

SUPPLEMENTARY AGENDA

STANDARDS COMMITTEE

Tuesday, 2nd March, 2021, 7.00 pm - MS Teams (watch it [here](#))

Members: Councillors Felicia Opoku (Chair), James Chiriyankandath, Makbule Gunes, Julia Ogiehor, and Elin Weston.

Quorum: 3

- 7. REPORT RESPONDING TO MEMBER COMMENTS IN THE REVIEW OF MEMBER ALLOWANCES THAT THE REGULATORY COMMITTEE SHOULD BE FORMALLY RECONSTITUTED AS TWO SEPARATE COMMITTEES - A PLANNING COMMITTEE AND A LICENSING COMMITTEE (PAGES 1 - 60)**

To consider the comments of the Regulatory Committee on the establishment of a separate Strategic Planning Committee with a Planning Sub Committee and a separate Licensing Committee with a Licensing Sub Committee and the decommissioning of the Regulatory Committee for the municipal year 2021/22.

- 8. PROPOSED AMENDMENTS TO THE CONSTITUTION (PART FIVE, SECTION A - PROTOCOL FOR COMPLAINTS AGAINST MEMBERS) (PAGES 61 - 76)**

This report seeks approval to include additions to section 5.3 of Part Five, Section A of the constitution (Protocol for Complaints Against Members) in response to the comments by the Standards Committee at its recent meetings to consider additional circumstances where the Monitoring Officer could dismiss a complaint at an earlier stage.

- 9. REVIEW OF THE SOCIAL MEDIA POLICY (PAGES 77 - 84)**

This report provides an opportunity for the Committee to review the Social Media Policy.

Fiona Rae, Principal Committee Co-ordinator
Tel – 020 8489 3541
Fax – 020 8881 5218
Email: Fiona.Rae@haringey.gov.uk

John Jones
Monitoring Officer (Interim)
River Park House, 225 High Road, Wood Green, N22 8HQ

Monday, 01 March 2021

LATE BUSINESS SHEET

Report Title: Agenda Item 7 – Report Responding to Member Comments in the Review of Member Allowances that the Regulatory Committee should be formally reconstituted as two separate committees - a Planning Committee and a Licensing Committee

Committee: Standards Committee

Date: 2 March 2021

Reason for lateness and reason for consideration

The Standards Committee has been asked to consider a report which seeks approval to formally reconstitute the Regulatory Committee as a Planning Committee, with a Planning Sub Committee, and a Licensing Committee, with a Licensing Sub Committee. If this proposal is agreed by the Standards Committee, it will be recommended to Full Council.

Under s100B(4)(b) of the Local Government Act 1972, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency by reason of special circumstances. These circumstances are so that the proposal, including the comments of the Regulatory Committee, can be considered by the Standards Committee in a timely manner at the meeting on 2 March 2021. This was agreed by the Chair on 28 February 2021.

This page is intentionally left blank

Report for: Standards Committee – 2 March 2021

Title: Establishment of a separate Strategic Planning Committee with a Planning Sub Committee and separate Licensing Committee with a Licensing Sub Committee and decommissioning the Regulatory Committee for the Municipal year 2021/22.

Report authorised by: Interim Monitoring Officer – John Jones

Lead Officer: Ayshe Simsek - Democratic Services and Scrutiny Manager

Ward(s) affected: N/A

**Report for Key/
Non-Key Decision:** Non Key Decision

1. Describe the issue under Consideration.

1.1 This report provides the feedback from the Regulatory Committee which has been consulted on the proposed changes to the Committee structure which is for the Regulatory Committee to be formally reconstituted as two separate Committees – a Strategic Planning Committee and a Licensing Committee. The Regulatory Committee considered the attached report at Appendix 1, and appendices 2 to 4 on 25 February 2021, and also considered Appendix 5, at an earlier working group meeting on 11 February 2021.

1.2 The Regulatory Committee formally endorsed Option 3 - which is the establishment of a separate main Planning Committee called a Strategic Planning Committee with a Planning Sub Committee and the establishment of a separate main Licensing Committee with a Licensing Sub Committee. They were in agreement to this change in Committee Structure and considered consequent changes to the Council's Constitution, in particular Section B – Full Council and Non-Executive Functions. They commented on the need for explicit reference, in the Strategic Planning Committee's Terms of Reference, to Building Control functions and it is proposed to make this change further to consultation with Legal services. There was a comment on changing the name of the main Licensing Committee to Strategic Licensing Committee. Although, the proposed name of this Committee is similar to other borough's Licensing Committee names and reflects the term used in legislation. It was also agreed to reference the potential consequent changes to the Special Responsibility Allowance (SRA) descriptions, according to their banding e.g., Chair of Strategic Planning, will be Band 2B and Chair of Licensing Band 1B. This would be taken forward in the report to Full Council from the Standards Committee, if the Committee is minded to agree the recommendations.

2. Cabinet Member Introduction

Not applicable.

3. Recommendations

The Standards Committee is asked:

- 3.1 To note the endorsement of Regulatory Committee to Option 3, set out at Appendix 1, which is the deletion of the Regulatory Committee for the 2021/22 Municipal Year and establishment of a separate main Planning Committee called the Strategic Planning Committee with a Planning Sub Committee and the establishment of a separate main Licensing Committee with a Licensing Sub Committee.
- 3.2 To recommend to full Council, the implementation of these changes to the Committee structure, set out at 3.1 above, to take effect from the 2021/22 Municipal year as set out at Appendix 1, section 6.6.
- 3.3 To recommend resultant changes and additions to the Constitution, Part 3 Section B, Full Council and Non-Executive Functions and protocols, which are attached at appendices 2 to 4, to full Council for approval on 18 March 2021 and to take effect from the start of the new Municipal Year, May 2021/22.
- 3.4 To delegate any further required minor amendments to appendices 2 to 4 and other resultant changes to the Constitution, that may be necessary before submission of the Standards Report to Full Council on 10 March 2021, to the Monitoring Officer after consultation with the Chair.

4. Reasons for decision

- 4.1 In the Review of Members' Allowances for the Municipal year 2020/21, the independent person, conducting this review, outlined in his report, to the Standards meeting on 2 March 2020, that there seemed to be consensus around the proposition that the Regulatory Committee should be formally reconstituted as two separate Committees – a Planning Committee and a Licensing Committee. The Standards recommended consultation with the Regulatory committee on options for taking forward this change to the Committee structure.
- 4.2 Regulatory Committee considered 4 options for how this change could be taken forward on 14 January 2021 and a further 2 options were considered by the working group of Regulatory Committee on 11 February 2021. The Regulatory Committee formally endorsed Option 3 at their meeting on 25 February 2021 with comments as set out at section 1.2.
- 4.3 The Constitution at section 14.03 sets out that Changes to the Constitution, including the Scheme of Members' Allowances, will only be approved by the full Council after recommendation of the proposal by the Standards

Committee and following advice from the Monitoring Officer save that authority is delegated to the Monitoring Officer to make any changes required as a result of legislative change. This report takes forward this action and changes to the Constitution will be put forward to Full Council on 18 March 2021 meeting for approval and to take effect for the Municipal Year 2021/22.

5. Alternative options considered.

- 5.1 To make no changes to the Committee Structure or Constitution and maintain the Regulatory Committee. This would be contrary to Member's wishes and the findings of the review of Member Allowances Review in 2019/20.
- 5.2 To reconsider and recommend Options 1, 2 or 4 as set out at 1.2, 1.3 and 1.5 in the attached report at Appendix 1.

6. Background

- 6.1 As set out in Appendix 1 and Appendix 5.

7. Contribution to strategic outcomes

The Council's constitution supports the governance of the Council and its decision making thereby assisting the Council to meet its strategic outcomes.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance comments

- 8.1 There are no financial implications arising from this report. There are no consequent changes to the SRA's and no significant resource implications for supporting the proposed changes to the Committee structure.

Legal comments

- 8.2 These are set out within the report.

Equality

- 8.3 There are no equality matters in this report.

9. Use of Appendices

Appendix 1: Report to Regulatory Committee – 25 February 2021.

Appendix 2a: Option 3 Terms of Reference for changing the current Regulatory Committee terms to proposed main Licensing Committee [shown with track changes].

Appendix 2b: Licensing Sub Committee Terms of Reference with track changes.

Appendix 2c: Proposed terms of reference for Strategic Planning Committee – New.

Appendix 3.1: Current Regulatory Committee Protocol amended to cover the new Main Licensing Committee and created new Strategic Planning Committee Protocol at 2.2 [with track changes].

Appendix 4: Clean terms of references for Licensing Committee, Licensing Sub Committee, Strategic Planning Committee, Protocol for Licensing Committee and Strategic Planning Committee.

Appendix 5: Regulatory Committee – Briefing paper.

10. Local Government (Access to Information) Act 1985

The Council Constitution can be found at: <http://www.haringey.gov.uk/local-democracy/about-Council/Council-constitution>.

Report for: 25 February 2021 – Regulatory Committee/ Standards Committee 2nd of March 2021

Title: Establishment of a separate Strategic Planning Committee with a Planning Sub Committee and separate Licensing committee with a Licensing Sub Committee and decommissioning the Regulatory Committee for the Municipal year 2021/22.

Report

authorised by : Interim Monitoring Officer – John Jones

Lead Officer: Ayshe Simsek - Democratic Services and Scrutiny Manager

Ward(s) affected: N/A

Report for Key/

Non-Key Decision: Non key decision

1. Describe the issue under Consideration.

- 1.1 This report responds to the issues raised at Regulatory Committee on the 14th of January 2021 when options were considered for separating out the Planning and Licensing functions of the Regulatory Committee. There were 4 options considered along with their implications. These were as follows:
- 1.2 Option 1 – Adding the non-executive Planning related functions of Regulatory Committee, including making informal recommendations, to Cabinet and Council, to the current Planning Sub Committee terms of reference and making this a Committee of the Council.
- 1.3 Option 2 – Regulatory Committee deleted, and Planning Committee established as a Committee of the Council, with the current Sub-Committee terms of reference. This would mean Policy reports progressing directly to Cabinet and then Full Council without any informal recommendations from a non - executive Committee. Planning service performance reports and other reports which were not related to applications could be considered by the relevant Scrutiny Panel. Separate Licensing Committee and Sub Committee to be created.
- 1.4 Option 3. Clarified, following the 14th of Jan ,meeting to mean having a Strategic Planning Committee as a Committee of the Council keeping only Planning related functions [from the Regulatory Committee] which are not licensing related with a Planning Sub Committee to consider applications. Having a separate Licensing Committee with one Sub Committee to consider licensing applications.

- 1.5 Option 4 – To keep current Regulatory Committee without establishing a Licensing Committee and only having one Licensing Sub Committee.
- 1.6 The discussion at Regulatory Committee raised a number of important points and it was suggested that some members of the Regulatory Committee could meet informally as a smaller group to consider their views and the potential options in greater detail. It was noted that any conclusions and proposals would need to be considered by the Regulatory Committee and the Standards Committee before any proposals were recommended for adoption at the Annual Council meeting on 24 May 2021.
- 1.7 All Regulatory Committee members were invited to the informal group meeting and 7 members attended, considering further additional information on options 1 and 3 which were the favoured options at the 14th of January Regulatory meeting. This briefing note is attached as Appendix 4 as background. Further to considering this information, there was support for Option 3 as this would provide a clearer distinction between meetings of Planning that would consider performance and policy related reports and those that would consider Planning applications. There was consideration given to the number of members that would sit on the Strategic Planning Committee and Planning Sub Committee. There was consensus that this should be the same number and membership, with 11 on Strategic Planning and also 11 on the Planning Sub Committee. There was discussion on how the main Licensing Committee would work with its Sub Committee. Some members felt that there should not be a specific Sub Committee membership for Licensing to consider applications and there not be a reliance on special meetings and substitutes. There was a need to ensure that each member of Licensing Committee was participating in Licensing decisions. This report follows up on this query and proposes that there is one Sub Committee with any three members of the main Licensing committee as members. Further details are set out paragraph 6.11.
- 1.8 There was a need to ensure that by splitting the functions of Regulatory Committee between Strategic Planning and Licensing Committee that any non-executive regulatory responsibilities do not fall outside of the remit of these two Committees . There is reference in the Regulatory Committee terms of reference to other 'regulatory matters' and these have been kept in the Licensing Committee Terms of reference.
- 1.9 The protocol for Regulatory Committee is referenced in the Constitution terms of reference and this has been located and updated with some information on how the Licensing Committee and Strategic Planning Committee will work, including requirements for Planning Training and having a reserve pool of trained members that can substitute on Planning Sub Committee.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 To comment on the additional information provided on Option 3 and recommend a proposed final model for establishment of a separate main Planning Committee with a Planning Sub Committee and separate Licensing Committee with a Licensing Sub Committee, decommissioning the Regulatory Committee for the Municipal year 2021/22, to Standards Committee on the 2nd of March 2021.
- 3.2 To note that there will need to be further review of the proposed Terms of references by Planning officers and Legal Services.

4. Reasons for decision

- 4.1 In the Review of Members' Allowances for the Municipal year 2020/21, the independent person, conducting this review, outlined in his report, to the 2nd of March 2020 Standards meeting, that there seemed to be consensus around the proposition that the Regulatory Committee should be formally reconstituted as two separate Committees – a Planning Committee and a Licensing Committee. The Standards recommended consultation with the Regulatory committee on options for taking forward this change to the Committee structure.
- 4.2 Regulatory Committee considered 4 options for how this change could be taken forward on the 14th of January and a further 2 options were considered by the working group of Regulatory Committee on the 11th of February. This report responds to comments and discussion at these meetings and proposes a structure for the member consideration of Planning, Licensing and Regulatory functions.

5. Alternative options considered.

- 5.1 Not to comment and recommend a preferred option which would be contrary to the request made by Standards Committee.
- 5.2 To reconsider and recommend Options 1, 2 or 4 as set out at 1.2, 1.3 and 1.5.

6. Background

- 6.1 As set out above, this paper takes forward Option 3, clarifying that a Strategic Planning Committee is created[there can be another name chosen if it is felt that this may confuse with the term for major planning applications which are sometimes referred to as "Strategic] as a Committee of the Council with a Planning Sub Committee whilst also having a main Licensing Committee and Licensing Sub Committee. There would need to be 4 additional meetings of

Strategic Planning added to the Council Committee Calendar for 2021/22 and Licensing Committee would replace the Regulatory meeting dates. There could be a net increase in 4 meetings for members. To mitigate this net increase, it is proposed that there are **2** main Licensing Committees added to the calendar one in **May** to establish the sub committees and one in **January** to consider policies and agree required fee charges. It is also proposed to only add **3** additional Strategic Planning meetings to cover the quarterly updates and reports . This would mean a net increase of only 1 meeting.

