

# CONSTITUTION OF THE LONDON BOROUGH OF CROYDON

## Part 5.F – Protocol for Licensing Hearings

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2<sup>nd</sup> Revision: 22.11.07

Updated: 30 September 2020 - approved by the Licensing Committee on 30  
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### 1. DEFINITIONS

1.1 In this Protocol:

- **'The Act'** means the Licensing Act 2003.
- **'The Regulations'** means the Licensing Act 2003 (Hearings) Regulations 2005 and the Licensing Act 2003 (Hearings) (Amendment) Regulations 2005.
- **'Applicant'** means the applicant for a licence under the Licensing Act 2003. This includes an applicant making an application for a new premises licence or club premises certificate, a variation to a premises licence or club premises certificate, a personal licence, a transfer, an interim authority, designated premises supervisor, a provisional statement or a temporary event notice. The term Applicant also refers to a person representing the Applicant.
- **'The Authority'** means the Licensing Authority for the London Borough of Croydon.
- **'Licensing Sub-Committee'** means a Sub-Committee of the Licensing Committee empowered under the Act and the Council's Constitution to determine applications under the Act.
- **'Party to the hearing'** means a person to whom a notice of hearing is required to be given in accordance with Regulation 6(1) of the Regulations including the Applicant, Responsible Authorities and 'Other Persons' and "Party" and "Parties" shall be construed accordingly. "Party" includes a person representing the Applicant, Responsible Authority and Other Persons.
- **'Responsible Authority'** means a person or body as defined by the Act and/or the Regulations and includes the Police, the Fire Authority, the Health Authority, the Licensing Authority, Planning Officers, Noise and Nuisance Officers, Health and Safety Officers Trading Standards Officers and officers responsible for protecting children from harm. "Responsible Authority" includes a person representing the Responsible Authority.
- **'Other Persons'** means any of the following: -
  - An individual or a body representing the same;
  - a business or a body representing the same."Other Person" and "Other Persons" shall be construed accordingly. "Other Person" includes a person representing the 'Other Person'

## **2. INTRODUCTION/APPLICATION OF PROTOCOL**

- 2.1 This protocol applies to hearings held by the London Borough of Croydon under the Act. It sets out how the Licensing Committee and its Sub-Committees will manage their business under the Act and the procedure to be followed in determining applications/requests for review and at hearings.
- 2.2 The protocol shall comply with the Regulations and any regulations or enactment amending or replacing the same. The protocol applies to all applications which are required under the Act to be determined by the Licensing Sub-Committees, and to the conduct of all Members whether or not Members of the Licensing Committee or its Sub-Committees.

## **3. DETERMINATION OF APPLICATIONS**

- 3.1 Where a hearing is required under the Act, this shall be held by one of the Licensing Sub-Committees.
- 3.2 Applications and other matters shall be determined in accordance with the Guidance issued under section 182 of the Act. Unopposed applications will be determined by officers under delegated authority, except where the Act or Regulations require otherwise. Officers will report periodically to the Licensing Committee on applications determined under delegated authority.

## **4. THE LICENSING SUB-COMMITTEES**

- 4.1 The membership of each Licensing Sub-Committee shall be three Members, drawn from the pool of 22 Members and Reserve Members of the Licensing Committee. The Council Solicitor, Director of Democratic and Legal Services shall, after consultation with the appropriate Group Whip(s), nominate Members, to serve on meetings of the Licensing Sub-Committees taking into account member availability, group proportionality and the need to avoid any potential conflict of interests.
- 4.2 The quorum of the Licensing Sub-Committee is three Members and all three Members must be present throughout the hearing.
- 4.3 Each Political Group shall nominate a reserve member for each meeting of the Licensing Sub-Committee to provide for the eventuality that a Member is unavailable at short notice.
- 4.4 The Licensing Sub-Committees shall be subject to the 'access to information' rules applying to committees and sub-committees appointed under Section 102 of the Local Government Act 1972 and the Council's Access to Information Procedure Rules set out in Part 4B of this Constitution, provided always that the Licensing Sub-Committees may at any time decide to withdraw to private session to deliberate on any matter.
- 4.5 The Licensing Sub-Committees shall be subject to the 'political balance' rules applying to committees and sub-committees appointed under Section 102 of

the Local Government Act 1972.

