

# Terms of Reference – appendix 1

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## **Avon Pension Fund Committee**

Bath and North East Somerset Council, in its role as administering authority, has executive responsibility for the Avon Pension Fund. The Council delegates its responsibility for administering the Fund to the Avon Pension Fund Committee which is the formal decision making body for the Fund.

### **Function and Duties**

To discharge the responsibilities of Bath and North East Somerset Council in its role as lead authority for the administration of the Avon Pension Fund. These include determination of all Fund specific policies concerning the administration of the Fund, investing of Fund monies and the management of the Fund's solvency level. In addition, the Committee is responsible for all financial and regulatory aspects of the Fund. At all times, the Committee must discharge its responsibility in the best interest of the Avon Pension Fund.

The key duties in discharging this role are:

1. Determining the investment strategy and strategic asset allocation.
2. Determining the pensions administration strategy.
3. Making arrangements for management of the Fund's investments in line with the strategic policy.
4. Monitoring the performance of investments, investment managers, scheme administration, and external advisors.
5. Approving and monitoring compliance of statutory statements and policies required under the Local Government Pension Scheme Regulations.
6. Approving the Pension Fund's Statement of Accounts and annual report.
7. Approving the annual budget for the Pension Board subject to the approval of Pension Board's workplan.
8. Commissioning actuarial valuations in accordance with the provisions of the Local Government Pension Scheme Regulations.
9. Considering requests from organisations wishing to join the Fund as admitted bodies.
10. Making representations to government as appropriate concerning any proposed changes to the Local Government Pension Scheme.

### **Delegations**

In discharging its role the Committee can delegate any of the above or implementation thereof to the Sub-Committee (referred to as the Investment

Panel) or Officers. The current delegations are set out in Sections 2 & 3 below.

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| <b>Membership of the Committee</b> Voting members (12) | 5 elected members from B&NES (subject to the rules of political proportionality of the Council)<br>2 independent trustees<br>3 elected members nominated from the other West of England unitary councils<br>1 nominated from the education bodies<br>1 nominated by the trades unions |
| Non-voting members (4)                                 | 1 nominated from the Parish Councils<br>Up to 3 nominated from different Trades Unions  |

The Council will nominate the Chair of the Committee.

### **Meetings**

Meetings will be held at least quarterly. Meetings will be held in public, though the public may be excluded from individual items of business in accordance with the usual exemption procedures.

### **Quorum**

The quorum of the Committee shall be 5 voting members, who shall include at least one Member who is not a Bath & North East Somerset Councillor.

### **Substitution**

Named substitutes to the Committee are allowed.

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## **Avon Pension Fund Investment Panel**

The role of the Avon Pension Fund Committee Investment Panel shall be to consider, in detail matters relating to the investment of the assets within the strategic investment framework and performance of investment managers in achieving the Fund's investment objectives.

The Investment Panel will:

1. Review strategic and emerging opportunities outside the strategic asset allocation and make recommendations to the Committee.
2. Review the Statement of Investment Principles and submit to Committee for approval.

3. Report regularly to Committee on the performance of investments and matters of strategic importance and have delegated authority to:
4. Approve and monitor tactical positions within strategic allocation ranges.
5. Approve investments in emerging opportunities within strategic allocations.
6. Implement investment management arrangements in line with strategic policy, including the setting of mandate parameters and the appointment of managers.
7. Approve amendments to investment mandates within existing return and risk parameters.
8. Monitor investment managers' investment performance and make decision to terminate mandates on performance grounds.
9. Delegate specific decisions to Officers as appropriate.

### **Panel Membership**

The Panel shall comprise a maximum of 6 voting Members of the Avon Pension Fund Committee, of which 3 shall be Bath and North East Somerset Councillors. The membership shall include the Chairman of the Committee and /or the Vice- Chair and 4 other Members (or 5 if the Chair or Vice-Chairperson is not a member of the Panel).

Note: The appointment of Bath and North East Somerset Councillors to the Panel is subject to the rules of political proportionality of the Council.

Members shall be appointed to the Panel for a term of one year.

The Council will nominate the Chair of the Panel.

### **Panel Meetings**

Though called a "Panel", it is an ordinary sub-committee of the Committee. Accordingly, meetings must be held in public, though the public may be excluded from individual items of business in accordance with the usual exemption procedures.

The Panel shall meet at least quarterly ahead of the Committee meeting on dates agreed by Members of the Panel.

### **Panel Quorum**

The quorum of the Panel shall comprise 3 Members, who shall include at least one Member who is not a Bath & North East Somerset Councillor.

### **Panel Substitution**

Substitutes for the Panel must be members of Committee or their named Committee substitute.

## **Panel Minutes**

Minutes of Panel meetings (whether or not approved by the Panel) shall appear as an item on the next agenda of the meeting of the Committee that follows a meeting of the Panel.

