

West Suffolk Council Constitution: non- executive licensing functions

Report number:	COU/WS/22/023	
Report to and date:	Council	13 December 2022
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Decisions Plan: Not applicable as this is not an executive matter

Wards impacted: All wards

Recommendation: It is recommended that Part 3, Section 2 – Responsibility for Council (Non Executive) Functions - Part B (Licensing) of the Constitution be amended to:

- 1. align the training requirements for members of the Licensing and Regulatory Committee with those for members of the Development Control Committee such that members of the Licensing**

and Regulatory Committee will be unable to sit on the Committee if they have not completed the compulsory training requirements set out in the West Suffolk Licensing Code of Practice; and

- 2. change the wording under paragraph 3.2 (Delegation of Functions) of the aforementioned section of the Constitution to that set out within the paragraph 2.1 of Report number: COU/WS/22/023.**

1. Context to this report

1.1 The Constitution Review Group periodically assesses potential changes to the Constitution and met on the 30 November 2022 to consider two areas recommended for amendment, both being non-executive licensing functions which can be found in Part 3, Section 2 of the Constitution under B - Licensing:

- a. Membership and meeting arrangements
- b. Delegation of functions

1.2 Membership and meeting arrangements

Currently the Constitution provides that members are required to undertake mandatory training (as set out in the Code of Practice on Licensing) on functions and responsibilities of the committee and its sub-committees. If members do not undertake the mandatory training, then they would not be appointed to any sub-committee. The matter would be raised with the Group Leader who would be requested to consider the members' ongoing appointment to the committee.

1.3 The West Suffolk Licensing Code of Practice which can be found in Part 5e of the Constitution and via this link ([Part 5 - West Suffolk Licensing Code of Practice April 2021.pdf](#)) expands the training requirement for members of the Licensing and Regulatory Committee and provides:

"Knowledge and Training

To demonstrate their commitment to ensuring sound decision making, Committee Members and named substitutes will undertake at least one training event in each six month period. Any Members sitting on a hearing must have attended a specific training session on hearings within the past 12 months. Training must meet one of the following criteria:

- *A training or briefing session organised by Council Officers, which officers indicate is accredited training.*
- *A training session organised by a relevant organisation, attendance having been approved by Officers.*
- *Online learning approved by Officers.*

If a Councillor has not received requisite training in the previous 12 months in relation to the application in question, they cannot be selected to sit on a licensing hearing."

- 1.4 Although the training is mandatory and there is no scope to raise non-compliance with the Group Leader, there is no requirement for untrained members to step down as a member of the Licensing and Regulatory Committee which has resulted in untrained members remaining on the committee but unable to be appointed to any hearing by a sub-committee.
- 1.5 This arrangement is not aligned with the requirements for members of Development Control Committee, another statutory committee.
- 1.6 The West Suffolk Planning Code of Practice which can be found in Part 5d of the Constitution and via this link ([Part 5 - West Suffolk Planning Code of Practice February 2022.pdf](#)) provides:

“Knowledge and Training

To demonstrate their commitment to ensuring sound decision making, Committee members and named substitutes will undertake compulsory training, to consist of at least one session in each six month period that meets one of the following criteria:

- *A training or briefing session organised by Council officers, which officers indicate is accredited training.*
- *A training session organised by a relevant organisation (normally Royal Town and Planning Institute, the Planning Advisory Service, the Local Government Association or another Council), attendance having been approved by Officers.*
- *Online learning approved by officers.*

If a councillor has not received the requisite training and is thus not considered accredited to sit on the Development Control Committee, they should seek a substitute member for all Committees until they have received training.”

1.7 **Delegation of functions**

Currently the Constitution provides:

“Delegation of functions

3.2 In normal circumstances, matters will only be brought before the Committee or a Sub-Committee where there is a difficulty or an appeal against an Officer’s decision. In such cases, the Director (HR, Governance and Regulatory) shall consult with the Chair and Vice-Chair on whether they consider it appropriate to refer the matter to the Committee or Sub-Committee, or whether the matter should be delegated for Officers to determine. The Chair and Vice-Chair should be informed of any representations received in respect of the matter, including any local Members views received.”

(The entire section can be viewed under Part B – Licensing [\(onwards via this link Part 3 - Section 2 - Responsibility for Council Non Executive Functions September 2022.pdf\)](#))

- 1.8 Difficulties have arisen when either the Chair or Vice-Chair have not been available for consultation and there is currently no scope for the Director to consult with another member of the Committee in the absence of the Chair and/or Vice-Chair.

2. **Proposals within this report**

- 2.1 It is proposed that Part 3 – Section 2 – Responsibility for Council Non Executive Functions – Part B – Licensing of the Constitution is amended:

- to provide that members of the Licensing and Regulatory Committee will be unable to sit on the Committee if they have not received the mandatory training requirements as set out in the Constitution at Part 5 - West Suffolk Licensing Code of Practice April 2021
- that the wording of paragraph 3.2 (Delegation of Functions) be amended to:

"In normal circumstances matters will only be brought before the Committee or a Sub-Committee where it is deemed appropriate or it is an appeal against an Officer's decision. In such cases, the Director (HR, Governance and Regulatory) shall consult with the Chair and Vice-Chair, or a trained member of the Licensing and Regulatory Committee where the Chair or Vice-Chair are unavailable, on whether they consider it appropriate to refer the matter to the Committee or Sub-Committee, or whether the matter should be delegated for Officers to determine. The Chair and Vice-Chair (or trained member of the Committee if required) should be informed of any representations received in respect of the matter, including any local Members views received."

3. **Alternative options that have been considered**

- 3.1 Consideration has been given to retain the current wording within the Constitution but this is not recommended because this can cause difficulty when there are limited members of the committee sufficiently trained to sit on a sub-committee and there are occasions where consultation with the Chair and Vice-Chair has failed because one or the other is unavailable.

4. Consultation and engagement undertaken

- 4.1 The Constitution Review Group met on the 30 November 2022 to consider the proposals.

5. Risks associated with the proposals

- 5.1 There are no risks involved with making this decision.

6. Implications arising from the proposals

- 6.1 None

7. Appendices referenced in this report

- 7.1 None

8. Background documents associated with this report

- 8.1 None