

This report will be made public on 29 April 2024

Report number **A/24/08**

**To:** Council  
**Date:** 8 May 2024  
**Status:** Non-Executive Decision  
**Responsible Officer:** Amandeep Khroud, Assistant Director – Governance and Law

**SUBJECT: PROPOSED CHANGES TO THE PLANNING AND LICENSING COMMITTEE**

**SUMMARY:** This report sets out proposals to update the Terms of Reference of the Planning and Licensing Committee to deal with the functions of the Licensing Act 2003. A Licensing Act 2003 Sub-Committee is also proposed. The proposals were considered by the Constitutional Working Group at their meeting on 26 March 2024. Council are asked to agree the creation of the Licensing Act 2003 Committee and Sub-Committee, along with the proposed terms of reference.

**RECOMMENDATIONS:**

1. To receive and note report A/24/08.
2. To agree the creation of a Licensing Act 2003 Committee and Sub-Committee with effect from 9 May 2024.
3. To agree the terms of reference for the Licensing Act 2003 Committee and Sub-Committee, and the changes to the terms of reference of the Planning and Licensing Committee and Sub-Committee.
4. To note that the Licensing 2003 Act Committee is not subject to the requirements of the Local Government and Housing Act 1989 with regard to political proportionality and agree that the membership of the Committee and the Chair and Vice-Chair, be the same as the Planning and Licensing Committee, and will not be counted separately in the overall seat numbers of the council.

## **1. INTRODUCTION**

- 1.1 As part of the council's intentions to move towards a Committee system, it has highlighted a need for the council to create a separate Licensing Act Committee (and Sub-Committee), to support best practice and ensure legal compliance. The proposed changes will take effect from 9 May 2024.
- 1.2 On 26 March 2024, the Constitution Working Group considered the options in addressing this matter, and they indicated a preference to create a Licensing Act 2003 Committee, as this was the most streamlined option and was closely aligned with the current operations. They indicated that the current arrangement was valued and worked well, and therefore requested that the membership principles remained largely the same.

## **2. CHANGES TO THE PLANNING AND LICENSING COMMITTEE AND LICENSING SUB-COMMITTEE**

- 2.1 The proposed terms of reference for the Planning and Licensing Committee (set out at paragraph 1.1 in the appendix) remain vastly similar to the previous terms of reference, with the exception that any matters requiring consideration under the Licensing Act 2003 and the Gambling Act 2005 will be dealt with by the new Licensing Act Committee. The proposed terms of reference of the Licensing Sub-Committee are set out at paragraph 2.1 in the appendix.

## **3. NEW TERMS OF REFERENCE FOR THE LICENSING ACT COMMITTEE AND SUB-COMMITTEE**

- 3.1 Pursuant to Section 6 of the Licensing Act 2003, the Licensing Act Committee must have at least ten, but no more than fifteen, members. It is not subject to the requirements of the Local Government and Housing Act 1989 with regard to political proportionality and it is at the discretion of the Council to set the size of the Licensing Committee and the allocation of seats. It is therefore proposed that the Licensing Committee membership, and Chair and Vice-Chair, be the same as the Planning Committee, and will not be counted separately in the overall seat numbers of the council.
- 3.2 The main functions of the Licensing Act 2003 Committee are set out in paragraph 3.1 of the appendix.
- 3.3 The Licensing Act Sub-Committee will be convened to consider the matters set out in paragraph 4.1 of the appendix.

## **4. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS**

### **4.1 Legal Officer's Comments (AK)**

Legal implications are covered in the main body of the report.

#### **4.2 Finance Officer's Comments (TM)**

There are no financial implications within this report.

#### **4.3 Diversities and Equalities Implications (GE)**

There are no equality and diversity implications directly arising from this report.