## **Officer Delegations**

Officers are responsible for:

1. Day to day implementation and monitoring of the investment, administration, funding strategies and related policies.
2. Appointment of specialist advisors to support the Committee in discharging its functions.
3. The Section 151 Officer has authority to dismiss investment managers, advisors and 3rd party providers if urgent action is required (does not refer to performance failures but to their inability to fulfil their contractual obligations or a material failing of the company).
4. The Section 151 Officer has authority to suspend policy (in consultation with the Chairs of Committee and Panel) in times of extreme market volatility where protection of capital is paramount
5. Under its wider delegated powers, the Section 151 Officer has delegated authority to effectively manage the liabilities of the Fund including the recovery of debt.
6. Exercising the discretions specified in the Local Government Pension Scheme Regulations in connection with deciding entitlement to pension benefits or the award or distribution thereof.

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# **Charitable Trust Board**

## **Background**

A Charitable Trust can be established by a benefactor in their lifetime through a deed of trust or after their death through their will. Charitable Trusts have a charitable purpose as defined by the Charities Act and exist for the benefit of the public.

## **The Council's current responsibilities**

The Council is responsible for the Trust detailed in Schedule 1, namely the Alice Park Trust having been appointed as sole Trustee by a Charity Commission Scheme in 1973, but subject to clarification of the status of the Trusts in Schedule 2. The legal basis and management responsibility for the Trusts listed in Schedule 2 are either independently managed but the land is owned/held by the Council or the Council's responsibility for management has still to be determined.

## **Governance principles**

The constitution of a charitable trust is called its governing document. This will derive from the provisions of the original trust deed or will. It will specify the charitable purpose (objects) of the trust and set out arrangements for its governance and administration. Trust law completes the governance framework for Trusts, providing certain statutory powers for trustees. The Charity Commission is the regulator for charitable Trusts and their operation.

As the trustee, the Council's role is to provide leadership and direction for the charity in line with its governing documents. Its overriding duty is to act in the best interests of the charity at all times. In this role, the Council must not be influenced by the interests of other parties or organisations (including the Council as a whole). It must make independent decisions and be seen to do so.

Without specific arrangements in place, it is difficult to distinguish the role of trustee for the charity from that of managing the wider Council. The creation of a Charitable Trust Board, concerned solely with the interests of the charity Trusts, would facilitate the separation of these roles. The Charity Commission has indicated that it would regard such an arrangement as a satisfactory way forward.

## **Proposed Charitable Trust Board**

It is important to remember that the Council corporately is the trustee of the charitable trust (Schedule 1). This structure cannot be changed by the Council.

The Charitable Trust Board will be a committee of the Council and members of a Charitable Trust Board would not be trustees but nominated councillors (and possibly others who are co-opted onto it) which shall have delegated to it the operational management of the charitable trust (Schedule1) but with the Council as trustee retaining overall responsibility for the charity and its affairs.

Charities exist to provide benefit to the public and any Trust Board should fulfil the requirements of public accountability. This is principally achieved through the reporting regime and by making information publicly available. As a committee of the council the Trust Board would be subject to the Council's full range of procedures for Council committees and meetings

A Trust Board would be expected to be well informed about the needs and wishes of its beneficiaries. To achieve this end it could engage with interest groups and representatives of local residents and undertake consultation on plans and significant projects.

It would be possible to include in a Trust Board one or more individuals from outside the Council. Such a person could bring relevant skills or experience to the Board but the over-riding requirement would be that they apply independent and objective consideration in the best interests of the trust. Representatives of special interest or residents groups would not be appropriate because of the potential for conflicts of interest.

Since the Council is the sole trustee of the charities listed in Schedule 1 it could only delegate powers to a committee of the Council, i.e. a group of councillors. An independent person co-opted onto the Board would not have voting rights.

In the light of the above, it is considered that a Trust Board created as a committee of the council and consisting of a small number of councillors plus an independent person would be an appropriate arrangement. Constitutionally, the Board would create a sub-committee to manage each of the charities listed in Schedule 1 and act as an advisory board to the Council in respect of the charities listed in schedule 2.

The Council is responsible for a number of other charitable Trusts within its area (see Schedule 2). These are typically areas of open land or buildings. In most cases, the Council is the sole trustee, responsible for both managing the trust and holding the title to the land. In some cases, the title of the land is held by the Official Custodian. In the case of the Recreation Ground, the Council holds the title of the land but its management is the responsibility of an independent trustee body. Where possible and subject to further changes to the proposed ToR below the Board and sub-committees will have delegated to it/them the operational management functions in respect of those Trusts listed in Schedule 1 or where that is not possible will act in an advisory role to the Council in respect of those Trusts listed in Schedule 2

### **Proposed terms of reference**

The purpose of the Charitable Trust Board is to facilitate the management of the charitable Trust for which the Council is the sole trustee; independently, in accordance with their governing documents and in the best interests of the charity.

In respect of the charities listed in Schedule 1 the Charitable Trust Board shall have the following powers delegated to it.

