

**Manchester City Council  
Report for Resolution**

**Report to:** Licensing Committee – 19 July 2021

**Subject:** Remote attendance at hearings under the Licensing Act 2003

**Report of:** Director of Planning, Building Control & Licensing

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**Summary**

The report requests the committee to approve remote attendance by parties via Zoom for hearings under the Licensing Act 2003

**Recommendations**

That Members approve the use of remote attendance

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**Wards Affected:** All

<b>Environmental Impact Assessment</b> - the impact of the decisions proposed in this report on achieving the zero-carbon target for the city
None

<b>Manchester Strategy Outcomes</b>	<b>Summary of the contribution to the strategy</b>
A thriving and sustainable City: supporting a diverse and distinctive economy that creates jobs and opportunities	Licensed premises provide a key role as an employer, in regeneration, and in attracting people to the city. The efficient processing of applications as well as effective decision making in respect of them, plays an essential role in enabling businesses to thrive and maximise contribution to the economy of the region and sub-region.
A highly skilled city: world class and home-grown talent sustaining the city's economic success	
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	An effective licensing regime works with Operators and other agencies to ensure as far as it is able, matters of equality and local issues.

<p>A liveable and low carbon city: a destination of choice to live, visit and work.</p>	<p>The Licensing process provides for residents and other interested parties to make representations in relation to licensing applications to safeguard local place-based interests. Representations must be directly related to the licensing objectives; in relation to the Licensing Act these are the prevention of crime and disorder, the prevention of public nuisance, public safety, and the protection of children from harm.</p>
<p>A connected city: world class infrastructure and connectivity to drive growth</p>	<p>Licensed premises play a key role in ensuring an economically successful City, and the Licensing Policy seeks to achieve desirable and high quality premises to help drive that growth.</p>

**Full details are in the body of the report, along with any implications for:**

- Equal Opportunities Policy
- Risk Management
- Legal Considerations

### **Financial Consequences – Revenue**

None

### **Financial Consequences – Capital**

None

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**Background documents (available for public inspection):**

## 1. Introduction

- 1.1 In response to the coronavirus pandemic, the Government introduced the Local Authorities and Police and Crime Panels (Coronavirus) Flexibility of Local Authority and Police and Crime Panel meetings) (England and Wales) Regulations 2020 (the Flexibility Regulations) to enable local authority meetings to be held remotely. The Local Government Act 1972 requires councillors to be physically present at a meeting to make valid decisions and that the meeting must be open to the public to attend.
- 1.2 The Flexibility Regulations ceased to have effect on 7 May 2021 and the Government have stated that as primary legislation is required to extend the regulations it is not possible to bring forward emergency legislation to facilitate this due to pressure on parliamentary time.
- 1.3 On 28th April, the High Court (R (Hertfordshire County Council) v Secretary of State [2021] EWHC 1093 (Admin)) held that the Secretary of State was correct to say that primary legislation would be required to allow local authority "meetings" under the Local Government Act 1972 to take place remotely. Once the Flexibility Regulations ceased to apply on 7 May 2021, such meetings must take place at a single, specified geographical location.
- 1.4 However, it is proposed that whilst remote local authority meetings under the Local Government Act 1972 require legislative permission and still do; remote licensing hearings do not<sup>1</sup> as these hearings are conducted under the Licensing Act 2003 not the Local Government Act 1972<sup>2</sup>.
- 1.5 The Licensing Act 2003 provides hearings are required in certain situations, usually involving contested applications.
- 1.6 Section 9(2) of the 2003 Act says that regulations may make provisions for the proceedings of Licensing Sub-Committees including "public access" to the meetings. It goes on to say that subject to such regulations, each licensing committee may regulate its own procedure and that of its sub-committees. According to section 183 of the Act, the procedure for hearings is set down in regulations under that section.
- 1.7 The Licensing Act 2003 (Hearings) Regulations 2005 are made pursuant to sections 9(2) and 183. The regulations use language such as "attendance" (regs 8, 15 and 20), "appearance" (reg 8), "leave" and "return" (reg 25). They also state that the hearing must be public (reg 14). It is submitted that these terms are satisfied by allowing people to attend/ appear etc virtually rather than physically.

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<sup>1</sup> [Can remote licensing hearings continue? \(localgovernmentlawyer.co.uk\)](http://localgovernmentlawyer.co.uk)

<sup>2</sup> s101(15) as inserted by Sch 6 para 58 of the Licensing Act 2003 states "(15) Nothing in this section applies in relation to any function under the Licensing Act 2003 of a licensing authority (within the meaning of that Act)."

- 1.8 The Court did hold that the word “attend” connoted physical attendance. It is proposed that hearings would still be carried out in person with members of the sub-committee and officers present, as well as any party who wishes to attend in person or any member of the public who wishes to observe the meeting. Therefore, the meetings would still comply with the requirement of being held in a particular place i.e., in the Town Hall. However, it is proposed to enable in certain circumstances, parties to the hearing to attend remotely via Zoom (or any alternative technological means made available to facilitate attendance).
- 1.9 There is no requirement to provide facilities for remote attendance. However, it is something has been requested on several occasions by residents and applicants.
- 1.10 There are a number of benefits associated with enabling remote attendance:
- i. Costs savings to applicants of physical attendance by themselves and their professional representatives,
  - ii. Convenience for local residents, and even local councillors, of being able to participate from home or work
  - iii. Enabling parties to minimise travel, particularly in situations where coronavirus transmission rates may be higher
- 1.11 Alternatively, online attendance disadvantages those without good internet facilities or unfamiliarity with communication platforms, although parties would still always have the choice to attend in person. Remote attendance will require the technical support of the Council’s Strategic Comms team to enable that remote parties to the hearing are able to participate effectively.
- 1.12 It is proposed to hold ‘hybrid’ meetings, whereby the committee and officers attend in person in the Council Chamber (or respective meeting location) and other parties are able to attend either in-person or remotely via Zoom.
- 1.13 It is proposed that remote attendance will be provided for hearings in the following circumstances:
- i. Hearings with high number of parties wishing to participate
  - ii. Where a party has a legitimate reason for being unable to attend the meeting in person
  - iii. At the request of the Chair
- 1.14 If approved by the committee, it is proposed that the next Licensing Sub-Committee hearing on 3 August will provide the ability for parties to attend remotely.

## 2.0 Key Policies and Considerations

2.1 The proposals relate to the determination of applications under the Licensing Act 2003.

### 3.0 **Conclusion**

3.1 That Committee consider the report and

- i. Approve remote participation at licensing sub-committee hearings.
- ii. Confirm the circumstances in which remote participation is provided