

LICENSING SUB-COMMITTEE (HEARINGS) PROCEDURE RULES

These Rules are divided into two sections relating to the format of the meeting:

- **Section A:** Procedures for In-Person Meetings.
- **Section B:** Procedures for Virtual Meetings.

SECTION A: PROCEDURES FOR IN-PERSON MEETINGS

1. SCOPE OF THESE RULES

- 1.1. These Rules apply specifically to Licensing Sub-Committee Hearings under the Licensing Act 2003 ('the Act') and the *Licensing Act 2003 (Hearings) Regulations 2005* ('the Regulations') and should be read in conjunction with paragraphs 9 (Declarations of Interest), 16 (Councillors' Conduct) and 17 (Disturbance by Public) of the General Committee Procedure Rules as appropriate.

2. SPECIFIC LICENSING SUB-COMMITTEE RULES

- 2.1. **Establishment of a Sub-Committee:** A Sub-Committee will only be arranged when there is a requirement for a Hearing as defined in the Act.
- 2.2. **Membership:** A Sub-Committee will consist of a panel of three Councillors drawn from a pool of four Councillors who have confirmed that they are available to attend the scheduled Hearing. (The purpose of having four is to ensure that there is a reserve Councillor available to substitute for one of the other three Councillors in the event that one of the others cannot attend due to unforeseen circumstances.) The pool of four Councillors will be drawn from the Councillors appointed to the Licensing Committee. Endeavours will be made for the Sub-Committee membership to be drawn from different political parties where possible, although this is not a requirement in law.
- 2.3. **Quorum:** The quorum of a Sub-Committee will be three.
- 2.4. **Appointment of Chair:** A Chair will be elected from the membership of the panel.
- 2.5. **Officer Attendance:** A Council legal advisor ('Legal Clerk'), Democratic Services Officer and Licensing Officer will usually attend a Sub-Committee for the sole purpose of providing advice on law and procedure.
- 2.6. **Sub-Committee Pre Meeting:** The Sub-Committee will usually meet with the Democratic Services Officer and Legal Clerk in advance of a Hearing. The purpose of this meeting will be to identify any matters upon which the Sub-Committee may require clarification (see Paragraph 3.1 – Order of Business), to ensure the Sub-Committee members have all the documentation for the Hearing, and to remind themselves of the Hearing Procedure. During any pre-meeting **no** decisions will be made and **no** discussions will take place regarding the substantive merits of the application or representations.

- 2.7. **Minutes:** The minutes of the Sub-Committee remain the responsibility of the Licensing Committee and will be brought before a minimum of ten Committee Members for their approval at a Licensing Committee meeting. Only a member of the relevant Sub-Committee is permitted to question the accuracy of the minutes. Once the minutes have been agreed, they shall be signed by a member of that Sub-Committee, which would normally be the Chair of the Panel.
- 2.8. **Procedure at the Meeting:** The procedure to be followed at Sub-Committee meetings is outlined later in these Rules.
- 2.9. **Additional Information:** When making their presentation/s, parties may only introduce documentary or other information produced either before the Hearing or, with the consent of all the other parties, at the Hearing.
- 2.10. **Duration of Representations:** Each party will be given an equal amount of time to make representations. The amount of time will be at the Chair's discretion based on the number of parties present.
- 2.11. **Exclusion of the Public/Retiring for Deliberation:** By virtue of Regulation 14 of the Regulations, the Sub-Committee shall exclude from all or part of the Hearing any member of the public and/or any other person present at the Hearing if it believes that the public interest in doing so outweighs the public interest in allowing the person(s) in question to remain.

This exclusion will be used when the Sub-Committee retires for its deliberations.

3. HEARING PROCEDURE

- 3.1. **Order of Business:** Each Sub-Committee will usually follow the procedure below. However, a Sub-Committee may decide to vary the order of business below if it considers it appropriate, after it has first sought and considered any views of the parties present.
- 3.2. The Sub-Committee will appoint a Chair for the duration of the meeting.
- 3.3. The Chair will explain the Hearing Procedure.
- 3.4. The Chair will ask all parties present to introduce themselves.
- 3.5. The Legal Clerk will ask if any of the parties at that point have an application to make (for example for an adjournment).
- 3.6. The Sub-Committee will consider and decide on any applications made.
- 3.7. The Legal Clerk will inform the meeting whether, during any pre-meeting, the Sub-Committee sought clarification on any aspect of the application.
- 3.8. The Council's Licensing Officer will present the report which details the application and relevant representations.
- 3.9. The Sub-Committee may ask the Licensing Officer any questions in relation to the report.

