

Meeting of:	Public Protection Licensing Committee
Date of Meeting:	Tuesday, 08 February 2022
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	Adoption of Procedure for Applications and Disciplinary Matters determined by the Public Protection Licensing Committee.
Purpose of Report:	To seek Members' approval for the adoption of a formal procedure for hearing Applications and Disciplinary Matters brought to Committee.
Report Owner:	Director of Environment and Housing
Responsible Officer:	Will Lane, Operational Manager for Neighbourhood Services; Yvonne Witchell, Licensing Team Manager
Elected Member and Officer Consultation:	Principal Lawyer Democratic Services
Policy Framework:	This report is a matter for decision by the Public Protection Licensing Committee.
<p>Executive Summary:</p> <ul style="list-style-type: none"> The report asks Committee to consider and approve the proposed procedure for the hearing of Applications or Disciplinary Matters brought to the Public Protection Licensing Committee for their determination. 	

Recommendation

1. That the proposed procedure for Applications and Disciplinary Matters considered by the Public Protection Licensing Committee (attached at Appendix A to the report) be endorsed and adopted subject to any amendments recommended by Committee.

Reason for Recommendation

1. To ensure that applicants are provided with accurate and up-to-date procedural guidance ahead of their hearings.

1. Background

- 1.1 Following discussions held at the Institute of Licensing's (IOL) Training Conference event in November 2021, the Chair of the Vale of Glamorgan Council's Statutory and Public Protection Licensing Committees approached Officers within the Licensing Authority and suggested that current procedures/processes be reviewed with regard to the way decisions and reasons were communicated with Applicants.

2. Key Issues for Consideration

- 2.1 At present there is no formally adopted procedure for hearings regarding Applications or Disciplinary Matters considered by the Public Protection Licensing Committee.
- 2.2 Changes to the Licensing Sub-Committee procedure have been brought to the Statutory Licensing Committee for their consideration. These changes relate specifically to the way in which decisions and reasons thereof are communicated with Applicants following their hearings, and would bring the Vale of Glamorgan's practice in line with that of other Local Authorities.
- 2.3 Officers have deemed it timely that a separate procedure for hearings relating to Applications and Disciplinary Matters be drafted and presented to the Public Protection Licensing Committee for their consideration. The proposed draft procedure is attached at Appendix A to this report.
- 2.4 Subject to Members' feedback, once approved the procedure will be circulated to applicants along with other guidance documentation prior to the meeting date.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1 The Well-being of Future Generations (Wales) Act 2015 ('the 2015 Act') sets out

new ways of working – of planning and making decisions – for Local Authorities and other public bodies it lists. The proposal supports the well-being objective of working with and for our communities.

4. Resources and Legal Considerations

Financial

4.1 There are no direct financial implications.

Employment

4.2 There are no direct employment implications.

Legal (Including Equalities)

4.3 None.

5. Background Papers

None.



THE VALE OF GLAMORGAN COUNCIL

LICENSING ACT 2003

**PUBLIC PROTECTION LICENSING COMMITTEE APPLICATION HEARING
PROCEDURE VIA REMOTE ATTENDANCE**

This procedure is issued in relation to the Coronavirus Act 2020 and the Licensing Act 2003 (Hearings) Regulations 2005 (as amended).

Issued: FEBRUARY 2022

For further information please contact Democratic Services on (01446) 709856 or email democratic@valeofglamorgan.gov.uk

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1. INTRODUCTION

Objectives of the Licensing Hearing process during the Coronavirus (Covid-19) Outbreak:

- To ensure that applicants and those persons making representations have the right to a hearing prior to the determination of the application by the licensing authority and are not disadvantaged by the measures in place to protect public health.
- To ensure that licensing authority discharges its functions under the Licensing Act 2003 (Hearings) Regulations 2005 (as amended).

