



| | |
|--|---|
| Title: | Constitution of the Council (Part 3G: Licensing Committee) |
| Owner: | Angela Wakefield |
| Date of version: | 17th May 2019 |
| Version: | 2.11 |
| Review due: | May 2020 |
| Approved by Monitoring Officer: | Angela Wakefield |
| Date of Equality Impact Assessment: | 29th October 2013 |

| | |
|---|---------------------------------|
| Date sent to officer responsible for website: | 20th May 2019 |
| Date sent to officer responsible for Learning and Development: | 20th May 2019 |
| Date sent to officer responsible for CMIS: | 20th May 2019 |

Adopted by Full Council on 17th May 2019

FUNCTIONS, PROCEDURES AND DELEGATIONS OF THE LICENSING COMMITTEE

1 FUNCTIONS OF THE LICENSING COMMITTEE

ONLY FULL COUNCIL CAN AMEND THE FUNCTIONS OF THE LICENSING COMMITTEE

- 1.1 The following powers and functions will be the responsibility of the Licensing Committee (in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended):

| | Function | Provision of Act or Statutory Instrument |
|-------|--|--|
| 1.1.1 | Power to issue licences authorising the use of land as a caravan site ("site licences"). | S. 3(3) of the Caravan Sites and Control of Development Act 1960. |
| 1.1.2 | Power to license the use of moveable dwellings and camping sites. | S. 269(1) of the Public Health Act 1936. |
| 1.1.3 | Power to license hackney carriages and private hire vehicles. | (a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by S. 171 of the Public Health Act 1875, and S. 15 of the Transport Act 1985; and SS. 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (b) as to private hire vehicles, SS. 48, 57, 58, 60 and 79 of the Local |

| | | |
|--------|---|--|
| | | Government (Miscellaneous Provisions) Act 1976. |
| 1.1.4 | Power to license drivers of hackney carriages and private hire vehicles. | SS. 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976. |
| 1.1.5 | Power to license operators of hackney carriages and private hire vehicles. | SS. 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976. |
| 1.1.6 | Power to issue entertainments licences. | Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982. |
| 1.1.7 | Any function of a licensing authority. | Licensing Act 2003 and any regulations or orders made under that Act. |
| 1.1.8 | Powers and functions relating to late night levy requirements. | Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that Chapter. |
| 1.1.9 | Duty to comply with requirement to provide information to Gambling Commission. | S. 29 of the Gambling Act 2005. |
| 1.1.10 | Functions relating to exchange of information. | S. 30 of the Gambling Act 2005. |
| 1.1.11 | Functions relating to occasional use notices. | S. 39 of the Gambling Act 2005. |
| 1.1.12 | Power to resolve not to issue a casino premises licence | S. 166 of the Gambling Act 2005. |
| 1.1.13 | Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises. | S. 304 of the Gambling Act 2005. |
| 1.1.14 | Power to make order disapplying S. 279 or 282(1) of the Gambling Act | S. 284 of the Gambling Act 2005. |

| | | |
|--------|--|---|
| | 2005 in relation to specified premises. | |
| 1.1.15 | Power to institute criminal proceedings | S. 346 of the Gambling Act 2005. |
| 1.1.16 | Power to exchange information | S. 350 of the Gambling Act 2005. |
| 1.1.17 | Functions relating to the determination of fees for premises licences. | The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. |
| 1.1.18 | Functions relating to the registration and regulation of small society lotteries. | Part 5 of Schedule 11 to the Gambling Act 2005. |
| 1.1.19 | Power to license sex shops and sex cinemas. | The Local Government (Miscellaneous Provisions) Act 1982, S. 2 and Schedule 3. |
| 1.1.20 | Power to license performances of hypnotism. | The Hypnotism Act 1952. |
| 1.1.21 | Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis. | SS. 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982. |
| 1.1.22 | Power to license pleasure boats and pleasure vessels. | S. 94 of the Public Health Acts Amendment Act 1907. |
| 1.1.23 | Power to license market and street trading. | Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982. |
| 1.1.24 | Power of register and license premises for the preparation of food. | S. 19 of the Food Safety Act 1990. |
| 1.1.25 | Power to license premises for the breeding of dogs. | S. 1 of the Breeding of Dogs Act 1973 and S. 1 of the Breeding and Sale of Dogs (Welfare) Act 1999. |
| 1.1.26 | Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business. | S. 1 of the Pet Animals Act 1951; S. 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; S. |

