

Following the challenge in the High Court earlier this year the Lawyers in Local Government (LLG) have published guidance, together with the Association of Democratic Services Officers, on remote hearings. In this guidance it deals with the Licensing regime and states the following:

*Commentators in this area have advocated that licensing sub-committees are not precluded from holding remote/virtual hearings as they are unaffected by the requirements relating to the LGA 1972. One of the bases for that argument is that section 101(15) of the LGA 1972 states that nothing within that section applies in relation to any function of a licensing authority under the Licensing Act 2003, and that this therefore means that the LGA 1972 is not relevant.*

As such the view is that licensing sub-committees are not affected by the LGA 1972 and sub-committees can hold remote/virtual meetings. Although they point out that there are opposing views.

The guidance recommends as the matter remains untested, and advocate a risk-based approach, determined by individual local authorities in light of their own circumstances.

In addition to this guidance a very well-respected licensing barrister, Philip Kolvin QC, has stated:

*"... Remote local authority meetings required legislative permission and still do. Remote licensing hearings don't.*

*This is not to say that Licensing Sub-Committees are compelled to hold remote hearings. It up to them. When deciding whether to do so in some or all cases, they may bear in mind the costs savings to applicants of physical attendance by themselves and their professional representatives, the convenience for local residents, and even councillors, of being able to key in from home or work, and the ability to focus minds by imposing strict time limits on submissions.*

*They might equally take the view that online attendance disadvantages those without good internet facilities, or unfamiliarity with communication platforms, and that presence facilitates a less formal and more fluid debate. It is all a matter for them. In my experience, however, there is much to be said for virtual meetings and it would be a shame if anyone thought that they were legally precluded."*

As a result of the LLG guidance and Kolvin QC's views the current Monitoring Officer and Legal Services have advised Licensing Officers and Member Services that it is permissible to hold remote licensing sub-committees as long as all are satisfied that there are no issues with councillors, members of the public (where appropriate) and the licence holders' ability to join into and participate in the meetings.

This decision is to be made by Licensing Officers and Member Services on a case by case basis, with advice from Legal Services where required.