The Role of the Board is to exercise the powers delegated to it for the management of the trust, namely;

- to manage the charity in pursuit of the charitable purposes,
- to manage the finances of the charity and ensure its solvency,
- to ensure the charity acts within the governing documents,
- to ensure the charity deals with their regulatory and public accountability obligations, and

- to identify and manage potential conflicts of interest.

In respect of the charities listed in Schedule 2 the Charitable Trust Board shall investigate the governing documents of each charity and recommend to Council the inclusion of any Charity suitable for incorporation into Schedule 1 and until such time as the Council decides to delegate its functions in respect of such Trust to the Charitable Trust Board it shall advise the Council as trustee on;

- the strategic direction of those Trusts,
- the financial resources needed to operate those Trusts;

The Charitable Trust Board shall, in respect of all Trusts, ensure compliance with the Charity Commissions registration and reporting requirements and periodically consider if Trust's assets could be consolidated and more efficiently /effectively used in conjunction with another Trust. Where appropriate it should consult on consolidation proposals with the Charity Commission and interested parties and make any recommendations for consolidation in its annual report to Council.

The Board will comprise:

- Five councillors  
(to include the Cabinet member responsible for Community Services and at least one councillor who is not a member of the controlling group but who's appointment is determined by the controlling group),  
and
- One independent person with suitable skills, experience or interests to be appointed by the Board from applicants who wish to be considered following advertisement of the role.

The Board will elect a Chair and Vice-Chair. Decisions will be by a majority of the councillors present. Quorum will be three councillors.

The Board shall have the power to create a sub-committee for each charity listed in Schedule 1 to ensure that each charity shall be separately administered. Each sub- committee shall consist of at least 3 councillors and co-opted non-voting members consisting of the ward councillor(s) for the area where any land subject to the Trust is situated and any other non- voting members who may be able to assist it in its work. The Trust Board and each sub-committee shall undertake its duties through meetings as required and will meet at least twice annually.

In any meeting, the affairs of each Trust will be considered separately and in relation to the purpose and governing document of each Trust.

Each sub-committee will report annually to the Trust Board after submitting any annual report to the Charity Commissioners and the Trust Board shall thereafter provide an annual report to Council on the financial standing of

each Trust and update the Council on the work undertaken by each Trust in the preceding year

Support for the Board and sub-committees as necessary will be provided through the relevant Council sections. Lead advisors will be identified for each charitable Trust in Schedule 1.

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## **Corporate Audit Committee**

### **Powers and Duties**

The Council has delegated to this Committee its powers and duties relating to the following matters:

The Council delegates to the Corporate Audit Committee the following responsibilities:

1. To approve on behalf of the Council its Annual Accounts, as prepared in accordance with the statutory requirements and guidance.
2. To approve the External Auditors' Audit Plan and to monitor its delivery and effectiveness during the year.
3. To approve the Internal Audit Plan within the budget agreed by the Council and to monitor its delivery and effectiveness (including the implementation of audit recommendations).
4. To consider, prior to signature by the Leader of the Council and Chief Executive, the Annual Governance Statement (including the list of significant issues for action in the ensuing year), as prepared in accordance with the statutory requirements and guidance; and to monitor progress on the significant issues and actions identified in the Statement.
5. To review periodically the Council's risk management arrangements, make recommendations and monitor progress on improvements.
6. To review periodically the Council's key financial governance procedures, i.e. Financial Regulations, Contract Standing Orders, Anti-Fraud & Corruption Policy and to recommend any necessary amendments.
7. To consider the annual Audit & Inspection Letter from the External Auditor and to monitor progress on accepted recommendations.
8. To monitor and promote good corporate governance within the Council and in its dealings with partner bodies and contractors, including review of the Council's Code of Corporate Governance and in any such other ways as the Committee may consider expedient (within the budget agreed by the Council).
9. To consider and make recommendations of any other matters relating to corporate governance which are properly referred to the Committee or which come to its attention.
10. To make an annual report to Council on the work [and findings] of the Committee, including (if necessary) any measures necessary to improve the



effectiveness of the Committee.

In all of the above, the Committee will, as appropriate, wish to develop effective liaison with the following:

A. the Standards Committee of the Council with regard to matters of ethical governance;

B. the relevant Policy Development and Scrutiny Panel(s) - to complement but not to duplicate the exercise of their legitimate role in checking compliance with Council processes and policies and in reviewing policies and practice;

C. relevant Cabinet Members, in particular the Leader and the Cabinet Member for Resources, whose portfolios include executive functions related to the matters covered by these terms of reference

D. the Council when developing the Council's Code of Corporate Governance

### **Membership**

The membership of the Committee shall be 5 Councillors (3 Conservative, 1 Liberal Democrat, 1 Labour Group) plus one independent voting co-opted Member.

Chairing nomination rights are allocated to the Conservative Group.