| | | |
|--------|--|---|
| | | 1 of the Breeding of Dogs Act 1973, and SS. 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999. |
| 1.1.27 | Power to register animal trainers and exhibitors. | S. 1 of the Performing Animals (Regulation) Act 1925. |
| 1.1.28 | Power to license zoos. | S. 1 of the Zoo Licensing Act 1981. |
| 1.1.29 | Power to license dangerous wild animals. | S. 1 of the Dangerous Wild Animals Act 1976. |
| 1.1.30 | Power to license persons to collect for charitable and other causes. | S. 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and S. 2 of the House to House Collections Act 1939. |
| 1.1.31 | Power to grant consent for the operation of a loudspeaker. | Schedule 2 to the Noise and Statutory Nuisance Act 1993. |
| 1.1.32 | Power to register motor salvage operators. | Part I of the Vehicles (Crime) Act 2001. |
| 1.1.33 | 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 authority's capacity as an employer. | Part I of the Health and Safety at Work etc. Act 1974. |
| 1.1.34 | Duty to enforce Chapter 1 and regulations made under it. | S. 10(3) of the Health Act 2006. |
| 1.1.35 | Power to authorise officers. | S. 10(5) of, and paragraph 1 of Schedule 2 to, the Health Act 2006. |
| 1.1.36 | Functions relating to fixed penalty notices. | Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006 and the |

| | | |
|--------|---|--|
| | | Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007. |
| 1.1.37 | Power to transfer enforcement functions to another enforcement authority. | Smoke-free (Premises and Enforcement) Regulations 2006. |
| 1.1.38 | Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption. | S. 13(2) of the Criminal Justice and Police Act 2001. |
| 1.1.39 | Determining whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is the responsibility of the Licensing Committee and, if so, the amount of such charge. | Reg. 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. |

- 1.2 The Licensing Committee may be consulted on other matters relating to Licensing policy or procedure.
- 1.3 The Licensing Committee may delegate any of these powers or functions fully or partly to any officer of the Council specified by the Licensing Committee, or to Sub-Committees comprised of such number of members of the Licensing Committee as the Licensing Committee may decide.

2 PROCEDURES FOR ORDINARY MEETINGS OF THE LICENSING COMMITTEE

THE LICENSING COMMITTEE CAN AMEND THE PROCEDURES WHICH IT FOLLOWS

MEMBERSHIP

- 2.1 Membership will be a total of 15 to reflect the political make-up of the Council.

MEETINGS

- 2.2 All meetings of the Committee shall be held at the Town Hall Burton upon Trent at 10.00am unless previously agreed by the Committee.
- 2.3 The Committee will meet so often as may be required to perform the functions of the Committee. Ordinarily the full Committee meets at least twice each year to receive updates.

CHAIRMAN AND VICE-CHAIRMAN

- 2.4 The Council shall appoint the Chairman and the Committee shall appoint the Vice-Chairman.

RIGHT TO ATTEND

- 2.5 Meetings of the Committee shall be open to the press and public except for confidential business.
- 2.6 All Councillors formally appointed to the Committee by the Council have the right to attend and to vote at meetings of the Committee.
- 2.7 Other Councillors who are not formal members of the Committee may attend meetings of the Committee, except where Exempt Information is likely to be disclosed. If Exempt Information is likely to be disclosed, they can only attend such meetings if they can demonstrate that their attendance is necessary to perform their duties as a Councillor. If they do attend, they may ask the Chairman for consent to speak (giving reasons). The Chairman may seek the views of the Committee before making a decision. If the Chairman gives such consent, the Councillor may take part in the debate when invited to do so by the Chairman (but may not vote).

QUORUM

- 2.8 A quorum shall be no less than 4 members.

QUASI-JUDICIAL HEARINGS

- 2.9 Where the Committee is sitting to conduct a hearing of a quasi-judicial nature, the Committee shall follow a procedure for such hearings that complies with the European Convention on Human Rights and the rules of natural justice – see Section 3.

