

## PART 3

### Responsibilities for Functions

#### Part 3C – Committee Functions

- 3C.1 Council has established<sup>1</sup> the Committees set out in Table 2 below to discharge certain functions which are neither reserved to Council nor Executive or solely Executive functions. Council retains the right to a concurrent and overriding exercise of all functions in Table 2.
- 3C.2 The Authority must have at least one Overview and Scrutiny Committee<sup>2</sup> and these are set out in Table 3 below.
- 3C.3 A Committee may establish such Sub-Committee(s) as it sees fit to undertake certain of its functions and the Tables below include such Sub-Committees.
- 3C.4 Unless otherwise required by law, a Committee or Sub-Committee in Table 2 may determine not to exercise a function delegated to it and refer that function upwards for determination by respectively Council or the parent Committee.

**Table 2 (Functions of Committees)**

| <b>PLANNING COMMITTEE</b>  |   |
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| <b>Function</b>  | <b>Condition</b>  |
| <b>Planning, etc. applications</b><br>Determine an application for:<br>(a) full planning permission;<br>(b) outline planning permission;<br>(c) approval of reserved matters;<br>(d) listed building consent;<br>(e) conservation area consent;<br>(f) advertisement control consent | The power shall only be exercised where the application:<br>(a) if granted, would be a departure from or would conflict with the development plan/local development framework or other planning policies adopted by the Council;<br>(b) is for a proposal which an Officer intends to support and which has, prior to the expiry of the statutory consultation period, been objected to in writing by any local amenity organisation, any residents association or any statutory consultee; unless the Chair and Vice Chair consider that the objection is one which does not require Committee |

<sup>1</sup> Pursuant to s101 LGA 1972, Licensing Act 2003, Gambling Act 2005

<sup>2</sup> Required by s21 LGA 2000

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|   | <p>assessment;</p> <p>(c) is one in respect of which any Member has, prior to the expiry of the statutory consultation period, submitted a written request and explanation to the Director of Communities &amp; Economic Development that it be determined by the Planning Committee;</p> <p>(d) is submitted by or on behalf of the Council or the Gloucestershire County Council;</p> <p>(e) is submitted by a Member, an Executive Director, Director or an existing employee of the Communities and Economic Development Division;</p> <p>(f) is one which the Planning Committee has specifically required should be determined by the Committee; or</p> <p>(g) is one which the Director of Communities and Economic Development considers should be determined by Planning Committee</p> |
| <p><b>Trees</b><br/>Determine planning applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.</p> | <p>The power shall only be exercised in respect of an application:</p> <p>(a) submitted by a (i) a Member, (ii) a current employee of the Communities and Economic Development Division of the Council or (iii) the Council or Gloucestershire County Council;</p> <p>(b) which a Member of the Council has, within the consultation period, requested should be determined by Planning Committee; or</p> <p>(c) which the Director of Communities and Economic Development considers should be determined by Planning Committee</p>  |
| <p><b>Planning Policy</b><br/>Act as consultee to Cabinet/Lead</p>  | <p>Adoption of local planning policy</p>  |

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| Member on recommendations/responses for the adoption and review of local and national planning policy | is a Council function |
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| <b>LICENSING COMMITTEE<sup>3</sup></b>  |  |
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| <b>Function</b>   | <b>Condition</b>   |
| <b>Licensing Act 2003</b><br>Act as consultee to Cabinet/Lead Member on recommendations/responses for the adoption and review of the Licensing Policy Statement and national licensing policy   | Adoption of the Licensing Policy Statement is a Council function |
| Establish Licensing Sub-Committees  |  |
| <b>MISCELLANEOUS LICENSING SUB-COMMITTEE</b>  | <b>(5 Members politically balanced)</b>                          |
| <b>Hackney Carriage and Private Hire</b>  |  |
| Determine an application for the grant variation or renewal of a driver or vehicle licence  | If a relevant objection is made                                  |
| Determine an application for the grant or variation of an operator's licence  | If a relevant objection is made                                  |
| Determine an application for the transfer of a vehicle licence  | If a relevant objection is made                                  |
| Suspend or continue the suspension of a driver, vehicle or operator's licence   | Where an officer chooses not to exercise delegated power         |
| Revoke a driver, vehicle or operator licence  | If a relevant representation is made                             |
| Adopt and amend standard conditions for hackney carriage and private hire licences  |  |
| <b>Miscellaneous Licensing Functions) (including sex establishments)</b><br>including Street trading, Street collections, House to house collections, Objects on the highway, , Caravan sites, Camping sites and moveable dwellings, Acupuncture, tattooing, ear-piercing and electrolysis, Game dealers, Scrapyards, Zoos, Dangerous wild animals) |  |
| Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission   | If a relevant objection is made                                  |
| Revoke or withdraw any licence, consent, permit or permission   | If a relevant representation is made                             |
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| Determine any application for the grant,  | If a relevant objection is made                                  |

