

HIGHLAND LICENSING BOARD PROCEDURE FOR VIRTUAL HEARINGS

BEFORE THE HEARING

As a result of the current Coronavirus (COVID-19) pandemic, Licensing Board meetings will be conducted using the videoconferencing platform Microsoft Teams as opposed to being held in a meeting room at the Council offices.

All parties entitled to be heard will be invited to attend the virtual meeting to address the Licensing Board and/or have a representative to attend to address the Licensing Board on their behalf.

If parties do not already have the Microsoft Teams application on their computer or device, it can be downloaded for free at the following link:

<https://www.microsoft.com/en-gb/microsoft-365/microsoft-teams/download-app>

Please refer to the separate quick guide for help getting set up.

The meeting will be webcast live on the internet. A recording of the meeting will also be available to view on the Council's website for a period of 12 months after the meeting.

All parties should notify the Licensing Board at least 3 working days in advance of the meeting whether they will be joining the virtual hearing and provide their telephone number and email address to licensing@highland.gov.uk. This is to allow arrangements to be made to enable parties to join the virtual hearing and resolve any technical difficulties that may arise at the hearing. All parties will be provided with a link via email to allow them join and participate in the meeting at the respective time.

The Licensing Board will consider any requests from any of the parties to call witnesses or representatives. Any such requests must be submitted to licensing@highland.gov.uk at least 3 working days before the hearing. This is to enable arrangements to be made to join the hearing remotely.

Parties can alternatively (or in addition) provide a written submission or documentary information to state their case which will be circulated to the Licensing Board prior to the hearing taking place. To assist in the conduct of the virtual meeting, all parties should submit any written submission or

documentary information to licensing@highland.gov.uk no later than 24 hours before the hearing is due to start.

In order to ensure the hearing runs as smoothly as possible, the following points should be noted and followed during the hearing:

- Parties should join the meeting 10 minutes prior to the scheduled time to allow for any technical difficulties to be resolved.
- Parties should ensure that they are in a private, quiet space where they will not be disturbed.
- Other noise sources should be silenced
- Attendees should, if possible, ensure that they have a plain wall as their background.
- Ensure that you are well lit by natural or artificial light.
- Parties should check that their microphone, camera and sound settings are working. This should preferably be done as early as possible. This will allow any technical issues to be raised and dealt with without the need to delay the hearing.
- All parties must only address the hearing when invited to do so by the Convenor.
- All parties must keep their microphones on mute unless they are speaking. The Convenor has the ability to mute all parties' microphones.
- When it is your turn to speak, remember to unmute your microphone. Speak directly into the microphone.
- When speaking, maintain eye contact with the camera. This will ensure you appear to be looking at your audience.
- If a party wishes to interject, they should use the raise hands function available on the screen. The Convenor has the discretion to invite the party to make their comment at an appropriate stage in the hearing.
- In case of a technical fault, you should have a telephone on hand. You should ensure that the number for this phone is provided to the licensing team prior to the hearing.
- If there is a technical failure that cannot be fixed, then the hearing may have to be adjourned.

DURING APPLICATIONS HEARING

1. The Convener introduces the agenda item and identifies who is present for the hearing and who intends to speak. If there are no late letters of representation or objection and no spent convictions to be considered, the order of proceedings will begin from paragraph 4. below.
2. Preliminary proceedings where late letters of representation or objection have been received.
 - The Clerk will advise the Board if there has been any late letter of representation or objection. If the Clerk does so advise, then before the Board members can be made aware of the content of the late letter, they must be satisfied that the failure to lodge the letter or representation was due to a mistake, oversight or other excusable cause. If there is no one present to explain why the letter was lodged late and no written explanation has been provided by the author of the letter, the Board will agree not to have regard to the late letter. If there is someone present, however, the Convener will invite them to explain why the letter was lodged late. After the person has given their explanation, the Board members may ask them questions. The applicant (to whom the late representation/objection will already have been copied) will then be asked if they have any objection to the late representation/objection being accepted for consideration and the Board members may ask the applicant questions on this issue. The Board will then decide whether to accept the late representation/objection for consideration, having taken all submissions on this issue into account. If the Board does agree to consider a late letter of representation/objection, the letter will at that point be circulated by the Clerk to the Board members who will then be given time to read its content.
3. Preliminary proceedings where Police Scotland wish to refer to spent convictions
 - The Clerk will advise the Board if the Police have given notice that the applicant has spent convictions and that they wish those spent convictions to be taken into consideration. The Board may only hear details of and have regard to those spent convictions if first satisfied that justice cannot be done without the Board considering the spent convictions. The Convener will therefore invite the Police

