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Part 3

1 REMITS AND TERMS OF REFERENCE OF COUNCIL BODIES

Context

- 1 Further to Articles 4, 7, 8 and 10, this section of Part 3 of the Constitution provides detail of the functions which, by choice, the Council has decided to exercise itself, and those which are given by law, or by choice of the Council, to the various Council bodies or any Area Committees.
- 2 For convenience of reference, these are set out, alongside other relevant arrangements, in a separate Appendix for each Council Body.
- 3 Section 2 sets out the standing delegations made by the Cabinet of its functions to individual Cabinet members or to Council Officers.
- 4 Section 3 sets out the standing delegations made by the Council to the Planning Committee and its Officers.

Appendices

A - Appointments Board/Investigating and Disciplinary Committee

Composition

- A.1 The Appointments Board/Investigating and Disciplinary Committee shall consist of up to nine members and no councillor shall be disqualified from appointment by membership of any other Council body.
- A.2 To comply with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) an Investigating and Disciplinary Committee must be politically balanced and must include at least one member of the executive.
- A.3 For the making of general arrangements for its operation, and for the selection of a Chief Executive, the whole Board shall be convened; but it shall not be required to involve all of its members in all parts of the selection process for a Chief Executive.
- A.4 Panels of the Board may be used for making other appointments. The Chairman, in consultation with the Chief Executive, shall designate at least five members to form Appointments Panels which shall be authorised to perform all the functions of the Board in relation to that appointment.
- A.5 In the case of a complaint being received against a statutory officer, the decision whether to refer the matter to the Investigating and Disciplinary Committee will be delegated to a sub-committee of the IDC consisting of three members, and which will be politically balanced as far as is practicable. The three members forming the sub-committee will then be excluded from participating in any process arising from their decision.
- A.6 In designating the members to form Appointments Panels or sub-committees of the Investigating and Disciplinary Committee, and in advising on it, the Chairman and the Chief Executive (or where appropriate, the Monitoring Officer) respectively shall have regard to political proportionality, to the responsibilities of members in relation to the duties attaching to the post to be filled, and to the need for any substitution of members.

Functions Referred to the Board and the Terms of their Reference

- A.5 Within the employment policies and procedures established by the Council, the Appointments Board shall make the general arrangements for selecting “chief officers” and, following a decision to operate the process of selection set out in Standing Order 23, shall conduct the process in accordance with that Standing Order.
- A.6 In consideration of the nature of a particular post falling within the legal definition for appointment purposes of “chief or deputy chief officer”, the Council, when authorising the operation of the selection process, may choose for the selection to be made by the process which would apply to a post not normally fillable by the Appointments Board.
- A.7 Within the procedures established by the Council, the Appointments Board shall appoint persons to the Councillors’ Independent Allowances Panel and to the non-councillor places on the Standards Committee (subject to the involvement of the Chairman/Vice Chairman).
- A.8 Within the procedures established by the Council, the Investigating and Disciplinary Committee will have delegated responsibility for the appointment of an Independent Investigator to undertake an investigation into any matter it considers warrants investigation. Such investigator to be appointed from the list provided by the National Joint Secretaries, and co-ordinated by the relevant Executive Director.
- A.9 The Investigating and Disciplinary Committee will have delegated responsibility for the suspension of “the relevant officer(s)”. In the event of the need for urgency, this function will be delegated to the Chief Executive, should there be a need to suspend the Monitoring Officer or Section 151

Officer, or the Monitoring Officer should there be a need to suspend the Chief Executive. In all cases the decision will be made in consultation with the Chair of the IDC and the relevant Executive Director.

B - Cabinet

Cabinet

- B.1 The Cabinet shall be responsible for the detailed implementation of policies established by the Council within the budgetary framework and the determination of Key Decisions within that framework.
- B.2 The detailed duties are those prescribed by law together with any which the Council has chosen to delegate to the Cabinet where it is lawful to do so.

Terms of Reference

- B.3 The functions delegated to the Cabinet are initially delegated to the Cabinet as a body and it shall be responsible collectively for their performance whether collectively or by an individual Cabinet Member.
- B.4 The Cabinet is authorised to delegate any of those functions, or any part of them, to committees of Cabinet Members or individual Cabinet Members or to senior officers of the Council.
- B.5 All such delegations shall be minuted and, whenever such delegation is on an on-going basis (rather than to implement a particular decision), it shall form part of the standing delegation to Cabinet Members (Section 2)
- B.6 The Cabinet shall review its general delegation arrangements annually.