- 3.10. In the order listed below, each party will present their application/representation to the Sub-Committee, including, with the permission of the Sub-Committee, presenting evidence from any witness they have brought with them.

Hearings of an application for a review of a premises licence or club premises certificate	All other Hearings
1. The Applicant for the review	1. The Applicant
2. Those who made a relevant representation in respect of the application, in this order: <ul style="list-style-type: none"> a) Any responsible authorities (as defined in the Act) other than the Applicant. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement. b) Any other person. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement. 	2. Those who made a relevant representation in respect of the application, in this order: <ul style="list-style-type: none"> a) Any responsible authorities (as defined in the Act). If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement. b) Any other person. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement.
3. The licence/certificate holder	

- 3.11. After each party's presentation (including any evidence from witnesses):
- a) the Sub-Committee will lead a discussion on the issues raised, including asking any questions of the presenting party and/or their witnesses, and the Legal Clerk will ensure that any such requests are satisfactorily addressed; and
 - b) each other party (in the order set out above) may, with the permission of the Sub-Committee, ask questions of the presenting party and/or their witnesses.
- 3.12. Any closing statements will be made in the same order as described in 3.10 above.
- 3.13. The Sub-Committee shall retire in private for its deliberation (along with the Legal Clerk, to provided legal advice, and the Democratic Services Officer, for minuting purposes) to consider the application and other representations made, both written and oral.
- 3.14. When the Sub-Committee returns from its deliberations, the Legal Clerk will summarise any legal advice given during the Sub-Committee's deliberations.
- 3.15. The Sub-Committee's decision will be given by the Chair (or the Chair may invite the Legal Clerk to do so).
- 3.16. A full written version of the decision will be provided to all parties within the timeframe prescribed by the Act.

SECTION B: PROCEDURE FOR VIRTUAL MEETINGS

NB. This section will only come into force if, and when, fully virtual Sub-Committee meetings are able to place.

4. SCOPE OF THESE RULES

- 4.1. These Rules apply specifically to Licensing Sub-Committee Hearings under the Licensing Act 2003 ('the Act') and the *Licensing Act 2003 (Hearings) Regulations 2005* ('the Regulations').
- 4.2. These Rules form part of the Council's Hearings Procedures and should be read in conjunction with the Virtual Committee Procedure Rules as well as paragraphs 9 (Declarations of Interest) and 17 (Disturbance by Public) of the General Committee Procedure Rules as appropriate.
- 4.3. These Rules will replace the previously published Licensing Sub-Committee (Hearings) Procedure Rules to reflect that all Licensing Sub-Committee (Hearings) will be held virtually via Microsoft Teams Live until such time as it is deemed safe by the Government to hold public meetings.
- 4.4. In these Rules all references to "party" and "parties" is a reference to all persons to whom a Notice of Hearing must be given pursuant to Regulation 6 of the Regulations.

5. CONSULTATION PERIOD AND SUBMISSION OF RELEVANT REPRESENTATIONS/DOCUMENTATION

Consultation Period and Relevant Representations

- 5.1. The Council encourages that all representations made in relation to an application/notice be submitted by e-form on the Council's website or by e-mail to licensing@ Crawley.gov.uk (rather than by post or other means) to reduce the risk that they may not be received or considered by the Council. The Council's website will clearly state this.
- 5.2. As all Hearings until further notice will be held virtually through Microsoft Teams Live Event, when submitting representations/documentation parties are asked to provide a contact email address.

Submission of Documentation Supporting an Application, Notice or Representation

- 5.3. All parties must use their best endeavours to submit documentation in support of their application, notice or representation electronically via email to licensing@ Crawley.gov.uk.
- 5.4. The Council encourages parties to follow these principles when drafting submissions in support of their application, notice or representation:
 - a) Focus on the promotion of one or more of the four Licensing Objectives as defined by the Act.
 - b) Make reference to the relevant parts of the Council's Licensing Policy Statement and Section 182 Guidance.

- c) Be relevant.
 - d) Be evidence-led not based on speculation.
- 5.5. Parties should endeavour to submit all documentation they wish to be considered by the Sub-Committee no later than 48 hours before the Hearing so that it can be circulated to all other parties. All submissions and supporting documentation/evidence should be submitted by email to democratic.services@ Crawley.gov.uk.

Submission of CCTV and Audio Evidence

- 5.6. Any video evidence submitted before a Hearing which a party wishes the Sub-Committee to view should be submitted in MP4 format. Parties are asked to ensure that any recording is edited to only contain relevant matters which relate to their representation. Parties are encouraged to submit any video evidence with a description of how, when and where the video was recorded and a summary of its contents.
- 5.7. Parties should endeavour to submit any video evidence they wish to rely upon at least 72 hours before the Hearing to allow sufficient time for it to be made available to the other parties.