### **5. CONTACT OFFICER AND BACKGROUND DOCUMENTS**

Councillors with any questions arising from this report should contact the following officer prior to the meeting:

Jemma West, Democratic Services Team Leader  
Telephone: 01303 853369  
Email: [jemma.west@folkestone-hythe.gov.uk](mailto:jemma.west@folkestone-hythe.gov.uk)

The following background documents have been relied upon in the preparation of this report:

None

**APPENDIX: Proposed Terms of reference for both the Planning and Licensing Committee, the Licensing Act 2003 Committee and their Sub-Committees.**

## **APPENDIX 1 – Proposed terms of reference**

### **1. PLANNING AND LICENSING COMMITTEE**

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

##### **1.1.1 Development Control**

To exercise all of the Council's functions, as specified in Schedule 1 of the functions' regulations relating to:

- a) Town and Country Planning;
- b) Trees and hedgerows;
- c) High hedges;
- d) Powers relating to public rights of way contained in the Town and Country Planning Act 1990, namely power to authorise stopping up or diversion of highway footpath or bridleway, and power to extinguish public rights of way over land held for planning purposes.

##### **1.1.2 Licensing**

To exercise all of the Council's functions, as specified in Schedule 1 of the functions' regulations, relating to licensing and registration, except those functions which are the responsibility of the Licensing Act Committee.

#### **1.2 Composition**

Must be politically balanced.

#### **1.3 Planning and Licensing Codes**

**1.3.1** The terms of reference should be read in conjunction with the planning and licensing codes contained in Part 9 of this Constitution.

**1.3.2** The planning and licensing codes contain parts of the rules of procedure of the committee when dealing, respectively, with development control and licensing matters.

### **2. LICENSING SUB COMMITTEE (sub-committee of the Planning and Licensing Committee)**

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

To determine any licensing or registration issue (except in relation to those functions which are the responsibility of the Licensing Act Committee), where there is a valid objection.

#### **2.2 Composition**

Any three members of the Planning and Licensing Committee may form a sub-committee.

#### **2.3 Licensing Code**

**2.3.1** The terms of reference should be read in conjunction with the Licensing Code in Part 9 of this Constitution.

**2.3.2** The Licensing Code contains the rules of procedure of the sub-committee.

### **3. LICENSING ACT COMMITTEE**

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

- 3.1.1** To exercise all of the Council's functions as Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 (unless reserved to full Council);
- 3.1.2** To exercise the Council's functions in relation to the control of demonstrations of hypnotism under section 2 of the Hypnotism Act 1952.

#### **3.2 Composition**

Not required to be politically balanced. The Licensing Act 2003 requires that the number of members on the committee must not be less than 10 or more than 15. Membership of the Licensing Act Committee will be the same as the membership of the Planning and Licensing Committee.

#### **3.3 Licensing Code**

- 3.3.1** The terms of reference should be read in conjunction with the licensing code contained in Part 9 of this Constitution.

### **4. LICENSING ACT SUB-COMMITTEE (sub-committee of the Licensing Act Committee)**

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

- a) To determine, in respect of licences issued under the Licensing Act 2003:
  - Applications for a personal licence to vary a designated premises supervisor and for the transfer of a premise licence to interim authorities, if there is a Police objection;
  - Applications for a personal licence, with unspent convictions, for provisions statement, to vary a premise licence/club premises certificate, if a relevant representation is made.
- b) To determine, in respect of licences issued under the Gambling Act 2005:
  - Applications for a premises licence, where representations have been made and not withdrawn;
  - Applications for variation of a premises licence, where representations have been made and not withdrawn;
  - Applications for transfer, following representations by the Commission;
  - Reviews of premises' licences.

#### **4.2 Composition**

Any three members of the Licensing Act Committee may form a sub-committee. A ward member must not hear an application relating to premises in their ward.

#### **4.3 Licensing Code**

- 4.3.1** The terms of reference should be read in conjunction with the Licensing Code in Part 9 of this Constitution.
- 4.3.2** The Licensing Code contains the rules of procedure of the sub-committee.