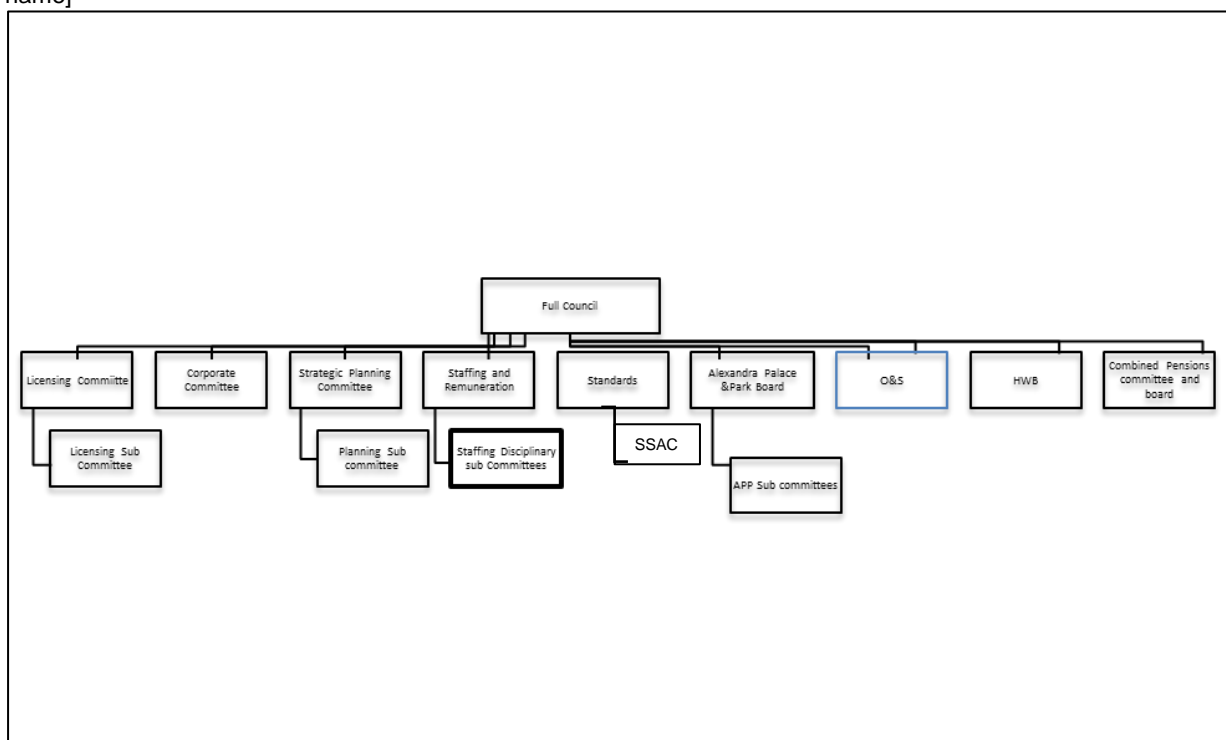
6.3 The number of licensing related items for the Licensing Committee likely to come forward in 2021/22 are as follows.

- a review of the years licensing activities to include - the years various licences issued under delegated authority, any Licensing Appeal cases summed up,
- any Sub Committee cases summary and points of learning.
- Fees and charges report

6.4 In the years that the Statement of Licensing Policy or Gambling Policy needed to be considered (Gambling every 3 years, Licensing every 5 years) there would need to be special meetings. The Gambling Policy is normally considered by Regulatory Committee in July whilst it is out to consultation, so that the Committee can feedback to Cabinet in October and it can be recommended to Full Council in November. That work will be happening this year, therefore a Special Licensing Committee meeting is likely to be required in July 2021. The Statement of Licensing Policy will be reviewed during 2025. It is normally considered by the Regulatory Committee before and after it goes out to consultation, usually in September and November before recommending to Full Council in November.

6.5 If there was only one Licensing Sub Committee, ideally it should meet twice a month due to the timescales for hearing applications and reviews and the fact that the Committee can only realistically deal with a maximum of 2 hearings in one evening. Where necessary, special meetings will need to be called e.g. to deal with TENs applications.

6.6 The Committee structure would look as follows: Members can comment on this new name]



Impact on Seat Numbers would be as follows:

- 6.7 As set out in the appendix 4 and according to principles of allocation as set out above, the main Licensing Committee could have 11 seats and Strategic Planning Committee could have 11 seats with the Planning Sub Committee also having 11 seats. The working group, on the 11th agreed this number is put forward.
- 6.8 The number of seats available on ordinary committees increases to 56. There would be 40 seats available to Labour and 16 seats available to the Liberal Democrat Group.
- 6.9 In practice, the political Chief Whips can choose the same members to sit on both Strategic Planning Committee and main Licensing Committee if they want to maintain the close connection between these functions or choose to spread the membership in the respective political groups.
- 6.10 A potential terms of reference for Option 3 is set out in Appendix 1.
- 6.11 The working group indicated that they were not in favour of having a Licensing Sub Committee with a set membership and wanted the whole pool of councillors on the main Licensing Committee to be accessed and not have to rely on substitutes. It is proposed that, as a way forward, at its first meeting, the Licensing Committee is asked to formally agree the establishment of one Sub Committee and further agree that the Licensing Sub-Committee may

comprise any three members, including the Chair of the main Licensing Committee. There will be a note advising that all members of the Licensing Committee will be consulted on their availability when it is known that a licensing hearing is required. From responses received, three Members would be notified that they have been selected to serve on the Licensing Sub-Committee and all members of the Licensing Committee will be advised accordingly. Democratic Services will ensure that all members of the Licensing Committee share Sub-Committee responsibilities on an equal basis and can provide a note to the political group Chief Whips on attendance on a quarterly basis.

- 6.12 Members are asked to comment on the information above and recommend this option for Standards Committee on the 2nd of March 2021 for consideration.

7. Contribution to strategic outcomes

The Council's constitution supports the governance of the Council and its decision making thereby assisting the Council to meet its strategic outcomes.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 8.1 There are no financial implications arising from this report.

Legal

- 8.2 The proposed changes to the Council constitution were taken forward with Legal Service assistance.

Equality

- 8.3 There are no equality matters in this report.

9. Use of Appendices

Appendix 1 a- Option 3 Terms of Reference for changing the current Regulatory Committee terms to proposed main Licensing Committee [shown with track changes]

Appendix 1b Licensing Sub Committee Terms of Reference with track changes

Appendix 1c - Proposed terms of reference for Strategic Planning Committee -New

Appendix 2.1 Current Regulatory Committee Protocol amended to cover the new Main Licensing Committee and created new Strategic Planning Committee Protocol at 2.2[with track changes]

Appendix 3 – Clean terms of references for Licensing Committee, Licensing Sub Committee, Strategic Planning Committee, Protocol for Licensing Committee and Strategic Planning Committee.

Appendix 4 – Regulatory Committee – Briefing paper

10. Local Government (Access to Information) Act 1985

The Council Constitution can be found at: <http://www.haringey.gov.uk/local-democracy/about-Council/Council-constitution>.

This page is intentionally left blank

Appendix 1 a- Option 3 Terms of Reference for changing the current Regulatory Committee terms to proposed main Licensing Committee

7. The Licensing Regulatory Committee

The Licensing Regulatory Committee has functions either (1) as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as a non-statutory Committee exercising other non-executive functions relating to Licensing, ~~Town Planning~~ and other regulatory matters generally. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Committee is operating in its capacity as “statutory Licensing Committee” or as a “non-statutory Committee”.

Membership

The Regulatory Licensing Committee must have between 10 and 15 members in order to comply with the legislation as statutory Licensing Committee.

Protocol

There is a Protocol outside this Constitution setting out how the Licensing Regulatory Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 and the relevant Licensing Procedure Rules when the Committee is conducting a formal hearing. Any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

- (1) In its capacity as the statutory Licensing Committee the Committee has all the functions referred to it by law under the Licensing Act 2003 and the Gambling Act 2005. These include:
 - (a) To be responsible for monitoring the operation of the Acts licensable activities and gambling in the Borough;
 - (b) To establish the Licensing Sub-Committees and to agree the delegation of functions to the Sub-Committees and to officers;
 - (c) To receive reports on the matters in (a) above and on the functions delegated to the Licensing Sub-Committees and to officers. To call for a report on any individual case;
 - (d) To determine the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;
 - (e) Subject to Regulations, to determine the fees payable for applications

for premises licences and related matters under the Gambling Act 2005;

- (f) In a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those members of the Committee who are re-elected as councillors shall meet as the Committee (subject to there being a quorum of 3 members) in order to exercise any of the functions of the Licensing Sub-Committees, or of the Committee under (f) above, and shall elect a Chair for the meeting.
- (2) In its capacity as the non-statutory Committee exercising other non-executive functions the Committee has the following functions:
- (a) Exercising the functions which are stated not to be the responsibility of The Executive/Cabinet In Regulation 2 and Schedule 1, Paragraph B (Licensing and Registration) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any Statute or subordinate legislation further amending these Regulations. The Committee's functions are to determine all policy issues, procedures and standard terms and conditions relating to the non-executive licensing functions but exclude decisions in individual cases which are delegated to the Licensing Sub-Committees. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments;
 - (b) Formulating, reviewing and approving for consultation the Statement of Licensing Policy under the Licensing Act 2003 and recommending it, and any revisions to it, to full Council for adoption;
 - (c) Being consulted informally on the review and determination of the Statement of Gambling Policy, including procedures for Council consultation with external stakeholders, and making recommendations on these matters to the Cabinet;
 - (d) ~~Making informal recommendations to the Cabinet and full Council on local development documents, development plan documents, the local development framework, the statement of community involvement and any other planning policy matter;~~
 - (e) Reviewing all Council plans and policies on any licensing, **planning** or regulatory matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;
 - (f) Making informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to licensing, **planning**, ~~conservation~~ or regulatory issues.

Appendix 1b Licensing Sub Committee Terms of Reference with track changes

4. Under The Licensing Regulatory Committee

4.1 Licensing Sub-Committeees

Introduction

The Licensing Sub-Committeees ~~hasve~~ functions either (1) as Sub-Committeees of the Licensing Regulatory Committee in its capacity as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as Sub-Committeees of the Licensing Regulatory Committee in its capacity as a non-statutory Committee exercising non-executive licensing and regulatory functions. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Sub-Committee is operating in its capacity as “statutory Licensing Sub-Committee” or as a “non-statutory Sub-Committee”.

Membership

The membership of ~~the each~~ Sub-Committee shall be drawn from the Licensing Regulatory Committee. ~~In the event that an appointed member or members of a Sub-Committee is unable or unwilling to take part in a hearing for any reason a Special Licensing Sub-Committee may be appointed from among the remaining members of The Regulatory Committee.~~ When operating in its capacity as “statutory Licensing Sub-Committee” there must be a membership and quorum of 3 present at all times.

- (1) General Provisions Relating to the Statutory Licensing Sub-Committeees
- (a) The Licensing Sub-Committeees ~~hasve~~ the power to make final decisions on behalf of the Council on matters within their terms of reference and there is no right of appeal to the Licensing Regulatory Committee;

Functions under both the Licensing Act 2003 and the Gambling Act 2005

- (b) To determine applications for premises licences where relevant representations have been made;
- (c) To determine applications for provisional statements where relevant representations have been made;
- (d) To determine valid applications for review of premises licences where relevant representations have been made;
- (e) To decide on any other matter where it is necessary or desirable for members to make that decision;

Functions under the Licensing Act 2003 alone

- (f) To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;
- (g) To determine applications to vary designated premises supervisors following police objections;
- (h) To determine applications for transfer of premises licences following police objections;
- (i) To consider police objections made to interim authority notices;
- (j) To determine applications for club premises certificates where relevant representations have been made;
- (k) To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;
- (l) To determine valid applications for review of club premises certificates where relevant representations have been made;
- (m) To decide whether to give counter notices following police objections to temporary event notices;
- (n) To determine applications for grants of personal licences following police objections;
- (o) To determine applications for renewals of personal licences following police objections;
- (p) To decide on revocation of personal licences where convictions come to light after grant;
- (pa) To determine the review of a premises license following a closure order where relevant representations have been made

Functions under the Gambling Act 2005 alone

- (q) To determine applications for variations of premises licences where relevant representations have been made;
- (r) To determine applications for transfers of premises licences following representations by the Gambling Commission or others;
- (s) To determine applications for the re-instatement of premises licences where relevant representations have been made;
- (t) To decide whether to give counter notices following objections to temporary use notices;

- (u) To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received;
 - (v) To determine proposals to cancel club gaming permits and club machine permits where the licence holder requests a hearing;
 - (w) When the licence holder requests a hearing, to determine officer proposals: (i) to make an order removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises gaming machine permit;
 - (x) To determine applications for the grant or variation of licensed premises gaming machine permits for 5 or more machines or in any case where the Chair of the [Licensing Regulatory](#) Committee considers that there is cause for concern about the proper management of the premises;
- (2) General Provisions Relating to the Non-Statutory Licensing Sub-Committees
- a) The Sub-Committees have all the functions which are stated not to be the responsibility of the Council's Executive/Cabinet in Regulation 2 and paragraph B (Licensing and Registration) of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S. I. 2853, as amended, or further amended, in any statute or subordinate legislation. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments.
 - (b) The Sub-Committees make decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.
 - (c) The Sub-Committees have the power to make final decisions on behalf of the Council in relation to its functions in (b).
 - (d) Excluded from the Sub-Committee's terms of reference are decisions on all policy issues, procedures and standard terms and conditions which are within the remit of The [Licensing Regulatory](#) Committee.

Appendix 1c

Proposed terms of reference for Strategic Planning Committee -New

– Option 3

There is a Protocol outside this Constitution setting out how the Strategic Planning Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4. Any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

There is also a Protocol setting out how members of the ~~Strategic Planning Sub-Committee~~ will exercise ~~any these~~ functions delegated to the Sub-Committee, including behaviour in relation to applicants, residents and other third parties, to ensure the probity of planning transactions and the highest standards expected in public office, which will also be followed by members of Strategic Planning Committee when exercising the same functions as the Sub-Committee. This protocol is supplementary to the Members' Code of Conduct at Part 5 of the Constitution~~s~~.

The Committee has all the functions ~~which are set out below and~~ which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1, Paragraph A (Town and Country Planning) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations.

To establish the Planning Sub-Committee~~s~~ and to agree the delegation of functions to that Sub-Committee.