### **Quorum**

The quorum of the Committee shall be three councillors.

### **Frequency of Meetings**

The Committee will hold 4 meetings each Council year in the months of June/July, September/October, December/January and March/April. Additional meetings may be arranged to deal with the volume of business if required.

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## **Development Management Committee**

### **Functions**

1. The Committee will exercise all the Council's powers and duties in respect of Development Management (subject to the scheme of delegation set out in the Constitution and the provisions of Section 7 below).

The Committee will act in accordance with the Local Plan and Local

Development Framework elements of the Council's Policy Framework.

2. The Committee is granted delegated authority to establish Development Management working practices and protocols for operation on a District-wide basis by this and all other area-based committees.

*In exercising the above powers and duties, the Committee may also:*

*a. establish such sub committees and working parties as are considered helpful in exercising the above functions.*

*b. delegate any of its functions to a sub committee and to delegate any of its non-policy making functions to Officers (see delegation scheme).*

3. To monitor service delivery and service trends and to make recommendations.
4. To be a body of influence across its geographical area of responsibility and with the community in its area.
5. To engage in consultation with the community and specifically with other bodies which have an interest in the span of responsibility of this Committee.
6. To participate with others in joint initiatives on planning.

### **Limitation on delegation**

7. The exercise of this delegated authority is subject to the Divisional Director, Development, or the Group Manager (or any of the other Managers specifically listed in the delegation scheme when standing in for the Group Manager) being authorised, in exceptional circumstances, to refer any decision or determination of the Development Management Committee which is clearly contrary to policy and against officer advice, to a subsequent meeting of the Development Management Committee. When such a decision or determination is referred, it shall be of no effect until the Committee has fully reconsidered the matter in the light of all the information originally before the Committee plus such additional information and advice as the Divisional Director, Development or the Group Manager considers necessary. Further to such reconsideration, the Committee shall be entitled to make such decision or determination as it sees fit.

### **Frequency**

Monthly

### **Membership**

10 Members in the political proportion – 6 Conservative, 3 Liberal Democrat and 1 Labour Member; chaired by a Conservative Member.

### **Quorum**

The quorum of the Committee shall be three councillors.

## **Employment Committee**

To exercise all powers and duties of the Council under section 112 of the Local Government Act, 1972 relating to its role as an employer, except those reserved to the Restructuring Implementation Committee.

To hear staff appeals requiring Member level involvement, under accepted national or Council schemes of conditions of service.

To conduct investigatory hearings requiring Member level involvement under accepted national or Council schemes of conditions of service.

To determine on behalf of the Council its powers and duties as an employer relating to pensions.

### **The Committee's Span of Responsibility**

All matters relating to the role of the Council as an employer except those reserved to the Restructuring Implementation Committee.

All appeals or investigatory hearings requiring Member consideration including those relating to disciplinary, capability, grievance, and redundancy matters for all staff, including teachers.

### **Membership**

The Committee when meeting to consider ordinary business, or as a hearing will comprise 3 Members in the political proportion 2 Conservative Members and 1 Independent & Village Voice Member, chaired by a Conservative Member.

### **Quorum**

The quorum of the Committee shall be three councillors.

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## **Health And Wellbeing Board**

### **1. *Statement of purpose***

- 1.1 By working together the Board will aspire to reduce health inequalities and improve health and wellbeing in Bath and North East Somerset.
- 1.2 To achieve these aims the Board will work collaboratively with partners to join up commissioning and provision across the NHS, social care,

public health and other areas related to health and wellbeing (where appropriate).

## **2 Roles and responsibilities**

2.1 The Board will be responsible for:

- developing a joint strategic needs assessment (JSNA) and pharmacy needs assessment (PNA)
- preparing the joint health and wellbeing strategy (JHWS)
- considering whether the commissioning arrangements for social care, public health and the NHS are in line with the JHWS
- considering whether the Clinical Commissioning Groups' (CCG) commissioning plan has given due regard to the JHWS
- reporting formally to the NHS Commissioning Board, Clinical Commissioning Group, and council leadership if local commissioning plans have not had adequate regard to the JHWS
- The Better Care Fund for B&NES including sign off and ongoing oversight and audit.

2.2 The Board will seek to:

- influence the strategic planning and service delivery of the NHS and Council in B&NES through the promotion of the JSNA, PNA and JHWS
- promote joint working and the use of the NHS Act 2006 flexibilities to increase joint commissioning, pooled and aligned budgets (where appropriate), to support the effective delivery of the JHWS
- influence planning, transport, housing, environment, economic development and community safety in order to address the wider determinants of health and wellbeing
- work collaboratively with the B&NES Public Services Board
- strategically performance manage key activity against the key priorities of the JHWS

2.3 Responsibility for the scrutiny of health and wellbeing will continue to lie with the Council's Policy Development and Scrutiny Panels.

