

## **ARTICLE 8 - REGULATORY AND OTHER COMMITTEES**

1. The Council will establish the following Committees which shall be appointed by the Council at its annual meeting.

### **Responsibility for functions:**

2. The Committee and Subcommittees the subject of this Article have responsibility for determining matters which have been delegated by the Council and the Executive shown in Part 3 of this Constitution, showing those which are the responsibility of the Executive and those which are not Executive functions and any limitations on delegation.

### **Application of Rules**

3. Except those additional rules set out within this Article, the Committee and Subcommittees the subject of this Article shall operate in accordance with the Rules Contained in Part 4 of this Constitution.

### **Regulatory Committees**

#### **(a) Licensing Committee**

##### **Terms of Reference**

(1) The full Committee shall comprise 15 Councillors appointed by the Council at its annual meeting, including a Chairman and Vice-Chairman.

... (2) For the functions set out in Appendix 1, and the legislation listed in Appendix 2, a Subcommittee consisting of no more than any three Councillors drawn from the members of the full Committee shall be formed. Any such Subcommittee shall include, by rota, one of the six Licensing Subcommittee Chairmen appointed at each Annual Council meeting.

(3) The Quorum for the Committee is set out in the Rules set out in Part 4 of this Constitution save that no business shall be transacted unless either the Chairman or Vice-Chairman of the Committee is present.

(4) The Committee and Subcommittees shall have full authority to hear and determine licensing applications.

(5) The Committee and Subcommittees shall be further empowered to determine appeals made against the decisions of the Director of Neighbourhoods taken under delegated authority on licensing applications. (See Council delegation schedule for more details)

... (6) The Committee shall at all times carry out its duties solely within the policy from time to time determined by the Council and shall conduct its proceedings in accordance with the requirements set out in Appendix 3 (Conduct of Business by Licensing Committee and Subcommittees).

(7) The Licensing Committee shall take no part in the production or revision of the statement of licensing policy made under Section 5 of the Licensing Act 2003, however, they may determine policy under the legislation listed in Appendix 2 to this Article.

(8) To be responsible for the consideration and approval of Designation Orders under Section 13 of the Criminal Justice and Police Act 2001 (Exercise of Controls over the consumption of alcohol in Public Places).

## **Other Committees**

### **(a) Appointments Panel**

#### **1. Title**

The Panel shall be known as the “Appointments Panel”.

#### **2. Terms of Reference**

(a) To receive and make recommendations to the Annual Council on nominations for the following appointments from political groups and non-affiliated members:

- (i) Chairman and Vice Chairman of Council;
  - (ii) Leader; Deputy Leader and Cabinet members;
  - (iii) Chairmen; Vice-Chairmen and membership of Cabinet Subcommittees;
  - (iv) Chairmen; Vice-Chairmen and members of Committees and Subcommittees (excluding Scrutiny Panels); Panels; Boards Working Groups and similar bodies;
  - (v) Outside body appointments falling to the Council to fill;
- (b) In recommending appointments to the Council, the Panel will:
- (i) Propose nominations based on the entitlement of each political group in accordance with the statutory pro rata;
  - (ii) Ensure that consideration is given to any nominations made by non-affiliated members for any position or appointment;
  - (iii) Ensure, so as far is practicable, an equitable allocation of Chairmanships and Vice Chairmanships across the political groups or to non-affiliated members having majority support that is not inconsistent with the provisions of the Council’s Protocol; and
  - (iv) Permit schedules of recommended appointments to be circulated to all members prior to the date of the Council meeting.
- (c) The Panel shall, in recommending outside body appointments to the Council, do so as to give precedence to local ward members for those that have a ‘local’ designation and an equitable allocation of places across the political groups of the Council;

#### **3. Membership**

(a) Each statutory Political Group on the Council shall appoint two members from to form the Panel;

(b) Where an appointed member ceases to be a member of the Council, the appropriate Political Group Leader may nominate a substitute from within their membership;

(c) All unaffiliated members of the Council shall have the right to attend the Panel meetings and/or submit nominations in accordance with statutory provision.

#### **4. Chairman**

(a) The Chairman of the Panel shall normally be the Leader of the Council but if the Leader is not a member or present, the Chairman shall be determined by the Panel; and

(b) The Chairman shall be responsible for reporting the recommendations of the Panel to full Council.

#### **5. Meetings**

(a) Meetings of the Panel shall be held as required following elections each Council year at the Civic Offices, Epping at the date and time indicated on the agenda timed so as to enable the prior circulation of their recommendations for nominations to the Council.

