

Subject:	Constitutional matters re Licensing Committee and future arrangements for Licensing Panel Hearings
Date of Meeting:	Licensing Committee 18 June 2026
Report of:	Director, Governance & Law
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Ward(s) affected:	All

For general release

1. Purpose of the report and policy context

- 1.1. This report sets out the position with regard the Council's Licensing Committee. It considers its terms of reference and recommends the appointment of licensing panels and an urgency sub-committee.
- 1.2. The report also notes the powers of the Licensing Committee to make its own arrangements in relation to the conduct of Licensing Panels convened under the Licensing Act 2003 (Licensing Panels). The report recommends that members review current arrangements and approve the holding of Licensing Panels virtually. It also asks Committee to delegate authority to the Director of Governance and Law - after consultation with lead members - to determine the future conduct of Licensing Panels until such time as arrangements are further reviewed by this Committee in June 2027. The intention of this last proposal is to retain sufficient flexibility in arrangements to ensure that any relevant public health and government advice may be swiftly responded to.

2. Recommendations

- 2.1. That the committee's terms of reference, as set out in Appendix A to this report, be noted.
- 2.2. That the Committee establish the Licensing Panel as a sub-committee to deal with licensing applications in accordance with the Terms of Reference set out at Appendix A to this report. The membership of such Licensing Panels shall consist of three Members drawn from those Members appointed to the Licensing Committee who have received relevant training.
- 2.3. That the Committee agree to disapply the proportionality rules so far as a Licensing Panel is concerned in accordance with the Local Government (Committees and Political Groups) Regulations 1990;

- 2.4. That an Urgency Sub-Committee be further established, consisting of the Chair of the Committee and two other Members (nominated in accordance with the scheme for the allocation of seats for committees), to exercise the Committee's powers in relation to matters of urgency, on which it is necessary to make a decision before the next ordinary meeting of the Committee be approved.
- 2.5. That having noted the benefits of holding virtual meetings - both in terms of enabling greater participation in the Licensing process, and in ensuring the most efficient use of resources - Committee resolves that Licensing Panels continue to meet virtually until such time as these arrangements are further reviewed by this Committee in June 2027.
- 2.6. That Committee delegates authority to the Director of Law and Governance, after consultation with the Chair and Deputy, to determine arrangements for Licensing Panel hearings should any changes be required before the next scheduled meeting of the Licensing Committee.
- 2.7. That the Committee recommends that in exercising the authority given pursuant to recommendation 2.6, the Director of Law and Governance take into account all relevant factors including any relevant public health and government guidance, the approach taken to other council meetings and the need to ensure fair and transparent procedures in accordance with the Hearings Regulations 2005.

3. Context and background information Licensing Committee

- 3.1. **Terms of Reference:** A copy of the terms of reference for the committee is attached as Appendix A.
- 3.2. **Membership:** The membership of the committee is set at 15 Members of the Council.
- 3.3. **Licensing Panel:** A pool of councillors shall be created, comprised of those Members of the Licensing Committee who have received relevant training, who may be called on to form a licensing panel or to substitute for any other member.
- 3.4. Rule 5 of Part 3C of the Council's Constitution provides that each Committee of the Council may appoint an Urgency Sub-Committee to exercise its powers. The Membership of any such Urgency Sub-Committee shall consist of the Chair of the Committee, as well as two other Members nominated by the Group Leader or Leaders as appropriate to meet the requirements for the allocation of seats between political groups.' Under current allocations this would mean an urgency subcommittee will consist of two Members from the Administration and one Member from the Official Opposition on the Council.
- 3.5. Such Urgency Sub-Committees may exercise their powers in relation to matters of urgency on which it is necessary to make a decision before the next ordinary meeting of the Committee. Every decision of each Urgency Sub-

Committee shall be reported for information to the next ordinary meeting of the Committee as appropriate.

- 3.6. Following the outbreak of the Covid-19 pandemic the Government enabled local authorities to hold 'virtual' meetings under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020 ('the Regulations'). These Regulations expired on the 7 May 2021 and a subsequent Court decision confirmed that the Council must run those of its meetings which are governed by the Local Government Act 1972 with members and the public in attendance at a physical meeting.
- 3.7. However, Licensing Panels are established under different legislation (the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.) This means that Licensing Committees are empowered to regulate their own procedures and those of its sub-committees (the Licensing Panels). A recent High Court case has confirmed that remote licensing panels are lawful.
- 3.8. It is considered that remote attendance encourages wider participation in the licensing process generally, being less formal than an in-person meeting, more accessible and more convenient saving time on travel. The remote panels will continue to be webcast. Therefore, where the legal flexibility exists, as in this case, it seems sensible to continue with the virtual meetings.
- 3.9. The committee is thus invited to review the arrangements and decide if virtual meetings should continue or if attendance of members at Hove Town Hall is preferred with remote attendance still an option for other parties. The situation can be kept under review as appropriate. A decision to continue with virtual meetings does not preclude holding a hearing in person where the individual circumstances of an application warrant it.

4. Analysis and consideration of alternative options

- 4.1. Section 10 of Licensing Act 2003 permits this Committee to appoint a Sub-committee (in this case, a Licensing Panel), and to allocate functions to it.
- 4.2. The above provision also permits delegation to officers in the terms described above to avoid the need to convene further urgent committee meetings in a situation such as a pandemic. This approach enables a flexible response to changing national or local conditions.
- 4.3. The recommendation as to temporary Licensing Panel meetings is only temporary and is intended to next be reviewed by this Committee in June 2027. The alternative option - to revert to all in person meetings - While this is not recommended for the reasons set out in the report, the option of holding a Licensing Panel face to face will remain for circumstances where an individual application warrants it.

5. Community engagement and consultation

- 5.1. These are regulatory hearings, and the proceedings must give all parties the ability to participate as appropriate and enable the press and public to see and hear them.

6. Conclusion

- 6.1. The Licensing Committee is empowered to appoint subcommittees (licensing panels) and determine the procedures of the same. It also has powers to delegate relevant functions, after appropriate consultation, to senior officers for a temporary period in the interests of effective and flexible decision making.

7. Financial implications

- 7.1. There are no additional financial implications arising from this report.

8. Legal implications

- 8.1. The Licensing Act 2003 (Hearings) Regulations made under S9 of the Licensing Act 2003 allows the authority to determine its own procedures for its subcommittees (hearing panels). Such determination may also be delegated to officers in the way outlined in the report. While each licensing panel could determine its own procedure at the outset of each meeting, this is not considered to be practical given the need for advance notifications under the Hearings Regulations.

Name of lawyer consulted: **Victoria Simpson** Date consulted: **29.05.26**

9. Equalities implications

- 9.1. The Council has a public sector equality duty under s149 of the Equality Act 2010. In the exercise of its functions, the Council must have due regard to the need to eliminate unlawful discrimination, harassment, and victimisation; advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those that do not. Decisions as to procedures will always take this into account.

10. Sustainability implications

- 10.1. No direct sustainability implications.

11. Other Implications

- 11.1. **Public health implications:** Any decision to move to more face-to-face meetings will be informed by the latest public health guidance. Good practice would indicate that Members should not attend meetings where they have respiratory infections, and that good ventilation continues to be advised.

