

Title:	Constitution of the Council
	(Part 3G: Licensing Committee)
Owner:	Angela Wakefield
Date of version:	18 <sup>th</sup> May 2018
Version:	2.11
Review due:	May 2019
Approved by Monitoring Officer:	Angela Wakefield
Date of Equality Impact Assessment:	29 <sup>th</sup> October 2013

Date sent to officer responsible for website:	21 <sup>st</sup> May 2018
Date sent to officer responsible for Learning and Development:	21 <sup>st</sup> May 2018
Date sent to officer responsible for CMIS:	21 <sup>st</sup> May 2018

Adopted by Full Council on 18<sup>th</sup> May 2018



# 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	S. 3(3) of the Caravan Sites and
	the use of land as a caravan site	Control of Development Act 1960.
	("site licences").	
1.1.2	Power to license the use of	S. 269(1) of the Public Health Act
	moveable dwellings and camping	1936.
	sites.	
1.1.3	Power to license hackney carriages	(a) as to hackney carriages, the Town
	and private hire vehicles.	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	SS. 51, 53, 54, 59, 61 and 79 of the
	carriages and private hire vehicles.	Local Government (Miscellaneous
		Provisions) Act 1976.
1.1.5	Power to license operators of	SS. 55 to 58, 62 and 79 of the Local
	hackney carriages and private hire	Government (Miscellaneous
	vehicles.	Provisions) Act 1976.
1.1.6	Power to issue entertainments	Part I of, and Schedules 1 and 2 to,
	licences.	the Local Government (Miscellaneous
		Provisions) Act 1982.
1.1.7	Any function of a licensing	Licensing Act 2003 and any
	authority.	regulations or orders made under that
		Act.
1.1.8	Powers and functions relating to	Chapter 2 of Part 2 of the Police
	late night levy requirements.	Reform and Social Responsibility Act
		2011 and any regulations made under
		that Chapter.
1.1.9	Duty to comply with requirement	S. 29 of the Gambling Act 2005.
	to provide information to Gambling	
	Commission.	
1.1.10	Functions relating to exchange of	S. 30 of the Gambling Act 2005.
	information.	
1.1.11	Functions relating to occasional	S. 39 of the Gambling Act 2005.
	use notices.	
1.1.12	Power to resolve not to issue a	S. 166 of the Gambling Act 2005.
	casino premises licence	
1.1.13	Power to designate officer of a	S. 304 of the Gambling Act 2005.
	licensing authority as an authorised	
	person for a purpose relating to	
	premises.	
1.1.14	Power to make order disapplying S.	S. 284 of the Gambling Act 2005.
	279 or 282(1) of the Gambling Act	
	2005 in relation to specified	



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



Sale of Dogs (Welfare) Act 1999.1.1.27Power to register animal trainers and exhibitors.S. 1 of the Performing Animals (Regulation) Act 1925.1.1.28Power to license zoos.S. 1 of the Zoo Licensing Act 1981.1.1.29Power to license dangerous wild animals.S. 1 of the Dangerous Wild Animals Act 1976.1.1.30Power 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 1939.1.1.31Power to grant consent for the operation of a loudspeaker.Schedule 2 to the Noise and Statutory Nuisance Act 1993.1.1.32Power to register motor salvage operators.Part I of the Vehicles (Crime) Act 2001.1.1.33Functions 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.S. 10(3) of the Health Act 2006.1.1.34Duty to enforce Chapter 1 and regulations made under it.S. 10(3) of the Health Act 2006.1.1.36Functions 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			and SS. 1 and 8 of the Breeding and
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			Smoke-free (Vehicle Operators and



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

- 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

- 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 subcommittee 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 Chief Executive or other officers nominated by him.

Provided that:

- 4.2 The Chief Executive 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 Chief Executive 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.

