

## Guidance on remote hearings held under the Licensing Act 2003 and associated regulations

The following procedure shall be adopted in relation to the conduct of all hearings of Licensing Sub-Committees (known as Licensing Panels) which are held to consider applications submitted under the Licensing Act 2003 and associated regulations. The Council's Standing Orders, while still applying, are for hearings held pursuant to the Licensing Act 2003 to be interpreted in light of this guidance note and the fact that the hearing is being held remotely adjusted accordingly.

### A. System for conducting remote hearings

1. Camden will conduct remote hearings using Microsoft Teams ('Teams') using the calls functionality.
2. The remote hearing will be conducted via a Teams call, using both the audio and video functionality so all participants<sup>1</sup> in a remote hearing should be capable of being heard and seen. All decision-makers must maintain as a legal minimum an audio connection to the hearing, but may mute themselves when they are not speaking. It will not impact the lawfulness or otherwise of the hearing should a committee member not be able to see the other participants for any part of the hearing, nor if they be cannot be seen by other participants and / or the public. All participants will, as far as able, try to join the hearing using the Teams app or web browser and not via dialling into the hearing.
3. Unless a hearing is dealing with confidential items, it will be streamed to the public so that they may listen and watch (should video be available) but the public will not be able to participate unless section B6 below applies; these are hearings held in public via a digital connection, but are not public hearings.
4. The Chair will be provided with advice on procedure and hearing management by a committee officer, a lawyer and other relevant officers.
5. Hearings will be streamed live as well as recorded, stored and uploaded to the Council's website. The Council will aim to do this within 48 hours of the hearing finishing.
6. Minutes will be taken and published in the usual manner.
7. In line with existing standing orders, the ruling of the Chair on a point of order and on the construction or application of this guidance, procedure rules and standing orders shall not be challenged during any hearing, including any decision of the Chair to ask for contributors to be muted.

### Prior to the hearing

1. Agendas will be published on the [website](#) and via the modern.gov app and, unless a matter is urgent, five clear working days will elapse from the publication of the agenda to the holding of the hearing. Panel members will, as usual, receive an automated email when the agenda is published online containing a link to the agenda. They will also be provided with contact details to use in the event that their connection to the hearing is cut.

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<sup>1</sup> Participants are defined as members of the committee; other councillors who seek to address the hearing; officers advising the committee or presenting reports; any external partners / third-parties invited to address or advise the hearing; and any member of the public with speaking rights.

### Late papers

2. Parties to a licensing hearing may submit further late materials no later than 7pm, two working days before the hearing is due to start. These will be published online and circulated to the panel members. At the start of the relevant item, after the officer's presentation, the Chair will confirm which late papers have been circulated and invite each group of parties (responsible authorities, interested parties, applicant; or applicant, interested parties, licence holder) to set out in up to 2 minutes why the papers should be accepted or not. The panel members will then decide whether to admit the papers – taking advice as needed from officers – and take any adjournment necessary to ensure all voting members have read them.

### **B. At the hearing**

1. The committee officer will begin the remote hearing 15 minutes before the start time to allow participants to join promptly and check their audio / video feeds are working.
2. At the beginning of the formal hearing, the Chair will confirm attendance by calling the name of each of those expected to be in attendance and ask them to confirm that they are present, their role (voting member, guest member, advising officer or member of the public with speaking rights) and that they can hear proceedings. Any members who are acting as substitutes shall identify themselves as substitutes and say for whom they are substituting.
3. The usual rules as to numbers of members to create a quorum will apply, and presence in the hearing of a voting member or substitute will count towards the quorum.
4. The hearing will, as the first item of business on the agenda, note and agree the variations / interpretations of procedure rules as set out in this document. The hearing will then follow the published agenda as normal.
5. Any Member participating who declares an interest in any item of business which would normally require them to leave the room shall switch off their microphone and camera for the duration of the item so they cannot be heard or seen by the other participants. They should also refrain from sending any messages using the chat function during the item or do anything that may be reasonably perceived as trying to influence the debate. Any such action may be a breach of the Members' Code of Conduct. The relevant Member will still be able to see and hear the discussion and at the end of the item may switch their camera and microphone back on. The committee officer may use their ability to remotely switch microphones on and off to assist in this process.

### Public participation

6. Licensing hearings do not take deputations. The applicant / licence holder / parties making representations instead declare their intention to address the Committee beforehand. They will be sent a notice of the hearing as normal and are required to return this by 7pm, 2 working days before the hearing. Where a party has not indicated their intention to speak by this time, they will be presumed to not be addressing the Committee. Reasonable attempts will be made to accommodate those submitting late notifications, but their participation will not be guaranteed.
7. It is stressed to applicants / licence holders/ parties making representations that they must identify a single speaker and this may be themselves or another nominated person. They may invite others to speak as part of their submissions, but the panel will not

adjourn the hearing for a speaker who is not the identified single speaker for the party unless the Chair is persuaded that that the non-lead speaker has material information to impart to the panel.

