

## 6. LICENSING COMMITTEE AND TERMS OF REFERENCE

### Purpose

- 6.1 The Licensing Committee is established by the Council under the Licensing Act 2003 and the Local Government Act 1972 for the purpose of discharging respectively those functions of the Council relating to licensing under the Licensing Act 2003 and the Gambling Act 2005 and those other of the Council’s regulatory and licensing functions specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, insofar as those functions are not the responsibility of any other Committee or local authority.
- 6.2 The Licensing Committee may appoint a sub-committee drawn from its members to discharge any of its functions.
- 6.3 A sub-committee of the Licensing Committee may exercise all the powers of the Licensing Committee.
- 6.4 The Licensing Committee has appointed the Licensing Sub-committees A, B and C to consider and determine applications delegated to them by the Licensing Committee.
- 6.5 The Committee Procedure Rules set out above under Section 2 shall apply to the Licensing Committee.
- 6.6 The Licensing Sub-committee Procedure Rules shall apply to Licensing Sub-committees A, B and C.
- 6.7 The membership, chair and quorum requirements for the Licensing Committee are as set out below in the table immediately below. The membership, chair and quorum requirements for Licensing Sub-committees A, B and Care set out in the table at paragraph 6.20 below.

### Membership, Chair and Quorum

|                                       |   |
|---------------------------------------|---|
| Number of Members                     | 15  |
| Substitute Members Permitted          | Yes, subject to completing any required training  |
| Political Proportionality Rules Apply | Yes   |
| Restrictions on Membership            | <p>The Mayor and Cabinet members may not be members of the Licensing Committee</p> <p>Members and substitutes must complete training in the principles of determining licensing applications:</p> <ul style="list-style-type: none"> <li>• Prior to appointment;</li> </ul> |

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|--|---|
|  | <ul style="list-style-type: none"> <li>• After any period of extended absence; and</li> <li>• At least once in each municipal year</li> </ul> |
| Restrictions on Chair and Vice Chair         | Must be a Member of the Committee (not a substitute)  |
| Quorum for Meetings                          | ¼ of total membership subject to a minimum of three members   |
| Number of Ordinary Meetings Per Council Year | At least two per municipal year   |
| Standing Sub-committee                       | Sub-committees A, B and C   |

## Licensing Committee Terms of Reference

### Licensing Act 2003

6.8 To exercise the Council's responsibilities and functions relating to licensing, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (No 2853) as amended or updated, where those functions not reserved to the Council as a matter of law or under this Constitution, or delegated to officers, including without limitation:

- (a) The determination of applications for a premises licence where representations have been made;
- (b) The determination of applications for a provisional statement where representations have been made;
- (c) The determination of applications for the variation of premises licence where representations have been made;
- (d) The determination of applications to vary a designated premises supervisor following police objection;
- (e) The determination of applications for the transfer of a premises licence following objection;
- (f) The consideration of objections made to an interim authority notice;
- (g) The determination of interim steps pending a summary review;
- (h) The determination of applications for a club premises certificate where representations have been made;
- (i) The determination of application to vary a club premises certificate where representations have been made;

- (j) The decision to give counter notice following police objections to a temporary event notice;
- (k) The determination of applications for the grant of a personal licence following objection;
- (l) The revocation of licence where convictions come to light after grant etc;
- (m) The revocation or suspension of licence where convictions or immigration penalties become known; and
- (n) The determination of interim steps pending summary off-sales review; and
- (o) Any matter under the Licensing Act 2003 referred to the Licensing Committee for determination by an officer.

6.9 For the avoidance of doubt, in relation to the grant or issue by the Licensing Committee or a sub-committee of the Licensing Committee of any approval, consent, licence, permission or registration, the exercise of the responsibilities for the functions referred to above at paragraph 6.8 includes responsibility for:

- (a) The imposition or amendment, modification or variation of any term, condition, limitation or restriction;
- (b) The decision to take enforcement or other action in respect of a breach of any term, condition, limitation or restriction;
- (c) The decision to revoke, vary or modify any approval, consent, licence, permission or registration;
- (d) Where permissible by law, the decision to impose a charge and the amount of any such charge;
- (e) Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permission or registration including consideration of any representations thereon or objections thereto.

6.10 In conjunction with officers, to develop and approve for recommendation to the Council for adoption, the Council's Statement of Licensing Policy.

### **Gambling Act 2005**

6.11 To exercise the Council's responsibilities and functions relating to gambling, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (No 2853) as amended or updated where those functions are not reserved to the Council as a matter of law or under this Constitution, or delegated to officers, including without limitation:

- (a) The determination of an application for a premises licence in respect of which representations have been made and not withdrawn;

- (b) The determination of an application for the variation of a premises licence in respect of which representations have been made and not withdrawn;
- (c) The determination of an application for the transfer following representations by the Commission;
- (d) The determination of an application for a provisional statement under in respect of which representations have been made and not withdrawn;
- (e) The review of a premises licence;
- (f) The determination of an application for a club gaming / club machine permit;
- (g) The cancellation of a club gaming / club machine permit;
- (h) The decision to give counter notice following objections to a temporary use notice; and
- (i) Any matter under the Gambling Act 2005 referred to the Licensing Committee for determination by an officer.

6.12 As a matter of law, the Council shall resolve to:

- (a) Adopt the Gambling Act 2005 Statement of Principles (adoption by Council); and
- (b) Refuse to issue a casino premises licence.

