

## **MID DEVON DISTRICT COUNCIL**

**MINUTES** of a **MEETING** of the **LICENSING COMMITTEE** held on 27 October 2022 at 10.30 am

### **Present**

#### **Councillors**

J Cairney (Chairman)  
J Bartlett, Mrs F J Colthorpe, D R Coren,  
J M Downes, Miss J Norton, Mrs E J Slade  
and A Wilce

### **Apologies**

#### **Councillor(s)**

D J Knowles, D F Pugsley and L D Taylor

### **Also Present**

#### **Officer(s):**

Maria De Leiburne (District Solicitor and Monitoring Officer), Deborah Sharpley (Solicitor), Carole Oliphant (Member Services Officer) and Jessica Rowe (Member Services Apprentice)

## **8 APOLOGIES AND SUBSTITUTE MEMBERS (02.46)**

Apologies were received from Cllrs D J Knowles, L D Taylor and D F Pugsley

## **9 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (03.09)**

Members were reminded of the need to make declarations where appropriate

## **10 PUBLIC QUESTION TIME (3.17)**

The following questions were read out by the Chairman:

Questions for Licensing Committee, 27 October 2022 from Nick Quinn (Local Resident)

My questions concern: Agenda Item 5 – Remote Licencing Hearings.

I think the recommendation in the report seems a bit “Cart before the Horse”. You should consider whether you are in a position to implement it fully.

The Legal Implications are confusing saying: “Remote hearings are permitted under the language of the Regulations and Act”, then continuing with: “The Regulations are silent on the subject of remote hearings”.

Prior to the pandemic, ALL legislation was silent on remote meetings. New Legislation had to be passed to allow them.

That Legislation has expired and there is now no specific legal permission for remote licensing hearings.

Your Regulations require you to set a place at which the hearing is to be held and the High Court has ruled that the term “place” in Local Government Legislation means a physical location.

So, with the High Court ruling on “place”, and without specific legislated permission, there is some risk in agreeing to restart remote (virtual) hearings.

Also, procedures that were accepted when travel was legally restricted, may no longer be. You should have new procedures in place, specifically tailored for remote hearings, before making any resolution for their re-introduction.

Questions:

Q1. Are you prepared to risk remote (virtual) hearings, against the High Court ruling on “place” and without specific, legislated, permission?

Q2. Have you agreed criteria that you would use to assess whether a remote hearing is appropriate - for ALL parties, including the public?

Q3. Have you agreed procedures to conduct a remote hearing and to implement all the provisions in the current legislation?

Q4. Have you agreed procedures to cover any problems arising from the technology, or the participants, during a remote hearing?

The Chairman confirmed that the questions would be answered when the item was discussed.

## 11 **MINUTES (06.54)**

The minutes of the meeting held on 26<sup>th</sup> August 2022 were agreed as a true record and duly **SIGNED** by the Chairman

## 12 **REMOTE LICENSING HEARINGS (07.26)**

The Committee had before it a \*report from the District Solicitor and Monitoring Officer detailing the proceedings of the Licensing Committee when discharging the Council’s licensing functions under the Licensing Act 2003.

Consideration was given to:

- Interpretation of the word ‘place’
- Specific geographical locations as opposed to remote/online locations
- High Court decision in both R (Hertfordshire CC) v SSHLG cases
- Licensing Hearings were conducted under the Licensing Act 2003 and not the Local Government Act 1972 which detailed Council Meetings
- A meeting was not the same as a hearing
- A motion passed at Council 26.10.2022 would mean that any decision made by the Committee at this meeting would be referred to the Standards Committee with regard to remote hearings
- The views of a Member who felt that any remote licensing hearings would be unlawful

- The advice of the District Solicitor and Monitoring Officer that holding remote licensing hearings was a decision for the Local Authority based on the LLG/ADSO advice that “*The matter remains untested, and we would advocate a risk-based approach determined by individual local authorities in light of their own circumstances.*”
- The views of Members that the option to hold remote Licensing Hearings in specific circumstances would be a valuable tool

It was therefore **RESOLVED** that:

Licensing hearings under the Licensing Act 2003 would continue to be held remotely (virtually) when considered appropriate to do so.

(Proposed by the Chairman)

In response to public questions asked the District Solicitor and Monitoring Officer confirmed:

- Q1 - Answered during the Licensing Committee
- Q2 - Common sense approach – bearing in mind all of the circumstances including:
  - internet facilities,
  - familiarity with communication platforms,
  - equality and inclusion under the Equality Act 2010

Each case to be reviewed on an individual basis by Licensing Team and Member Services (with assistance from Legal Services, if required)

- Q3 - Continue to use Zoom and the Licensing Hearings Protocol will be used to facilitate the meeting
- Q4 - The initial assessment will assist to identify any issues with technology etc. in advance and lead to an in-person hearing.

With Zoom there are ways to trouble-shoot issues and try to resolve e.g. if video goes down, dialling in on a mobile instead.

If any issues could not be resolved and/or something occurred during a hearing that prevented participation or the ability to put forward any representations then the hearing would need to be stopped and re-scheduled.

Notes:

- \*Report previously circulated and attached to the minutes
- Cllr A Wilce requested that his vote against the decision be recorded

(The meeting ended at 11.22 am)

**CHAIRMAN**