### Debate

8. Panel members will indicate their desire to speak by submitting their name using the “chat” function on Teams. This “chat” will not be minuted nor be a formal part or contribution to the hearing. All participants should refrain from using the chat for any function other than indicating their wish to speak, indicating a loss of their audio feed (section C8) or to request a formal vote (section C21) and will be reminded about this at the outset of the hearing. Where a panel member has joined through dialling in, and therefore does not have access to the chat function, the Chair will at relevant points during items specifically invite those participants dialling-in to address the hearing or otherwise confirm they have no comments / questions.
9. When not speaking, participants will be asked to keep themselves muted. Officers may do this remotely to improve the audio quality of the hearing.

### Interruptions to connections

10. If a Member’s audio feed cuts out during the hearing they will:
  11. If still connected to Teams, use the ‘chat’ function to advise immediately that they can no longer hear the other participants;
  12. If they are unable to use the Teams ‘chat’ function, use the emergency contact details provided to alert the relevant officer (usually the committee officer) who will advise the Chair.
13. Where the Chair is notified of a panel member’s audio feed failing they will immediately stop the hearing and call a short adjournment of up to 15 minutes to re-establish the connection. Where the connection is re-established, the Chair will ask relevant participants to repeat in summary any part of the discussion that is considered reasonably necessary to ensure panel members have been given the same information as each other.
14. If after the 15 minutes adjournment, the connection to the panel member cannot be re-established then the hearing will resume – so long as there is still a quorum – and the Member will be deemed as having left the hearing and will be unable to vote on the item. They may, if able, rejoin the hearing and participate on later items.
15. If the Chair is the member affected by the interrupted connection, the committee officer will adjourn the hearing in line with sections C9 – C10. Upon the resumption, if the Chair has been unable to rejoin the hearing, the Vice-Chair will assume the Chair. Where there is no Vice-Chair, the committee officer will conduct a vote for a panel member to temporarily assume the chair. The usual Chair may resume their role at the start of the next item if they have resumed their connection.
16. Where a loss of connection renders a hearing inquorate, the normal procedure rules on inquoracy will apply i.e. the hearing will stand adjourned for up to 15 minutes (or 30 minutes if the committee officer deems it likely that a quorum can be achieved in that time). If after this time, a quorum has not been found then the hearing will conclude and the business stand adjourned to the next hearing of the panel.

17. Where the Chair is advised that the public audio feed is not working to a satisfactory standard, then they shall adjourn the hearing as if it was inquorate under section C12 (unless the hearing is in private session).

#### Voting

18. The Chair may, at their discretion, consider that there is an accord amongst panel members, and shall announce this to the hearing and not call for a formal vote. Should a panel member wish a formal vote to take place they should indicate this by way of the 'chat' function.
19. When the Chair elects to put a matter to the vote, they will ask the voting members of the panel to confirm that they were able to hear the item in full and to cast their vote on the recommendation(s) / motion. The chair will conduct a roll call in alphabetical order for each panel member to respond in turn.
20. Given the quasi-judicial nature of the business, should the Chair be in any doubt as to whether a panel member was present for the whole of an item they will not allow that panel member to vote.

#### Behaviour

21. The Chair will at their discretion be entitled to mute any contributors, including voting members, should they consider it appropriate. Should either a member or other participant become disruptive, the Chair will warn them and should that warning not result in a change of behaviour which is acceptable to the Chair then they shall, at their absolute discretion, be entitled to terminate the individual's participation in the hearing.

### **C. Confidential/Exempt Items**

1. Should the hearing have confidential or exempt items on the agenda, the Chair will move the usual motion to move into private session. This can be agreed by a general consensus of the voting members to the satisfaction of the Chair or by carrying out a roll call vote.
2. The hearing shall then stand adjourned until the Chair is satisfied, upon the advisement of the clerk, that the public live feed has paused and all participants not eligible to remain as a part of the hearing have been removed as such. Each Member in remote attendance must ensure and verbally declare that there are no other persons present who are not entitled to be (either hearing or seeing), and/or recording the proceedings.
3. When resolving to move back into public session, the hearing shall again adjourn until the Chair is satisfied, upon the advisement of the clerk, that the public live feed has resumed and all eligible participants have had their audio / video feeds restored satisfactorily.

### **D. Equalities**

1. It is recognised that that some persons who ordinarily would be able to participate in Council hearings in person will not be able to participate in remote hearings due to physical or other disability or because they lack the technological capability to do so. It is believed that this will only be a small minority of persons, but will likely disproportionately affect older persons and those of less financial means. We are aware that in terms of income those that fall within certain protected groups are statistically

more likely to lack the means to have access to that equipment or the ability to use it. There is therefore functionality to dial into a hearing instead of joining via the Internet, and the Council will support this as far as possible in line with the procedures set out above.

2. Teams has live captions functionality for remote hearings for the deaf / hard of hearing, which users can independently turn on; guidance on how to do so will be provided. The Council cannot accept any liability for the accuracy of these live captions.
3. The Council will consider any other requests for reasonable adjustments to be made in order to allow parties to be involved in remote Council hearings as far as circumstances at the time of the hearing allows.
4. In addition the Council will review and monitor the operation of its remote decision making and make adjustments when it considers it can further mitigate any adverse impact.

**ENDS**