



REPORT TO:	Full Council
DATE:	11 May 2022
SUBJECT:	Licensing Panel, and Panel of the Committee of the Licensing Authority
PURPOSE:	To consider varying the Constitution to allow the appointment of a substitute member for each Panel meeting
KEY DECISION:	N/A
PORTFOLIO HOLDER:	Councillor A Casson - Public Protection
REPORT OF:	Donna Hall – Head of Public Protection and Deputy Monitoring Officer
REPORT AUTHOR:	Jacqui Berridge - Lawyer
WARD(S) AFFECTED:	None
EXEMPT REPORT?	No

SUMMARY

This report proposes varying the Constitution to allow for the appointment of a substitute member for each meeting of the Licensing Panel, and the Panel of the Committee of the Licensing Authority, to avoid meetings having to be deferred where a member is unable to attend.

RECOMMENDATION

That the Constitution be varied, as shown in Appendix A, to allow a substitute member to be appointed for each meeting of the Licensing Panel, and the Panel of the Committee of the Licensing Authority.

REASONS FOR RECOMMENDATIONS

The Constitution currently does not permit the appointment of substitutes for the Licensing Panel, and the Panel of the Committee of the Licensing Authority. This means that on occasions meetings may have to be deferred if any Panel member is unable to attend. Substitutes are not prevented by law provided the substitute is a member of the parent committee and is fully

trained. It is therefore recommended that the Constitution be amended to permit substitutions in accordance with the details shown in Appendix A.

OTHER OPTIONS CONSIDERED

- Amend the Constitution as shown in Appendix A to allow appointment of a substitute member for each meeting of the Licensing Panel, and the Panel of the Committee of the Licensing Authority. This is the recommended option.
- Do nothing. This is not recommended as it means that a meeting may have to be deferred if any Panel member is not able to attend.

1. BACKGROUND

- 1.1 Members will be aware that the Committee of the Licensing Authority deals with licensing functions under the Licensing Act 2003 and the Gambling Act 2005. The Licensing Committee deals with all other licensing functions.
- 1.2 The Committee of the Licensing Authority has a sub-committee called the Panel of the Committee of the Licensing Authority which, in accordance with section 9 of the Licensing Act 2003, comprises 3 members of the Committee. For a Panel meeting to be quorate, all 3 members of the Panel must be in attendance, but this can be a problem where a member is unable to attend a meeting at the last minute.
- 1.3 The Licensing Committee has a sub-committee called the Licensing Panel which again comprises 3 members of the Committee. Again, for a Panel meeting to be quorate all 3 members of the Panel must be in attendance.
- 1.4 To avoid any meeting of either Panel having to be deferred it is recommended that the Constitution be amended to allow a substitute member to be appointed for each Panel meeting. Only members of the parent committee, being the Committee of the Licensing Authority or the Licensing Committee as appropriate, may be appointed as a substitute, and members may only act as substitutes where they have attended licensing training.
- 1.5 On most occasions all three members of the Panel will be able to attend the meeting and the substitute will not be required.
- 1.6 There is also some extraneous wording in paragraph 1.7 (substitutions) of Part 3 Section D of the Constitution which is rectified at Appendix A.

3. CONCLUSION

- 3.1 Varying the Constitution to allow for substitutes to be appointed for each Licensing Panel, and each Panel of the Committee of the Licensing Authority, will mitigate against Panel meetings having to be deferred if a member is unable to attend.

4. EXPECTED BENEFITS TO THE PARTNERSHIP

- 4.1 The proposed variation will ensure that all meetings of the Licensing Panel, and all meetings of the Committee of the Licensing Authority, are held in a timely fashion.

5. IMPLICATIONS

5.1 SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP

5.1.1 None.

5.2 CORPORATE PRIORITIES

5.2.1 None.

5.3 STAFFING

5.3.1 None.

5.4 CONSTITUTIONAL AND LEGAL IMPLICATIONS

5.4.1 Under Article 14 of the Constitution any changes to the Constitution, unless minor, required to be made to remove any inconsistency or ambiguity, or required to be made so as to put into effect any decision of the Council, Committees or the Cabinet, must be made by full Council.

5.4.2 There is nothing to prevent substitutes being appointed to the Licensing Panel, and the Panel of the Committee of the Licensing Authority, provided the substitute is a member of the parent Committee and has the appropriate licensing training.