The relevant regulations can be found here:

<http://www.legislation.gov.uk/ukxi/2005/44/regulation/19/made>

The Coronavirus Act Regulations mean that measures have to be put in place for the determination of licensing applications which cannot be dealt with under the Scheme of Delegation to Officers.

- The licensing authority may decide to hold a hearing using remote access provided:
- All parties can fully present their case having regard to the fact that the onus is on the participant to ensure compatibility, competence and technical ability to participate remotely,
- Each person participating has access to an electronic device to permit them to hear and be heard. The right to a fair hearing is not affected so as to prejudice or make the hearing manifestly unfair. With this in mind any technical breakdown of the proceedings will not automatically render the proceedings unfair or prejudicial.
- Although the council may facilitate a hearing through video conferencing a remote access by video link is not a mandatory requirement for participation in a hearing. All parties must have suitable means of dialling into the meeting by telephone.
- The licensing authority considers that the hearing is capable of being heard in accordance with the regulations.

2. MEMBERSHIP OF THE PUBLIC PROTECTION LICENSING COMMITTEE

The membership of the Committee shall continue to be in accordance with the Licensing Act 2003 and Council Constitution and consist of 15 Members.

3. LEGAL OFFICER AND OTHER OFFICERS ATTENDING THE MEETING

Each committee will be assisted by a Legal Officer, a representative from Democratic Services, and other officers who may be required to give assistance with technical support required for a remote hearing.

4. PREPARATION FOR THE HEARING

A licensing officer will contact the applicant and all those persons who have made representations by appropriate means to confirm with all parties;

- That as a minimum, they have the facility to join the meeting by telephone, and
- whether they are able to participate in a remote hearing by telephone and video conference if available.

At this point a licensing officer will establish whether a party requires translation or signing services to participate in a hearing and advise Democratic Services accordingly.

The hearing will be dealt with by remote hearing if the parties are able to fully present their cases, have access to the electronic means to allow them to hear and be heard, and the Legal Officer considers that the hearing is capable of being heard fairly and transparently.

Prior to the hearing, the applicant will receive details of the platform to be used and receive technical guidance on how to access and participate in the meeting, along with a copy of this guidance.

5. AHEAD OF THE HEARING

A licensing officer will contact the applicant to advise of the date of the meeting at which their application will be reported to Committee.

Ordinary meetings of the Public Protection Licensing Committee are agreed ahead of the start of the municipal year, however with the Chair's agreement an Extraordinary or Special meeting may be called for consideration of an urgent matter if required.

The most recent timetable of meetings for the municipal year can be found on the *Minutes, Agendas and Reports* page of the Council's website:

https://www.valeofglamorgan.gov.uk/en/our_council/Council-Structure/minutes_agendas_and_reports/minutes_agendas_and_reports.aspx

The applicant will subsequently receive a hard copy of the Committee report to be considered at the hearing. An electronic copy of the papers can be sent to the applicant via encrypted email upon request.

Ahead of the day of the hearing, the applicant will receive the necessary telephone number and hyperlink to enable access to the remote platform.

Where necessary, all parties are advised that the proceedings of the hearing will be live streamed and recorded and where possible/appropriate, may be uploaded to the Vale of Glamorgan Council website.

Matters which are considered under Part II of an agenda (i.e. the public and press are exempt during consideration of the agenda item in accordance with section 100A(4) if the Local Government Act 1972) are not live streamed or recorded.

6. DAY OF THE HEARING

On the day of the hearing, if the application in question is the first item to be considered on the meeting agenda, the applicant will be asked to be ready with their connection device 10 minutes before the start of the meeting.

If there are other items to be considered on the agenda before the application in question, the Democratic Services Officer will contact the applicant to advise when the Committee is ready for their application to be heard.

7. HEARING PROCEDURE

The relevant technical guidelines should be followed to participate in the meeting and the meeting will follow the procedure set out in Appendix A with the following amendments:

Appendix A Step 3

Where the procedure refers to the Legal Officer or Chair, they may also be assisted in operating the remote platform by a Democratic Services Officer or IT Officer.

