

12 February 2019 at 7.00 pm

\*or on the rising of Standards Committee, whichever is the later

Conference Room, Argyle Road, Sevenoaks

Despatched: 04.02.19



# Governance Committee

## Membership:

Chairman, Cllr. Pett; Vice-Chairman, Cllr. Scott

Cllrs. Clack, Halford, Layland, London and McGarvey

## Agenda

There are no fire drills planned. If the fire alarm is activated, which is a continuous siren with a flashing red light, please leave the building immediately, following the fire exit signs.

	Pages	Contact
Apologies for Absence		
1. <b>Minutes</b> To agree the Minutes of the meeting of the Committee held on 6 November 2018, as a correct record.	(Pages 1 - 4)	
2. <b>Declarations of Interest</b> Any interest not already registered.		
3. <b>Actions from the previous meeting (if any)</b>		
4. <b>Councillor Absence Working Group Update</b>	(Pages 5 - 6)	Councillor Alan Pett
5. <b>Amendments to the Constitution: Licensing Sub-Committee Hearing Procedures</b>	(Pages 7 - 16)	Vanessa Etheridge, David Lagzdins Tel: 01732 227199/7350
6. <b>Work Plan</b>	(Pages 17 - 18)	

## EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting. Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227000 or [democratic.services@sevenoaks.gov.uk](mailto:democratic.services@sevenoaks.gov.uk).

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**GOVERNANCE COMMITTEE**

Minutes of the meeting held on 6 November 2018 commencing at 7.00 pm

Present: Cllr. Pett (Chairman)

Cllr. Scott (Vice Chairman)

Cllrs. Clack, Layland, London, and McGarvey

An apology for absence was received from Cllr. Halford

Cllrs. Dr Canet and Firth were also present.

1. Minutes

Resolved: That the minutes of the meeting of the Governance Committee held on the 7 November 2017 be approved and signed by the Chairman as a correct record.

2. Declarations of Interest

No additional declarations of interest were made.

3. Actions from the previous meeting

The actions were noted.

4. Constitutional Changes Regarding Development Control Delegations

The report sought the Committee's recommendation to Council to authorise an amendment to the constitution to enable written requests for consideration of planning applications by the Development Control Committee to be submitted no later than the relevant consultation expiry date. The aim was to extend the opportunity for applications to be referred to Committee and overcome any confusion due to differing deadlines.

Members discussed the wording of the recommendation and agreed to remove the phrase 'as he sees fit' from the recommendation.

The Chairman moved the recommendation within the report subject to the amendment discussed above and it was

Resolved: That it be recommended to Council that the Head of Legal and Democratic Services be authorised to amend the Constitution to enable written requests for consideration of planning applications by the

## Agenda Item 1

### Governance Committee - 6 November 2018

Development Control Committee to be submitted no later than the relevant consultation expiry date.

#### 5. 2018 Parliamentary Boundary Review

The Chairman presented a report which set out for Members information on the final proposals from the Boundary Commission for England (BCE) for the Parliamentary Boundaries for Sevenoaks Wards. The proposal, subject to debate and approval by Parliament, would take effect from the next scheduled general election in 2022.

Further information to Appendix A was [tabled](#) in response to a request by a Member of the Committee for information on the number of District Councillors per ward and number of electors per Councillor.

Members questioned if the Boundary Commission's review submitted in 2018 would affect future Parliamentary Boundary work.

*Action 1: Chief Officer Corporate Services to provide further information on the likely impact of the timescales of the current Parliamentary Boundary Review on any BCE future workplan with regards to Parliamentary boundaries.*

Resolved: That the final recommendations of the Boundary Commission for England for a revised Parliamentary Boundary for Sevenoaks be noted.

#### 6. Members' Parental Leave

The Monitoring Officer introduced a report which proposed steps towards incorporating a Parental Leave Policy for Members into the Constitution. Councillor Scott shared with the Committee her experiences of becoming a mother whilst a Councillor.