- 4.6 The Licensing Sub-Committee shall appoint a chair for the meeting from amongst its Membership at the start of each meeting.

## **5. HEARINGS**

- 5.1 Hearings will be convened and conducted in accordance with the procedures at Annex 1 and Annex 2 to this protocol (as applicable).
- 5.2 Hearings shall normally take place at the Town Hall, Katharine Street, Croydon though as at Annex 2, hearings may also be held remotely, online. Hearings may take place during the daytime or evening.
- 5.3 The agenda for meetings of the Licensing Sub-Committees shall be agreed by the Council Solicitor, Director of Democratic and Legal Services after any necessary consultation with the relevant Chair. The Council Solicitor, Director of Democratic and Legal Services, after consultation with the Chair and the Licensing Officer, shall determine how many applications shall be heard at each meeting of the Licensing Sub-Committee and in what order, taking into account all relevant factors including the number of parties who are present for each item.
- 5.4 Hearings shall be scheduled in accordance with the timescales set out in the Regulations. In general a hearing must be held within 20 working days after the time has expired for making representations.

## **6. NOTIFICATION OF HEARINGS**

- 6.1 The Applicant and all parties who have made relevant representations shall be notified of the hearing in accordance with the timescales set out in the Regulations. Information to accompany the notice of hearing shall be provided in accordance with the Regulations, and shall include:
- a copy of this Protocol;
  - confirmation that a Party may be assisted or represented by a person whether or not that person is legally qualified;
  - confirmation that a Party to the hearing may address the Authority, give further information on a point on which the Authority requires clarification and, if considered by the Licensing Sub-Committee to be required, question another Party to the hearing;
  - the consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the Party's absence); and
  - a note of any particular points on which the Authority wants clarification.
- 6.2 In order to consider whether there are any issues of clarification to be requested, from Applicants or those making representations, Members of the Licensing Sub-Committee may meet with the Clerk and/or Legal Adviser in advance of the hearing. No decisions will be made or discussions held regarding the substantive merits of the application or submissions at this meeting.

- 6.3 Subject to any restrictions in the Regulations, a Party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- 6.4 All Parties upon whom a notice of hearing has been served are required to give to the Authority, in accordance with the timescales set out in the Regulations, notice of:
- whether they intend to attend or to be represented at the hearing;
  - whether or not they consider a hearing to be unnecessary; and
  - whether they wish to request that another person appear at the hearing (other than their representative). If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the Authority.
- 6.5 The Authority may dispense with the requirement to hold a hearing if all Parties agree that such a hearing is unnecessary provided (1) all the Parties involved in the application agree to dispense with a hearing and (2) all Parties have each served a notice on the Authority that a hearing is unnecessary. Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 6.4 above, the Authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the Parties that the hearing has been dispensed with and the application will be determined by the officers under delegated authority. The Authority will determine the application within **10 working days** from the date the Notice is served dispensing with the hearing. Once the application has been determined the Authority will notify the Parties of its decision forthwith.
- 6.6 Subject to the requirement to determine an application within the timescale set out in the Regulations and to any other restrictions contained in the Regulations, the Authority has the power to extend a time limit specified in the Regulations for a specified period where it considers this is necessary in the public interest, or to adjourn a hearing to a specified date. Where the Authority has exercised its discretion to extend a time limit or adjourn a hearing, it must forthwith give notice to the Parties, stating the period of the extension and the reasons why it considers it is necessary in the public interest, or the date, time and place to which the hearing has been adjourned, as appropriate.

## **7. FAILURE OF PARTIES TO ATTEND THE HEARING**

- 7.1 If a Party, who has not given prior notice of his/her intention not to attend the hearing, is absent from the hearing the Licensing Sub-Committee may either adjourn the hearing or hold the hearing in the Party's absence. Where the hearing is held in the absence of a Party, the Licensing Sub-Committee will still consider the application, representation or notice submitted by that Party.

## **8. OFFICERS TO ATTEND THE HEARING**

- 8.1 The hearing will be attended by a Legal Officer, a Democratic Services Officer who shall act as the clerk, and a Licensing Officer. The officers are present to provide advice and are not Parties to the hearing. Where the Licensing

authority determines that it will make representations as a Responsible Authority, these representations will not be made by the same Licensing Officer who presents the application to the Sub-Committee at the hearing.