<sup>3</sup> Licensing Committee restructure agreed at Licensing Committee on 12 April 2017

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| renewal, variation or transfer of a licence, consent, permit or permission   |   |
| Revoke or withdraw any licence, consent, permit or permission  | If a relevant representation is made  |
| <b>ALCOHOL AND GAMBLING LICENSING SUB-COMMITTEE</b>  | <b>(3 Members from the main committee (not substitutes) no requirement for political balance)</b> |
| <b>Function</b>  | <b>Condition</b>  |
| <b>Licensing Act 2003</b>  |   |
| Determine an application for a personal licence  | If a police objection   |
| Determine an application for a personal licence with unspent conviction(s)   | All cases   |
| Determine an application for a premises licence/club premises certificate  | If a relevant representation made   |
| Determine an application for a provisional statement   | If a relevant representation made   |
| Determine an application to vary a premises licence/club premises certificate  | If a relevant representation made   |
| Determine an application to vary a designated premises supervisor  | If a police objection   |
| Determine an application for transfer of a premises licence  | If a police objection   |
| To determine an application for interim authorities  | If a police objection   |
| Determine an application to review a premises licence/club premises certificate  | All cases   |
| Lodge an objection where the Council is a consultee and not the relevant authority considering the application   | All cases   |
| Determine a police objection to a temporary event notice   | All cases   |
| <b>Gambling Act 2005</b>   |   |
| Act as consultee to Cabinet/Lead Member on recommendations/responses for the adoption and review of the Licensing Policy Statement and national licensing policy including policies on casinos | Adoption of the Licensing Policy Statement is a Council function                                  |
| Determine an application for a premises licence  | If a relevant representation made   |
| Determine an application for a variation to a premises licence   | If a relevant representation is made  |
| Determine an application for a transfer of a premises licence  | If a representation received from the Gambling Commission   |
| Determine an application for a licence to be reinstated  | If a relevant representation made   |
| Determine an application for a provisional statement   | If a relevant representation made   |

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| Review a premises licence  | All cases                         |
| Determine an application for club gaming/club machine permit   | If a relevant representation made |
| Cancel a club gaming/club machine permit   | All cases                         |
| Consider a temporary use notice  | If a relevant representation made |
| Decide to give a counter notice to a temporary use notice  | All cases                         |
| <b>AUDIT, COMPLIANCE AND GOVERNANCE COMMITTEE</b>  |                                   |
| <b>Function</b>  |                                   |
| <b>General</b>   |                                   |
| Provide a broad based audit role across all areas of the Authority, while promoting and ensuring effective internal control and independent assurance mechanisms   |                                   |
| <b>Internal Audit</b>  |                                   |
| Consider the internal audit annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Authority's corporate governance arrangements  |                                   |
| Provide on-going monitoring of the operational audit plan and audit planning process   |                                   |
| Agree internal audit plans (ensuring that internal audit work is planned with due regard to risk, materiality and supports the attainment of the Authority's aims and priorities)  |                                   |
| Review internal audit performance  |                                   |
| Monitor and review the actions required arising out of audit recommendations   |                                   |
| <b>External Audit</b>  |                                   |
| Consider and review the external audit and inspection letter and all associated reports and other documents  |                                   |
| Consider and review external audit reports   |                                   |
| Monitor and review actions required arising out of external audit recommendations  |                                   |
| Contribute to the forward work plan of the Authority's external auditors (insofar as they relate to the Authority)   |                                   |
| Review all matters relating to external audit, including audit and inspection planning, action points and reports  |                                   |
| Ensure effective liaison between external and internal audit and any other inspection agency   |                                   |
| To be consulted on any proposals for the appointment of the council's external auditor   |                                   |
| <b>Risk Management</b>   |                                   |
| Ensure that an appropriate corporate risk management strategy is in place  |                                   |
| Ensure that risk management procedures are satisfactorily carried out  |                                   |
| Provide on-going monitoring and review of the risk management strategy   |                                   |
| <b>Annual Statement of Accounts</b>  |                                   |
| Review and approve the annual statement of accounts and statement of internal control, specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that needs to be brought to the |                                   |