## **3. Scope**

3.1 The Boards' scope shall be set out within the Joint Health and Wellbeing Strategy.

3.2 The Health and Wellbeing Board may consider services beyond health and social care enabling the Board to look more broadly at factors affecting the health and wellbeing of the B&NES population.

#### **4. Accountability**

- 4.1 Accountability for the discharge of statutory responsibilities remains with the Council, CCG and Local Healthwatch.
- 4.2 The Board is responsible for working with the Children's Trust Board to deliver strategic commitments and outcomes, in line with the JHWS.
- 4.3 Accountability for safeguarding lies with the Local Safeguarding Adults Board, Children's Trust Board and Local Safeguarding Children's Board.
- 4.4 The Safeguarding Children Board, the Safeguarding Adult Board and the Children's Trust Board will report to the board on relevant performance outcomes against the JHWS priorities, through a regular performance reporting process.

#### **5. Membership**

- 5.1 Membership of the Board is:
  - B&NES Council x 6 (Chief Executive, Director of Public Health, Director of People and Communities Services, Leader of the Council, Cabinet Member for Adult Social Care and Health, Cabinet Member for Children's Services)
  - Clinical Commissioning Group x 3 (CCG Chair x 1, CCG Board member x 1, CCG lay member x 1)
  - Healthwatch B&NES x 2
  - NHS England (non-voting status)
- 5.2 In the event of members considering it necessary to have a formal vote, all Board members will have a voting right, except the Bath, Gloucestershire, Swindon and Wiltshire Area Team who will not have a voting right.
- 5.3 The Board will be co-chaired by the Council's Cabinet Member for Adult Social Care and Health and the Chair of the Clinical Commissioning Group. Chairing of each meeting will alternate between the two co-chairs and matters of agenda planning will be considered jointly. Co-chairs will also be able to provide cover and support to each other in the absence of one of them.

#### **Quorum**

- 5.4 The quorum for the meeting will be six members of the Board with two members of the Clinical Commissioning Group, one member of Healthwatch B&NES and three members of the Council.

- 5.5 Board members may nominate a named substitute from an appropriate member of their organisation or service.

## **6. *Wider engagement***

- 6.1 By working together the Health and Wellbeing Board will proactively embed good public and patient engagement within the day-to-day business of the Board through adhering to the following principles:

- Taking responsibility for good public engagement
- Clarity about purpose
- Harnessing a range of engagement methods
- Engaging with everyone
- Committed to cultural change
- Providing access to information
- In partnership
- Feeding back engagement results
- With Healthwatch B&NES
- Evaluating engagement

- 6.2 The Board will seek to engage all stakeholders (including key health and social care providers) on the JHWS and commissioning plans.

- 6.2 The Council's overview and scrutiny function offers an opportunity for broader engagement on key issues.

- 6.3 It is intended that one representative of each Political Group on the council, not currently represented on the board, be invited to Board meetings in an observer capacity.

## **7. *Business management***

- 7.1 The Board is a statutory committee of the Council and will be treated as if it were a committee appointed by the Council under section 102 of the Local Government Act 1972.

- 7.2 The Board will act in accordance with the Council's committee procedures.

- 7.3 Formal Board meetings shall be held in public. The Board may resolve to hold closed sessions in accordance with the Access to Information rules.

- 7.4 The Board will develop an operating model and work programme framed by the JHWS which will guide its work.

7.5 The Board will meet 6 times per year (bi-monthly).

7.6 The Board may establish sub-committees to lead on issues such as the JSNA, joint commissioning and health inequalities.

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## **Joint Committee For The Oversight Of Joint Working**

### **Statement of purpose:**

To oversee the operation of joint working partnership arrangements established between the B&NES Council and the B&NES CCG and described in the Joint Working Framework.

### **Roles and responsibilities**

The joint committee is formally established to monitor and oversee the operation of partnership arrangements, and in particular:-

- pooled fund arrangements;
- the exercise of any NHS functions by the Council;
- the exercise of any health-related local authority functions by the CCG.

### **Accountability**

The committee will be constituted as a joint committee of the Council and CCG and will provide reports to the Health & Wellbeing Board, B&NES Council (via the Health & Wellbeing Select Committee) and B&NES CCG annually and by exception as required.

### **Membership**

Membership will include:

- Two members of the B&NES CCG governing body
- The Executive Members responsible for Adult Social Care and Children's Services
- The Council's Chair of Audit Committee
- B&NES CCG Chair of Audit Committee

### **Practical Arrangements for Conducting the Committee's Business**

The chair will be rotated by the B&NES Council and B&NES CCG representatives.

## **Quorum**

A quorum will require 2 B&NES Council members and 2 B&NES CCG members.

Other CCG and Council Executive members and officers may be in attendance as appropriate.

The Committee will meet twice a year in May and November and as required to meet business needs.

The May meeting will be a public meeting and will include an annual review of the arrangements, evaluating their success and considering external views and relevant organisational/legislative developments.

