

REPORT TO:	LICENSING COMMITTEE 30 SEPTEMBER 2020
SUBJECT:	LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 AND GAMBLING ACT 2005 (PROCEEDINGS OF LICENSING COMMITTEES & SUB-COMMITTEES) (PREMISES LICENSES AND PROVISIONAL STATEMENTS) (ENGLAND AND WALES) REGULATIONS 2007 PROCEDURES FOR LICENSING SUB-COMMITTEE HEARINGS
LEAD OFFICER:	Executive Director, Place Department
CABINET MEMBER:	Cllr. Hamida Ali, Cabinet Member for Safer Croydon & Communities
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT:	
This report details the recommended changes to the Licensing Sub-Committee hearings protocol by virtue of Covid-19 requirements.	
FINANCIAL SUMMARY:	
There are no financial implications arising from the recommendations in this report.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	
1. RECOMMENDATIONS	
That the Licensing Committee :	
1.1 Approve the revised protocol for Licensing Sub-Committee hearings under the Licensing Act 2003 as set out in full at Appendix 1 to this report for use in relation to remote Licensing Sub-Committee meetings, that this revised protocol be appended to Part 5F as Annex 2 and that the current Annex 2 to Part 5F be relabelled Annex 3 and that consequential amendments be made to Part 5F to ensure the correct references to the Annexes throughout.	
1.2 Note that the Chair of the Sub-Committee has approved the use of the revised protocol for use during proceedings under the Licensing Act 2003 at the Sub-Committees set out at paragraph 3.6 in accordance with the authority in Annex 1 to Part 5F of the Constitution.	

- | |
|--|
| <p>1.3 Approve the revised protocol for Licensing Sub-Committee hearings under the Gambling Act 2005 as set out in full at Appendix 2 to this report for use in relation to remote Licensing Sub-Committee meetings under the Gambling Act 2005; that this revised protocol be appended to Part 5G as Annex 2 and that consequential amendments be made to Part 5G to ensure the correct references to the Annexes throughout.</p> |
|--|

For general release

2. EXECUTIVE SUMMARY

- 2.1 This Report provides background to the request that the Committee approve amendments to Part 5F and 5G of the Constitution to provide for remote meetings in future. The report also provides details of the exercise of delegated authority by the Chair of the Licensing Sub-Committee pursuant to Annex 1 to Part 5F of the Constitution to agree a change to the Licensing Sub-Committee procedure for individual Sub-Committee hearings to take account of remote hearings.

3. DETAIL

- 3.1 The purpose of the recommended changes to Part 5F and Part 5G of the Constitution are to facilitate the proper consideration of the application/s before the Licensing Sub-Committee. As a result of the coronavirus pandemic it has not been possible to hold Licensing Sub-Committee hearings in person. The duration of disruption is unclear, and whilst it is possible to continue to request the Chair of each Sub-Committee to consider an amendment to the procedures to take account of remote hearings, it is considered appropriate to formally incorporate such procedures into an Annex 2 to Part 5F and an Annex 2 to Part 5G so that this is not necessary for each meeting which is held remotely in future.
- 3.2 Currently the Council's arrangements for Licensing Sub-Committee hearings do not specifically reference remote/virtual hearings although remote hearings are possible both under the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 which govern Licensing Sub-Committee hearings under the Licensing Act but also by virtue of the introduction of new powers set out in The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ('the Flexibility Regulations') which was introduced pursuant to the Coronavirus Act 2020 and allows for remote attendance at council meetings.
- 3.3. The Coronavirus Act 2020 ('the CV Act') is the government's main legislative change in response to the pandemic. Most of its provisions came into effect on 25 March 2020 but detailed further legislation in the form of statutory instruments as well as additional government guidance have been issued since that date and continue to be published.

- 3.4 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No. 392 ('the Flexibility Regulations') exercise powers set out in section 78 of the CV Act and make specific legislative provision for remote attendance at meetings including public and press access to those meetings. The Flexibility Regulations came into force on 4 April 2020 and apply to local authority meetings held on or before 7 May 2021.
- 3.5 The Chair of the Licensing Sub-Committee is authorised to vary the procedure which applies to individual Licensing Sub-Committee hearings under the Licensing Act 2003 or under the Gambling Act 2005 in respect of any hearing if he/she considers that this would facilitate the proper consideration of the application or notice before the Licensing Sub-Committee. In addition, the Licensing Sub-Committee may waive, vary or modify any part of Part 5F protocol in relation to a particular case if it considers that this is necessary to ensure fairness to the Parties and/or proper consideration of the application in question, provided always that this does not result in any contravention of the Licensing Act 2003 (Hearings) Regulations 2005. The same provision is made in respect of Part 5G, provided always that this does not result in any contravention of the Gambling Act 2005 (Proceedings of Licensing Committees & Sub-Committees) (Premises Licenses And Provisional Statements)(England And Wales) Regulations 2007
- 3.6 Pursuant to the above provisions, the Chair of the Sub-Committee agreed to vary the procedure (in line with Appendix 1) which applied to the following Licensing Sub-Committee hearings on the basis that the Chair considered that this would facilitate the proper consideration of the application or notice before the Licensing Sub-Committee:
- Thursday 28 May 10.30am
Tuesday 23 June 10.30am
Tuesday 18 August 10.30am
Thursday 24 September 10.30am
- In addition, a licensing sub committee hearing is currently scheduled for 6 October 2020 and the Chair will be asked to vary the procedure for that hearing as well, as the papers for that hearing will have been published before this Committee meeting and the parties have been notified of the temporary amendments to the hearings protocol (LA2003).
- 3.7 In order to facilitate the ongoing performance of the functions of the Licensing Sub-Committee and to remove the necessity for the Chair to consider a variation to the procedure for each meeting which is held remotely in future, the Committee is asked to agree an amendment to Part 5F and Part 5G to include an Annex 2 which sets out the remote hearings protocol and update Part 5F and Part 5G to include appropriate reference to Annex 2. In respect of Part 5F, it is also necessary to rename the current Annex 2 and Annex 3 and update all the references to Annexures throughout Part 5F.
- 3.8 The proposed wording for Annex 2 to Part 5F is identical to the current wording