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| attention of the Authority  |
| Ensure appropriate arrangements operate for the development of the Statement on Internal Control  |
| Review the annual report to members from the external auditor to those charged with governance on issues arising from the audit of the statement of accounts  |
| <b>Corporate Governance Framework</b>   |
| Ensure systematic appraisal of the Authority's control environment and framework of internal control to provide reasonable assurance of effective and efficient operations  |
| In conjunction with the Standards Committee and Borough Solicitor & Monitoring Officer, ensure that the highest standards of probity and public accountability are demonstrated including anti-fraud and anti corruption arrangements |
| Ensure arrangements operate to evaluate and report on compliance with the local code of corporate governance and to periodically review the code  |
| Review internal and external reports and assessments in respect of corporate governance   |
| Ensure and maintain effective liaison with the Corporate Governance Group and Standards Committee.  |

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| <b>APPOINTMENTS AND REMUNERATION COMMITTEE</b>  |
| <b>Function</b>   |
| Be responsible for the appointment and dismissal of any Executive Officers <sup>4</sup>   |
| <i>NOTE; No offer of appointment shall be made until the proposed action (including the name and any other particulars the Committee considers relevant) has been notified to every member of the Cabinet and either:-</i><br><i>1. within the period specified in the notification no objection has been made by the Leader on behalf of the Cabinet to the proposed action; or</i><br><i>2.the Committee is satisfied that any objection made is not material or is not well founded; or</i><br><i>3.the Leader has, within the period specified in the notification, notified the Chief Executive that neither he/she nor any member of the Cabinet has any objections</i> |
| Determine the conditions on which the Executive Officers hold office, including deciding matters relating to the early retirement of those officers.  |
| Consider the Pay Policy Statement and refer it to Council for approval  |
| Determine policies relating to employee remuneration  |
| Determine policies relating to local government pensions and discretionary compensation.  |
| Deal with any other appointments, dismissal <sup>5</sup> or remuneration <sup>6</sup> matters referred by Council or Head of Paid Service   |
| <b>DISCIPLINARY COMMITTEE</b>   |

<sup>3</sup>Where the Committee is appointing or dismissing the Head of Paid Service, Council must approve the appointment or dismissal before an offer of appointment or notice of dismissal is issued. Where the Committee appoints to the posts of Monitoring or Chief Finance Officer it is for Council to designate the post holder in that statutory role.<sup>4</sup>Except for disciplinary matters, which fall within the remit of Disciplinary Committee.