In monitoring the partnership arrangements the Committee is also expected to consider the management and staffing arrangements that support the partnership arrangements as set out in the Joint Working Framework including the agreement under Section 113 of the Local Government Act 1972.

The Committee may act as a forum to try to resolve any disputes not resolved through normal management arrangements or through the offices of the B&NES CCG Chair and B&NES Council's CEO – as set out in the Joint Working Framework.

The committee will be supported by the B&NES Council's Democratic Services.

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## **Licensing Committee**

### **Status of the Committee**

The Licensing Committee is a statutory committee of the Council appointed to perform the discharge of the local authority's licensing functions, except the approval of licensing policies, the setting up of a Committee and the resolution not to issue casino licences.

Licensing policies shall be the responsibility of the Cabinet Member with responsibility for neighbourhoods except where there is a statutory requirement for Full Council to determine policies.

The setting up of a Licensing Committee shall be the responsibility of Full Council.

### **Membership of the Committee**



The Committee shall comprise 11 elected members of the authority in the political group proportion (6 Cons: 3 Lib Dem: 1 Labour: 1 Independent & Village Voice), or such other proportion agreed by the Council from time to time.

### **Quorum**

The quorum of the Committee shall be three councillors.

The Monitoring Officer and Divisional Director (Legal and Democratic Services) shall be authorised, by the Council, to fill vacancies on this Committee in accordance with the nominations of the relevant political group which holds the nomination rights to the vacancy.

The Committee shall be chaired by a nominee of the Conservative Group.

### **The Council's objectives on Licensing**

In exercising its functions the Committee must have regard to the statutory licensing objectives under the Licensing Act 2003, i.e.

- the prevention of crime and disorder ;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

In addition the Committee will have regard to the statutory licensing objectives under the Gambling Act 2005, i.e.

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ensuring that gambling is conducted in a fair and open way, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

In addition the Committee will, where applicable, have regard to –

- (a) the Council's Statement of Licensing Policy, published under section 5 of the Licensing Act 2003;
- (b) the Council's Statement of Principles published under section 349 of the Gambling Act 2005;
- (c) any other policy determined by Council or Cabinet;
- (d) any Codes of Practice and Guidance issued from time to time by the Secretary of State;

- (e) the Council's Corporate Plan and improvement priorities insofar as these do not conflict with statutory requirements which take precedence.

The Committee will also have regard to the Council's visions:-

- Where everyone fulfils their potential
- With lively, active communities
- Unique places with beautiful surroundings

**Powers and Duties of the Committee**

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| 1. | At the request of the Council, to review the Council's licensing policies at any time within the statutory period under the Licensing Act 2003 and Gambling Act 2005 and to make recommendations to the Council for change, after the prescribed consultation has been completed.  |  |
| 2. | To carry out all of the Council's licensing functions as covered in the Licensing Act 2003 and the Gambling Act 2005, excluding the making of licensing policies, the setting up of a Licensing Committee and the resolution not to issue casino licences (these being functions of the Council).  |  |
| 3. | To determine individual licence applications which fall outside Officer delegations, or which are referred by Officers for Member attention, in relation to the issue and renewal of all registrations, licences, permits, consents etc. in relation to the enactments listed below and all such other enactments as may fall within the remit of the Committee: |  |
|    | <i>Animal Boarding Establishments Act 1963</i><br><br><i>Animal Welfare Act 2006</i><br><br><i>Breeding of Dogs Act 1973</i><br><br><i>Breeding of Dogs Act 1991</i><br><br><i>Caravan Sites and Control of Development Act 1960</i>   | <i>Petroleum (Regulation) Acts 1928 &amp; 1936</i><br><br><i>Poisons Act 1972</i><br><br><i>Police Factories, etc. (Miscellaneous Provisions) Act 1916</i><br><br><i>Public Health (Control of Disease) Act 1984</i> |

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|----|--|---|
|    | <p><i>Charities Act 2006</i></p> <p><i>Dangerous Wild Animals Act 1976</i></p> <p><i>Environmental Protection Act 1990</i></p> <p><i>Fireworks Act 2003</i></p> <p><i>Food Act 1984</i></p> <p><i>Food Safety Act 1990</i></p> <p><i>Gambling Act 2005</i></p> <p><i>Game Act 1831</i></p> <p><i>Guard Dogs Act 1975</i></p> <p><i>Highways Act 1980 Part VIIA</i></p> <p><i>House to House Collections Act 1939</i></p> <p><i>Hypnotism Act 1952</i></p> <p><i>Licensing Act 2003</i></p> <p><i>Local Government (Miscellaneous Provisions) Act 1976</i></p> <p><i>Mobile Homes Act 2013</i></p> <p><i>Local Government (Miscellaneous Provisions) Act 1982</i></p> <p><i>Performing Animals (Regulation) Act 1925</i></p> <p><i>Pet Animals Act 1951</i></p> <p><i>Pet Animals 1951 (Amendment) Act 1983</i></p> | <p><i>Public Health Acts Amendment Act 1907</i></p> <p><i>Riding Establishments Act 1964</i></p> <p><i>Riding Establishments Act 1970</i></p> <p><i>Scrap Metal Dealers Act 2013</i></p> <p><i>Theatres Act 1968</i></p> <p><i>Town Police Clauses Act 1847</i></p> <p><i>Town Police Clauses Act 1889</i></p> <p><i>Transport Act 1981</i></p> <p><i>Vehicles (Crime) Act 2001</i></p> <p><i>Violent Crime Reduction Act 2006</i></p> <p><i>Zoo Licensing Act 1981</i></p> |
| 4. | To determine appeals against decisions made by the Proper Officer under the Marriages and Civil Partnerships (Approved Premises) Regulations 2005.   |   |
| 5. | To establish one or more Sub-Committees and, subject to statutorily prescribed exceptions, to delegate any of its functions to such Sub  |   |