8.2 The role of the Legal Officer is to provide legal advice relating to the application and submissions. Any legal advice that may be given to the Licensing Sub-Committee in private shall be repeated when the Licensing Sub-Committee returns in open session.

8.3 The role of the Clerk is to record the hearing and the decisions of the Licensing Sub-Committee, and to ensure efficient administration.

## **9. LICENSING OFFICER'S REPORT TO THE LICENSING SUB-COMMITTEE**

9.1 The Licensing Officer shall prepare a report for consideration by the Sub-Committee including:

- a brief summary of the application;
- a brief summary of representations by responsible authorities and Interested Parties;
- relevant aspects of the Council's Licensing Policy and National Guidance; and
- Other information as appropriate and as included in the Council's standard report format.

9.2 The Licensing Officer's report shall be sent to the Parties and will be accompanied by the relevant documentary material that has been submitted by the Parties.

9.3 After having heard the representations and prior to retiring to make its decision the Licensing Sub-Committee may, if it wishes, seek the guidance of the licensing officer regarding possible suitable conditions in respect of any particular application.

## **10. REPRESENTATIONS**

10.1 Other Person(s) or Responsible Authority may make written representations about an application for a premises licence or certificate. Generally these must be made at any time up to and including 20 working days after the day on which the application was received. A copy of all relevant representations will be provided, in full, to the Applicant. The papers for the Licensing Sub-Committee hearing will be available to the press and public. Correspondence submitted anonymously will not be considered.

10.2 Licensing Sub-Committee Members will not enter into correspondence or discussion with Applicants, their agents or representatives, Other Persons or Responsible Authorities about the merits of the application(s) they may be called upon to decide.

10.3 Where an application is to be decided at a hearing by the Licensing Sub-Committee, Applicants and those who have made relevant written

representations in connection with the application, will be invited to attend.

- Representations or requests for review will only be relevant if they relate to one or more of the four licensing objectives:  
the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

10.5 At the hearing a Party shall be entitled to:

- give further information in response to a point upon which the Authority has given notice that it will want clarification;
- if given permission by the Authority, question any other Party; and
- address the Authority.

10.6 Members of the Licensing Sub-Committee may question any Party or other person appearing at the hearing.

10.7 In considering any representations or notice made by a Party the Authority may take into account documentary or other information produced by a Party either before the hearing or, with the consent of all the other Parties, at the hearing.

10.8 Statements made by people in support of a Party's representation who are not present at the hearing, must be signed by the maker, dated and witnessed by another person. The statement must also contain the witness's full name and occupation.

10.9 A Party who wishes to withdraw any representations they have made, may do so by giving written notice to the Authority no later than 24 hours before the day on which the hearing is scheduled to be held, or orally at the hearing.

10.10 The Licensing Sub-Committee has the discretion to consider whether to take into account any documentary or other evidence produced by a Party before the hearing. Any documentary or other evidence produced by any Party in support of an application, representations or notice of hearing, which has not been produced before the hearing can only be heard with the consent of all other Parties present, and the Licensing Sub-Committee. During the hearing no new matters may be raised without the express consent of the Chair of the Licensing Sub-Committee.

## **11. HEARINGS TO BE OPEN TO THE PUBLIC**

11.1 The hearing will take place in public. However, the Licensing Sub-Committee may exclude the public (including a Party and any person assisting or representing a Party) from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

11.2 The Chair may exclude from the hearing any person who is behaving in a disruptive manner. This may include a Party who is seeking to be heard at the

hearing. In the case where a Party is to be excluded, the Party may submit to the Licensing Sub-Committee in writing any information which they would have been entitled to give orally had they not been excluded from the hearing.

- 11.3 The Licensing Sub-Committee may retire into private session during or at the end of the hearing to deliberate on any matter or decide how it wishes to determine the application. The Licensing Sub-Committee may be accompanied by the Clerk and the Legal Advisor who will be available to assist the Licensing Sub-Committee with any legal problems but will not participate in any decision making of the Licensing Sub-Committee.

## **12. DETERMINATION OF APPLICATIONS**

- 12.1 Normally the Licensing Sub-Committee shall make its determination at the conclusion of the hearing and in all cases the Licensing Sub-Committee shall make its determination in accordance with the timescales laid down by the Regulations.
- 12.2 Where all Parties have notified the Authority that a hearing is not required and the Authority agrees that a hearing is not required, the application shall be determined in accordance with the timescales set out in the Regulations.
- 12.3 The Licensing Sub-Committee shall give reasons for its decision and these shall be recorded in the minutes of the meeting.
- 12.4 The Authority shall notify Parties of its determination, and provide any accompanying information in accordance with the Regulations. The Chief Officer of Police shall also be notified even in a case where the Police have not made a representation.