Four Councils in England had a Parental Leave Policy in operation which could be consulted if a Policy were to be introduced. Members were advised that any policy would need to be drafted mindful of Section 85 of the Local Government Act 1972 which sets out that if a Councillor fails to attend any meetings for a period of six months they automatically cease to be a Member. Approving a Member absence in excess of 6 months was the responsibility of full Council and Members Allowances would not be affected by such an absence.

It was noted that although measures were already in place for Members requiring prolonged absence, a formal policy would offer additional protection and support. In the instance of prolonged absence in single seat wards it was proposed that Members could offer cross-ward support. Suggestions for practical consideration which could be taken into account were changing the public contact details available for the relevant Member and them receiving weekly updates on their ward.

Members discussed if a section on Parental Leave could be included in the Welcome Pack given to new and returning Members following a Local Election. It was considered if a wider 'compassionate leave' policy might be more appropriate to also cover sickness and bereavement. Members agreed that they would like to adopt a broad 'Councillor Absence Policy' rather than a policy restricted to particular types of leave. Members considered how a leave policy may serve to diversify individuals standing in future elections and showcase the Council as an understanding and progressive organisation.

Co-opting Members of the Policy and Performance Advisory Committee to the Working Group was discussed, with a maximum number of Working Group Members being 5.

Resolved: That a working party of up to five Members selected by the Chairman of the Governance Committee be formed to draft a Councillor Absence Policy and report on progress to the next meeting.

7. Work Plan

Members agreed that the Councillor Absence Working Group should report back to the Governance meeting on 12 February 2019.

THE MEETING WAS CONCLUDED AT 7.50 PM

CHAIRMAN

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## Report of the Governance working group on arrangements for Councillor's extended absence

January 2019

A member raised concerns about a lack of information relating to potential need for extended leave of absence from councillor duties. It was agreed that the Governance committee would establish a working group to investigate and report back to the Governance Committee with recommendations.

The working group held two meetings. It noted that extended absence from duties is governed by s.85 of the Local Government Act 1972 and that Full Council is the only body authorised by the legislation to grant permission. The onus is on the individual member to initiate the process of seeking extended leave of absence (beyond 6 months) from the Council, for whatever reason, in good time.

As the issues which may lead to such a desire for extended leave of absence are many and varied, it was considered that the recommendation to Council should be in the form of guidelines to assist the Council meeting in its consideration of applications, rather than a prescriptive policy.

Situations which may be expected to be considered sympathetically include:

- pregnancy/maternity, paternity, adoption
- acute medical conditions requiring debilitating therapies, such as cancer
- temporarily incapacitating physical conditions, such as broken back/pelvis/thigh, requiring confinement to bed/immobilisation/traction
- mental illness

but there will be others. All should be considered on their merits by Full Council.

The Council would be expected to follow best practice and, in particular, to grant applications for matters relating to maternity.

In the interests of promoting accessibility and inclusiveness to all potential candidates for election as Councillors, where such applications for extended leave be granted by Full Council that the absent member shall continue to be entitled to receive the member's basic allowance plus any Special Responsibility Allowance (SRA) of which they may be in receipt for the duration of the approved absence. Any member providing temporary cover for an absent member in a post of Special Responsibility shall also be entitled to receive the appropriate RSA.

\* \* \*

It was recommended that the Induction Pack given to all members at the commencement of their 4-year term should include clear guidance on the foregoing.

## Agenda Item 4

It was noted that where a member was to be absent from their duties for an extended period that they may need to be screened from the usual public contact, for which approach should be made to Democratic Services. Similarly, residents are still entitled to receive support by way of service from a Councillor, so absent Councillors should make arrangements through their group.

Alan Pett  
Chairman, Governance Committee  
January 2019

Constitution of working group:

Cllr Pett (Chair)  
Cllr Scott\*  
Cllr Layland  
Cllr Firth\*  
Cllr Canet

\* First meeting only

**AMENDMENTS TO THE CONSTITUTION: LICENSING SUB-COMMITTEE HEARING PROCEDURES**

**Governance Committee - 12 February 2019**

Report of Chief Officer Corporate Services

Status For Decision

Also considered by Council - 26 February 2019

Key Decision No

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**Portfolio Holder** Cllr. Anna Firth

**Contact Officers** Vanessa Etheridge, Ext. 7199 / David Lagzdins, Ext. 7350

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**Recommendation to Governance Committee:** That it be recommended to Council that

- (a) 'Part 8 - Licensing Committee' of the Council's Constitution be amended as set out in Appendix A; and
- (b) delegated authority be granted to the Head of Legal & Democratic Services, to draft further amendments to Part 8 of the Council's Constitution to include hearing procedures under the Gambling Act 2005 and the Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976, for consideration at Council on 30 April 2019 after consultation with the Chairman of Governance.