(b) Minutes and agenda of the Panel meetings shall be circulated to the following:

- Panel Members
- Group Leaders or Deputy Group Leader not members of the Panel
- Unaffiliated Members of the Council

#### **6. Effect of Nominations**

Nothing in these Terms of Reference precludes any Political Group or non-affiliated member of the Authority from making nominations directly at full Council or from any group or non-affiliated members changing or withdrawing previously made nominations.

#### **7. Officers**

The Panel will be supported by the attendance of relevant officers as may, from time to time, be required.

#### **(b) Council Tax Declaration Committee - Receipt Of Precepts From Other Precepting Bodies**

(1) That the Committee comprise five Councillors, allocated according to pro rata rules.

(2) That the terms of reference for the proposed Committee be agreed as follows:

“To exercise the Council’s functions, powers and duties relating to the formal acceptance of Council Tax precepts from the major precepting authorities and the setting of the overall Council Tax, subject to:

(a) the overall requirement that the approval of the Council's own budget and Council Tax precept for District purposes must remain as approved by the Council; and

(b) the outcome of any meeting being reported back to the Council.”

**(c) Joint Consultative Committee**

**Terms of Reference**

(1) The Committee shall be called the Joint Consultative Committee

**(2) Objectives**

The purpose of the Joint Consultative Committee is;

(a) To bring together the Council and the recognised trade union representatives to provide a regular forum for consultation and negotiation on matters relevant to industrial relations, productivity, work arrangements and those terms and conditions of employment which the employer and/or trade unions deem appropriate.

(b) To ensure that the views of the recognised trade union representatives are sought on existing practices and on proposed changes which will affect staff.

(c) To discuss, in relation to local conditions, the implementation of matters which have been prescribed or recommended at a national, provincial or other agreed level.

(d) To conduct employee consultation between the employer and trade unions on any potential points of disagreement.

(e) To consider any relevant matter referred to it by another Committee of the Council, by the trade unions or by an officer of the Council. Relevant matters may include new ways of working, policies, procedures, reorganisations, conditions of service, staff welfare, learning and development, working conditions or safety issues.

(f) To discharge any other functions from time to time specifically referred to the Committee by the Cabinet.

(g) Any matters concerning an individual including, (but not exhaustive) pay, conduct, capability, job evaluation or promotion are not within the scope of the Committee.

**(3) Membership**

(a) The Joint Consultative Committee shall comprise of 18 persons.

(b) The Joint Consultative Committee shall include nine councillors (to be known as the 'Council Representatives') to be appointed annually by the Council at its annual meeting based on pro rata allocations between the political groups in accordance with the Local Government and Housing Act 1989 (as amended).

- (c) Nine trade union representatives employed by the Council (to be known as the 'Staff Representatives') shall be appointed by the trade unions represented on the East of England Local Government Association Regional Council in proportion to the number of such employees in membership of each trade union, subject to each trade union represented having a minimum of one representative each. All representatives must be employees of the Council.
- (d) All members of the Committee shall retire annually and shall be eligible for re-appointment. If a member of the Committee ceases to be either a member or officer of the Council, they shall cease to be a member of the Joint Consultative Committee. Any vacancies shall be filled as soon as practicable.
- (e) Each political group or trade union represented on the Committee shall be entitled to nominate substitute members provided that the Committee Secretary is given notice not later than 60 minutes before the commencement of the meeting.

#### **(4) Chairman and Vice-Chairman**

- (a) A Chairman and a Vice-Chairman shall be appointed by the Committee at their first meeting in each Council year. The offices to alternate each year between the Council and Staff Representatives. If the Chairman appointed is a Council Representative, the Vice-Chairman shall be appointed from the Staff Representatives, and vice-versa. The member appointed from the Council Representatives to be Chairman or Vice-Chairman shall be a member of the Cabinet.
- (b) The Chairman of the meeting shall not have a casting vote.
- (c) It shall be competent for either side to waive its right under (a) above to nominate a Chairman at the first meeting of each Council year, in which case the Committee may proceed to elect a Chairman and appoint a Vice-Chairman on that basis.

#### **(5) Officers**

- (a) The Service Director with the responsibility for HR shall be the Lead Officer for the purpose of formal and informal liaison between meetings. They shall ensure that the considerations and recommendations of the Committee are reported to all staff via the next available staff newsletter or equivalent.

#### **(6) Advisors**

- (a) Either side shall have the right to co-opt, in a consultative capacity, representatives of particular Directorates or Service Areas affected by an item under discussion, but only for a period during which the matter is under consideration. The co-opted representative will attend the Committee as required.
- (b) Either side may arrange for the attendance in an advisory capacity of an officer or trade union official at a Committee meeting where it would be helpful to the business under discussion.