|    |   |
|----|---|
|    | Committee(s).   |
| 6. | Subject to statutorily prescribed exceptions, to delegate any of its functions to an Officer of the authority |

**How the Committee will operate, including Substitution and Delegated Powers**

The Committee will meet in full to consider any matters on which it is asked or required to submit a recommendation to the Council.

Substitutions will be permitted at meetings of the Licensing Committee from among other members of the Council, in accordance with non-Executive Committee Procedure Rule 11, as set out in the Constitution.

The Committee has delegated to the Sub-Committee and Officers the power to determine applications in the circumstances set out in the tables below.

The Committee has appointed a Sub-Committee to act as a hearing Panel as follows:

- Licensing (Regulatory) Sub-Committee [3 Members – 2 Cons, 1 Lib Dem] – this Sub-Committee hears and determines all licence applications, not delegated to officers, listed in the Powers and Duties of the Committee section above.

(Chairing nomination rights for the Sub-Committee are allocated to the Conservative Group).

Substitutes for the Sub Committee will be drawn from the membership of the Licensing Committee. Any member of the Licensing Committee substituting at Sub-Committee meetings will do so in accordance with the wishes of the political group arranging the substitution.

**TABLE OF DELEGATIONS OF LICENSING FUNCTIONS**

| <b>MATTER TO BE DEALT WITH</b>                                 | <b>FULL COUNCIL</b> | <b>LICENSING CTTEE</b> | <b>SUB COMMITTEE</b>                 | <b>OFFICERS</b>                       |
|--|---------------------|------------------------|--------------------------------------|---------------------------------------|
| <b>LICENSING ACT 2003</b>                                      |                     |                        |                                      |                                       |
| Approval of Statement of Licensing Policy and review           | All cases           |                        |                                      |                                       |
| Application for Personal Licence                               |                     |                        | If a police objection is made        | If no objection made                  |
| Application for Personal Licence, with unspent convictions     |                     |                        | If a police objection is made        | If no objection made                  |
| Application for Premises Licence/Club Premises Certificate     |                     |                        | If a relevant representation is made | If no relevant representation is made |
| Application for Provisional Statement                          |                     |                        | If a relevant representation is made | If no relevant representation is made |
| Application to vary Premises Licence/Club Premises Certificate |                     |                        | If a relevant representation is made | If no relevant representation is made |
| Application to vary Designated Premises Supervisor             |                     |                        | If a police objection is made        | All other cases                       |
| Request to be removed as                                       |                     |                        |                                      | All cases                             |

| <b>MATTER TO BE DEALT WITH</b>  | <b>FULL COUNCIL</b> | <b>LICENSING CTTEE</b> | <b>SUB COMMITTEE</b>  | <b>OFFICERS</b> |
|---|---------------------|------------------------|---|-----------------|
| Designated Premises Supervisor  |                     |                        |   |                 |
| Application for transfer of Premises Licence  |                     |                        | If a police objection is made   | All other cases |
| Application for interim authorities   |                     |                        | If a police objection is made   | All other cases |
| Application to review Premises Licence/Club Premises Certificate  |                     |                        | All cases   |                 |
| Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.   |                     |                        |   | All cases       |
| Decision to object when local authority is a consultee and not the relevant authority considering the application |                     |                        | All cases   |                 |
| Determination of a police and/or environmental health officer objection to a standard Temporary Event Notice      |                     |                        | Where a police/environmental health officer objection is made and not withdrawn | All other cases |
| Issue of a Counter Notice where police and/or   |                     |                        |   | All cases       |