6. NOTICE OF HEARING, AGENDA DOCUMENTS AND NOTICE OF INTENTION TO ATTEND

Notice of Hearing and Agenda

- 6.1. A Notice of Hearing (in the form of an agenda) will be sent via email to all parties at least ten clear working days before the meeting. The Notice will also be published via the Council's website in line with normal procedure. The Notice will include:
- a) Details of the date and time of the online Hearing.
 - b) The report of the Council's Licensing Officer.
 - c) The application/notice.
 - d) Any relevant representations/notices received.
 - e) Any other supporting documentation submitted.
 - f) A copy of these Virtual Licensing Sub-Committee (Hearings) Procedure Rules.
 - g) A copy of the Virtual Committee Procedure Rules.

Notice of Intention to Attend

- 6.2. All parties wishing to participate in the Hearing must register their wish to participate and provide their own email address and the email address(es) of any representatives/witnesses they wish to speak at the meeting. This **must** be done by email to the Council at democratic.services@ Crawley.gov.uk within the appropriate timeframe as set out below:
- a) For Hearings under section 48(3)(a) (cancellation of interim authority notice following police objection), or section 105(2)(a) (counter notice following police objection to temporary event notice) – **no later than one working day before the day or the first day on which the Hearing is to be held.**

- b) For a Hearing under section 167(5)(a) (review of premises licence following closure order), section 53C (review of premises licence following review notice), paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence), paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence) – **no later than two working days before the day or the first day on which the Hearing is to be held.**
 - c) For all other Hearings, **no later than 72 hours before the day (or the first day) on which the Hearing is to be held.**
- 6.3. Applicants are encouraged to attend the Hearing online although they may choose not to attend and instead allow the decision to be considered on the basis of the written representations, and for the decision to be taken based on the information available at the Hearing.

In Advance of the Hearing

- 6.4. The Sub-Committee, in discussion with the Democratic Services Officer and Legal Clerk, will decide upon a practical protocol for management of the Hearing and decision-making in an online environment (e.g. self-introduction before speaking, asking all participants to keep their microphones on mute when not speaking, etc). Such a protocol can be amended from time to time and does not require Committee approval for any change.
- 6.5. The Council will email an invitation to join the Hearing to all parties (and their representatives/witnesses) who registered their wish to participate within the time set out in Paragraph 3.2 above and where an email address has been provided.
- 6.6. All parties are requested to join the Microsoft Teams Live Event meeting 15 minutes before the scheduled start time of the Hearing to ensure that communication between the Sub-Committee, officers and all parties is working correctly.

7. SPECIFIC LICENSING SUB-COMMITTEE RULES

- 7.1. **Establishment of a Sub-Committee:** A Sub-Committee will only be arranged when there is a requirement for a Hearing as defined in the Act.
- 7.2. **Membership:** A Sub-Committee will consist of a panel of three Councillors drawn from a pool of four Councillors who have confirmed that they are available to attend the scheduled Hearing. (The purpose of having four is to ensure that there is a reserve Councillor available to substitute for one of the other three Councillors in the event that one of the others cannot attend due to unforeseen circumstances.) The pool of four Councillors will be drawn from the Councillors appointed to the Licensing Committee. Endeavours will be made for the Sub-Committee membership to be drawn from different political parties where possible, although this is not a requirement in law.
- 7.3. **Quorum:** The quorum of a Sub-Committee will be three.
- 7.4. **Appointment of Chair:** A Chair will be elected from the membership of the panel.
- 7.5. **Participation in the Hearing:** Members of the Sub-Committee, officers, and all relevant parties, including Applicants, Interested Parties and Responsible Authorities will be invited to join (attend) the meeting remotely via a Microsoft Teams

participation feed. Such invitation links must not be shared. Microsoft Teams enables individuals to view and participate in a video-conference using a desktop computer or laptop.