of Annex 1 (which applies to all in person Licensing Sub-Committee hearings) save in the following respects where it is amended:

- to make specific reference (in Note 3 which is a completely new paragraph) to remote meetings and how this is defined
- consequential wording alterations to incorporate the remote meeting arrangements
- to provide (in paragraphs 19 and 20) that where a decision is required to be made at the conclusion of a hearing and members' deliberations, members will return from private deliberations to announce the decision and reasons. Where however the Regulations do not require a decision to be given at the conclusion of the hearing, it will be given to the Parties in writing within 5 working days following the conclusion of the hearing.

3.9 The proposed wording for Annex 2 to Part 5G is identical to the current wording of Annex 1 (which applies to all in person Licensing Sub-Committee hearings) save in the following respects where it is amended:

- to make specific reference (in Note 3 which is a completely new paragraph) to remote meetings and how this is defined
- consequential wording alterations to incorporate the remote meeting arrangements
- to provide (in paragraphs 19 and 20) that where a decision is required to be made at the conclusion of a hearing and members' deliberations, members will return from private deliberations to announce the decision and reasons. Where however the Regulations do not require a decision to be given at the conclusion of the hearing, it will be given to the Parties in writing within 5 working days following the conclusion of the hearing.

4 FINANCIAL CONSIDERATIONS

4.1 There are no direct financial implications arising from this report. The work associated with it is contained within the departmental budget. This decision will enable officers and Members to be efficient and focus limited resources appropriately in a timely manner.

4.2 Approved by: Felicia Wright, Head of Finance, Place

5. LEGAL CONSIDERATIONS

5.1 The Head of Corporate Law and Litigation comments on behalf of the Director of Law and Governance that there are no additional legal implications arising from the recommendations beyond those set out in the body of the report.

5.2 Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Law and Governance and Deputy Monitoring Officer.

6. HUMAN RESOURCES IMPACT

- 6.1 The Human Resources impact of supporting the Licensing Hearings will be contained within the budgeted establishments of the Democratic and Legal Services and Licensing Teams.
- 6.2 (Approved for and on behalf of Sue Moorman, HR Director, by Jennifer Sankar, Head of HR Place).

7. EQUALITIES IMPACT

- 7.1 There are no direct equality impacts arising out of the proposals in this report
- 7.2 The arrangements for the Licensing Hearings will seek to ensure that all applicants and other interested parties receive a fair hearing and that the process is inclusive and accessible to all groups within the community.
- 7.3 Approved by Yvonne Okiyo, Equalities Manager, Policy and Partnerships

8. ENVIRONMENTAL AND DESIGN IMPACT

- 8.1 The effective implementation of the Licensing Act 2003 will contribute to an improved environment for local residents and other stakeholders.

9. LICENSING OBJECTIVES IMPACT

- 9.1 The licensing objectives contained in the Licensing Act 2003 are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm.

The Licensing Objectives in the Gambling Act 2005 are:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

- 9.2 The proposed amendments to arrangements for the Licensing Hearings seek to ensure that all applicants and other interested parties receive a fair hearing and that the process is accessible to all groups within the community whilst being mindful of the current restrictions as a result of Covid-19

10. REASONS FOR RECOMMENDATIONS

- 11.1 The recommendations are to add a new Annex 2 to both Part 5F and Part 5G to take account of the need to undertake remote hearings as well as the legislative changes set out in the The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 which permit remote attendance at meetings to take place during the pandemic.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 The alternative options would be continue to hold Licensing Sub-Committee hearings but this would be a breach of the government's regulations regarding social distancing and would not be compatible with measures in place to stop the spread of coronavirus or not to alter the current provisions within Part 5F and Part 5G. The latter is not considered to facilitate the proper consideration of the application/s before the Licensing Sub-Committee in the same way that the proposed amendments would do.

13. DATA PROTECTION IMPLICATIONS

- 13.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

NO

REPORT AUTHOR / CONTACT OFFICER: Michael Goddard, Interim Head of Public Protection and Licensing, Place Department ext. 61838

BACKGROUND DOCUMENTS: None

APPENDICES:

Appendix 1 - Proposed new Annex 2 to Part 5F
Appendix 2 - Proposed new Annex 2 to Part 5G