Powers and Duties

The Cabinet shall have the following duties.

- B.7 Be the source of timely reports to the Council to enable it to take decisions on matters reserved to the Council to decide and which form Part 1 of the list in Appendix F....
- B.8 Exercise any function, duty or power that is not reserved by the Council to itself or delegated by the Council to any other Council Body unless it is proscribed by law.
- B.9 Deliver all Council services within the Council's approved policy and budgetary framework.
- B.10 Take any action which is not delegated to any other Council Body that is necessary to protect the Council's interests. Any such action shall be reported to the next Ordinary Meeting of the Council.
- B.11 Make recommendations to the Council on corporate, strategic and service policies and programmes.
- B.12 Operate and monitor the Council's financial resources and make recommendations to the Council on the setting of the Council's budget, the level of Council Tax and any other financial or budgetary matter.
- B.13 Make recommendations on the annual budget of each Service having regard to the Council's agreed overall budget, strategy and targets.
- B.14 Act on behalf of the Council in consulting with Council Tax and Non-domestic Rate payers about the Council's proposals for revenue and capital expenditure.
- B.15 Control, co-ordinate and review the Council's operational framework, functions and resources within the Council's overall budgetary and policy framework.
- B.16 Consult with other bodies/internal and external insofar as this may be required by law, the Council's Standing Orders or any protocol.

- B.17 Determine applications for grants.
- B.18 Appoint representatives to outside bodies in so far as this is authorised by the Council.
- B.19 Make a compulsory purchase.
The Cabinet may also:-
- B.20 Vire funds in accordance with the Council's financial regulations.
- B.21 Refer any matter to the Council for its consideration.
- B.22 Commission research into any matter.
- B.23 To hold an enquiry into a particular issue or issues relating to the Borough or the Council.

NB – List of Cabinet Members Responsibilities is appended to the constitution

C - Planning Committee

Composition

- C.1 The Planning Committee shall consist of up to eighteen members (who must undertake relevant training before taking up the position.). No councillor shall be disqualified from appointment by membership of any other Council body provided that no more than three members shall be elected from among the Members of the Cabinet.

Terms of Reference

- C.2 Subject to complying with any relevant legal requirements, the Committee shall apply such policies, procedures and consultative processes as the Council shall determine.

Functions Referred to the Committee

The Committee shall have the following functions.

- C.3 Determine all applications for planning permission, lawful development, advertising, listed building and conservation area and hazardous substances consent and those relating to the prior notification of telecommunications, agricultural and forestry buildings and operations, demolition, deemed applications of all kinds and hedgerow matters.
- C.4 Authorise enforcement action and other proceedings under Parts VII and VIII of the Town & Country Planning Act 1990.
- C.5 Authorise the making of diversion and stopping up of public footpath and bridleway orders arising from planning proposals.
- C.6 Consider, comment upon or make recommendations in respect of applications of any kind made by public utilities, Norfolk County Council, the Crown or the Queen acting in a private capacity.
- C.7 Hear and determine appeals against the refusal of applications for consent to fell trees that are protected by Tree Preservation Orders and to consider objections to Tree Preservation Orders.

D - Licensing and Appeals Board

Composition

- D.1 The Licensing and Appeals Board shall consist of up to fifteen members who must undertake relevant training before taking up the position and no councillor shall be disqualified from appointment by membership of any other Council body provided that no more than three members shall be elected from among the members of the Cabinet.
- D.2 To comply with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015) the Appeals Panel convened to consider appeals by statutory officers must be politically balanced and must include at least one member of the Cabinet.
- D.3 Members of the Appeal Panel convened to consider an appeal by a statutory officer should consist of five members who are not members of the Appointment Board/Investigating and Disciplinary Committee.
- D.2 For the making of general arrangements for its operation, the whole Board shall be convened but shall not involve all of its members in hearing particular applications or appeals.
- D.3 In designating the members to form Panels, and in advising on it, the Chairman and the relevant Executive Director, or their respective nominee, shall have regard to political proportionality where appropriate, to any involvement which would appear to call a member's impartiality into question, and to the knowledge and experience of members in relation to the subject of the hearing.