**Recommendation to Council:** That

- (a) 'Part 8 - Licensing Committee' of the Council's Constitution be amended as set out in Appendix A; and
- (b) delegated authority be granted to the Head of Legal & Democratic Services, to draft further amendments to Part 8 of the Council's Constitution to include hearing procedures under the Gambling Act 2005 and the Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976, for consideration at Council on 30 April 2019 after consultation with the Chairman of Governance.

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**Reason for recommendation:** To ensure compliance with relevant legislation.

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## Agenda Item 5

### Introduction and Background

- 1 Officers recently undertook a review of Licensing Committee procedures, initiated by the possibility of requiring a hearing for a Sex Entertainment Venue application. Part 8 of the Council's Constitution was found to be lacking a tailored sub-committee hearing procedure.
- 2 Due to reporting timescales it was not possible to present this Committee with the necessary amendments for all forms of hearing. Therefore, a view was taken to prioritise a hearing procedure for Sex Establishment licences in order for it to be agreed at Council on 26 February 2019 and to request delegated authority to complete the amendments in order to have them drafted ready for consideration at full Council on 30 April 2019.
- 3 Whilst drafting a hearing procedure for Sex Entertainment Venues, Officers have also taken the opportunity to streamline the current Licensing Hearing Procedure.
- 4 There are no further scheduled Governance Committee meetings before the end of the municipal year and the calendar is quite full. Governance Committee could decide to schedule a further meeting or agree that delegated authority be granted to the Head of Legal & Democratic Services to draft the further required amendments for consideration at Council on 30 April 2019. Granting delegated authority would give Officers slightly more time to draft the necessary amendments.

### Key Implications

#### Financial

None directly arising from this report.

#### Legal Implications and Risk Assessment Statement.

The Council is occasionally required to hold Licensing Sub-Committee hearings to consider a range of applications. However, these applications are often under different statutory regimes and therefore must take account of different factors. For example, some decisions are considered to be administrative in nature, while others are quasi-judicial.

Should a Sub-Committee fail to follow a procedure that is appropriate for the matter before them then the risk is increased that the Sub-Committee will fail to consider all material facts in an appropriate way. This increases the risk that the Council's decisions will be found unsound, if challenged. The proposed procedure in Appendix A is considered to be consistent with the statutory framework and the Council's existing SEV policy.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Human Rights

Matters considered by a Sub-Committee may engage rights including the right to a fair hearing (Art. 6) and the right to the protection of property (including licences) (Protocol 1 Art. 1)

**Appendices**

Appendix A - Proposed amendments to Part 8 of the Council's Constitution

**Background Papers**

[Sevenoaks District Council Constitution](#)

[Licensing Act 2003](#)

[Gambling Act 2005](#)

[Local Government \(Miscellaneous Provisions\) Act 1982 \(as amended by Section 27, Policing and Crime Act 2009\)](#)

[Town Police Clauses Act 1847, Public Health Act 1875 and Local Government \(Miscellaneous Provisions\) Act 1976](#)

**Jim Carrington-West**

**Chief Officer Corporate Services**

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## PART 8 - LICENSING COMMITTEE

### 1. Licensing Committee

1.1 Composition: Thirteen Members of the District Council reflecting the political proportionality of the Council

1.2 Terms of Reference

- (a) Except as provided in the Licensing Act 2003 and the Gambling Act 2005, the discharge of all functions of the District Council as licensing authority prescribed by those acts;
- (b) the issue, renewal, transfer, suspension and revocation of hackney carriage, private hire vehicle, driver and operator licenses;
- (c) ~~the discharge of relevant functions relating to applications for~~ the licensing of sex establishments
- (d) the discharge of relevant functions relating to the Police Reform and Social Responsibility Act 2011; and
- (d) the discharge of all other functions relating to licensing and registration in so far as they are the responsibility of the District Council.

