

**Appendix 5.1 – Additional Minor Officer Amendments to Terms of References and Protocols for Strategic Planning Committee and Licensing Committee and their Sub Committees following Regulatory Committee Comments and further final review.**

## **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) 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;
  - (e) 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.

## **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.

## **New terms of reference for Strategic Planning Committee -Addition to the Constitution**

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 Strategic Planning 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. This includes Planning related Regulatory matters

The Strategic Planning Committee will establish the Planning Sub-Committee and 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, conservation or regulatory issues.

### Planning Sub Committee Terms of Reference

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 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.



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

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 a **statutory body** 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 a **non-statutory body**, 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.

#### **Strategic Planning Committee Protocol**

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 Strategic Planning 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 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 Strategic Planning Committee will consider

- Planning Performance
- Planning guidance
- Planning related regulatory matters

### Sub-Committee Meetings

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