Presenting the application or representations

There is no prescribed time limit set for a remote hearing. In a non-remote hearing, presentation of the report and questions can last for about 45

minutes to an hour, at which point the Committee will retire to make their decision. This will vary according to the circumstances and the needs of running a remote hearing.

8. DETERMINING THE APPLICATION

Once the hearing has concluded, the Committee will deliberate in private and reach a determination, however in some circumstances this may take up to five working days. The Licensing Officer will contact the Applicant to advise of the decision, and written notification will be issued to all parties as soon as possible after the meeting. If parties have access to email, this will be the quickest method to receive the decision.

9. TAKING PART IN THE HEARING

Some of this guidance will apply to all participants, while some will apply to specific participants. This will be clearly indicated throughout the guidance.

10. ALL PARTICIPANTS

Device

- Before the date of the hearing, follow the instructions sent to you to check that the device you plan to use is fully compatible with the remote platform.
- If multiple devices are available to you (e.g. a phone and a laptop), and if you wish to participate via video link we recommend using the device with the biggest screen. This will be the one that most likely gives you an option to see all participants, rather than being restricted to only viewing the participant who is currently speaking. You must bear in mind that participating via video conference is not mandatory and it is beneficial to have a charged phone on standby.
- Take some time before the date of the hearing to familiarise yourself with where the microphone and headphone plug-in is on your device, as knowing where to find these will be helpful if you are required to speak more loudly and/or hear more clearly. The best audio quality will likely be achieved by plugging a separate microphone into the device – most modern headphone sets include a microphone.
- Make sure before the hearing starts that your equipment is fully charged or has the capacity to charge without impeding your audio/visual settings while the hearing is ongoing. Keeping your device plugged in to a power source if possible as this will give you confidence that the battery will last for the duration of the hearing.

Room setting and position

- Please take some time to consider where you'll be able to make yourself comfortable so that you can focus on the discussion at hand.

If participating with video, where possible it is best to try and find a space with a plain background or activate a background image. Other participants may find it distracting to see photos or shelves full of books or ornaments in the background. Also consider lighting – if a light source is behind you in the shot your face will likely end up looking darker on screen. Equally, too strong a light in front of you might have a 'bleaching' effect. Most devices will allow you to access your camera ahead of the hearing so you can identify where best to position yourself.

- If participating with video, aim to position your device appropriately so that your head and shoulders are in the shot (similar to a passport photo).
- Make sure that you can easily view any necessary documentation. You will have paper copies sent to you in the post, but if you choose to have these sent to you electronically please ensure you are set up so that you can see both the documents and the video conference easily.
- If referring to a document during the hearing, please be specific regarding which Appendix it is in as well as the page number and please allow time for others to locate the same document.
- Have a pen and paper ready to use. Conversation won't flow as naturally as it would with people in the room together, and the Chair will be moderating the order in which participants speak. You may therefore find it helpful to take notes of any points you would like to make so you can refer back to them when it is your turn to speak.
- Before the hearing starts, please ensure that any other nearby electronic devices are set to silent, or mute notifications on the device you're using. If you experience interference during the call, this could be caused by other devices nearby so you may want to turn off any other devices or remove them from the same room as you.

Speaking

- If you are not currently speaking, please mute your microphone. This will help to reduce the level of disruptive and distracting background noise and assist all participants in hearing one another as clearly as possible
- If you wish to speak, please indicate this via the instructions sent to you for the remote platform and wait until the Chair asks you to speak.

- If a question is asked of one participant directly, that participant will be the first person afforded an opportunity to respond. It is crucial that all participants respect this process and listen to the Chair to ensure everyone has a fair opportunity to make their points without being talked over.
- If any participant repeatedly disregards this process and talks over other participants without waiting for the Chair to confirm it is their turn, the Democratic Services Officer, Legal Officer or other officer present will be able to mute their microphone.
- When speaking, don't shout. You will be advised if your volume of speech is too low, it will usually require participants to either move closer to their microphone or to adjust their microphone/volume settings.
- It is important that all participants communicate as much as possible verbally, as not everyone will be able to see gestures or facial expressions. Confirmation will be given at the start of the hearing which participants have screen access and whether any aren't visible on camera.
- You will receive advice on what happens if there are connection problems to the meeting.