The Committee shall also:

- (i) Make informal recommendations to the Cabinet and full Council on local development documents, development plan documents, ~~the local development framework, the statement of community involvement~~ and any other planning policy matter;
- (ii) Review all Council plans and policies on any ~~licensing, planning or regulatory~~ matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;
- (iii) Make informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to ~~licensing, planning, and conservation or regulatory~~ issues.

Current Planning Sub Committee Terms of reference 2020 for information – this will remain the same in option 3 but will need further review by Planning officers

There is a Protocol setting out how members of the Planning Sub-Committee will exercise those functions, including behaviour in relation to applicants, residents and other third parties, to ensure the probity of planning transactions and the highest standards expected in public office. This protocol is supplementary to the Members' Code of Conduct at Part 5 of the Constitution.

The Sub-Committee has all the functions which are set out below and which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations (references to paragraphs are to those in Schedule 1):

(a) paragraph A - Town Planning Functions

(A) planning applications for the erection of 10 or more dwellings and where the officer recommendation is for approval;

(B) planning applications for changes of use of 1000 sq. metres or more of gross internal floor space and where the officer recommendation is for approval;

(C) planning applications for the erection, or extension of non-residential buildings where the new build is 1000 sq metres or more of gross internal floor space and where the officer recommendation is for approval;

(D) unless otherwise agreed with the Chair of the Planning Sub-Committee, planning applications either:

(i) for major development as defined by the Town and Country Planning (Development) Management Procedure (England) Order 2015 (or any replacement legislation) and where the officer recommendation is for approval; or

(ii) where a legal agreement relating to that development is required; or

(iii) where the recommended decision would be contrary to the development plan;

(E) unless otherwise agreed with the Chair of the Planning Sub-Committee, applications submitted by, or on behalf of the Council;

(F) planning applications on Council owned land, where the Council is not the applicant, where significant material planning objections are received during the consultation process and which the Assistant Director or Head of Development Management, in consultation with the Chair of the Planning Sub-Committee, determines should be subject to members' consideration;

(G) planning applications submitted by or on behalf of members; or employees within the Planning Service or senior employees elsewhere in the Council; or their spouses, parents or children;

(H) any planning application to amend an application or vary conditions or a legal agreement previously decided/imposed by Planning Sub-Committee and which the Assistant Director or Head of Development Management, in consultation with the

Chair of the Planning Sub-Committee, considers to constitute a major or significant change;

(l) any planning application where there have been objections from a single councillor of the Ward within which the application site is situated and/or a local community body and/or a local residents' association, and a written request setting out the planning reasons for the matter to be referred to the Planning Sub-Committee has been made before the expiry of the consultation period, and which the Assistant Director or Head of Development Management in consultation with the Chair of the Planning Sub-Committee considers should be referred to the Planning Sub-Committee for determination;

(b) paragraph B - Power to amend;

For the avoidance of doubt, the Assistant Director or Head of Development Management is authorised after a Planning sSub-eCommittee determination to make any alterations, additions or deletions to the recommended heads of terms and/or recommended conditions (and to authorise any such changes requested by the GLA or government body) (and to further sub-delegate this power) provided this authority shall be exercised after consultation with the Chair (or in their absence the vice-Chair) of the sSub-eCommittee.

Appendix 2.1 Current Regulatory Committee Protocol amended to cover the new Main Licensing Committee and created new Strategic Planning Committee Protocol at 2.2

PROTOCOL COVERING Licensing REGULATORY COMMITTEE

1—INTRODUCTION

~~1.1—A key objective of Haringey’s Governance Review 2010/11 was to reduce the number of Council Committees, and to develop a more streamlined, focused and transparent decision-making structure. A single Regulatory Committee was therefore established to combine the remits of the Planning and Licensing Committees, as well as some non-executive licensing functions of the General Purposes Committee and Miscellaneous Functions Sub-Committee.~~

1.21.1 The Terms of Reference for the Licensing Regulatory Committee is stated in the Council’s Constitution (Part 3 Section C). The purpose of this protocol is to set out in detail the process by which the Licensing Regulatory Committee will function.

1.2 This Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 of the constitution. Any issue on procedure at the meeting shall be subject to the ruling of the Chair.

1.3 This document will be subject to regular review along with other governance arrangements, to ensure that it remains updated in the light of experience.

2 MEMBERSHIP AND CHAIR

~~2.1—A Planning Sub-Committee and Licensing Sub-Committees A and B shall sit under the Regulatory Committee.~~

2.22.1 The members and chair of the Licensing Regulatory Committee ~~and its Sub-Committees~~ shall be elected and ratified each year at the Annual Council Meeting.

2.32.2 The Licensing Regulatory Committee shall comprise 11 ~~12~~ members. ~~The Planning Sub-Committee shall comprise 9 members, and each Licensing Sub-Committee shall comprise 3 members. Each Sub-Committee shall be elected from the Regulatory Committee. The members of the Licensing Sub-Committee may comprise any three members of the Licensing Committee.~~

2.3 All members of the Licensing Committee will be consulted on their availability when it is known that a Licensing Sub Committee meeting/hearing is required.

2.4 From responses received three Members will be notified that they have been selected to serve on the Licensing Sub-Committee and all members of the Licensing Committee will be advised accordingly. (Note: All efforts will be made to ensure that all members of the Licensing Committee share Sub-Committee responsibilities on an equal basis)

2.5 The Chair of the Licensing Regulatory Committee and shall also act as the Chair of the Planning Committee and the Chair of Licensing Sub-Committee B. The Vice Chair of the Regulatory Committee shall chair the Licensing Sub-Committee A. In their absence, a member of the Licensing Committee who is trained to chair licensing meetings will be proposed and seconded as chair of the meeting.

~~2.41.1 Where one or more members of the Planning Sub-Committee are unable to participate in a hearing for some reason, they may give notice to arrange a substitute member in their place (as detailed in Paragraph 40, Part 4 Section B of the Council's Constitution), provided they have requisite training on planning matters.~~

~~2.5 Where one or more members of a Licensing Sub-Committee are unable to participate in a hearing for some reason, the Regulatory Committee may appoint substitute member(s) to sit on a special Licensing Sub-Committee. The special Licensing Sub-Committee must be comprised of Regulatory Committee members.~~

3 RESPONSIBILITIES

Main Licensing Regulatory Committee

3.1 The Licensing Regulatory Committee shall act as:

- (a) a **statutory licensing body**;
- (b) a **non-statutory body**.

3.2 At the appropriate stage during the meeting, the Chair of the Licensing Regulatory Committee shall announce whether the Committee is acting in its statutory or non-statutory role.

3.3 The main responsibilities of the Licensing Regulatory Committee will be in regard to determining and being consulted on Licensing and Regulatory policy issues, evaluating decisions and identifying learning points and informing Member and Officer development and training. These responsibilities are explained further in paragraphs 3.4 to 3.10 below. Decision making responsibilities in relation to individual complex or contested licensing ~~and planning~~ applications will be devolved to a Planning Sub-Committee and two the Licensing Sub-Committees. Uncontested or non-complex applications, or those that comply with the Scheme of Delegation, are determined by Officers.

3.4 As the **statutory licensing body** under the Licensing Act 2003 and Gambling Act 2005, the Licensing Regulatory Committee shall:

3.4.1 Establish the Licensing Sub-Committees

The Committee shall establish the Licensing Sub-Committees, and determine the procedures for handling applications, notices and representations, including the fees

payable for applications under the Gambling Act 2005. The Committee shall retain overall responsibility for the hearings carried out by the Sub-Committees. The Committee shall be able to call for a report on any individual case from the Licensing Sub-Committees.

3.5 As the non-statutory body the Licensing Committee's functions are to:

3.6 Determine policy issues relating to non-executive licensing functions

The Committee may determine policy for licensing functions that are not required to be made by Cabinet. Examples include policy to regulate street trading, sex establishments, special treatment premises and dog-breeding establishments.

3.7 Formulate, review and approve the Statement of Licensing Policy

The Committee shall formulate, review and approve for consultation the Statement of Licensing Policy, and any revisions to it, to full Council for adoption.

3.8 Be consulted on the Statement of Gambling Policy

The Committee can be consulted and provide recommendations on the Statement of Gambling Policy, for a decision by the Cabinet.

~~Be consulted on planning policy~~

~~The Committee may exercise an informal consultative role in relation to planning policy. Examples include local development documents, development plan documents, the local development framework, and the statement of community involvement. As most planning policy decisions must by law be made by the Cabinet and sometimes by full Council, the role of the Regulatory Committee will be 'informal'.~~

3.9 Be consulted on Council plans and services relating to regulatory issues

The Committee may make informal recommendations to the Cabinet and other bodies on Council plans, service delivery, grant aid, commissioning and procurement matters when these involve or relate to regulatory issues.

Licensing Sub-Committees

3.6 The Licensing Sub-Committees shall act as:

- (a) statutory licensing bodies;
- (b) non-statutory licensing bodies.

- 3.7 At the appropriate stage during the meeting, the Chair of the Licensing Sub-Committee shall announce whether the Sub-Committee is acting in its statutory or non-statutory role.
- 3.8 As **statutory bodies** under the Licensing Act 2003 and the Gambling Act 2005, the Licensing Sub-Committees shall undertake hearings on individual licensing applications (as detailed in Part 3 Section C of the Council's Constitution), and has the power to make final decisions on those matters. The authority to agree minor variations to premises licenses under the Licensing Act 2003 is delegated to officers. All licence reviews will be undertaken by the Licensing Sub-Committee.
- 3.9 As **non-statutory bodies**, the Licensing Sub-Committees shall undertake hearings on individual licensing applications that fall outside the Licensing Act 2003 and Gambling Act 2005, where they have been objected to and require a Member level hearing. Examples include the licensing of street trading, special treatment premises, sex establishments, pet shops and dog breeding establishments. All licence reviews will be undertaken by the Licensing Sub-Committee.

Planning Sub-Committee

- ~~3.10 The Planning Sub-Committee shall determine complex (including for reasons of scale) or contested applications for:~~
- ~~• Planning Permission;~~
 - ~~• Conservation Area consent;~~
 - ~~• Listed Building consent;~~
 - ~~• Advertisements consent;~~
 - ~~• Entering into Planning Agreements;~~
 - ~~• Enforcement of Planning and Listed Building Controls;~~
 - ~~• Creation, stopping up, diversion of highways, footpaths or bridleways;~~
 - ~~• Preservation of trees.~~

4 MEETING FREQUENCY AND FORMAT

Main Licensing Regulatory Committee Meetings

- 4.1 The Licensing Regulatory Committee will ~~not~~ have 2 scheduled meetings, however the Chair of the Licensing Regulatory Committee may call a special meeting in accordance with the process in the Council's Constitution (Part 4 Section B). ~~Where possible, Regulatory Committee meetings shall take place on the same evening as, and directly before, a Planning Sub-Committee meeting or Licensing Sub-Committee meeting.~~

~~—~~ The work programme for the Licensing Regulatory Committee shall be agreed between the Chair of the Committee and senior officers, at the beginning of the civic year and will include:

~~—~~ . The years various licences issued under delegated authority

~~—~~ • Any Licensing Court cases summed up

~~—~~ • Any Sub-Committee cases summary

- 4.2 Points of learning.

Sub-Committee Meetings

~~4.3—It is intended that the Planning Sub-Committee shall meet on a monthly basis.~~

~~4.4.2~~ Licensing Sub-Committee meetings shall be scheduled on a twice monthly basis; ~~divided between Sub-Committees A and B.~~ It is necessary to schedule on this frequency given the need to convene such meetings at a relatively short notice due to statutory deadlines for licensing applications. In practice it is envisaged that a number of the Licensing Sub-Committee meetings will be cancelled if the volume and timing of applications do not require them.

~~4.5—The Chair of a Licensing or Planning Sub-Committee may call a special meeting in accordance with the process in the Council's Constitution (Part 4 Section B).~~

Appendix 2.2 Strategic Planning Committee Protocol

The Terms of Reference for the Strategic Planning Committee is stated in the Council's Constitution (Part 3 Section C). The purpose of this protocol is to set out in detail the process by which the Licensing Committee will function.

This document will be subject to regular review along with other governance arrangements, to ensure that it remains updated in the light of experience.

MEMBERSHIP AND CHAIR

A Planning Sub-Committee shall sit under the Strategic Planning Committee.

The members and chair of the Strategic Planning Committee shall be elected and ratified each year at the Annual Council Meeting.

The Strategic Planning Committee shall comprise 11 members. The Planning Sub-Committee shall comprise the same 11 members.

The Chair of the Strategic Planning Committee shall also act as the Chair of the Planning Sub-Committee.

Where one or more members of the Planning Sub-Committee are unable to participate in a hearing for some reason, they may give notice to arrange a substitute member in their place (as detailed in Paragraph 49, Part 4 Section B of the Council's Constitution), provided they have requisite training on planning matters.

There will be a reserve list of councillorsmembers who have received the required training to participate in Planning Sub Committee meetings if needed. This list will be updated on an annual basis by the Political Chief Whips.

1.1.1 Be consulted on planning policy

The Committee shall makemay exercise an informal consultative relerecommendations in relation to planning plans and policy. -Examples includinge local development documents; and development plan documents; the local development framework; and the statement of community involvement and service delivery to -As most planning policy decisions must by law be made by the Cabinet and sometimes by fFull Council; the role of the Strategic Planning Committee will be 'informal'.

Planning Sub-Committee

4.3 The Planning Sub-Committee shall be established on an annual basis and determine complex (including for reasons of scale) or contested applications for:

- Planning Permission;
- Conservation Area consent;
- Listed Building consent;
- Advertisements consent;
- Entering into Planning Agreements;
- Permission in Principle and Technical Details Consents
- Enforcement of Planning and Listed Building Controls;
- Creation, stopping up, diversion of highways, footpaths or bridleways;
- Preservation of trees.

5 MEETING FREQUENCY AND FORMAT

Strategic Planning Committee Meetings

5.1 The Strategic Planning Committee will have 3 scheduled meetings, however the Chair of the Strategic Planning Committee may call a special meeting in accordance with the process in the Council's Constitution (Part 4 Section B). ~~Where possible;~~

5.2 The work programme for the Strategic Planning Committee shall be agreed between the Chair of the Committee and senior officers, at the beginning of the civic year and will include:

- Planning Performance
- Planning guidance

Sub-Committee Meetings

5.3 It is intended that the Planning Sub-Committee shall meet on a monthly basis.

This page is intentionally left blank

Appendix 4 Clean version

Appendix 1 a- Option 3 Terms of Reference for changing the current Regulatory Committee terms to proposed main Licensing Committee

7. The Licensing Committee

The Licensing Committee has functions either (1) as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as a non-statutory Committee exercising other non-executive functions relating to Licensing, and other regulatory matters generally. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Committee is operating in its capacity as “statutory Licensing Committee” or as a “non-statutory Committee”.