## **13.1 RECORD OF PROCEEDINGS**

- 13.1 The Authority shall keep a record of the hearing in a permanent and intelligible form for 6 years from the date of the determination or, where an appeal is brought against the determination of the Authority, from the disposal of the appeal.

## **14. CODE OF CONDUCT AND PRINCIPLES OF DECISION-MAKING**

- 14.1 Members shall at all times comply with the provisions of the Members' Code of Conduct.
- 14.2 In making their determinations under the Act, Members shall have regard to:
- the material relevant facts in light of the evidence presented;
  - the relevant statutory provisions;
  - relevant national guidance and the policy statement;
  - the licensing objectives; and
  - the individual merits of the case.
- 14.3 Applications shall be determined on the basis of whether they promote the

licensing objectives in the Act, namely:

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

14.4 The Licensing Sub-Committee shall disregard any information or evidence given which is not relevant to the application, representations or notice; or to the promotion of the licensing objectives.

14.5 Decisions must not be influenced by any political party direction whether given at a previous party group meeting or otherwise.

14.6 Members of the Licensing Committee or its Sub-Committee(s) must act without bias or predetermination, must have no disclosable pecuniary interest (DPI) in any application before them, and must keep an open mind on all applications until they have considered all of the evidence and arguments presented. They shall not take or express any view on the merits of an application, nor organise support for or opposition to any application in advance of a hearing. Any Member who does so shall not be eligible to serve on the Licensing Sub-Committee [meeting] that hears the application.

## **15. MEMBERS' INTERESTS: GENERAL**

15.1 Members must at all times comply with the Members' Code of Conduct in relation to the disclosure of disclosable pecuniary interests, participation in relation to disclosed interests and registration of disclosable pecuniary interests and other interests and of gifts and hospitality.

## **16. MEMBERS' INTERESTS: MEMBERS OF THE LICENSING COMMITTEE**

16.1 A Member of the Licensing Committee who has been involved in a licence application shall not serve on the Licensing Sub-Committee hearing at which the licence application is to be determined.

16.2 No Member sitting on the Licensing Sub-Committee can represent one of the interested Parties or applicant. If a Member wishes to do so s/he must excuse him/herself from membership of the Licensing Sub-Committee which is considering the application and address the Licensing Sub-Committee as a representative for an Interested Party (subject to 17.2 below).

16.3 Members involved in Council meetings which approved the Licensing Policy (or any amendment to it), will not be excluded from membership of the Licensing Sub-Committee solely on this basis.

## **17. MEMBERS' INTERESTS: WARD MEMBERS AND OTHER MEMBERS**

17.1 Under the Members' Code of Conduct a Member who has a disclosable pecuniary interest must, if the interest is not one which is already on the register of interests or subject to a pending notification to the Monitoring Officer,

disclose the existence of that interest to the meeting and thereafter notify the Monitoring Officer of that interest within 28 days of this disclosure.

- 17.2 Where a Member has a disclosable pecuniary interest in relation to the application under consideration they may not sit on that sub-committee.
- 17.3 Any Member with a disclosable pecuniary interest is also precluded from making representations orally to the Sub-Committee or from making representations on behalf of a party to the hearing. They can still present their views through other means. For example, the Member can:
- make written representations in their private capacity. The existence and nature of the interest should be disclosed in such representations and the Member should not seek preferential consideration for their representations. Such written representations should be addressed to officers rather than other Members of the Authority;
  - use a professional representative to make an application on the Members behalf; or
  - arrange for another Member of the Authority to represent the views of the Member's constituents on matters in which their ward Member has a disclosable pecuniary interest.
- 17.4 The Member who has a disclosable pecuniary interest but has been asked to represent the views of a party making representations should advise them about that interest and inform them that another Member may represent their views on the issue. When representing those views the other Member should make it clear to the relevant committee or officers that he or she is acting in place of the original Member because of that Member's disclosable pecuniary interest.