- (c) Such attendances under (a) and (b) above shall be notified to the Committee Secretary at least two working days of the meeting, who will inform the Chairman and Vice-Chairman of the Committee.

**(7) Meeting – Procedure and Protocol**

- (a) The Committee shall meet at least 4 times a year as set out in the annual Calendar of Meetings document. The Chairman or Vice-Chairman may call a meeting at any time giving at least 5 working days' notice.
- (b) A meeting can be called within seven days following the receipt by the Chief Executive of a requisition signed by not less than one-third of the members of either side.
- (c) The matters to be discussed at any meeting of the Committee shall be stated upon the notice summoning the meeting; provided that any other business may be considered if admitted by a majority vote of those present on each side at the meeting.
- (d) The agenda for meetings will be despatched to each member of the Committee at least 5 working days before the meeting.
- (e) The quorum of the Committee shall be 3 representatives of each side.
- (f) No recommendation shall be regarded as carried unless it has been approved by a majority of the members present on each side of the Committee. In the event that the Committee is unable to arrive at a consensus, the Cabinet will make the final decision taking the views of both sides into consideration.
- (g) The Committee will only act in an advisory role, making its recommendations to the relevant Portfolio Holder or the Cabinet for final decision.
- (h) The Committee shall have the authority to appoint or to arrange for the appointment of Subcommittees or working parties where necessary.
- (i) The minutes of proceedings of the Committee shall be kept by the Director of Governance and shall be signed by the Chairman and the Vice-Chairman.
- (j) The meetings will usually be held outside normal working hours. The Staff Representatives on the Committee shall be eligible to claim an Evening Meeting Payment in accordance with the Council's policy.
- (k) In the event of a meeting being held during normal working hours, the Staff Representatives shall be granted paid leave of absence in respect of their attendance.
- (l) Either side may request the revision of the Terms of Reference. The Committee at their next meeting will then consider the matter.

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**(d) Member Remuneration Panel**

- 1. Background

The Independent Remuneration Panel is responsible for deciding the allowances payable to Councillors carrying out different roles following the modernisation of the decision-making arrangements at the District Council with effect from May 2001. It also looks at other aspects such as pensions and childcare allowances. It consists of three 'independent' local representatives selected following an interview process, who live within the district and have never served either as a councillor or actively for a political party.

## 2. Terms of Reference

The Terms of Reference for the Independent Remuneration Panel are as follows:

To assess the level of allowances, special responsibility allowances and other payments for members of the Council carrying out the following functions and report to the Council for determination:

- Chairman of Council
- Vice-Chairman of Council
- Leader of the Cabinet
- Deputy Leader of the Cabinet
- Individual Portfolio holders within the Cabinet
- Chairmen of Overview and Scrutiny Committees
- Vice-Chairman of Overview and Scrutiny Committees
- Chairmen of Regulatory, Area and other Committees and Working Groups
- Vice-Chairmen of Regulatory, Area and other Committees and Working Groups
- Other Members of Council

**LICENSING ACT 2003 – LIST OF FUNCTIONS AND DELEGATED AUTHORITY**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Subcommittee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim Authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
All policy matters except the formulation of the statement of licensing policy	All cases		



**LIST OF STATUTORY POWERS**

Those functions pertaining to licensing and registration and permits and consents contained in the following legislation and any regulations, orders, byelaws or other subsidiary legislation made under the above Acts:

Animal Boarding Establishments Act 1963  
Breeding & Sale of Dogs (Welfare) Act 1999  
Breeding of Dogs Act 1973  
Breeding of Dogs Act 1991  
Caravan Sites & Control of Development Act 1960  
Caravan Sites Act 1968  
Dangerous Wild Animals Act 1976  
Gambling Act 2005  
Guard Dogs Act 1975  
House to House Collections Act 1939  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Pet Animals Act 1951  
Pet Animals Act 1951 (Amendment) Act 1983  
Riding Establishments Acts 1964 & 1970  
Scrap Metal Dealers Act 1964  
Scrap Metal Dealers Act 2013  
The Game Act 1831  
Town Police Clauses Act 1847  
Town Police Clauses Act 1889  
Zoo Licensing Act 1981

## **PART A – CONDUCT OF BUSINESS BY LICENSING COMMITTEE AND SUBCOMMITTEES**

All references to committee in this annex shall be taken to infer a reference to the associated subcommittees.

### **1. General Conduct**

- 1.1 All hearings of the Licensing Committee under the Licensing Act 2003, are to be held in accordance with the Personal Licences, Hearings, Premises Licences and Club Premises Certificates, and Licensing Register Regulations, made under the Licensing Act 2003.
- 1.2 The Council's Constitution shall regulate the conduct of and debate at meetings.
- 1.3 In the case of hearings under the Licensing Act 2003, the Committee shall only consider those matters relevant to the licensing objectives as set out in the Licensing Act 2003 and the statement of licensing policy adopted by the Council.