Membership

The Licensing Committee must have between 10 and 15 members in order to comply with the legislation as statutory Licensing Committee.

Protocol

There is a Protocol outside this Constitution setting out how the Licensing Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 and the relevant Licensing Procedure Rules when the Committee is conducting a formal hearing. Any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

- (1) In its capacity as the statutory Licensing Committee the Committee has all the functions referred to it by law under the Licensing Act 2003 and the Gambling Act 2005. These include:
 - (a) To be responsible for monitoring the operation of the Acts licensable activities and gambling in the Borough;
 - (b) To establish the Licensing Sub-Committee and to agree the delegation of functions to the Sub-Committee and to officers;
 - (c) To receive reports on the matters in (a) above and on the functions delegated to the Licensing Sub-Committee and to officers. To call for a report on any individual case;
 - (d) To determine the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;

- (e) Subject to Regulations, to determine the fees payable for applications for premises licences and related matters under the Gambling Act 2005;
 - (f) In a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those members of the Committee who are re-elected as councillors shall meet as the Committee (subject to there being a quorum of 3 members) in order to exercise any of the functions of the Licensing Sub-Committees, or of the Committee under (f) above, and shall elect a Chair for the meeting.
- (2) In its capacity as the non-statutory Committee exercising other non-executive functions the Committee has the following functions:
- (a) Exercising the functions which are stated not to be the responsibility of The Executive/Cabinet In Regulation 2 and Schedule 1, Paragraph B (Licensing and Registration) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any Statute or subordinate legislation further amending these Regulations. The Committee's functions are to determine all policy issues, procedures and standard terms and conditions relating to the non-executive licensing functions but exclude decisions in individual cases which are delegated to the Licensing Sub-Committees. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments;
 - (b) Formulating, reviewing and approving for consultation the Statement of Licensing Policy under the Licensing Act 2003 and recommending it, and any revisions to it, to full Council for adoption;
 - (c) Being consulted informally on the review and determination of the Statement of Gambling Policy, including procedures for Council consultation with external stakeholders, and making recommendations on these matters to the Cabinet;
 - (d)
 - (e) Reviewing all Council plans and policies on any licensing, or regulatory matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;
 - (f) Making informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to licensing, or regulatory issues.

Appendix 1b Licensing Sub Committee Terms of Reference with track changes

4. Under The Licensing Committee

4.1 Licensing Sub-Committee

Introduction

The Licensing Sub-Committee has functions either (1) as Sub-Committee of the Licensing Committee in its capacity as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as Sub-Committee of the Licensing Committee in its capacity as a non-statutory Committee exercising non-executive licensing and regulatory functions. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Sub-Committee is operating in its capacity as “statutory Licensing Sub-Committee” or as a “non-statutory Sub-Committee”.

Membership

The membership of the Sub-Committee shall be drawn from the Licensing Committee. When operating in its capacity as “statutory Licensing Sub-Committee” there must be a membership and quorum of 3 present at all times.

(1) General Provisions Relating to the Statutory Licensing Sub-Committee

- (a) The Licensing Sub-Committee has the power to make final decisions on behalf of the Council on matters within their terms of reference and there is no right of appeal to the Licensing Committee;

Functions under both the Licensing Act 2003 and the Gambling Act 2005

- (b) To determine applications for premises licences where relevant representations have been made;
- (c) To determine applications for provisional statements where relevant representations have been made;
- (d) To determine valid applications for review of premises licences where relevant representations have been made;
- (e) To decide on any other matter where it is necessary or desirable for members to make that decision;

Functions under the Licensing Act 2003 alone

- (f) To determine applications for variations of premises licences where relevant representations have been made except in the case of minor variations;
- (g) To determine applications to vary designated premises supervisors following police objections;
- (h) To determine applications for transfer of premises licences following police objections;
- (i) To consider police objections made to interim authority notices;
- (j) To determine applications for club premises certificates where relevant representations have been made;
- (k) To determine applications to vary club premises certificates where relevant representations have been made except in the case of minor variations;
- (l) To determine valid applications for review of club premises certificates where relevant representations have been made;
- (m) To decide whether to give counter notices following police objections to temporary event notices;
- (n) To determine applications for grants of personal licences following police objections;
- (o) To determine applications for renewals of personal licences following police objections;
- (p) To decide on revocation of personal licences where convictions come to light after grant;
- (pa) To determine the review of a premises license following a closure order where relevant representations have been made

Functions under the Gambling Act 2005 alone

- (q) To determine applications for variations of premises licences where relevant representations have been made;
- (r) To determine applications for transfers of premises licences following representations by the Gambling Commission or others;
- (s) To determine applications for the re-instatement of premises licences where relevant representations have been made;
- (t) To decide whether to give counter notices following objections to temporary use notices;

- (u) To determine applications for the grant or renewal of club gaming permits and club machine permits where valid objections have been received;
 - (v) To determine proposals to cancel club gaming permits and club machine permits where the licence holder requests a hearing;
 - (w) When the licence holder requests a hearing, to determine officer proposals: (i) to make an order removing the entitlement of an on-premises alcohol licence holder to have one or two gaming machines, or (ii) to cancel or vary a licensed premises gaming machine permit;
 - (x) To determine applications for the grant or variation of licensed premises gaming machine permits for 5 or more machines or in any case where the Chair of the Licensing Committee considers that there is cause for concern about the proper management of the premises;
- (2) General Provisions Relating to the Non-Statutory Licensing Sub-Committee
- a) The Sub-Committee has all the functions which are stated not to be the responsibility of the Council's Executive/Cabinet in Regulation 2 and paragraph B (Licensing and Registration) of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 S. I. 2853, as amended, or further amended, in any statute or subordinate legislation. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments.
 - (b) The Sub-Committee makes decisions in all individual licensing or registration cases where a hearing is required because of an objection to an application or to a proposed revocation or because of an officer recommendation for refusal.
 - (c) The Sub-Committee has the power to make final decisions on behalf of the Council in relation to its functions in (b).
 - (d) Excluded from the Sub-Committee's' terms of reference are decisions on all policy issues, procedures and standard terms and conditions which are within the remit of The Licensing Committee.

Appendix 1c

Proposed terms of reference for Strategic Planning Committee -New – Option 3

There is a Protocol outside this Constitution setting out how the Strategic Planning Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4. Any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council. There is also a Protocol setting out how members of the Planning Sub-Committee will exercise any functions delegated to the Sub-Committee, including behaviour in relation to applicants, residents and other third parties, to ensure the probity of planning transactions and the highest standards expected in public office, which will also be followed by members of Strategic Planning Committee when exercising the same functions as the Sub-Committee. This protocol is supplementary to the Members' Code of Conduct at Part 5 of the Constitution. The Committee has all the functions which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1, Paragraph A (Town and Country Planning) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations.

To establish the Planning Sub-Committee and to agree the delegation of functions to that Sub-Committee.

The Committee shall also:

- (i) Make informal recommendations to the Cabinet and full Council on local development documents, development plan documents, and any other planning policy matter;
- (ii) Review all Council plans and policies on any , planning matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;
- (iii) Make informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to , planning, and conservation issues.

Current Planning Sub Committee Terms of reference 2020 for information – this will remain the same in Option 3 but will need further review by Planning officers

There is a Protocol setting out how members of the Planning Sub-Committee will exercise those functions, including behaviour in relation to applicants, residents and

other third parties, to ensure the probity of planning transactions and the highest standards expected in public office. This protocol is supplementary to the Members' Code of Conduct at Part 5 of the Constitution.

The Sub-Committee has all the functions which are set out below and which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations (references to paragraphs are to those in Schedule 1):

(a) paragraph A - Town Planning Functions

(A) planning applications for the erection of 10 or more dwellings and where the officer recommendation is for approval;

(B) planning applications for changes of use of 1000 sq. metres or more of gross internal floor space and where the officer recommendation is for approval;

(C) planning applications for the erection, or extension of non-residential buildings where the new build is 1000 sq metres or more of gross internal floor space and where the officer recommendation is for approval;

(D) unless otherwise agreed with the Chair of the Planning Sub-Committee, planning applications either:

(i) for major development as defined by the Town and Country Planning (Development) Management Procedure (England) Order 2015 (or any replacement legislation) and where the officer recommendation is for approval; or

(ii) where a legal agreement relating to that development is required; or

(iii) where the recommended decision would be contrary to the development plan;

(E) unless otherwise agreed with the Chair of the Planning Sub-Committee, applications submitted by, or on behalf of the Council;

(F) planning applications on Council owned land, where the Council is not the applicant, where significant material planning objections are received during the consultation process and which the Assistant Director or Head of Development Management, in consultation with the Chair of the Planning Sub-Committee, determines should be subject to members' consideration;

(G) planning applications submitted by or on behalf of members; or employees within the Planning Service or senior employees elsewhere in the Council; or their spouses, parents or children;

(H) any planning application to amend an application or vary conditions or a legal agreement previously decided/imposed by Planning Sub-Committee and which the Assistant Director or Head of Development Management, in consultation with the Chair of the Planning Sub-Committee, considers to constitute a major or significant change;

(I) any planning application where there have been objections from a single councillor of the Ward within which the application site is situated and/or a local community body and/or a local residents' association, and a written request setting

out the planning reasons for the matter to be referred to the Planning Sub-Committee has been made before the expiry of the consultation period, and which the Assistant Director or Head of Development Management in consultation with the Chair of the Planning Sub-Committee considers should be referred to the Planning Sub-Committee for determination;

(b) paragraph B - Power to amend;

For the avoidance of doubt, the Assistant Director or Head of Development Management is authorised after a Planning Sub-Committee determination to make any alterations, additions or deletions to the recommended heads of terms and/or recommended conditions (and to authorise any such changes requested by the GLA or government body) (and to further sub-delegate this power) provided this authority shall be exercised after consultation with the Chair (or in their absence the vice-Chair) of the Sub-Committee.

Appendix 2.1 Current Regulatory Committee Protocol amended to cover the new Main Licensing Committee and created new Strategic Planning Committee Protocol at 2.2

PROTOCOL COVERING LICENSING COMMITTEE

- 1.1 The Terms of Reference for the Licensing Committee is stated in the Council's Constitution (Part 3 Section C). The purpose of this protocol is to set out in detail the process by which the Licensing Committee will function.
- 1.2 This Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 of the constitution. Any issue on procedure at the meeting shall be subject to the ruling of the Chair.
- 1.3 This document will be subject to regular review along with other governance arrangements, to ensure that it remains updated in the light of experience.

2 MEMBERSHIP AND CHAIR

- 2.1 The members and chair of the Licensing Committee shall be elected and ratified each year at the Annual Council Meeting.
- 2.2 The Licensing Committee shall comprise 11 members. The members of the Licensing Sub-Committee may comprise any three members of the Licensing Committee.
- 2.3 All members of the Licensing Committee will be consulted on their availability when it is known that a Licensing Sub Committee meeting is required.
- 2.4 From responses received three Members will be notified that they have been selected to serve on the Licensing Sub-Committee and all members of the Licensing Committee will be advised accordingly. (**Note:** All efforts will be made to ensure that all members of the Licensing Committee share Sub-Committee responsibilities on an equal basis)
- 2.5 The Chair of the Licensing Committee shall chair the Licensing Sub Committee In their absence, a member of the Licensing Committee who is trained to chair licensing meetings will be proposed and seconded as chair of the meeting.

3 RESPONSIBILITIES

Main Licensing Committee

3.1 The Licensing Committee shall act as:

- (a) a **statutory licensing body**;
- (b) a **non-statutory body**.

3.2 At the appropriate stage during the meeting, the Chair of the Licensing Committee shall announce whether the Committee is acting in its statutory or non-statutory role.

3.3 The main responsibilities of the Licensing Committee will be in regard to determining and being consulted on Licensing and Regulatory policy issues, evaluating decisions and identifying learning points and informing Member and Officer development and training. These responsibilities are explained further in paragraphs 3.4 to 3.10 below. Decision making responsibilities in relation to individual complex or contested licensing applications will be devolved to a the Licensing Sub-Committee. Uncontested or non-complex applications, or those that comply with the Scheme of Delegation, are determined by Officers.

3.4 As the **statutory licensing body** under the Licensing Act 2003 and Gambling Act 2005, the Licensing Committee shall:

Establish the Licensing Sub-Committee

The Committee shall establish the Licensing Sub-Committee, and determine the procedures for handling applications, notices and representations, including the fees payable for applications under the Gambling Act 2005. The Committee shall retain overall responsibility for the hearings carried out by the Sub-Committee. The Committee shall be able to call for a report on any individual case from the Licensing Sub-Committee.

3.5 As the **non-statutory body** the Licensing Committee's functions are to:

3.6 Determine policy issues relating to non-executive licensing functions
The Committee may determine policy for licensing functions that are not required to be made by Cabinet. Examples include policy to regulate street trading, sex establishments, special treatment premises and dog-breeding establishments.

3.7 Formulate, review and approve the Statement of Licensing Policy

The Committee shall formulate, review and approve for consultation the Statement of Licensing Policy, and any revisions to it, to full Council for adoption.

- 3.8 Be consulted on the Statement of Gambling Policy
The Committee can be consulted and provide recommendations on the Statement of Gambling Policy, for a decision by the Cabinet.
- 3.9 Be consulted on Council plans and services relating to regulatory issues
The Committee may make informal recommendations to the Cabinet and other bodies on Council plans, service delivery, grant aid, commissioning and procurement matters when these involve or relate to regulatory issues.

Licensing Sub-Committee

3.10 The Licensing Sub-Committees shall act as:

- (a) **statutory licensing bodies;**
- (b) **non-statutory licensing bodies.**

- 3.11 At the appropriate stage during the meeting, the Chair of the Licensing Sub-Committee shall announce whether the Sub-Committee is acting in its statutory or non-statutory role.
- 3.12 As **statutory bodies** under the Licensing Act 2003 and the Gambling Act 2005, the Licensing Sub-Committee shall undertake hearings on individual licensing applications (as detailed in Part 3 Section C of the Council's Constitution), and has the power to make final decisions on those matters. The authority to agree minor variations to premises licenses under the Licensing Act 2003 is delegated to officers. All licence reviews will be undertaken by the Licensing Sub-Committee.
- 3.13 As **non-statutory bodies**, the Licensing Sub-Committee shall undertake hearings on individual licensing applications that fall outside the Licensing Act 2003 and Gambling Act 2005, where they have been objected to and require a Member level hearing. Examples include the licensing of street trading, special treatment premises, sex establishments, pet shops and dog breeding establishments. All licence reviews will be undertaken by the Licensing Sub-Committee.