## **18. LOBBYING**

- 18.1 If a Member of the Licensing Committee is approached by a person(s) wishing to lobby him/her on a licence application then that Member should explain that they cannot discuss the matter and refer the lobby person(s) to the Licensing Officer or his/her Ward Member who can explain the process of decision making. Any written representations received by a Member of the Licensing Committee should be passed to the Licensing Officer and reported at the hearing at which the application is being determined. Requests for procedural advice with regards to licensing applications should be referred to Council Officers for advice and information.
- 18.2 Other Members must not lobby Members who sit on the Licensing Sub-Committee, directly or indirectly, before or after a meeting, in writing or otherwise, in respect of items to be decided by the Licensing Sub-Committee. Any representation by other Members, on behalf of an Other Person(s), should be sent to the relevant Licensing Officer for inclusion in his/her report. A Member shall not attempt to use her/his status as a Member to influence consideration of a submission, or try to get officers to change a decision or recommendation.

## **19. SITE VISITS**

- 19.1 The Licensing Sub-Committee may undertake a site visit to the premises which are the subject of an application. If required, the site visit may occur prior to the hearing or the Licensing Sub-Committee may adjourn the hearing part way through to undertake a site visit. The Chair of the Licensing Sub-Committee shall give reasons justifying the need for a site visit and these shall be notified to the Parties.
- 19.2 If a site visit is necessary the following procedure should be observed:
- the visit should be undertaken as a group visit attended by all the Licensing Sub-Committee Members and its purpose should be confined to that indicated by the Chair;
  - the visit should be attended by an officer who may be asked factual questions by the Members;
  - no indication of the likely outcome of the application should be given on the visit;
  - no representation from the applicant or from those making representations shall be heard or accepted on the visit; and
  - a record should be kept of those attending the visit, the questions asked, and answers given.

## **20. APPLICATIONS SUBMITTED BY THE LOCAL AUTHORITY OR BY ANOTHER PUBLIC AUTHORITY**

- 20.1 Where the Authority is the applicant for a licence, that application shall be determined in accordance with the normal procedure. The Licensing Sub-Committee shall give no regard to the interests of the Council itself, aside from receiving relevant representations on this issue. Members who were part of the Authority's decision to apply for the licence, or who express a view in respect of such an application, shall not serve on the Licensing Sub-Committee to determine the application.
- 20.2 A Member who also serves on another local authority, or carries out a function for another public authority, or is appointed by Croydon Council as its representative on another body, shall not serve on the Licensing Sub-Committee to determine an application which has been made by that other authority or body, or on which that other authority or body has made a representation.

## **21. VARIATION/AMENDMENT OF THIS PROTOCOL**

- 21.1 The Licensing Sub-Committee may waive, vary or modify any part of this 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 Regulations.
- 21.2 This protocol may be amended by the Licensing Committee. In addition, where amendments to this protocol are necessary due to legislative changes, the

Council Solicitor, Director of Democratic and Legal Services may make such consequential changes to this Protocol as are necessary to take such changes into account.

## **ANNEX 1 - Procedure for Licensing Sub-Committee Hearings**

Note: (1) This procedure shall normally be followed for all Hearings held by the Licensing Sub-Committee(s). The Chair may vary the procedure 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.

Note: (2) The hearing shall take the form of a discussion led by the Licensing Sub-Committee. Cross-examination shall not be permitted unless the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice before it.

1. The Licensing Sub-Committee will elect a Chair from amongst their number
2. The Chair will introduce those present, Parties to indicate their names and who they represent. Chair to ascertain who will speak.
3. The Chair of the Licensing Sub-Committee will inform the Parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused (Note this relates to people other than those attending on behalf of a Party in the capacity as a representative of the Party).
4. The Chair will explain to the Parties the procedure to be followed at the hearing and to consider any request made by a Party in accordance with the Regulations for permission for another person to appear at the hearing (Such permission shall not be unreasonably withheld).
5. The Licensing Sub-Committee will confirm or vary the time limits set out below to be applied to contributions from the Parties. (Note: under the Regulations an equal maximum time period must be allowed to the Parties to exercise their rights under the Regulations).
6. The Chair will summarise the paperwork before the Licensing Sub-Committee and confirm that all present have copies; will ascertain whether any representations have been or are now to be withdrawn, and will hear any requests to adduce additional documentary or other information.
7. The Licensing Officer will outline:
  - details of the application and relevant representations received from the Parties; and the outcome of any discussions
  - relevant legislation;
  - relevant Licensing Policy; and
  - the time limit in which the Council must reach a determination.
8. The Chair will invite each of the Parties or their representative in turn to address the Licensing Sub-Committee and call any person/s to whom permission has been granted to appear. Each Party will be allowed a maximum period of 10 minutes in which to address the Licensing Sub-Committee and call persons on his/her behalf, and clarify any points on which the Licensing Sub-Committee has sought clarification prior to the hearing. This

10 minute period should be uninterrupted unless a member of the Licensing Sub-Committee or Legal Adviser considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.