11. THE CHAIR

- Once all participants have joined the meeting, check that all are comfortably set up and ready to participate, and have easy access to the documentation.
- All parties will be introduced by a Democratic Services Officer or asked to introduce themselves in turn on your request.
- Make sure all participants are aware of how the discussion will be moderated. It will be difficult to moderate the flow of the discussion completely, and it is therefore a good idea to try and keep discussion structured on a topic-by-topic basis as much as possible:
- It's a good idea to routinely check in with the Democratic Services Officers as to whether all participants are still connected and haven't been 'lost'. Should confirmation be received that a participant is having technical difficulties, the Chair should advise all participants that a short adjournment is necessary and ask all to mute their microphones until the hearing can resume.

12. COMMITTEE MEMBERS

- Please ensure that you are set up in a space that is private and where you will not be interrupted or overheard while hearings are ongoing.
- Committee meetings will usually commence at 10.00 am however the Democratic Services Officer will ensure that the 'meeting' has started and is available to be joined from 9.30am onwards.
- We ask that you take steps to join the meeting (see technical guidance for instructions) by 9.45am, which will allow officers time to assist with any technical difficulties if needed.
- Should the meeting commence at a different time, joining the meeting will follow the above, e.g. you should be logged in and ready fifteen minutes before the start of the meeting.

LICENSING ACT 2003 -
LICENSING COMMITTEE PROCEDURES
FOR PUBLIC PROTECTION LICENSING COMMITTEE APPLICATION
HEARINGS VIA REMOTE ACCESS

The purpose of this procedure is to ensure hearings of the Public Protection Licensing Committee are dealt with in a just, timely and effective way. Throughout the hearing the Licensing Authority shall focus on the report presented and representations made, and will consider the relevant licensing objectives. During the hearing all parties will be restricted to raising issues directly relevant to the application, representation or notice.

Procedure

- Step 1** The Chair will welcome those present and outline procedure for the hearing.

(N.B. Where a party expected to attend does not, the Committee will consider whether to adjourn the hearing or continue in the absence of the party.)
- Step 2** The Licensing Officer presents the report and gives an update if there have been any further submissions since the circulation of the agenda. Committee Members may ask the Licensing Officer for any points of clarification regarding the report.
- Step 3** The Chair will then invite the applicant and/or their representative to ask the Licensing Officer any points of clarification and, if there are none, to then make representations to Committee regarding their case..
- Step 4** Committee Members and the Licensing Officer can question the applicant and/or their representative regarding the events outlined in the report and the representations they have made.
- Step 5** Where appropriate, the Chair will invite any other Interested Parties to speak and be questioned in turn by the Committee and Licensing Officer.
- Step 6** Final clarification for Members. Committee Members have a final opportunity to seek clarification on any points raised.
- Step 7** The Committee retire to deliberate in private accompanied only by the Legal Officer and the Democratic Services Officer.

Step 8 The Committee will usually reach a decision at the conclusion of a hearing however, this may take up to five working days depending on the nature of the Application. Once a decision has been reached the Licensing Officer will be advised of the outcome by the Legal Officer.

Step 9 The Licensing Officer will subsequently advise the Applicant of the Sub-Committee's decision, with reasons thereof to be provided to the Applicant within five working days of the Committee meeting.

NOTES:

N.B. It must be noted that any legal advice given to the Committee during their deliberations will be repeated publicly and comments invited where appropriate.

The Licensing Officer will remind the applicant that the decision will also be sent to them in writing. At this point there can be no further questions or statements.

Adjournments

The Committee may adjourn the hearing where considered necessary for the consideration of representation or notice.