Terms of Reference

- D.4 Subject to complying with any relevant legal requirements, the Board shall apply such policies, procedures and consultative processes as the Council shall determine.

Functions Referred to the Board

The Board shall have the following functions.

- D.6 Act as a review panel in cases where an applicant calls for a review of any decision and where there is a right to such a review.
- D.7 Hear and determine licensing applications and appeals.
- D.8 Hear and determine applications under the Highways Act 1980 concerning bridleways and footpaths when any objection that is not withdrawn causes a hearing to be held.
- D.9 Hear and determine appeals by Council employees where such a right is part of the relevant personnel procedure.
- D10. Hear and determine appeals against disciplinary sanctions short of dismissal relating to statutory officers.
- D.10 Hear and determine any other appeals that, under Council procedures or decisions, require determination by the Council.

D1 - Licensing Committee

Composition

- D1.1 The Licensing Committee shall consist of up to fifteen members who must undertake relevant training before taking up the position and no councillor shall be disqualified from appointment by membership of any other Council body provided that no more than three members shall be elected from among the members of the Cabinet.
- D1.2 For the making of general arrangements for its operation, the whole Committee shall be convened but shall not involve all of its members in hearing particular applications or appeals.
- D1.3 For the holding of hearings, the Chairman, in consultation with the Executive Director Central Services or their nominee, shall designate three members to form a Sub-Committee which shall be authorised to perform all the functions of the Committee in relation to that hearing.
- D1.4 In designating the members to form Sub-Committees, and in advising on it, the Chairman and the Executive Director Central Services, or their respective nominee, shall have regard to political proportionality where appropriate, to any involvement which would appear to call a member's impartiality into question, and to the knowledge and experience of members in relation to the subject of the hearing.

Terms of Reference

- D1.5 Subject to complying with any relevant legal requirements, the Committee shall apply such policies, procedures and consultative processes as the Council shall determine.

Functions Referred to the Committee

The Committee shall have the following functions.

- D1.6 To hear and determine applications or referrals under the Licensing Act 2000.
- D1.7 To hear and determine applications or referrals under the Gambling Act 2005

E - Standards Committee

Composition

- E.1 The Standards Committee shall consist of seven members and up to three co-opted non-voting Town/Parish representatives and one Independent Person.
- E.2 For the making of general arrangements for its operation and for dealing with its functions which have a general application, the whole Committee shall be convened; but it may choose not to involve all of its members in conducting hearings affecting particular individuals.
- E.3 For the holding of any such hearings, the Committee shall be advised by the Monitoring Officer, or her nominee, and a Panel formed to conduct a hearing shall be authorised to perform all the functions of the Committee in relation to that hearing.
- E.4 In designating the members to form Panels, the Committee shall be advised by the Monitoring Officer, or their nominee, and shall have regard to political proportionality, to any involvement which would appear to call a member's impartiality into question, and to the knowledge and experience of members in relation to the subject of the hearing.

Terms of Reference

- E.5 Hearings will be conducted according to procedural rules adopted by the Council.
- E.6 Subject to complying with any relevant legal requirements, the Committee shall apply such codes, procedures and consultative processes as the Council shall determine.
- E.7 The Committee shall provide advice, codes, procedures, consultative processes or legal requirements as are required to keep the ethical health of the Authority under review.
- E.8 The Committee shall have authorisation to grant dispensations.

Functions Referred to the Committee

The Board shall have the following functions.

- E.9 The promotion and maintenance of high standards of conduct by Councillors and co-opted members.
- E.10 Monitor the implementation and operation of the Council's codes of conduct for Councillors and Officers.
- E.11 Determine breaches of codes of conduct which have been referred to it and to impose sanctions.
- E.12 Determine appeals under section 5 of the Council's Policy on Managing Unreasonable Complainant Behaviour
- E.13 Consider reports from the Monitoring Officer and.
- E.14 To determine applications for dispensations.
- E.15 Consider nominations for the award of Freedom of the Borough, and make recommendations to Full Council for the award or refusal.
- E.16 Consider applications for the revocation of any award of Freedom of the Borough, and make recommendations to Full Council as regards to such revocation

F - Audit Committee

Composition

- F.1 The Audit Committee shall consist of 9 Members and no councillor shall be appointed who is a member of the Cabinet, or a Deputy Cabinet Member.
- F.2 The Council shall appoint its Chairman, and the Committee shall appoint its own Vice-Chairman.