9. Members of the Licensing Sub-Committee or their Legal Adviser may ask questions of any Party, at any time throughout the proceedings.
10. The sequence in which each of the Parties will be invited to address the Licensing Sub-Committee will normally be in the order of:
  - the Police;
  - the Fire Authority;
  - the Health Authority
  - the Licensing Authority
  - the Health and Safety at Work Enforcing Authority;
  - the Local Planning Authority;
  - the Local Environmental Health Authority – Noise and Nuisance Officers;
  - the Local Trading Standards Authority;
  - the Authority Responsible for the Protection of Children from Harm;
  - any Other Person(s) that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Licensing Sub-Committee (if there are a large number of Other Persons present who are making relevant representations they may be invited to share the maximum time available or to nominate a spokesperson to speak on their behalf); and
  - the Party that has submitted the application, certificate, notice or other matter appearing before the Licensing Sub-Committee.
11. At the discretion of the Licensing Sub-Committee the above order may be varied.
12. Parties may give their evidence by making a statement or if appropriate by being questioned by the person calling them.
13. If the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require, a period of up to 5 minutes cross-examination shall be allowed after each submission.
14. The Sub-Committee will then ask any outstanding points requiring clarification.
15. The Chair will ask the Applicant whether in the light of any representations made, they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
16. If the Applicant makes any comments in relation to 15 above, the Licensing Sub-Committee will ask the other Parties whether they wish to make any further comment in relation to any amendment or additional comments offered by the Applicant.
17. The Chair will invite the Parties to indicate if they wish to make any final

comments. If any Party wishes to do so they will be given a maximum of 3 minutes to do so and the other Parties will be given the same maximum period, finishing with the Applicant.

18. The Licensing Sub-Committee will deliberate on and determine the matter under consideration. The Licensing Sub-Committee may withdraw to a private room to do this.
19. The Licensing Sub-Committee will return to open session. The Chair will ask the Legal Adviser to inform the Parties of any legal advice given during the Licensing Sub-Committee's private discussion that has informed their decision.
20. The Chair will then announce in open session to all Parties the decision of the Licensing Sub-Committee and reasons, unless (where permitted by the Regulations) the decision is to be communicated at some later time.

## **ANNEX 2 - Procedure for Remote Licensing Sub-Committee Hearings**

Note: (1) This procedure shall normally be followed for all Hearings held by the Licensing Sub-Committee(s). The Chair may vary the procedure 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.

Note: (2) The hearing shall take the form of a discussion led by the Licensing Sub-Committee. Cross-examination shall not be permitted unless the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice before it.

Note: (3) Having regard to the Licensing Act 2003 (Hearings) Regulations 2005, The Coronavirus Act 2020 (in so far as it impacts on licensing proceedings) and The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020: any reference to hearing may be to a virtual or remote hearing which is not limited to a meeting of persons all of whom, or any of whom, are present in the same place and any reference to a "place" where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers and "present", "appear" and "attend" shall be construed accordingly.

1. The Licensing Sub-Committee will elect a Chair from amongst their number
2. The Chair will invite those present to introduce themselves, Parties to indicate their names and who they represent. Chair to ascertain who will speak.
3. The Chair of the Licensing Sub-Committee will inform the Parties whether their applications to have certain people attend the hearing (e.g. witnesses) have been granted or refused (Note this relates to people other than those attending on behalf of a Party in the capacity as a representative of the Party).
4. The Chair will explain to the Parties the procedure to be followed at the hearing and to consider any request made by a Party in accordance with the Regulations for permission for another person to appear at the hearing (Such permission shall not be unreasonably withheld).
5. The Licensing Sub-Committee will confirm or vary the time limits set out below to be applied to contributions from the Parties. (Note: under the Regulations an equal maximum time period must be allowed to the Parties to exercise their rights under the Regulations).
6. The Chair will summarise the paperwork before the Licensing Sub-Committee and confirm that all present have copies; will ascertain whether any representations have been or are now to be withdrawn, and will hear any requests to adduce additional documentary or other information.
7. The Licensing Officer will outline:
  - details of the application and relevant representations received from the