6.13 For the avoidance of doubt, in relation to the grant or issue by the Licensing Committee or a sub-committee of the Licensing Committee of any approval, consent, licence, permission or registration, the exercise of the responsibilities for the functions referred to above at paragraph 6.11 includes responsibility for:

- (a) The imposition or amendment, modification or variation of any term, condition, limitation or restriction;
- (b) The decision to take enforcement or other action in respect of a breach of any term, condition, limitation or restriction;
- (c) The decision to revoke, vary or modify any approval, consent, licence, permission or registration;
- (d) Where permissible by law, the decision to impose a charge and the amount of any such charge;
- (e) Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permission or registration including consideration of any representations thereon or objections thereto.

6.14 In conjunction with officers, to develop and approve for recommendation to the Council for adoption, the Council's Statement of Licensing and Statement of Gambling Principles.

6.15 In conjunction with officers, to consider and make recommendations to the Council to refuse casino premises licence.

## Other Licensing

- 6.16 To exercise the Council's responsibilities and functions relating to licensing, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) where those functions are not functions under the Licensing Act 2003 or the Gambling Act 2005, of any other Committee, or functions reserved to full Council as a matter of law or under this Constitution, or delegated to officers, including without limitation as regards:
- (a) Caravan sites;
  - (b) Camping sites;
  - (c) Hackney carriage and private hire operators, drivers and vehicles;
  - (d) Sex shops, sex cinemas and sex entertainment venues;
  - (e) Acupuncture; tattooing, ear-piercing and electrolysis;
  - (f) Pleasure boats and pleasure vessels;
  - (g) Markets and street trading, including permits under the Essex Act 1987;
  - (h) House to house and street collections;
  - (i) Night cafes and take-away food shops;
  - (j) Food preparation premises;
  - (k) Scrap yards;
  - (l) Safety certificates for sports grounds and regulated stands at sports grounds;
  - (m) Animals and birds, including selling animals as pets, providing or arranging provisions for the boarding for cats and dogs, hiring horses, breeding dogs, keeping or training animals for exhibition, zoos and dangerous wild animals and premises related to animals including knackers' yards;
  - (n) Functions under any of the (relevant statutory provisions) within the meaning of Part I (health, safety and welfare in connection with work and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as an employer;
  - (o) Smoke free premises etc;
  - (p) Film classification (age); and
  - (q) Any matter pertaining to licensing or regulation referred to the Licensing Committee for determination by an officer.
- 6.17 For the avoidance of doubt, in relation to the grant or issue by the Licensing Committee or a sub-committee of the Licensing Committee of any approval, consent,

licence, permission or registration, the exercise of the responsibilities for the functions referred to above at paragraph 6.16 includes responsibility for:

- (a) The imposition or amendment, modification or variation of any term, condition, limitation or restriction;
- (b) The decision to take enforcement or other action in respect of a breach of any term, condition, limitation or restriction;
- (c) The decision to revoke, vary or modify any approval, consent, licence, permission or registration;
- (d) Where permissible by law, the decision to impose a charge and the amount of any such charge;
- (e) Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permission or registration including consideration of any representations thereon or objections thereto.

6.18 In conjunction with officers, to develop and adopt, or recommend to Council for adoption, such licensing policies as are required by law or as are otherwise appropriate.

#### **Delegations to Officers**

6.19 Those functions of the Licensing Committee which may be discharged by a specified officer are set in the Scheme of Delegation to Officers under Part 7 of this Constitution.

#### **Licensing Sub-committees A, B and C**

6.20 The membership, chair and quorum requirements for Licensing Sub-committee A, B and C as set out in the below table:

##### Membership, Chair and Quorum

|                                       |  |
|---------------------------------------|--|
| Number of Members                     | Sub-committee A and B<br>3 Members of the Licensing Committee<br>Sub-committee C<br>9 Members of the Licensing Committee |
| Substitute Members Permitted          | Yes, subject to completing any required training   |
| Political Proportionality Rules Apply | No   |
| Restrictions on Membership            | The Mayor and Cabinet Members may not be a member of a Licensing Sub-committee   |

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|  | <p>The Chair or Vice-chair of the Licensing Committee shall be a member of each Licensing Sub-committee</p> <p>Members and substitutes must complete training in the principles of determining licensing applications under the Licensing Act 2003 and the Gambling Act 2005 and as may otherwise be required:</p> <ul style="list-style-type: none"> <li>• Prior to appointment;</li> <li>• After any period of extended absence; and</li> <li>• At least once in each municipal year</li> </ul> |
| Restrictions on Chair and Vice Chair         | The Chair or Vice-chair of the Licensing Committee shall chair a Licensing Sub-committee  |
| Quorum for Meetings                          | 3   |
| Number of ordinary Meetings Per Council Year | As required   |

### **Licensing Sub-committees Terms of Reference**

- 6.21 Licensing Sub-committees A and B shall consider and determine those applications and matters under the Licensing Act 2003 under paragraph 6.8 and Gambling Act 2005 under paragraph 3.11 delegated to it by the Licensing Committee from time to time.
- 6.22 Licensing Sub-committee C shall consider and determine those applications and matters other than those under the Licensing Act 2003 and the Gambling Act 2005 6.16 to it by the Licensing Committee from time to time.