REPORTING ARRANGEMENTS

- 2.10 Where necessary the Committee will make reports and recommendations to the Executive and/or Full Council arising from the outcome of their work.

APPLICATION OF COUNCIL MEETING PROCEDURE RULES

- 2.11 Save where inconsistent with these Rules, proceedings at the Committee will be governed as set out in Rule 23 of the Council Meeting Procedure Rules – see Part 3A.

3 PROCEDURES FOR FORMAL HEARINGS OF THE LICENSING COMMITTEE

THE LICENSING COMMITTEE CAN AMEND THE PROCEDURES WHICH IT FOLLOWS

- 3.1 The Chairman will introduce the Committee.
- 3.2 The Chairman will ask persons present to identify themselves and their interest in the matter under consideration.
- 3.3 The Chairman will confirm that all persons present and involved have received copies of the agenda, the procedure and all relevant supporting documents.
- 3.4 The Chairman will explain the purpose and scope of the hearing.
- 3.5 The Chairman will ask officers to provide a brief outline of the matter under consideration.
- 3.6 The Chairman will decide which of the parties shall put their case first.

In the case of an application, this will normally be the applicant(s) or their representative; in the case of a complaint, this will normally be the complainant(s) or their representative.

3.7 The Chairman will ask the first party to present their case.

3.8 The first party may then be questioned by:

3.8.1 The second party;

3.8.2 Officers/advisors to the Committee;

3.8.3 Members of the Committee.

3.9 The Chairman will ask the second party to present their case.

In the case of an application, this will normally be objectors or their representatives; in the case of a complaint, this will normally be the persons who are the subject of the complaint or their representative.

3.10 The second party may then be questioned by:

3.10.1 The first party;

3.10.2 Officers/advisors to the Committee;

3.10.3 Members of the Committee.

3.11 The Chairman will then ask the first party to sum up their case.

3.12 The Chairman will then ask the second party to sum up their case.

3.13 At any time during the proceedings the Chairman may ask officers or advisors to the Committee to present any additional relevant information, subject to all parties being given time to consider such information and make representations relating to it if they so request.

3.14 All parties will withdraw, with the exception of the clerk and the legal advisor to the Committee, while the Committee considers its decision.

3.15 Decisions may be announced orally to the parties and will be confirmed in writing with reasons.

- 3.16 Subject to compliance with the European Human Rights Directive and the rules of natural justice, the Committee may vary the procedure at hearings if that is conducive to the business.

4 DELEGATION TO SUB-COMMITTEES OR OFFICERS

THE LICENSING COMMITTEE CAN AMEND THE DELEGATION OF ITS FUNCTIONS TO SUB-COMMITTEES OR OFFICERS

- 4.1 The powers and functions of the Licensing Committee, as listed in the Council's Constitution and defined under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, may be discharged by:
- 4.1.1 The Licensing Committee; or
 - 4.1.2 For functions under the Licensing Act 2003 or the Gambling Act 2005, a sub-committee of any 3 of the members of the Licensing Committee, and for other functions a sub-committee of up to 6 members of the Licensing Committee; or
 - 4.1.3 The Head of Service, Mark Rizk, or other officers nominated by him.

Provided that:

- 4.2 The Head of Service, Mark Rizk, shall refer matters to the Licensing Committee or a sub-committee of the Licensing Committee, as defined above, in the following circumstances:
- 4.2.1 For functions under the Licensing Act 2003 or the Gambling Act 2005:

Where the Council's policies adopted under the provisions of the Licensing Act 2003 or the Gambling Act 2005 require a matter to be so referred;
 - 4.2.2 For other functions:
 - 4.2.2.1 Where any licence application is of significant public interest, and/or is believed to be controversial;
 - 4.2.2.2 Any other circumstances in which the Head of Service, Mark Rizk, or an officer nominated by him considers it appropriate.

In the case of item 4.2.2.1 above, any interpretation of “significant public interest” or “controversial” shall be made by the Chairman of the Committee, or, if they are unable to act, the Vice-Chairman.