4 MEETING FREQUENCY AND FORMAT

Main Licensing Committee Meetings

- 4.1 The Licensing Committee will have 2 scheduled meetings, however the Chair of the Licensing Committee may call a special meeting in accordance with the process in the Council's Constitution (Part 4 Section B).

The work programme for the Licensing Committee shall be agreed between the Chair of the Committee and senior officers, at the beginning of the civic year.

Sub-Committee Meetings

- 4.2 Licensing Sub-Committee meetings shall be scheduled on a twice monthly basis. It is necessary to schedule on this frequency given the need to convene such meetings at a relatively short notice due to statutory deadlines for licensing applications. In practice it is envisaged that a number of the Licensing Sub-Committee meetings will be cancelled if the volume and timing of applications do not require them.

1. The Terms of Reference for the Strategic Planning Committee is stated in the Council's Constitution (Part 3 Section C). The purpose of this protocol is to set out in detail the process by which the Licensing Committee will function.
2. This document will be subject to regular review along with other governance arrangements, to ensure that it remains updated in the light of experience.

MEMBERSHIP AND CHAIR

3. A Planning Sub-Committee shall sit under the Strategic Planning Committee.
4. The members and chair of the Strategic Planning Committee shall be elected and ratified each year at the Annual Council Meeting.
5. The Strategic Planning Committee shall comprise 11 members. The Planning Sub-Committee shall comprise the same 11 members.
6. The Chair of the Strategic Planning Committee shall also act as the Chair of the Planning Sub-Committee.
7. Where one or more members of the Planning Sub-Committee are unable to participate in a hearing for some reason, they may give notice to arrange a substitute member in their place (as detailed in Paragraph 49, Part 4 Section B of the Council's Constitution), provided they have requisite training on planning matters.
8. There will be a reserve list of members who have received the required training to participate in Planning Sub Committee meetings if needed. This list will be updated on an annual basis by the Political Chief Whips.

Be consulted on planning policy

9. The Committee shall make informal recommendations in relation to planning plans and policy, including local development documents and development plan documents and service delivery to Cabinet and Full Council.

Planning Sub-Committee

10. The Planning Sub-Committee shall be established on an annual basis and determine complex (including for reasons of scale) or contested applications for:
 - Planning Permission;
 - Listed Building consent;
 - Advertisements consent;
 - Entering into Planning Agreements;
 - Permission in Principle and Technical Details Consents
 - Creation, stopping up, diversion of highways, footpaths or bridleways;
 - Preservation of trees.

MEETING FREQUENCY AND FORMAT

Strategic Planning Committee Meetings

11. The Strategic Planning Committee will have 3 scheduled meetings, however the Chair of the Strategic Planning Committee may call a special meeting in accordance with the process in the Council's Constitution (Part 4 Section B).

12. The work programme for the Strategic Planning Committee shall be agreed between the Chair of the Committee and senior officers, at the beginning of the civic year and will include:

- Planning Performance
- Planning guidance

Sub-Committee Meetings

13. It is intended that the Planning Sub-Committee shall meet on a monthly basis.

Appendix 5

Regulatory Committee Working Group 11th of February 2021

Introduction

1. This briefing note responds to the issues raised at Regulatory Committee on the 14th of January 2021 when options were considered for separating out the Planning and Licensing functions of the Regulatory Committee. There were 4 options considered along with their implications. These were as follows:

Option 1 – Adding the non-executive Planning related functions of Regulatory Committee, including making informal recommendations, to Cabinet and Council, to the current Planning Sub Committee terms of reference and making this a Committee of the Council.

Option 2 – Regulatory Committee deleted and Planning Committee established as a Committee of the Council, with the current Sub-Committee terms of reference. This would mean Policy reports progressing directly to Cabinet and then Full Council without any informal recommendations from a non -executive Committee. Planning service performance reports and other reports which were not related to applications could be considered by the relevant Scrutiny Panel.

Option 3. Regulatory Committee remains as a Committee of the Council keeping only Planning related functions and Regulatory functions which are not licensing related.

Option 4 – To keep current Regulatory Committee without establishing a Licensing Committee and only having one Licensing Sub Committee.

- 1.1 The discussion at Regulatory Committee raised a number of important points and It was suggested that some members of the Regulatory Committee could meet informally as a smaller group to consider their views and the potential options in greater detail. It was noted that any conclusions and proposals would need to be considered by the Regulatory Committee and the Standards Committee before any proposals were recommended for adoption at the Annual Council meeting on 24 May 2021. A reminder of the discussion is included at section 2.

- 1.2 It was noted that Option 1 and Option 3 seemed to be the favoured options and these have been developed further in this paper with an understanding of the how they could work within existing resources and without significant impact on the existing governance arrangement whilst also responding to the issues raised by Members. These developed options are at section 3 and the previous report considered by Regulatory committee is also attached as appendix 1 for reference to options 2 and option 4 if needed.

2. Background

The Regulatory Committee met on 14 January 2021 and their comments were as follows:

- a. The Regulatory Committee currently discussed more planning issues than Licensing issues; it would be useful either to receive service updates at the Regulatory Committee or to have a separate Licensing Committee that could focus on licensing issues.
- b. The Regulatory Committee provided important feedback on planning and licensing issues and this had resulted in positive changes, such as the introduction of apprentices in Building Control; there were concerns that this role would be lost if the Regulatory Committee was divided into a Planning Committee and a Licensing Committee.
- c. It was considered that any changes should aim to reduce the workload of councillors who were currently attending a lot of meetings of the Regulatory Committee, Planning Sub-Committee, and Licensing Sub-Committee.
- d. It was noted that Regulatory Committee was the only committee where a Vice-Chair received a Special Responsibility Allowance (SRA) and that it was useful to have consistency. It was also noted that, if the Regulatory Committee was divided, there would still be the same number of SRAs – the Planning Committee Chair would receive the same SRA as the Regulatory Committee Chair and the Licensing Committee Chair would receive the same SRA as the Regulatory Committee Vice-Chair.
- e. Generally, the Committee believed that it would be easier to have one Planning Committee that considered planning applications and matters of

planning policy and one Licensing Committee that considered licensing applications, matters of licensing policy, and the statutory licensing functions. It was suggested that policy and statutory issues could be considered quarterly by each committee. Some members expressed concerns that this may not result in a reduced workload for councillors.

- f. It was considered that it would be inconvenient for Council to be the parent committee for the Planning Committee as this would require all Council members to be trained in planning matters. Although, it was noted that it was very unlikely that the Planning Committee would refer any applications to the parent committee.

- g. It was noted that, under the Licensing Act 2003, a Licensing Committee must have at least 13 members. Some members considered that this would involve an increase in the number of councillors sitting on committees for planning and licensing compared to the current arrangements for the Regulatory Committee. Other members considered that some councillors could sit on the Planning Committee and the Licensing Committee and that there may not be an increase in workload. It was also noted that, if there was a parent Planning Committee and Licensing Committee, these would meet infrequently.

- h. It was commented that some existing committees could benefit from a reduction in size and it would be useful to consider the impact of splitting the Regulatory Committee on committee memberships and meeting frequency, including the impact on other committees, such as the Corporate Committee.

- i. Some members noted that the planning and licensing functions had been joined about 10 years' ago, creating the Regulatory Committee, and this was designed to reduce costs. It had been considered that one, core committee for planning and licensing was a better approach.

3 - Option 1 - Adding the non-executive Planning related functions of Regulatory Committee, including making informal recommendations, to Cabinet and Council, to the current Planning Sub Committee terms of reference and making this a Committee of the Council.

Additional Information

3.1 If Option 1 is taken forward and Planning Committee is established as a Committee of the Council along with the Licensing Committee at the Annual Council meeting, there would need to be 4 additional meetings of Planning added and in practice the Licensing Committee would replace the Regulatory meeting dates. This would lead to a net increase in 4 meetings for Members. To mitigate this net increase, it is proposed that there are 2 main Licensing Committees added to the calendar one in May to establish the sub committees and one in January to consider policies and agree required fee charges. It is also proposed to only add 3 additional Planning meetings to cover the quarterly updates and reports set out in 6.11. This would mean a net increase of only 1 meeting.

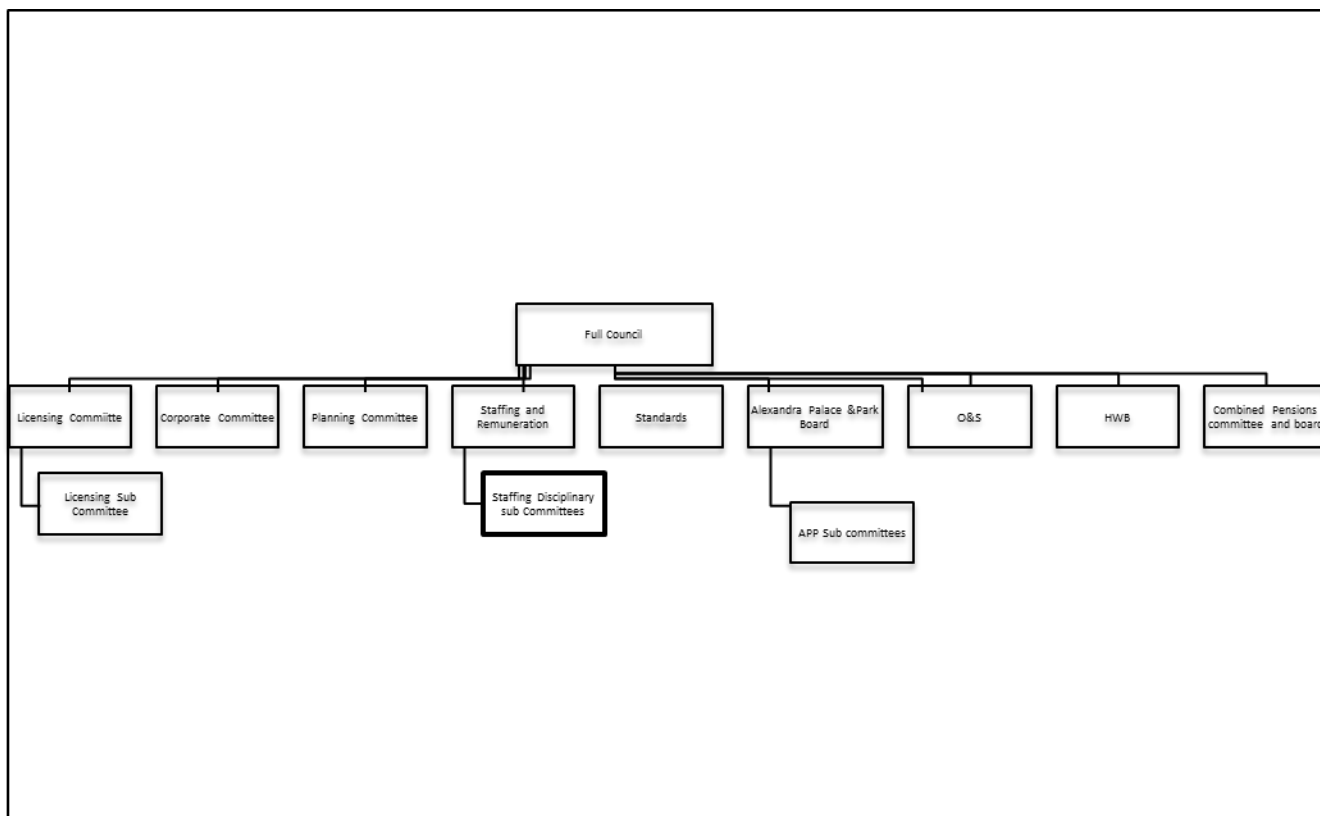
3.2 The number of licensing related items likely to come forward in 2021/22 are as follows.

- The years various licences issued under delegated authority
- Any Licensing Court cases summed up
- Any sub committee cases summary
- Points of learning.

In the years that the Statement of Licensing Policy or Gambling Policy needed to be considered (Gambling every 3 years, Licensing every 5 years) we would need to have special meetings. The Gambling Policy is normally considered by Reg Committee in July whilst it is out to consultation, so that the Committee can feedback to Cabinet in October and it can be recommended to Full Council in November. That work will be happening this year, therefore a Special Licensing Committee meeting is likely to be required in July 2021. The Statement of Licensing Policy will be reviewed during 2025. It is normally considered by the Regulatory Committee before and after it goes out to consultation, usually in September and November before recommending to Full Council in November.

If there was only one Licensing Sub Committee, ideally it should meet twice a month due to the timescales for hearing applications and reviews and the fact that the committee can only realistically deal with a maximum of 2 hearings in one evening. Where necessary, special meetings will need to be called e.g. to deal with TENS applications.

The Committee structure would look as follows:



Note

3.3 Overview and Scrutiny is not an ordinary Committee under section 102 of the Local Government Act 1972. Although we would still apply political proportionality rules we would not count these seats in the overall allocation

The political balance rules are disapplied by the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (SI 2013/218). The membership of the Health and Wellbeing Board is prescribed at section 194 of the Health and Social Care Act 2012.

These Committees are included above for ease of reference.

Impact on Seat Numbers would be as follows:

3.4 The Annual Meeting of the Council appoints Committees of the Council in accordance with Article 4.02(k) of the Constitution. The Council is required to comply with the provisions of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 in terms of political balance when appointing ‘ordinary’ committees – that is, committees appointed under section 102(1)(a) of the Local Government Act 1972.

- 3.5 These rules provide that seats on 'ordinary' committees must be allocated in line with the following principles, so far as reasonably practicable:
- (a) that not all the seats on a body are allocated to the same political group;
 - (b) that the majority of the seats on the body are allocated to the political group which has the majority of the Council's membership;
 - (c) that, subject to principles (a) and (b) above, the proportion of seats allocated to each political group out of the total number of seats across all the ordinary committees of the Council shall be in the same proportion as their share of membership of the Council as a whole; and
 - (d) that, subject to paragraphs (a) to (c) above, the number of seats on each individual body shall be allocated to each political group in the same proportion as their share of membership of the Council as a whole.
- 3.6 The number of seats currently available on ordinary committees is 47 . The Independent Member indicated in October 2020 that she did not want a council seat and in consequence, Labour received 34 committee seats (72.3% of the total number of seats available) and Liberal Democrats 13 seats (27.65% of the total number). Both the Labour and Liberal Democrat groups have a percentage of committee seats that is slightly higher than their percentage share of the total number of Councillors.
- 3.7 According to the above, it is a legislative requirement to have between 10 and 15 members on the main Licensing Committee. Therefore, according to principles of allocation as set out above, the main Licensing committee could have 11 seats and Planning committee could have 11 seats.
- 3.8 The number of seats available on ordinary committees increases to **56**. There would be 40 seats available to Labour and 16 seats available to the Liberal Democrat Group.