representative to explain why they consider that justice cannot be done without the Board considering the spent convictions. Board members may ask the Police representative questions but the Police may not disclose, at that stage, more than the barest facts about each conviction (i.e. the general nature of the offence, the relative age of the conviction and its relative seriousness). The applicant will then be asked if they have any objection to the spent convictions being disclosed to and considered by the Board and, if so, without disclosing details of the spent convictions themselves, to explain their reason for objecting. The Board will then decide whether they are satisfied that justice cannot be done without the spent convictions to be disclosed to and considered by them. If they are so satisfied, the Clerk will at that point circulate the list of spent convictions to the Board.

4. The main hearing

- The applicant or his/her representative is invited to put his/her case to the Board in support of the application and to address the points raised in any letters of representation or objection which the Board will be considering
- Persons present who have submitted representations or objections which the Board will be considering (the “objectors”) are given the opportunity to ask the applicant relevant questions
- The Board members are given the opportunity to ask the applicant relevant questions.
- The objectors are invited to put their case to the Board.
- The applicant is given the opportunity to ask the objectors relevant questions.
- The Board members are given the opportunity to ask the objectors relevant questions.
- The applicant is invited to sum up.
- The objectors are invited to sum up.
- The hearing part of the process ends and Board members commence their deliberation and then make their decision

Review hearings

- The Convener introduces the agenda item and identifies who is present for the hearing and who intends to speak.
- The complainer presents his/her case. Where the complainer is effectively the Board (e.g. in reviews triggered by the Board itself), the Convener will explain the grounds for review and the evidential basis for those grounds, details of which will already have been sent to the licence holder.
- [Any person who has made timeous representations on the review proposal or application is then given the opportunity to ask the complainer questions.]
- The licence holder and then the Board members are then given the opportunity to ask the complainer relevant questions.
- [Any person who has made timeous representations on the review proposal or application presents their representations.]
- [The complainer, the licence holder and then the Board members are then given the opportunity to ask the persons who have made representations questions]
- The licence holder then presents their submissions in response.
- The complainer, [the persons who have made representations] and then the Board members are then given the opportunity to ask the licence holder questions.
- Each party is then given the opportunity to sum up, with the licence holder having the right to sum up last.
- The hearing part of the process ends and Board members commence their deliberation and then make their decision.

The Board's deliberations and decision

When the Convener is satisfied that the parties have said all they wish to say he or she will invite the Board members to deliberate and reach a decision. Once deliberation has commenced, parties will not generally be given further opportunity to speak. However, if a member raises further questions for clarification purposes, the parties will be invited to respond and if, during deliberation, a member raises any new matter of which parties have previously had no notice, the Convener will allow parties time to consider the new matter and comment thereon. An adjournment of the hearing for this purpose will be allowed if required. Prior to making its decision, which must take place in public, the Board may choose to deliberate in private. This is the only part of the proceedings which may take place in private. If this occurs, when the public meeting reconvenes

the Clerk will repeat any legal advice given to members during their private deliberation. At the end of the deliberation, the Board will reach a decision and outline its reasons. The Board's decision may be unanimous or by majority vote. In the event of a tied vote, the Convener has the casting vote.

AFTER THE HEARING

After the hearing, a notice of determination setting out the Board's decision will be sent to all parties entitled under the Act to receive such a notice. This will generally be sent within 7 days of the Board's decision. Certain parties are also entitled to require a written statement of the Board's reasons for its decision. A request for a statement of reasons must generally be made within 14 days of the date of receiving notice of the determination.

Details of parties entitled to receive a notice of determination and of parties who may request a statement of reasons can be found at:

http://www.highland.gov.uk/downloads/file/11669/information_note_notices_of_determination_and_statement_of_reasons

Details of parties who may appeal particular decisions of the Board can be found at:

http://www.highland.gov.uk/downloads/file/11668/information_note_right_of_appeal