Introduction

- F.3 The Audit Committee was set up in 2006, with Terms of Reference drawn up in line with guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA). These were approved by Council in November 2006.
- F.4 These Terms of Reference describe the purpose, authority and principal responsibilities of the Audit and Risk Committee.
- F.5 The Terms of Reference need to be reviewed every three years and presented to Council for approval. The Terms of Reference were last reviewed in 2013. **The next review is due – May 2019.**

Statement of Purpose

- F.6 The purpose of an Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

Responsibilities

- F.7 The main areas of responsibility for the Audit Committee will be to:
- a. Monitor the Council's responsibilities under the Accounts and Audit Regulations 2011, and approve the Statement of Accounts.
 - b. Review the Council's assurance statements, including the Annual Governance Statement (AGS), to check that it properly reflects the risk environment and any actions required to improve it.
 - c. Monitor the Council's compliance with Financial Regulations and Contract Standing Orders, and consider any proposals for changes to these.
 - d. Agree with the external auditor the basis of the annual audit, including the overall level and composition of the fee and the content of performance work.
 - e. Receive reports by the external auditor, including all performance reports and the Annual Management Letter.
 - f. Monitor delivery of the internal audit activity, fraud investigation work and Risk Management in the Council.
 - g. Monitor the response to audit reviews and investigations and the implementation of agreed recommendations.

- h. Receive reports by any other inspectorates including all performance reports.
- i. Report and/or bring matters to the attention of Council through the Cabinet on issues that require further review or action.
- j. Instigate an investigation or review on matters that arise from internal and external audits, where further information is required.

Core Functions

- F.8 In order to fulfil the above responsibilities, the Audit Committee will need to carry out the functions described below:
- a. Consider the effectiveness of the Council's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
 - b. Monitor action taken on risk-related issues identified by management, auditors and inspectors (notably through monitoring progress identified on risks included in the corporate risk register).
 - c. Review internal audit's strategy and plan, and monitor performance.
 - d. Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.
 - e. Receive the annual report of the Audit Manager.
 - f. Receive the reports of external audit and inspection agencies.
 - g. Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
 - h. Monitor management action in response to any issues raised by internal audit.

Meetings

- F.9 There will be a minimum of four meetings per annum, but this can be increased if the workload requires it. The forthcoming programme of work will be reviewed at each meeting.
- F.10 Internal Audit should be able to meet privately with the Committee.
- F.11 There should be opportunity for the Audit Committee to meet privately and separately with the external auditor, independent of the presence of those officers with whom the auditor must retain a working relationship. If the Committee decides that a meeting is required, suitable arrangements will be made by the Chair.

G - Functions of the Council

The functions reserved for decision by the Council under Article 4.01 are elaborated in this Appendix and are the functions which the Council is required by law, or has decided, to retain and to perform itself.

Part 1

- G.1 Adopting, changing and revoking any of the Parts of this Constitution except where those Parts permit or require otherwise.
- G.2 Determining which Executive arrangements the Council will operate.
- G.3 Adopting the Council's policy framework as defined in Article 4.
- G.4 Adopting and approving the budget as defined in Article 4.
- G.5 Making decisions about any matter which has been delegated to another Council Body or any Member of the Council or Officer which the decision maker is intending to make in a way which would be contrary to the policy framework or not wholly in accordance with the budget.
- G.6 Deciding and amending the matters which are referred to all Council Bodies and the terms governing their reference.
- G.7 Determining the Council's relationship with outside bodies, appointing representatives to outside bodies (insofar as the function is not delegated to other Council Bodies) and determining which Council Body Council Members appointed to outside bodies will report to.
- G.8 Approving any final view or decision within the Council relating to the alteration of any local government boundary, electoral division or area or the number of Members of the Council.
- G.9 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of any Private Bills in Parliament.
- G.10 Any other matters which, by law, must be decided by the Council.