Implications

- 3.9 In practice, the political chief whips can choose the same members to sit on both Planning Committee and Main Licensing Committee if they want to maintain the close connection between these functions. The more frequent meetings are likely to be Planning Committee meetings. Licensing would have a one Sub Committee and be able to substitute members on the Licensing Sub Committee where appropriate or be able to hold special Licensing sub committees from the pool of Members sitting on the Main Licensing Committee. This model also provides the choice of distributing Licensing and Planning Committee memberships in the political groups so that the same members are not having to attend both Licensing and Planning Committees. The Chair of the Main Licensing committee could be the Member of the

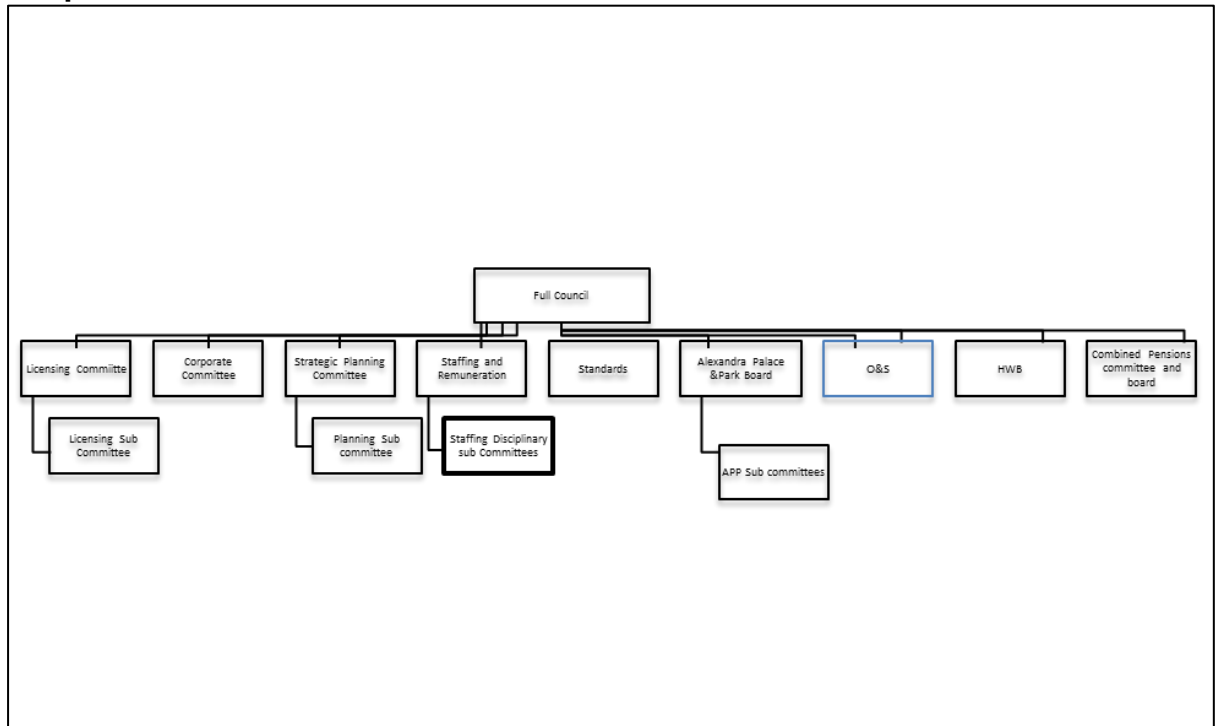
Planning committee and maintain the role of vice chair in line with previous SRA requirements.

- 3.10 There could be a query on reducing Corporate Committee to a lesser number of seats [i.e. 5 seats] as the Chief Whips will need to ensure members are available to fill the additional seats - this would mean total number of seats available is 51. This would mean 37 seats to Labour and 14 seats available to the Liberal Democrats. There would need to be a wider consultation with Finance, Audit, elections and health and safety officers about this and all Members to understand if any implications.
- 3.11 The risk set out at Paragraph 6.15 would remain. The public will be accustomed to Planning committee meeting to consider applications and it would need to be clearly set out in the agenda when the Committee are taking forward the requirements of their terms of references related to making informal recommendations to Cabinet or considering Planning service performance. There would unlikely be enough time of the agenda to consider both Planning Applications and reports relating to paragraph 6.11.
- 3.12 The terms of reference would as set out at Annex 1.

Additional Information for Option 3 Regulatory Committee remains as a Committee of the Council keeping only Planning related functions and Regulatory functions which are not licensing related.

- 3.13 A Strategic Planning Committee is created as a Committee of the Council with a Planning Sub Committee along with the main Licensing Committee. There would need to be 4 additional meetings of Strategic Planning added to the Council Committee Calendar and Licensing Committee would replace the Regulatory meeting dates. There could be a net increase in 4 meetings for members. To mitigate this net increase, it is proposed that there are 2 main Licensing Committees added to the calendar one in **May** to establish the sub committees and one in **January** to consider policies and agree required fee charges. It is also proposed to only add 3 additional Strategic Planning meetings to cover the quarterly updates and reports set out in 6.11. This would mean a net increase of only 1 meeting.
- 3.14 The number of Licensing related items likely to come forward in 2021/22 are as set out at paragraph 3.2.
- 3.15 The Committee structure would look as follows: [The Regulatory Committee name has been replaced with a new name strategic Planning Committee - Members can comment on this new

name]

Note

3.16 As set out in paragraph 3.3.

Impact on Seat Numbers would be as follows:

- 3.17 As set out in paragraphs 3.4 to 3.6 and according to principles of allocation as set out above, the main Licensing committee could have 11 seats and Strategic Planning committee could have 13 seats with the Planning Sub Committee having 11 seats.
- 3.18 The number of seats available on ordinary committees increases to 56. There would be 40 seats available to Labour and 16 seats available to the Liberal Democrat Group.
- 3.19 In practice, the political chief whips can choose the same members to sit on both Strategic Planning Committee and Main Licensing Committee if they want to maintain the close connection between these functions. The Strategic Planning Committee would have 2 extra members to the Planning Sub Committee, similar to the current structure with Regulatory Committee and the Chief Whips may want these 2 additional members to be members of the main Licensing committee to maintain the regulatory expertise on the main strategic Committee. The Chair of the Main Licensing Committee could be the Member of the Strategic Planning Committee and vice chair and also be a member of the Planning Sub Committee and Vice Chair.

- 3.20 Again, there could be a query on reducing Corporate Committee to a lesser number of seats [i.e 5 seats] as the Chief Whips would need to ensure members are available to fill the additional seats - this would mean total number of seats available is 51. This would mean 37 seats to Labour and 14 seats available to the Liberal Democrats. There would need to be a wider consultation with Finance, Audit, Elections and Health and safety Officers about this and all Members to understand if any implications.
- 3.21 A potential terms of reference for this Option is set out in Annex 2.
- 3.22 Members are asked to comment on the information above and recommend an option for Regulatory Committee for the meeting on the 25th of February and Standards committee on the 2nd of March 2021.

Annex 1

Option 1 - Terms of Reference Planning Committee

Red -Current Regulatory Committee Terms of reference for Planning functions

(d) Making informal recommendations to the Cabinet and full Council on local development documents, development plan documents, the local development framework, the statement of community involvement and any other planning policy matter;

(e) Reviewing all Council plans and policies on any licensing, planning or regulatory matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;

(f) Making informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to licensing, planning, conservation or regulatory issues.

Red - Planning Terms of reference 2020

There is a Protocol setting out how members of the Planning Sub-Committee will exercise those functions, including behaviour in relation to applicants, residents and other third parties, to ensure the probity of planning transactions and the highest standards expected in public office. This protocol is supplementary to the Members' Code of Conduct at Part 5 of the Constitution.

The Sub-Committee has all the functions which are set out below and which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations (references to paragraphs are to those in Schedule 1):

(a) paragraph A - Town Planning Functions

(A) planning applications for the erection of 10 or more dwellings and where the officer recommendation is for approval;

(B) planning applications for changes of use of 1000 sq. metres or more of gross internal floor space and where the officer recommendation is for approval;

(C) planning applications for the erection, or extension of non-residential buildings where the new build is 1000 sq metres or more of gross internal floor space and where the officer recommendation is for approval;

(D) unless otherwise agreed with the Chair of the Planning Sub-Committee, planning applications either:

(i) for major development as defined by the Town and Country Planning (Development) Management Procedure (England) Order 2015 (or any replacement legislation) and where the officer recommendation is for approval; or

(ii) where a legal agreement relating to that development is required; or

(iii) where the recommended decision would be contrary to the development plan;

(E) unless otherwise agreed with the Chair of the Planning Sub-Committee, applications submitted by, or on behalf of the Council;

(F) planning applications on Council owned land, where the Council is not the applicant, where significant material planning objections are received during the consultation process and which the Director, in consultation with the Chair of the Planning Sub-Committee, determines should be subject to members' consideration;

(G) planning applications submitted by or on behalf of members; or employees within the Planning Service or senior employees elsewhere in the Council; or their spouses, parents or children;

(H) any planning application to amend an application or vary conditions or a legal agreement previously decided/imposed by Planning Sub-Committee and which the Director, in consultation with the Chair of the Planning Sub-Committee, considers to constitute a major or significant change;

(I) any planning application where there have been objections from a single councillor of the Ward within which the application site is situated and/or a local community body and/or a local residents' association, and a written request setting out the planning reasons for the matter to be referred to the Planning Sub-Committee has been made before the expiry of the consultation period, and which the Director in consultation with the Chair of the Planning Sub-Committee considers should be referred to the Planning Sub-Committee for determination;

(b) paragraph B - Power to amend;

For the avoidance of doubt, the Director is authorised after a Planning sub-committee determination to make any alterations, additions or deletions to the recommended heads of terms and/or recommended conditions (and to authorise any such changes requested by the GLA or government body) (and to further sub-delegate this power) provided this authority shall be exercised after consultation with the Chair (or in their absence the vice-Chair) of the sub-committee.

Purple - Proposed terms of reference

There is a Protocol setting out how members of the Planning Committee will exercise those functions, including behaviour in relation to applicants, residents and other third parties, to ensure the probity of planning transactions and the highest standards expected in public office. This protocol is supplementary to the Members' Code of Conduct at Part 5 of the Constitution.

The Committee has all the functions which are set out below and which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations (references to paragraphs are to those in Schedule 1):

(a) paragraph A - Town Planning Functions

(A) planning applications for the erection of 10 or more dwellings and where the officer recommendation is for approval;

(B) planning applications for changes of use of 1000 sq. metres or more of gross internal floor space and where the officer recommendation is for approval;

(C) planning applications for the erection, or extension of non-residential buildings where the new build is 1000 sq metres or more of gross internal floor space and where the officer recommendation is for approval;

(D) unless otherwise agreed with the Chair of the Planning Committee, planning applications either:

(i) for major development as defined by the Town and Country Planning (Development) Management Procedure (England) Order 2015 (or any replacement legislation) and where the officer recommendation is for approval; or

(ii) where a legal agreement relating to that development is required; or

(iii) where the recommended decision would be contrary to the development plan;

(E) unless otherwise agreed with the Chair of the Planning Committee, applications submitted by, or on behalf of the Council;

(F) planning applications on Council owned land, where the Council is not the applicant, where significant material planning objections are received during the consultation process and which the Director, in consultation with the Chair of the Planning Committee, determines should be subject to members' consideration;

(G) planning applications submitted by or on behalf of members; or employees within the Planning Service or senior employees elsewhere in the Council; or their spouses, parents or children;

(H) any planning application to amend an application or vary conditions or a legal agreement previously decided/imposed by Planning Committee and which the Director, in consultation with the Chair of the Planning Committee, considers to constitute a major or significant change;

(I) any planning application where there have been objections from a single councillor of the Ward within which the application site is situated and/or a local community body and/or a local residents' association, and a written request setting out the planning reasons for the matter to be referred to the Planning Committee has been made before the expiry of the consultation period, and which the Director in consultation with the Chair of the Planning Committee considers should be referred to the Planning Committee for determination;

(b) paragraph B - Power to amend;

For the avoidance of doubt, the Director is authorised after a Planning committee determination to make any alterations, additions or deletions to the recommended heads of terms and/or recommended conditions (and to authorise any such changes requested by the GLA or government body) (and to further sub-delegate this power) provided this authority shall be exercised after consultation with the Chair (or in their absence the vice-Chair) of the committee.

The Committee shall also:

(i) Make informal recommendations to the Cabinet and full Council on local development documents, development plan documents, ~~the local development framework, the statement of community involvement~~ and any other planning policy matter;

(ii) Review all Council plans and policies on any ~~licensing~~, planning or regulatory matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;

(iii) Making informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to ~~licensing~~, planning, and conservation or regulatory issues.

Option 1 – Regulatory Committee terms of reference with proposed changes to change this to main Licensing Committee

The Licensing Committee has functions either (1) as the statutory Licensing Committee of the Council under the Licensing Act 2003, which also exercises functions under the Gambling Act 2005, or (2) as a non-statutory Committee exercising other non-executive functions relating to Licensing, and **other regulatory matters generally**. At the beginning, and at other appropriate stage(s) in each meeting, the Chair will make a short announcement indicating whether the Committee is operating in its capacity as “statutory Licensing Committee” or as a “non-statutory Committee”.

Membership

The Regulatory Committee must have between 10 and 15 members in order to comply with the legislation as statutory Licensing Committee.

Protocol

There is a Protocol outside this Constitution setting out how the Licensing Committee is to operate. The Protocol shall be applied in a manner consistent with Committee Procedure Rules in Part 4 and the relevant Licensing Procedure Rules when the Committee is conducting a formal hearing. Any issue on procedure at the meeting shall be subject to the ruling of the Chair. The Protocol can be amended by the written agreement of the Leaders of the Political Groups on the Council.

(1) In its capacity as the statutory Licensing Committee the Committee has all the functions referred to it by law under the Licensing Act 2003 and the Gambling Act 2005. These include:

(a) To be responsible for monitoring the operation of the Acts licensable activities and gambling in the Borough;

(b) To establish the Licensing Sub-Committees and to agree the delegation of functions to the Sub-Committees and to officers;

(c) To receive reports on the matters in (a) above and on the functions delegated to the Licensing Sub-Committees and to officers. To call for a report on any individual case;

(d) To determine the procedures to be followed in handling applications, notices, representations and all hearings, subject to the relevant Regulations;

(e) Subject to Regulations, to determine the fees payable for applications for premises licences and related matters under the Gambling Act 2005;

(f) In a Council Election Year when there is a need to hold a hearing in the period between Election day and the Annual Meeting of the Council, those members of the Committee who are re-elected as councillors shall meet as the Committee (subject to there being a quorum of 3 members) in order to exercise any of the functions of the Licensing Sub-Committees, or of the Committee under (f) above, and shall elect a Chair for the meeting.