- 7.6. **Officer Participation:** A Council legal advisor ('Legal Clerk'), Democratic Services Officer/s (which may include a Producer) and Licensing Officer/s will usually participate in a Sub-Committee for the purposes of facilitating the meeting and providing advice on law and procedure.
- 7.7. **Observation of the Hearing:** To meet the legal requirement for Hearings to be held in public, members of the press and public will be able to observe (but not participate in) the Hearing meetings online via a public feed. Councillors who are not members of the Sub-Committee must also view the meeting through the public feed rather than directly participating in the meeting.
- 7.8. **Sub-Committee Pre-Meeting:** The Sub-Committee will usually meet virtually with the Democratic Services Officer and Legal Clerk in advance of a Hearing. This pre-meeting will be held in private, and will not be streamed via the public feed. The purpose of this meeting will be to identify any matters upon which the Sub-Committee may require clarification (see Paragraph 5.6 – Order of Business), to ensure the Sub-Committee members have all the documentation for the Hearing, and to remind themselves of the Hearing Procedure. During any pre-meeting **no** decisions will be made and **no** discussions will take place regarding the substantive merits of the application or representations.
- 7.9. **Minutes:** The minutes of the Sub-Committee remain the responsibility of the Licensing Committee and will be brought before a minimum of ten Committee Members for their approval at a Licensing Committee meeting. Only a member of the relevant Sub-Committee is permitted to question the accuracy of the minutes. Once the minutes have been agreed, they shall be signed by a member of that Sub-Committee, which would normally be the Chair of the Panel.
- 7.10. **Procedure at the Meeting:** The procedure to be followed at Sub-Committee meetings is outlined later in these Rules.
- 7.11. **Additional Information:** When making their presentation/s, parties may only refer to the documentation/information submitted in advance of the Hearing. Additional/abled information may only be referred to with the consent of all parties at the Hearing.
- 7.12. **Exclusion of the Public/Retiring for Deliberation:** By virtue of Regulation 14 of the Regulations, the Sub-Committee may exclude from all or part of the Hearing any member of the public and/or any other person present at the Hearing if it believes that the public interest in doing so outweighs the public interest in allowing the person(s) in question to remain. This exclusion will be used when the Sub-Committee retires for its deliberations.

8. HEARING PROCEDURE

It should be noted that particular reference should be made to the Virtual Committee Procedure Rules in regard to issues such as adjournments and voting procedures.

Order of Business: Each virtual meeting of the Sub-Committee will usually follow the procedure below. However, a Sub-Committee may decide to vary the order of business below if it considers it appropriate.

- 8.1. At the commencement of the meeting the Democratic Services Officer will seek nominations for a Chair for the duration of the meeting.
- 8.2. The Chair will ask all parties present to introduce themselves.
- 8.3. The Chair will make reference to this Hearings Procedure.
- 8.4. The Legal Clerk will ask if any of the parties have an application to make at that point (for example for an adjournment).
- 8.5. The Sub-Committee will consider and decide on any applications made.
- 8.6. The Legal Clerk will inform the meeting whether, during any pre-meeting, the Sub-Committee sought clarification on any aspect of the application.
- 8.7. The Council's Licensing Officer will present the report which details the application and relevant representations.
- 8.8. The Sub-Committee may ask the Licensing Officer any questions in relation to the report.
- 8.9. In the order listed below, each party will be given 10 minutes to present their application/representation to the Sub-Committee (their written representations having been considered).

Hearings of an application for a review of a premises licence or club premises certificate	All other Hearings
1. The Applicant for the review	1. The Applicant
2. Those who made a relevant representation in respect of the application, in this order: <ol style="list-style-type: none"> c) Any responsible authorities (as defined in the Act) other than the Applicant. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement. d) Any other person. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement. 	2. Those who made a relevant representation in respect of the application, in this order: <ol style="list-style-type: none"> c) Any responsible authorities (as defined in the Act). If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement. d) Any other person. If more than one, in the order determined between themselves, or as decided by the Sub-Committee in the absence of an agreement.
3. The licence/certificate holder.	

- 8.10. After each party's presentation (including any evidence from witnesses):
- a) The Sub-Committee will lead a discussion on the issues raised, including asking any questions of the presenting party and/or their witnesses, and the Legal Clerk will ensure that any such requests are satisfactorily addressed; and
 - b) Each other party (in the order set out above) may, with the permission of the Sub-Committee, ask questions of the presenting party and/or their witnesses.
- 8.11. Any closing statements will be made in the same order as described in 5.9 above.
- 8.12. The Sub-Committee's deliberations will take place without other participants, the press, and members of the public being able to hear or see those deliberations. At this point in the Hearing the live public feed will end and deliberations will take place by way of a separate virtual meeting between the Sub-Committee members, the Legal Clerk (to provide legal advice) and the Democratic Services Officer (for minuting purposes).
- 8.13. The summary decision and reasons will be sent via email to all those who have provided the Democratic Services Officer with a valid email address in advance of the Hearing.
- 8.14. A full written version of the decision will be provided to all parties within the timeframe prescribed by the Act.