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<sup>6</sup> Remuneration is salary received by the employee or executive for duties undertaken during his/her employment

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| <b>Function</b>   |
| Manage and consider any disciplinary and/or capability and any grievance matters arising in relation to any Executive Officer.  |
| Carry out the function of an Investigating & Disciplinary Committee as set out in the JNC Conditions of Service for Chief Officers.   |
| Consider allegations concerning the conduct or capability of any Executive Officer in order to establish whether or not they are sufficiently well-founded and serious in content to justify investigation  |
| If appropriate, suspend an Executive Officer under the terms of the JNC Conditions of Service for Chief Officers. Where appropriate and in a case of urgency the Chair of the Disciplinary Committee can suspend, for a period of up to 2 months, an Executive Officer. This power can only be exercised following consultation with Human Resources.   |
| Comply with the notification requirements of Rule 6 of Part 4F of the Constitution (Employment Rules) and to consider any objections from members of the Cabinet to establish whether they are material and/or well-founded.  |
| In respect of Executive Officers (other than the Head of Paid Service, Chief Finance Officer or Monitoring Officer) <sup>7</sup> to<br>(a) appoint, if appropriate, an investigator to carry out an investigation on behalf of the Committee (which power can be delegated to an Officer);<br>(b) receive and consider any report of an investigator;<br>(c) hold a capability, disciplinary or grievance hearing;<br>(d) following any capability and/or disciplinary hearing, determine a course of action (up to and including dismissal) within the Council's powers under law and within its procedures, including the procedure set out in Rule 6 of Part 4F of the Constitution (Employment Rules) |
| <b>APPEALS COMMITTEE</b>  |
| <b>Function</b>   |
| Hear and determine appeals against decisions of the Disciplinary Committee in respect of action taken against any Executive Officer (other than the Head of Paid Service, Chief Finance Officer or Monitoring Officer)  |
| Hear and determine appeals against any action short of dismissal taken by the Disciplinary Committee against the Head of Paid Service, Chief Finance Officer or Monitoring Officer  |

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| <b>STANDARDS COMMITTEE</b>   |
| <b>Function</b>  |
| (a) To promote and maintain high standards of conduct and to assist Members and Co-opted Members to observe the Code of Conduct, and to: <ul style="list-style-type: none"> <li>• advise the Council on the adoption or revision of the Code;</li> <li>• monitor the operation of the Code; and</li> <li>• provide advice and training.</li> </ul> |

<sup>7</sup>. At Council on 27/3/2017 Paul Jones was designated permanently to the role of CFO (to include Section 151 Officer) effective from 28/03/2017.

At Council on 29/06/2009, Sara Freckleton from One Legal (TBC) was designated as Cheltenham Borough Council's Monitoring Officer for the purposes of s5(1) of the Local Government and Housing Act 1989 with effect from 1st July 2009

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| (b) | To promote and maintain high standards of conduct in Parish Councils and to assist Parish Councils to observe the Code of Conduct, and to: <ul style="list-style-type: none"> <li>• advise Parish Councils on the adoption or revision of Codes of Conduct;</li> <li>• monitor the operation of their Codes; and</li> <li>• provide advice and training to Parish Councillors.</li> </ul> |
| (c) | Determine applications for dispensations which have been made by Members of the Borough Council and which have not been determined by the Monitoring Officer under authority delegated to him/her.  |
| (d) | Prepare, monitor and review Codes and Protocols to support the Code of Conduct and recommend to Council accordingly.  |
| (e) | Consider reports from the Monitoring Officer on the number of complaints received under the Code of Members' Conduct and the decisions taken by the Monitoring Officer in consultation with the Independent Person(s) on such complaints.   |
| (f) | Consider and determine the appropriate action on matters referred by the Monitoring Officer in relation to the assessment of complaints where the Monitoring Officer has been unable to exercise his/her delegated authority.   |
| (f) | Receive summary reports from the Monitoring Officer: <ul style="list-style-type: none"> <li>a) on complaints that have been investigated where 'no breach' of the Code has been found to have occurred; and</li> <li>b) on complaints where a 'breach' of the Code has been found but where it has been possible for a local resolution to be agreed.</li> </ul>                          |
| (g) | Adopt procedures for the hearing of cases of a 'breach of the Code' finding upon investigation via a Hearings Sub-Committee   |

### **STANDARDS HEARINGS SUB-COMMITTEE**

#### **Function**

The Standards Hearings Sub Committee will undertake the functions set out below.