(2) In its capacity as the non-statutory Committee exercising other non-executive functions the Committee has the following functions:

(a) Exercising the functions which are stated not to be the responsibility of The Executive/Cabinet In Regulation 2 and Schedule 1, Paragraph B (Licensing and Registration) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any Statute or subordinate legislation further amending these Regulations. The Committee's functions are to determine all policy issues, procedures and standard terms and conditions relating to the non-executive licensing functions but exclude decisions in individual cases which are delegated to the Licensing Sub-Committees. The Sub-Committee's remit includes the licensing of street trading, scrap metal dealing, special treatment premises, sex establishments and dog breeding establishments;

(b) Formulating, reviewing and approving for consultation the Statement of Licensing Policy under the Licensing Act 2003 and recommending it, and any revisions to it, to full Council for adoption;

(c) Being consulted informally on the review and determination of the Statement of Gambling Policy, including procedures for Council consultation with external stakeholders, and making recommendations on these matters to the Cabinet;

(e) Reviewing all Council plans and policies on any licensing, or regulatory matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;

(f) Making informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to licensing, conservation or regulatory issues.

Annex 2 - Option 3 Terms of Reference for Strategic Planning Committee

There is a Protocol setting out how members of the Strategic Planning Committee will exercise those functions, including behaviour in relation to applicants, residents and other third parties, to ensure the probity of planning transactions and the highest standards expected in public office. This protocol is supplementary to the Members' Code of Conduct at Part 5 of the Constitution.

The Committee has all the functions which are set out below and which are stated not to be the responsibility of the Executive in Regulation 2 and Schedule 1, Paragraph A (Town and Country Planning) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any statute or subordinate legislation further amending those Regulations.

To establish the Planning Sub-Committees and to agree the delegation of functions to that Sub-Committee;

The Committee shall:

- (i) Make informal recommendations to the Cabinet and full Council on local development documents, development plan documents, ~~the local development framework, the statement of community involvement~~ and any other planning policy matter;
- (ii) Review all Council plans and policies on any ~~licensing, planning or regulatory~~ matters, exercising an overview in relation to common themes and making informal recommendations on these matters to Cabinet and full Council;
- (iii) Make informal recommendations to the Cabinet and other bodies on service delivery, grant aid, commissioning and procurement matters when these involve or relate to ~~licensing, planning, and conservation or regulatory~~ issues.

Licensing Committee Terms of reference would be the same as set out in Annex 1.

LATE BUSINESS SHEET

Report Title: Agenda Item 8 – Proposed Amendments to the Constitution (Part Five, Section A – Protocol for Complaints Against Members)

Committee: Standards Committee

Date: 2 March 2021

Reason for lateness and reason for consideration

The Standards Committee has been asked to consider a report which seeks approval to include additions to section 5.3 of Part Five, Section A of the constitution (Protocol for Complaints Against Members) in response to the comments by the Standards Committee at its recent meetings to consider additional circumstances where the Monitoring Officer could dismiss a complaint at an earlier stage. If this proposal is agreed by the Standards Committee, it will be recommended to Full Council.

Under s100B(4)(b) of the Local Government Act 1972, the Chair of the meeting is of the opinion that the appendix to the report, which details the proposed amendments, should be considered at the meeting as a matter of urgency by reason of special circumstances. These circumstances are so that the appendix to the report, which details the proposed amendments and was omitted from the agenda in error, can be considered by the Standards Committee in a timely manner at the meeting on 2 March 2021. This was agreed by the Chair on 1 March 2021.

This page is intentionally left blank

PART 5, SECTION A
 PROTOCOL – COMPLAINTS AGAINST MEMBERS

Arrangements for dealing with allegations that a member or co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct

1. Introduction

- 1.1 These arrangements set out how an allegation may be made that an elected member or a co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct and how the Council will deal with such allegations.
- 1.2 Under Section 28 of the Localism Act 2011 the Council must have arrangements in place whereby allegations can be investigated and decisions upon them can be made. In addition the arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought and taken into account by the Council before it makes a decision and who may be consulted by the Council at other stages in the process or by the member or co-opted member against whom an allegation has been made. These arrangements fulfil the Council's statutory obligations.
- 1.3 In these Arrangements a number of terms are used which have the following meanings:

Member	An elected Councillor
Co-opted Member	A person who is not an elected member of the Council but has been appointed to a committee or sub-committee of the Council.
Monitoring Officer	A officer of the Council designated under section 5 of the Local Government and Housing Act 1989 to undertake the statutory duties prescribed which include ensuring that the Council and its members and officers act lawfully at all times. Under Section 29 of the Localism Act 2011 the Monitoring Officer must establish and maintain a register of interests of members and co-opted members.
Investigating Officer	An appropriate person appointed by the Monitoring Officer to conduct an investigation into an allegation.
Independent Person	A person appointed by the Council pursuant to Section 28 of the

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Localism Act 2011, whose views are sought and taken into account before decisions upon allegations against members are taken and who may be consulted by a member who is the subject of allegations or the Council, generally.

Standards Committee	A committee of members responsible for promoting and maintaining high standards of member conduct within the Council.
Assessment Sub-Committee	A Sub-Committee of Standards Committee established to decide, whether allegations against members are worthy of being investigated.
Hearing Sub-Committee	A Sub-Committee of Standards Committee established to conduct hearings into allegations against members and to determine such allegations following a hearing.

2. The Members' Code of Conduct

2.1 The Council has adopted a Members' Code of Conduct which is available for inspection on the Council's website and on request from the Monitoring Officer.

3. The Independent Person

3.1 Pursuant to Section 28 of the Localism Act 2011, the Council shall appoint an Independent Person. Additional wording as follows A person may not be appointed (i) if they are currently a Member or co-opted Member or employee of the Council, or they are a relative or close friend of such a person and or, (ii) they have been a Member, co-opted Member or employee of the Council in the five years prior to appointment,

3.2 The Council appoints two Independent Persons. The persons appointed shall have responded to a public advertisement for the vacancies and submitted an application for the posts. The appointment of the successful applicants shall be approved by a majority of the members of the Council.

3.3 The views of an Independent Person shall be sought and taken into account by:

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (i) the Monitoring Officer when deciding whether to undertake a formal investigation on an allegation.
- (ii) the Hearing Sub-Committee before it makes its decision on an allegation it has been asked to investigate.

3.4 The views of an Independent Person may be sought:

- (i) by the Standards Committee/Assessment Sub-Committee/Hearing Sub-Committee or by the Monitoring Officer/Investigating Officer in relation to an allegation in circumstances not within paragraph 3.2, above.
- (ii) by a member or co-opted member of the Council if that person's behaviour is the subject of an allegation.

4. Making an allegation

4.1 An allegation that a member or a co-opted member of Haringey Council has failed to comply with the Members' Code of Conduct should be made in writing, wherever possible, using the Complaint Form on the Council's website to:

[Bernie Ryan](#)
Monitoring Officer
Haringey Council
7th Floor
Alexandra House
10 Station Road
London
N22 7TR

Tel: 0208 489 3974

or email:

bernie.ryan@haringey.gov.uk john.jones@haringey.gov.uk

4.2 The Monitoring Officer plays a key role in promoting and maintaining ethical standards and standards investigations. The role is broad and is particularly varied. Paragraph 12 below sets out the procedure in place to address any conflicts of interest when undertaking a standards investigation, including the Deputy Monitoring Officer or a Monitoring Officer from another Council to oversee and undertake the investigation as set out in these arrangements.

4.3 It is important that a person making an allegation provides his/her name and a contact address or email address, so that the Council can acknowledge receipt of the allegation and keep the person informed of

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

its progress. The person must indicate if he/she wants to keep his/her name and address confidential and the Monitoring Officer will consider any such requests.

- 4.4 The Council does not normally investigate anonymous allegations unless there is a clear public interest in doing so.
- 4.5 The Monitoring Officer will acknowledge receipt of an allegation within five clear working days of receiving it and will keep the person making the allegation informed of progress.
- 4.6 The Monitoring officer will inform the councillor against whom an allegation has been made and will give the details of the complaint and remedy sought to them. In exceptional circumstances the Monitoring Officer has the discretion not to inform the Councillor if, in his opinion, to do so would risk an investigation being frustrated or prejudiced in some other way.

5. Assessment of an allegation

- 5.1 The Monitoring Officer will review every allegation received and will consult an Independent Person before taking a decision as to whether or not it merits reference to the Assessment Sub-Committee of the Standards Committee.
- 5.2 If the Monitoring Officer requires additional information in order to reach a decision, he/she may revert to the person making the allegation for such information and may request information from the member against whom the complaint is directed. If the person making the allegation fails to provide the additional information requested the allegation may be dismissed by the Monitoring Officer pursuant to paragraph 5.3 (c), below.
- 5.3 The Monitoring Officer will use a number of criteria for assessing complaints, and will consult with an Independent Person and if necessary the appropriate party group whips and party leaders. The decision whether to investigate a complaint will be a proportionate response to the issues raised and likely outcomes. The Monitoring Officer may determine that an allegation does not merit any further action, where:
 - (a) The allegation does not demonstrate a breach of the Members' Code of Conduct; for example it relates to a member's private life to which the Code does not apply or it is about dissatisfaction with a Council decision or service, or
 - (b) It is about someone who is no longer a member or a co-opted member of the Council, or

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (c) There is insufficient evidence upon which to investigate and/or the person making the allegation has failed to co-operate with the Monitoring Officer to specify the allegation sufficiently, or
- (d) The same or a similar allegation has been investigated and determined, or
- (e) It is an anonymous allegation which does not include sufficient documentary evidence to indicate a significant breach of the Member's Code of Conduct, or
- (f) The Monitoring Officer facilitates an informal resolution without the need for a formal investigation. This may involve the member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the Council. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Standards Committee for determination, or
- (g) the complainant is considered to be frivolous or vexatious, or

-(h) The matters to which the allegation refers took place longer than three months before the date of receipt of the allegation and there are no exceptional circumstances which merit the investigation of matters outside that timescale, nor is it otherwise appropriate to investigate the allegation;

5.4 If the complaint is dealt with under 5.3 above, the Monitoring Officer will promptly notify the complainant and the member of the outcome, giving reasons for the decision. The Monitoring Officer will also provide an annual report to the Standards Committee on complaints dealt with under 5.3 above, to help provide a view to expanding the powers available to the Monitoring Officer as appropriate. Except as provided for in Paragraph 5.3 above, the Monitoring Officer shall refer all allegations to the Assessment Sub-Committee for consideration.

5.5 The Assessment Sub-Committee shall determine whether the allegation:

- (a) merits no further investigation and is dismissed, or
- (b) merits further investigation.

5.6 The Assessment Sub-Committee will take into account the view of the Independent Person as provided to the Monitoring Officer under 5.1 and/or 5.3 above. It may determine that an allegation merits no further investigation for whatever reasons it thinks fit, but it may have regard to the criteria set out in Paragraph 5.3 above and to the following additional criteria:

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (a) The allegation is not considered sufficiently serious to warrant investigation, or
- (b) The allegation appears to be motivated by malice or is ‘tit-for-tat’, or
- (c) The allegation appears to be politically motivated, ~~or~~
- ~~(d) The matter about which the allegation is made took place more than three months prior to receipt of the allegation unless there are exceptional circumstances or it is otherwise appropriate to investigate.~~

5.7 Where the Assessment Sub-Committee considers that an allegation merits further investigation, the Monitoring Officer shall undertake such investigation.

5.8 The decision as to whether or not an allegation should be investigated will normally be taken within thirty clear working days from receipt. The Monitoring Officer will inform the person making the allegation of that decision and if the allegation is to be investigated, an indication of the timescale for the investigation. The Monitoring Officer will keep the person informed if the initial timetable changes substantially,

6. The Investigation

6.1 The Monitoring Officer may conduct the investigation personally or may appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another authority or an external investigator.

6.2 The Monitoring Officer/Investigating Officer will decide if he/she needs to meet or speak to the person making the allegation to understand the nature of the allegation and so that the person can explain his/her understanding of events and identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview.

6.3 The Monitoring Officer/Investigating Officer will normally write to the member against whom the complaint is made and provide him/her with a copy of the complaint and ask the member to provide his/her explanation of events and to identify what documents he/she considers the Monitoring Officer/Investigating Officer needs to see and who he/she considers the Monitoring Officer/Investigating Officer needs to interview. Where it is appropriate to keep confidential the identity of the person making the allegation the Monitoring Officer/Investigating Officer will delete the person’s name and address from the papers given to the member. Where disclosure of details of the allegation to the member might prejudice the investigation, the Monitoring

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Officer/Investigating Officer may delay notifying the member until the investigation has progressed sufficiently.

- 6.4 The Monitoring Officer/Investigating Officer has absolute discretion about which are the appropriate witnesses to interview and documents to consider but will follow best practice in conducting investigations. Having considered all relevant documentation identified and having interviewed all relevant witnesses, at the end of the investigation the Monitoring Officer/Investigating Officer will produce a draft report and may where appropriate send copies of that draft report, in confidence, to the person making the allegation and to the member concerned, to give them an opportunity to identify any matter in that report with which there is disagreement or which is considered to require more consideration.
- 6.5 Where an Investigating Officer has been appointed, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, the Investigating Officer will send his/her final report (the Investigation Report) to the Monitoring Officer for the latter's consideration prior to onward transmission to the Hearing Sub-Committee where appropriate. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider the report or may appoint a new Investigating Officer.
- 6.6 Where the Monitoring Officer has undertaken the investigation personally, having received and taken account of any comments which the person making the allegation and/or the member have made on the draft report, and, where appropriate, having sought to achieve an informal resolution pursuant to paragraph 8.1 below, the Monitoring Officer shall submit the Investigation Report to the Hearing Sub-Committee and an Independent Person.
7. **Where the Monitoring Officer/Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct.**

- 7.1 In these circumstances the Monitoring Officer will refer the matter to the Standards Committee. When the Standards Committee receives an Investigation report which recommends that there is no evidence of failure to comply with the Members' Code of Conduct, the Committee may:
- (a) accept the recommendation resolve that no further action is required and dismiss the allegation, or
 - (b) remit the report to the Monitoring Officer for further consideration, or

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (b) remit the complaint to the Hearing Sub-Committee to conduct a hearing for the consideration of the allegation and the Investigation Report and determine the allegation.
- 7.2 Prior to making a determination under Paragraph 7.1 above, the Standards Committee shall seek and shall take into account the views of an Independent Person.
- 8. Where the Monitoring Officer/Investigating Officer concludes that there is evidence of failure to comply with the Code of Conduct.
 - 8.1 Where an Investigation Report concludes that there is evidence of failure to comply with the Code of Conduct the Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult an Independent Person and the person making the allegation and seek to agree what the person considers to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee which will note the outcome but take no further action.
 - 8.2 If the Monitoring Officer considers that an informal resolution is not appropriate, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will submit the Investigation Report to the Hearing Sub-Committee to conduct a hearing for the consideration of the allegation and the Investigation Report and to determine the allegation.