### **2. Declarations of Interest**

- 2.1 Members of the Committee are subject to the Council's Code of Conduct.

### **3. Participation in the Hearing**

- 3.1 Debate shall be restricted to members of the Licensing Committee. Where a local ward member, not being a member of the Committee, wishes to participate in the hearing, they may do so only with the permission of the Chairman and their participation shall be subject to the same rules as are applied to any other witnesses to the application.
- 3.2 In hearings other than those under the Licensing Act 2003, where a ward member is a member of the Committee, and wishes to object to the application, the member shall give 14 days' notice of their intention, and shall play no part in the decision-making process of the Committee. In hearings under the Licensing Act 2003, those named as responsible authorities and interested parties in the Act may only make representations within the time limits set out in the relevant statutory provisions.
- 3.3 All persons participating in the hearing shall be made aware of the limitations or scope of statements that will be acceptable and, in particular, that statements should be factual or a fair statement on a matter of public interest.
- 3.4 In the case of any hearing pursuant to the summary review procedure under the Violent Crime Reduction Act 2006, the membership of any Subcommittee adjudicating on such a review shall comprise any three members drawn from the Licensing Committee subject to the proviso that no member should serve more than one hearing.

### **4. Attendance of the Public**

4.1 The Council's Constitution and relevant statutory provisions relating to the admission or exclusion of the public shall apply to all meetings of the Licensing Committee.

## **5. Natural Justice**

5.1 There are two elements to natural justice:

### **(a) Fairness**

- (i) All persons affected by the decision or in the case of matters associated with the Licensing Act 2003, those named as responsible authorities and interested parties in the Act, will be allowed a hearing before a decision is made.
- (ii) Only objectors who can show clearly that they are affected by a decision shall be afforded the right to be heard or, in the case of hearings under the Licensing Act 2003, only those named in the Act as responsible authorities or interested parties.
- (iii) All information shall be made available, where possible in advance, to the applicant and the Committee.
- (iv) All members of the Committee shall be present throughout the hearing of a particular application. Where a member arrives late or leaves during a hearing of a particular application, that member shall play no part in the decision-making process. Where an application is adjourned it shall be continued by the same members only, and no others.
- (v) The Committee shall have discretion in respect of 'late' objections. Such objections shall be clearly marked on the agenda as such and the Committee shall decide on their acceptability. The applicant shall be advised of any late objections. In the case of representations made in relation to the Licensing Act 2003 applications, these shall only be accepted in accordance with the relevant statutory provisions.

### **(b) Prevention of Bias**

- (i) The rules on the declarations of interest shall be firmly applied.
- (ii) If the Committee moves into private session to consider its decision, it shall be accompanied only by its advising officers, none of whom shall have taken a substantive part in the hearing, and shall play no substantive part in the decision-making process.

## **6. General Procedures for Hearings**

6.1 The following procedural requirements shall be followed at all times:

- (a) There shall be no recommendation from officers on the agenda;
- (b) The Committee shall be supplied with copies of all relevant documentation and the process and order of procedure shall be as follows:
  - (i) The Chairman will open the meeting and introduce persons as appropriate

asking applicants and representatives to identify themselves.

- (ii) The Chairman will outline the procedure to be followed.
- (iii) The Lead Officer will outline the matter in hand.
- (iv) The applicant or representative will present his/her case, with or without witnesses, and be questioned by members or any objectors/persons making representations present.
- (v) Any objectors/persons making representations may then present their objections/representation, with or without witnesses, and be questioned by members or the applicant/s or their representative.
- (vi) The objectors/persons making representations may make a final statement (without introducing new issues).
- (vii) Finally, the applicant has the right to make a final statement (without introducing new issues).
- (viii) All evidence/disclosures are to be made in the presence of all persons, unless someone voluntarily excuses themselves from the proceedings.
- (ix) Committee members shall restrict themselves to questions and not discussion or comment.
- (x) The applicant, objectors/persons making representations shall be allowed to ask officers questions of a technical/factual nature at any time during the proceedings.
- (xi) An adjournment should be granted where to do otherwise would deny a fair hearing.
- (xii) The Committee may resolve to decide upon the application in private session, however, if it becomes necessary to recall anyone for additional information, everyone shall be invited to return to the Hearing.
- (xiii) The decision shall be given in the presence of all parties that wish to be present and confirmed in writing as soon as possible thereafter. If legal advice is given to members this advice will be repeated in summary form.