5.5 DATA PROTECTION

5.5.1 None.

5.6 FINANCIAL

5.6.1 None.

5.7 RISK MANAGEMENT

5.7.1 Having a named substitute for each meeting of the Panels will reduce the risk of having to defer a Panel meeting if any member cannot attend.

5.8 STAKEHOLDER / CONSULTATION / TIMESCALES

5.8.1 No consultation undertaken.

5.9 REPUTATION

5.9.1 The Council needs to ensure that all Panel meetings are quorate and held in a timely fashion.

5.10 CONTRACTS

5.10.1 None.

5.11 CRIME AND DISORDER

5.11.1 None.

5.12 EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

5.12.1 None.

5.13 HEALTH AND WELL BEING

5.13.1 None.

5.14 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

5.14.1 None.

6. ACRONYMS

6.1 None.

APPENDICES	
APPENDIX A	Proposed variations to the Constitution

BACKGROUND PAPERS None.

CHRONOLOGICAL HISTORY OF THIS REPORT
A report on this item has not been previously considered by a Council body

REPORT APPROVAL	
Report author:	Jacqui Berridge, Lawyer Jacqui.berridge@breckland.gov.uk
Signed off by:	Donna Hall – Head of Public Protection and Deputy Monitoring Officer
Approved for publication:	Councillor A Casson – portfolio holder for Public Protection.

APPENDIX A – Proposed variations to the Constitution

Section D – Delegations to Committees - paragraphs 1.6 and 1.7 be amended to read as follows:

1.6 Substitution of members is also permitted for:

- The Chairman’s Panel for individual meetings (including for the Chairman and Vice-Chairman of the Planning Committee), so long as the substitute is a member of the Planning Committee and the political balance is retained. Substitutions will apply for individual meetings only but there is no requirement for the Senior Legal Officer to be notified.
- The Chief Officer Employment Panel where 3 named members may act as substitute.
- **The Licensing Panel, and the Panel of the Committee of the Licensing Authority. Substitutions will apply for individual meetings only. Substitutes must be a member of the parent Committee and must have completed licensing training.**

1.7 Substitutions are not permitted for:

- Governance and Audit Committee
- Standards Panel
- Chief Officer Employment Appeals Panel
- Appeals Panel
- Settlement Agreements Sub-Committee
- Licensing Committee ~~whether meeting in its usual role as a Committee of the Licensing Authority, Licensing Panel~~
- Committee of the Licensing Authority
- Panel of the Committee of the Licensing Authority

The terms of reference for the Licensing Panel be amended as follows:

Council Body	Membership	Functions/Terms of reference
Licensing Panel	<p>3 Members (no quorum – all members must be present)</p> <p>Substitutions: <u>1 substitute may be appointed for each meeting</u> - see paragraphs 1.4 to 1.7 above</p>	<p>1. To deal with applications for licences for Hackney Carriages and Private Hire Vehicles, in so far as these are not delegated to officers, and all other licences/permits/registrations etc and functions detailed at Regulation 2 and Part B of Schedule 1 of the 2000 Regulations in so far as these are not delegated to officers and are not the responsibility of the Committee of the Licensing Authority.</p> <p>2. To deal with applications for performances of Hypnotism, Drinking in Public Places Byelaws: Permits</p> <p>3. To deal with objections to applications for permits for the use of the highway for the provision of facilities for refreshments under Section 115(E) of the Highways Act 1980.</p> <p>4. Street Trading</p> <p>5. To consider and determine applications for licences recommended for refusal, or recommendations for revocation of a licence.</p>

The terms of reference of the Panel of the Committee of the Licensing Authority be amended as follows:

Council Body	Membership	Functions/Terms of reference
Panel of the Committee of the Licensing Authority	<p>3 Members (no quorum – all members must be present)</p> <p>Substitutions: <u>1</u> <u>substitute may be appointed for each meeting</u> - see paragraphs 1.4 to 1.7 above</p>	<p>1. To deal with applications for grant, renewal or variations of premises licences, club certificates and personal licences under the Licensing Act 2003 and Gambling Act 2005 (or any subsequent Licensing legislation) where a hearing is required because either relevant representations, or a valid review notice or a valid objection notice has been received by the authority.</p> <p>2. Any other Powers set from time to time by Licensing legislation or delegated by Licensing Committee</p>