9. The Pre Hearing Process and Hearing

- 9.1 In advance of the Hearing the Monitoring Officer (and/or his nominees) will:
 - (a) agree a date for the hearing with all the relevant parties;
 - (b) provide a timetable for the member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers;
 - (c) establish whether the member will be represented or accompanied at the hearing;
 - (d) establish whether the member wishes any part of the Investigation Report to be kept confidential or the Hearing itself to be held in private, and the reasons for this;

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (e) provide information about the procedure to be used at the hearing;
 - (f) establish whether the member disagrees with any of the findings of fact in the Investigation Report;
 - (g) establish whether the Investigating Officer intends to call any witnesses.
- 9.2 Wherever possible hearings conducted by the Hearing Sub-Committee shall take place within three calendar months of the referral to the Hearing Sub-Committee.
- 9.3 At the hearing, the Monitoring Officer/Investigating Officer will present the Investigation Report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Monitoring Officer/Investigating Officer may request the person making the allegation to attend and give evidence to the Standards Committee.
- 9.4 The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Members' Code of Conduct.
- 9.5 If a member fails to attend the hearing, the Hearing Sub-Committee may decide to proceed in the member's absence and make a determination, or to adjourn the hearing to a later date
- 9.6 Full details of the process to be undertaken at the hearing are contained in the Hearing Procedure note comprising Appendix A to these arrangements.
- 9.7 The Hearing Sub-Committee, having sought and taken into account the views of an Independent Person may conclude:
- (a) that the member did not fail to comply with the Members' Code of Conduct, and dismiss the complaint, or
 - (b) that the member did fail to comply with the Members' Code of Conduct.
- 9.8 In the event of a finding under Paragraph 9.7 (b) above, the Chair will inform the member of this finding and the Hearing Sub-Committee will then consider what action, if any, it should take as a result of the member's failure to comply with the Members' Code of Conduct. In doing this, the Hearing Sub-Committee will give the member an opportunity to make representations to the Sub-Committee as to whether any action should be taken and what form any action should take and will seek and take into account the views of an Independent

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Person. It will then decide what action, if any, to take in respect of the matter.

10. Action which may be taken where a member has failed to comply with the Code of Conduct

10.1 Having determined that a member has failed to comply with the Members' Code of Conduct, the Hearing Sub-Committee may:

- (a) Publish its findings in respect of the member's conduct;
- (b) Report its findings to Council for information;
- (c) Issue the member with a formal censure or be reprimanded, a report of which may be submitted to Council
- (d) Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- (e) Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (f) Instruct the Monitoring Officer to arrange training for the member;
- (g) Recommend to Council or Cabinet (as appropriate) that the member be removed from outside appointments to which he/she has been appointed or nominated by the Council/Cabinet
- (h) Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- (i) Exclude the member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, Cabinet, Committee and Sub-Committee meetings.
- (j) Take no further action

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- (k) Any other appropriate sanction which may be available to the Sub-Committee.
- 10.2 The Hearing Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.
- 10.3 At the end of the hearing, the Chair shall state the decision of the Hearing Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any action which the Sub-Committee has resolved to take.
- 10.4 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice after consultation with the Chair of the Hearing Sub-Committee.
- 10.5 The decision notice shall include a brief statement of facts, the provision of the Code of Conduct engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.
- 10.6 As soon as reasonably practicable, the decision will be communicated as follows:
 - (a) a copy of the decision notice will be sent to the person making the allegation and to the member concerned.
 - (b) the decision notice will be made available for public inspection at the Council's offices and on the Council's website.
 - (c) the decision will be reported to the next convenient meeting of the Council.

11. Appeals

- 11.1 There is no right of appeal for either the person making the allegation or for the member against whom the allegation is made, against a decision of the Monitoring Officer or of the Standards Committee/Assessment Sub-Committee/Hearing Sub-Committee
- 11.2 If a person making the allegation considers that the Council has failed to deal with an allegation properly, he/she may make a complaint to the Local Government Ombudsman.

12. Conflicts of Interest

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

- 12.1 No member or officer of the Council will participate at any stage of this protocol if he or she has a conflict of interest in the matter.
- 12.2 Any member or officer with a potential conflict of interest must disclose it to the Monitoring Officer/Investigating Officer as soon as reasonably practicable.
- 12.3 The Monitoring Officer/Investigating Officer shall consider the appropriate steps to be taken in the event of a potential conflict of interest and may consult an Independent Person. Where appropriate, the deputy monitoring officer or a monitoring officer from a different authority may undertake the investigation.

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Appendix A

Hearing Procedure

The model procedure which follows comprises good and equitable practice and should be followed closely wherever possible. There may be occasions when circumstances require variations and subject to the maintenance of the principles of natural justice these may be effected at the discretion of the Hearing Sub-Committee and advised to the parties

1. The Chair shall facilitate introductions and explain the procedure for the hearing.
2. The Monitoring Officer/Investigating Officer shall be invited to present his/her Investigation Report including any documentary evidence or other material and to call witnesses as required. This report and documentary and witness evidence must be based on the allegation made to the Council; no new or additional matters will be allowed.
3. The Member against whom the allegation has been made or his/her representative may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer. This is the Member's opportunity to ask questions arising from the Investigation Report and the direct evidence and not to make a statement.
5. Members of the Sub-Committee may question the Monitoring Officer/Investigating Officer upon the content of the Investigation Report and any witnesses called by the Monitoring Officer/Investigating Officer
6. The Member against whom the allegation has been made or his/her representative may present his/her case and call witnesses as required.
7. The Monitoring Officer/Investigating Officer may question the Member and any witnesses
8. Members of the Sub-Committee may question the Member and any witnesses.
9. The Monitoring Officer/Investigating Officer may sum up the investigation into the allegation and make a closing speech.
10. The Member or his/her representative may sum up his/her case and make a closing speech.
11. The Chair shall invite the parties to withdraw to enable the Sub-Committee to deliberate upon the allegation. Prior to reaching a determination the

PART 5, SECTION A
PROTOCOL – COMPLAINTS AGAINST MEMBERS

Sub-Committee shall seek and take into account the views of an Independent Person.

12. The parties shall be invited to return and the Chair shall announce the Sub-Committee's decision in the following terms:-

- (a) The Sub-Committee has determined that the Member has failed to comply with the Code of Conduct, or
- (b) The Sub-Committee has determined that the Member has not failed to comply with the Code of Conduct and the allegation is dismissed.

The Sub-Committee will give reasons for its decision.

13. If the Sub-Committee has determined that the Member has failed to comply with the Code of Conduct it shall consider any representations from the Member as to whether any action should be taken and what form any action should take.

14. The Chair shall invite the parties to withdraw to enable the Sub-Committee to deliberate upon what action if any should be taken. Prior to reaching a determination the Sub-Committee shall seek and take into account the views of an Independent Person.

15. In addition to any action upon the current matter, the Sub-Committee shall consider whether in consequence it should make recommendations to the Council with a view to promoting high standards of conduct amongst Members.

16. The parties shall be invited to return and the Chair shall announce the Sub-Committee's decision

17. A full written decision shall be issued to the Complainant and the Member within ten clear working days following the hearing and shall be published.

LATE BUSINESS SHEET

Report Title: Agenda Item 9 – Review of the Social Media Policy

Committee: Standards Committee

Date: 2 March 2021

Reason for lateness and reason for consideration

The Standards Committee has been asked to consider a review of the Social Media Policy for members.

Under s100B(4)(b) of the Local Government Act 1972, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency by reason of special circumstances. These circumstances are so that the Standards Committee can provide direction and initial comments about the review of the Social Media Policy at the meeting on 2 March 2021. This was agreed by the Chair on 1 March 2021.

This page is intentionally left blank

Social Media Guidance For Councillors

Introduction

This guidance offers advice and tips to councillors to ensure that the public are clear at all times whether councillors are using social media on behalf of the Council or as an individual. It also aims to ensure that use of social media by councillors is effective, lawful and does not expose the council to security risks, reputational damage or breach the current data regulation legislation.

This guide covers the use of social media over the internet and by email, smart phones, social networking sites, blogging, and tweeting, and all social media platforms.

Social media includes (but not limited to) social networking and applications such as Facebook, Twitter, Instagram, WhatsApp, Snapchat, Flickr, YouTube, LinkedIn, blogs, discussion forums, wikis.

What to bear in mind

When you engage with people online it is important that a common sense approach is taken. The things that can get you into hot water anywhere else are just the same things to avoid in social media.

You are personally responsible for what you publish on social media. It is important that you think before you post online as words can't be unspoken. Even if you delete a statement, blog or tweet, it will probably already have been read, indexed or duplicated in places beyond your reach. Care should also be taken when liking, sharing, or re-tweeting content where this could be perceived as endorsement of the content.

The law of defamation applies to social media in the same way as written or spoken communication. You can be sued for damages if a person or business considers their reputation has been or may be harmed because of your actions.

You need to be clear at all times whether you are posting in a personal or professional capacity, as an elected member or private individual. Including 'Cllr' or 'Councillor' in a name is taken to mean that the councillor is writing in the capacity as an elected member. Councillor profiles, websites and social media accounts should clearly be labelled as either private or personal or in your capacity as a councillor. This is particularly important as mixing these uses is likely to cause confusion to the public.

Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group leader, members' services and/or the police. Complaints can also be made following the social media provider's own policies.

Using social media at council meetings

If you are using social media during an official council meeting or event, ensure that the use does not negatively impact on the proceedings or contravene the Constitution or other council protocol.

Remember you should not publish or report on meetings which are private or internal (where no members of the public are present, or it is of a confidential nature) the content of exempt or confidential business dealt with by the Council in private sessions.

It is important for you to show that sufficient attention is being given to the discussion at the meeting. If it is perceived that a decision is made without you having properly listened to the debate, it could lead to the relevant decision coming under challenge. It could also result in code of conduct complaints of a failure to treat others with respect or bringing the Council into disrepute.

The code of conduct

Your posts on social media are subject to the Code of conduct and various laws. You should apply the following guidelines to your online activity in the same way you would to other written or verbal communication.

- Show respect of others. The general principle is to avoid personal attacks, rude or offensive comments, however the right for an individual to express views is enshrined in law by the Human Rights Act 1998 and whilst the code of conduct requires councillors to treat others with respect, political expression may at times be considered disrespectful to a group of people.
- Not to bully or intimate others -repeated negative comments about individuals could be interpreted as bullying or intimidation.
- Avoid conducting yourself in a manner or behaving in such a way to give a reasonable person the impression you have brought your office or the council into disrepute.
- Comply with equality laws including the public-sector equality duty – do not publish any thing that might be seen, as racist, sexist, ageist, homophobic, anti-faith or offensive to any of the groups with the protective characteristics defined in the Equality Act 2010. Even as a joke or “tongue in cheek”.
- Not disclose confidential information about people or the council.
- Not to secure a benefit for yourself or disadvantage for others.

- Ensure that readers are not misled into believing that any material published by you is on behalf of the council, authorised by the council or official council policy if it is not.
- Ensure all content that relates to the council or council business is accurate, fairly balanced, not misleading and complies with any relevant council policy.
- Comply with the terms and conditions of the social media site being used.

A complaint may be made against you if you contravene the code of conduct.

Personal social media accounts

Councillors should be aware and recognise that there is a risk of damage being caused to the council via their personal use of social media when they can be identified as an elected councillor.

Consider the name that you use online. Prefacing your Twitter account with Cllr lets people know exactly who you are and indicates the Code of Conduct will apply.

If in respect of any personal use of social media a councillor can be identified as associated with the council by the profile or content, then the following guidance should be complied with.

Setting up separate accounts can help you manage your home life and role as a councillor separate.

Best practice:

- You can choose to set appropriate privacy settings to manage what the press or public can see and what your family and friends see.
- Read the terms of service of any social media site accessed and make sure you understand their confidentiality and privacy settings.
- You can expressly state through a prominent disclaimer on any profile or content that identifies you as a councillor (or otherwise refers to or implies a relationship with the council) that the stated views are your own personal views and not those of the council.
- Keep your messages professional, polite, and positive.
- Exercise discretion when choosing who to follow on Twitter and befriend on Facebook. If you are Facebook friends with council employees, contractors or who have been procured to provide services to the council, company or a

member of the public making a planning application or pressure groups, this might be construed as having a close personal association with them and therefore a personal interest.

- Ensure that readers are not misled into believing that any material published by you is on behalf of the council, authorised by the council or official council policy if it is not.
- Ensure all content that relates to the council or council business is accurate, fairly balanced, not misleading and complies with any relevant council policy.
- Comply with the terms and conditions of the social media site being used.

Things to avoid doing:

- Make any comment or post material so as to give a reasonable person the impression that you have brought your office as councillor or the council into disrepute.
- Present political or opinion as fact or as representative of the council.
- Imply that you are authorised to speak as a representative of the council nor give the impression that the views you express are those of the council.
- Post or publish any material that is harassing or bullying. Harassment may include personal attacks on officers or members of the public.
- Use the council's logo, or any other council related material on a personal account or website.
- Publish content in a way which appears as if the council has endorsed it.
- Publish content in an abusive manner or in any way which can be seen as unacceptable behaviour.
- Disclose confidential council information or matters.

Civil Law and other considerations

Defamation

If you publish an untrue statement about a person which is damaging to their reputation, if found liable to another person, you could be ordered to pay large sums of money as damages. This may also apply even if you retweet or pass on information originally posted by others.

Harassment

It is an offence to pursue a campaign repeatedly against a person that is likely to cause them person alarm and distress.

Copyright

Placing the images, documents, photos, videos and music without the permission of the person who created them is likely to be a breach of copyright. Avoid publishing anything you are unsure about or seek permission in advance.

Predetermination

If you are involved in a decision making you should avoid publishing anything on social media that might suggest that you have already made up your mind about a matter you may be involved in determining. Otherwise the decision runs the risk of being invalidated.

Political comment and Electioneering

It is not acceptable to make political points or canvass votes using social media accounts via the Council supplied computer equipment, at any time, and in particular in the run up to elections.

Data protection

Do not post personal data of other people without their express permission to do so.

Useful contacts

- For advice of a non-political nature on best practice, contact the Communications Team.
- For advice on the Code of Conduct, contact the Monitoring Officer.
- For information about courses and member training relating to social media, contact Committee and Member Services.

This page is intentionally left blank