Part 2

- G.11 Considering reports referred to it by any Council Bodies.
- G.12 Resolving any dispute between the Cabinet and the various Council Bodies.
- G.13 Appointing the Mayor and Deputy Mayor.
- G.14 Appointing Leader of the Council.
- G.15 Appointing the Chairmen, Vice Chairmen and members of Council Bodies (except the Cabinet, Policy & Review and Development Panels and Audit Committee Vice-Chairmen).
- G.16 Changing the name of the district.
- G.17 Appointing Honorary Aldermen.
- G.18 Bestowing the Honorary Freedom of the Borough.

H - Policy Review and Development Panels

i) Corporate Performance Policy Review and Development Panel

Composition

- H.1 The Panel shall consist of up to twelve members and no councillor shall be appointed who is a member of the Cabinet or a Deputy Cabinet Member.
- H.2 The Council shall appoint its Chairman, and the Panel shall appoint its own Vice-Chairman.

The Panel's function and terms of reference, in holding the Executive to account, are those set out in Articles of Part 2 of the Constitution (reproduced below):

6.06 In addition to the general the Corporate Performance Panel shall:

within 30 days of the decision scrutinise decisions, and recommendations to Council made by members on the delegated authority of the Council or in implementation of policy by the Cabinet provided that there shall be one opportunity only to close in respect of any decision or group of decisions; (NB after 30 days of a decision being made, any requisite review becomes the responsibility of the relevant Policy Review and Development Panel)

- (a) consider subject to Standing Order 12.6 all 'called in' decisions and recommendations to Council and decide whether to refer the outcome to Council or the Cabinet within 30 days.
- (b) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any of their functions.
- (c) report annually to the full Council on the work that they have completed during the preceding 12 months.
- (d) be directly accountable to, and subject to the direction of, the full Council

The Panels' function, in reviewing the developing Council policy, are those set out in Article 6.07 of Part 2 of the Constitution (reproduced below).

6.07 With respect to the matters they choose to examine within their individual remits, the Policy Review and Development Panel will generally:

- (a) consider matters affecting the Borough or local people;
- (b) review the performance of the Council specifically in relation to its policy objectives, performance targets or particular services.
- (c) post implementation reviews of major projects and significant policy changes and the introduction of new policies.
- (d) monitor the medium term Financial Plan
- (e) assist in advancing the development of effective policy for promoting or improving the economic, social and environmental wellbeing of the people and communities of King's Lynn and West Norfolk;
- (f) question members of the Cabinet and senior officers about their decisions and performance, whether generally in comparison with Directorate plans and targets over time, or in relation to particular decisions, initiatives or projects;

- (g) review the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant Policy Review and Development Panel about their activities and performance;
- (h) question and gather evidence from any other willing person.
- (i) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any of their functions.

I

- ii) **Regeneration & Development Policy Review and Development Panel**
- iii) **Community & Environment Policy Review and Development Panel**

Composition

- H.3 The Panels shall each consist of up to twelve members and no councillor shall be appointed who is a member of the Cabinet or a Deputy Cabinet Member.
- H.4 The Council shall appoint its Chairmen, and the Panels shall appoint their own Vice-Chairmen.

Terms of Reference

- H.5 The Panels' primary function and terms of reference, in reviewing the developing Council policy, are those set out in Article 6.07 of Part 2 of the Constitution (reproduced below).

6.07 With respect to the matters they choose to examine within their individual remits, the Policy Review and Development Panel will generally:

- (a) consider matters affecting the Borough or local people;
- (b) review the performance of the Council specifically in relation to its policy objectives, performance targets or particular services.
- (c) post implementation reviews of major projects and significant policy changes and the introduction of new policies.
- (d) monitor the medium term Financial Plan
- (e) assist in advancing the development of effective policy for promoting or improving the economic, social and environmental wellbeing of the people and communities of King's Lynn and West Norfolk;
- (f) question members of the Cabinet and senior officers about their decisions and performance, whether generally in comparison with Directorate plans and targets over time, or in relation to particular decisions, initiatives or projects;
- (g) review the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant Policy Review and Development Panel about their activities and performance;
- (h) question and gather evidence from any other willing person.
- (i) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any of their functions.