### 2. Licensing Hearing Sub-Committees

2.1 ~~Each municipal year~~ ~~the~~ Licensing Committee ~~will has~~ established four Licensing Hearing Sub-Committees. The Chief Executive will call a meeting of one of the sub-committees whenever there is business to be transacted.

Composition: Each Sub-Committee will contain three Members of the Licensing Committee. Any member of the Licensing Committee may act as a substitute on any of the Licensing Sub-Committees. ~~Democratic Services must be notified by the members concerned of any substitutions at least one working hour prior to a sub-committee meeting.~~

2.2 Terms of Reference

Licensing Act 2003:

- (a) determination of application for the grant/ renewal of a personal licence where an objection notice has been given by the Police;
- (b) consideration of Police objection notice following conviction of personal licence holder;

machine permit where relevant representations have been received;  
and

- (f) cancellation of club gaming permit, club machine permit, licensed premises gaming machine permit where relevant representations have been received.

Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009

- (a) determination of application for the grant/- renewal/ transfer/variation or revocation of a sex shop, sex cinema or sexual entertainment venue licence

Town Police Clauses Act 1847, Public Health Act 1875 and Local Government (Miscellaneous Provisions) Act 1976

- (a) to exercise the Council's powers and duties in relation to the licensing of hackney carriages and private hire vehicles, including the licensing of vehicles, drivers and operators, the control of numbers of hackney carriages, the licensing of private hire operators and the granting of permits for small buses where the matter has been referred by the delegated officer.

### **3. Procedures at Sub-Committees of the Licensing Committee (~~established in accordance with Section 9 of the Licensing Act 2003~~)**

~~3.1 In accordance with Section 9 (1) of the Licensing Act 2003, the Licensing Committee has resolved to establish four Sub-Committees, each consisting of three members of the Committee.~~

~~3.2 The Sub-Committees have delegated authority to determine those functions that are reserved for decision by the Sub-Committees in accordance with Appendix B of the Council's Statement of Licensing Policy dated 7<sup>th</sup> January 2011.~~

#### 3. Licensing Act 2003

~~3.13~~ Hearings shall be conducted in accordance with this Procedure Note and The Licensing Act 2003 (Hearings) Regulations 2005 subject to the right of the Sub-Committee to vary that procedure at their absolute discretion if considered in the public interest.

~~3.42~~ The quorum for a Sub-Committee shall be two members.

~~(k)~~(n) Sub-Committee may grant a short adjournment. The parties may not speak to members regarding the application during adjournments.

~~(l)~~(o) The Sub-Committee considers the application and motions put to accept or reject the application in the terms requested or to grant the application subject to specified conditions. Reasons are to be given for motions.

~~(m)~~(p) The parties will be informed of the decision at the hearing or thereafter in accordance with Regulation 26 of the 2005 Regulation.

Local Government (Miscellaneous Provisions) Act 1982)

- 4.1 Hearings shall be conducted in accordance with this Procedure Note and the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009) subject to the right of the Sub-Committee to vary that procedure at their absolute discretion if considered in the public interest.
- 4.2 Objectors' names or addresses will not be revealed to an Applicant without consent. However attendance at a hearing by any Objector implies consent (Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, para10 (17))
- 4.3 The quorum for a Sub-Committee shall be two members.
- 4.4 At the commencement of each hearing the Sub-Committee shall elect one of its members as Chairman.
- 4.5 The order of business at hearings shall be:
  - (a) Election of Chairman.
  - (b) Declarations of interests.
  - (c) Chairman explains the procedure to be followed at the hearing, including the setting of equal time limits for all parties and the granting of adjournments.
  - (d) Chairman ascertains who is present, including all parties, representatives and witnesses assisting or representing the parties.

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**Governance Committee Work Plan 2018/19 (as at 10/01/19)**

12 February 2019	9 July 2019	5 November 2019	4 February 2020
Councillor Absence Working Group Update			

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