- Parties; and the outcome of any discussions
  - relevant legislation;
  - relevant Licensing Policy; and
  - the time limit in which the Council must reach a determination.
8. The Chair will invite each of the Parties or their representative in turn to address the Licensing Sub-Committee and invite any person/s to whom permission has been granted to appear. Each Party will be allowed a maximum period of 10 minutes in which to address the Licensing Sub-Committee and call persons on his/her behalf, and clarify any points on which the Licensing Sub-Committee has sought clarification prior to the hearing. This 10 minute period should be uninterrupted unless a member of the Licensing Sub-Committee or Legal Adviser considers that the speaker is making submissions that are irrelevant, frivolous or vexatious.
  9. Members of the Licensing Sub-Committee or their Legal Adviser may ask questions of any Party, at any time throughout the proceedings.
  10. The sequence in which each of the Parties will be invited to address the Licensing Sub-Committee will normally be in the order of:
    - the Police;
    - the Fire Authority;
    - the Health and Safety at Work Enforcing Authority;
    - the Local Planning Authority;
    - the Local Environmental Health Authority – Noise and Nuisance Officers, Waste Management Officers;
    - the Local Trading Standards Authority;
    - the Authority Responsible for the Protection of Children from Harm;
    - any Other Party that has submitted representations in respect of the application, certificate, notice or other matter appearing before the Licensing Sub-Committee (if there are a large number of Other Persons present who are making relevant representations they may be invited to share the maximum time available or to nominate a spokesperson to speak on their behalf); and
    - the Party that has submitted the application, certificate, notice or other matter appearing before the Licensing Sub-Committee.
  11. At the discretion of the Licensing Sub-Committee the above order may be varied.
  12. Parties may give their evidence by making a statement or if appropriate by being questioned by the person calling them.
  13. If the Licensing Sub-Committee considers that cross-examination is required for it to consider the representations, application or notice as the case may require, a period of up to 5 minutes cross-examination shall be allowed after each submission.
  14. The Sub-Committee will then ask any outstanding points requiring

clarification.

15. The Chair will ask the Applicant whether in the light of any representations made, they wish to amend their application or offer any additional conditions to overcome the representations and/or promote the licensing objectives.
16. If the Applicant makes any comments in relation to 15 above, the Licensing Sub-Committee will ask the other Parties whether they wish to make any further comment in relation to any amendment or additional comments offered by the Applicant.
17. The Chair will invite the Parties to indicate if they wish to make any final comments. If any Party wishes to do so they will be given a maximum of 3 minutes to do so and the other Parties will be given the same maximum period, finishing with the Applicant.
18. The Licensing Sub-Committee will deliberate on and determine the matter under consideration. The Licensing Sub-Committee may withdraw to do this privately.
19. Where a decision is required to be made at the conclusion of the hearing, the Licensing Sub-Committee will return to open session following their private deliberations. The Chair will ask the Legal Adviser to inform the Parties of any legal advice given during the Licensing Sub-Committee's private discussion that has informed their decision. The Chair will then announce in open session to all Parties the decision of the Licensing Sub-Committee and reasons, unless (where permitted by the Regulations) the decision is to be communicated at some later time.
20. Where a decision is not one which is required to be made at the conclusion of the hearing, the meeting will be concluded and thereafter the Members will undertake their deliberations. Parties will be notified of the decision of the Sub Committee and the reasons for that decision in writing within 5 working days following the conclusion of the hearing.

### ANNEX 3 – Delegation of Functions

Applications and other matters shall be determined under delegated powers in accordance with the following schedule:

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for personal licence		If a police objection is raised	If no objection is made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club registration Certificate		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club registration Certificate		If a relevant representation is made	If no relevant representation is made
Application to vary designated premises supervisor		If a police Representation is made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection is raised	All other cases
Application for interim authorities		If a police objection is raised	All other cases
Application to review premises licence/club registration Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application.		All cases	
Determination of a police objection to a temporary event notice		All cases	