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| (1) | Hear cases, including those relating to Parish Council Members and Co-opted Members, of an alleged breach of the Member Code of Conduct referred by the Monitoring Officer following a report of an Investigating Officer.  |
| (2) | In respect of Members of the Borough Council, where it has been determined that a Member has failed to comply with the Authority's Code of Conduct, impose one or more of the following, if appropriate: <ul style="list-style-type: none"> <li>a) censure;</li> <li>b) report to Council;</li> <li>c) recommend actions to the Leader of the Council;</li> <li>d) recommend actions to Group Leader (e.g. removal from a Committee)</li> <li>e) removal from Outside Bodies;</li> <li>f) withdrawal of facilities, such as Council email/website/internet access;</li> <li>g) exclusion from the Council Offices, or other premises, with the</li> </ul> |



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|     | <p>exception of meeting rooms as necessary for attending Council, Committees or Sub-Committees and/or nominating a single point of contact; and/or</p> <p>h) requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.</p>   |
| (3) | <p>In respect of the Members of Parish Councils, within the area of Cheltenham Borough Council, where it has been determined that a Member / Co-opted Member has failed to comply with their Authority's Code of Conduct, impose one or more of the following, if appropriate:</p> <p>a) censure;</p> <p>b) report to the Parish Council recommending actions which could include removal from a Committee, removal from an Outside Body or withdrawal of facilities; and/or</p> <p>c) requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.</p> |

**Table 3**

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| <b>OVERVIEW &amp; SCRUTINY COMMITTEE</b>   |
| <b>Functions</b>   |
| <b>General</b>   |
| Agree the Overview & Scrutiny (O&S) workplan taking into account corporate priorities, the forward plan, issues of local concern and available resources   |
| Establish standing or ad hoc sub-committees as required and set the size and high level terms of reference   |
| Establish time-limited scrutiny task groups (STGs) to carry out in-depth reviews of a particular issue, set the size and high level terms of reference and agree reporting lines (to the Committee or its sub-committee) for recommendations |
| Establish the Budget STG, set the size and high level terms of reference and agree reporting lines (to the Committee, its sub-committee or Cabinet) for recommendations  |
| Nominate members to Cabinet working groups when representatives of O&S are requested   |
| Receive recommendations from STGs and forward to Cabinet, Council, committee or the appropriate body (including commissioning boards)  |
| Promote good practice for O&S across the Authority   |
| Promote the development of member skills and competencies in O&S   |
| <b>Scrutiny</b>  |
| Consider call-ins <sup>8</sup> , including call in of any decisions under Joint Arrangements and decide appropriate action (including the establishment of STGs) and carry out any other actions covered by the Overview and Scrutiny Rules  |
| Receive any councillor calls for action and petitions referred to O&S and decide appropriate action  |
| Question Cabinet Members, committees, the Chief Executive, Executive Directors, Directors or representatives under joint arrangements regarding decisions taken, service delivery, initiatives or projects                                   |

<sup>8</sup> Rule 14 Overview & Scrutiny Rules (see Part 4D)

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| Question, call for and gather evidence from any external person or organisation (with their consent)   |
| Make reports and recommendations to Cabinet, Council, a committee or an external body arising from the outcome of the scrutiny process   |
| <b>Policy review and development</b>   |
| Receive and comment on plans, strategies, policies and budget proposals that comprise the Budget and the Policy Framework <sup>9</sup>   |
| Contribute to the monitoring, review and ongoing improvement of services provided either directly by the Authority or on behalf of the Authority (using sub-committees or STGs as appropriate) |
| Monitor the implementation of any O&S recommendations accepted by Cabinet or other bodies  |
| Build appropriate relationships with other parts of the Authority, external bodies and the public to facilitate effective scrutiny   |
| Participate in joint scrutiny with other authorities and work with other authorities in Gloucestershire to strengthen the scrutiny role in respect of partnerships                             |
| <b>Crime and disorder</b>  |
| Consider any crime and disorder matters <sup>10</sup>  |

<sup>9</sup> In accordance with Rule 2 Budget & Policy Framework Rules (see Part 4G)

<sup>10</sup> Under s19 Police and Justice Act 2006 the Authority must specify a committee to deal with such matters