from Democratic Services.
  23. The summary decision and reasons will be advised by email to all those who notify the Committee Administrator of a valid email address in advance.
  24. Notification in writing of the full decision with reasons will follow in five working days.
  25. To meet the legal requirement for hearings to be held in public members of the press and public will be able to observe the meetings online. A recording may also be subsequently available on the Reading Borough Council website.