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Remote licensing hearings: what you need to know

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Overview



General observations

Before the hearing

At the hearing

Practical tips

Q&A



General observations

Remote hearings: an overview



LA 2003 +
LA 2003 (Hearing)
Regs 2005

&

Flexibility
Regs 2020

Meetings can be held remotely

Public/press access can be remote

May make SOs for remote attendance

Hold/alter meetings without further
notice

Remote hearings: rules of procedure



**Rules of
Procedure**

Make/amend standing orders

What does Constitution say?

Protocols

Good etiquette

**Urgent
Decisions**

Delegated powers



Before the hearing

BEFORE THE HEARING - GIVING NOTICE AND CONSULTATION



- Business as usual where possible.
- Need for substantial compliance with the regulatory requirements.
- Where compliance with specific requirements (e.g. method of advertisement) is unfeasible, aim to use best practicable method instead.



BEFORE THE HEARING – PUBLIC PARTICIPATION



- Early notification of remote forum.
- Use of a consistent protocol for participation.
- Well produced electronic documentation.
- Late evidence – usual rules apply.



At the hearing



AT THE HEARING (1) – ADJOURNMENTS?

- No change to the rules – hearings can be adjourned (but not indefinitely): Regs 11-13
- General rule: coronavirus should not be a reason to adjourn:

The regulations do allow for many hearings to be deferred during the period of social distancing. However, my view is that hearings should proceed, wherever possible. As you

- Hearings can *definitely* be ‘in public’ *and* remote: Flexibility Regulations, Reg. 5

- Managing remote hearings:





AT THE HEARING (2) – Questions and Cross-Examination

- Basic rule: Reg. 23 – no cross-exam unless ‘required’
 - Less likely to be satisfied if remote hearing
- Questions:
 - Better by submissions?
 - Time-lag
 - Mechanism for getting attention – ‘hand up’





AT THE HEARING (3) – Excluding the public

- Two powers to exclude the public from hearings:
 - Reg.14(2) – where in the public interest
 - Reg 25 – where disruptive
- Public Interest: legal advice, sensitive information, ongoing investigation
 - Private meeting/breakout room/separate channel (whatsapp?)
- Disruptive: password protect?
 - NB Reg 25 requires removed person to submit information in **writing**





AT THE HEARING (4) – Deliberations, and the Decision

- Usually done in private (unless Camden!), so:
 - End meeting, and start new ‘private’ meeting?
 - Breakout rooms function in Zoom?
- Decision: Reg 26(2) – must make determination within 5 working days, & notify ‘forthwith’
 - More justification for making/notifying decision later?
 - Practical difficulty re time for deliberation – waiting around?
 - Summary by e-mail?





APPEALS

- REMEMBER: appeal rights go out with determination
- Reality:
 - Magistrates courts not doing much remotely yet
 - licensing appeals low on the list of priorities
 - Might mediation/ADR be a better approach?





Practical tips

Hosting and webcasting the meeting



Choose a video conferencing platform



Webcast the meeting



Preparing for and managing the hearing



Preparation

- Ensure all participants familiar with protocol
- Identify speakers in advance
- Written evidence and submissions sent before the meeting

Security settings/permissions

- Carefully control permissions
- Use email invitations to limit meeting participants

Contingency plans

- Plan for dealing with IT problems and disruption

A cautionary tale



SomersetLive



Adult content played by trolls interrupts video council meeting

The meeting's chairman threatened to call the police if the behaviour did not stop

And one user shared an image of two men kissing in the middle of a presentation of improvements planned for one of Yeovil's roundabouts.



Your questions



- How do you deal with a party who claims IT problems but might be using it as a delaying tactic?
- Can parties object to a remote hearing altogether?
- Do we have to provide a way for parties and their legal reps/consultants/translators to speak privately?
- Do different rules apply to taxi cases?

Your questions



- Can deliberations be undertaken in public?
- Can the Leader of the Council adjourn all meetings until a later date?
- What do we do if parties say they don't have the relevant technology?
- What happens if the live stream fails?



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