| <b>MATTER TO BE DEALT WITH</b>  | <b>FULL COUNCIL</b> | <b>LICENSING CTTEE</b> | <b>SUB COMMITTEE</b>                 | <b>OFFICERS</b> |
|---|---------------------|------------------------|--------------------------------------|-----------------|
| environmental health officer object to a late Temporary Event Notice  |                     |                        |                                      |                 |
| Issue of a Counter Notice where the entitlement of the number of Temporary Event Notices has been exceeded        |                     |                        |                                      | All cases       |
| Determination of Minor Variation applications for premises licences and for club premises certificates            |                     |                        |                                      | All cases       |
| Determination of the removal of a Designated Premises Supervisor or Personal Licence Holder at community premises |                     |                        | If a relevant representation is made | All other cases |
| Applications for the classification of unclassified films   |                     |                        | All cases                            |                 |
| <b>GAMBLING ACT 2005</b>  |                     |                        |                                      |                 |
| Approval of three year Statement of Licensing Principles  | X                   |                        |                                      |                 |

| <b>MATTER TO BE DEALT WITH</b>           | <b>FULL COUNCIL</b> | <b>LICENSING CTTEE</b> | <b>SUB COMMITTEE</b>                                       | <b>OFFICERS</b>   |
|--|---------------------|------------------------|--|---|
| and review                               |                     |                        |  |   |
| Resolution not to issue casino licences  | X                   |                        |  |   |
| Fee Setting - when appropriate           |                     |                        |  | X<br>(to be approved by Cabinet Member)   |
| Application for premises licences        |                     |                        | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn           |
| Application for a variation to a licence |                     |                        | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn           |
| Application for a transfer of a licence  |                     |                        | Where representations have been received and not withdrawn | Where no representations have been received/representations have been withdrawn |
| Application for a provisional statement  |                     |                        | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn           |



| MATTER TO BE DEALT WITH                                     | FULL COUNCIL | LICENSING CTTEE | SUB COMMITTEE  | OFFICERS   |
|---|--------------|-----------------|--|--|
| Review of a premises licence                                |              |                 | X  |  |
| Application for club gaming /club machine permits           |              |                 | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Cancellation of club gaming/ club machine permits           |              |                 | X  |  |
| Applications for other permits                              |              |                 |  | X  |
| Cancellation of licensed premises gaming machine permits    |              |                 |  | X  |
| Consideration of temporary use notice                       |              |                 |  | X  |
| Decision to give a counter notice to a temporary use notice |              |                 | X  |  |
| Consideration of an Occasional Use Notice                   |              |                 |  | X  |

| <b>MATTER TO BE DEALT WITH</b>   | <b>FULL COUNCIL</b> | <b>LICENSING CTTEE</b> | <b>SUB COMMITTEE</b> | <b>OFFICERS</b> |
|--|---------------------|------------------------|----------------------|-----------------|
| Designation of "authorised person".  |                     |                        |                      | X               |
| Exchange of information between various persons/bodies listed in the Act   |                     |                        |                      | X               |
| Decision to initiate criminal proceedings.   |                     |                        |                      | X               |
| Power to make Orders disapplying exempt gaming and the automatic entitlement to gaming machines in relation to specified premises. |                     |                        |                      | X               |
| Functions relating to the registration and regulation of small society lotteries.  |                     |                        |                      | X               |
| To appoint an Advisory Panel   |                     | X                      |                      |                 |
| Stage 1 of an application for a casino licence   |                     |                        | X                    |                 |
| Stage 2 of an application for a casino licence   |                     | X                      |                      |                 |

| <b>OTHER</b>  |                     |                        |                      |                 |
|---|---------------------|------------------------|----------------------|-----------------|
| <b>MATTER TO BE DEALT WITH</b>  | <b>FULL COUNCIL</b> | <b>LICENSING CTTEE</b> | <b>SUB COMMITTEE</b> | <b>OFFICERS</b> |
| Determination of applications for hackney carriage/private hire drivers' licences where applicants are aged 70 or over with no medical problems |                     |                        |                      | X               |
| Determination of new applications for a Sex Establishment   |                     | X                      |                      |                 |
| Determination of uncontested renewal applications for a Sex Establishment   |                     |                        |                      | X               |
| Determination of designated Public Place Orders   |                     | X                      |                      |                 |
| Agreement of standard conditions to licences  |                     | X                      |                      |                 |

# **Policy Development and Scrutiny Panels - General Terms of Reference**

## **Role of Overview and Scrutiny<sup>1</sup> Panels**

Overview and Scrutiny Panels allow citizens to have a greater say in Council matters by holding public inquiries into some matters of local concern. These lead to reports and recommendations to the Cabinet and the Council as a whole on its policies, budget and service delivery.

Overview and scrutiny bodies also monitor the decisions of the Cabinet and other executive persons/bodies. They may of their own volition, or be asked to, 'call-in' a decision which has been made by the Cabinet but not yet implemented. The "call-in" rules and procedure are set out in Part 4D-1 of this Constitution.

Overview and Scrutiny bodies may also be consulted by the Cabinet or by the Council on forthcoming decisions and on the development of policy.

The proceedings of all overview and scrutiny bodies will be conducted in accordance with the Overview and Scrutiny Procedure Rules set out in this Constitution.

## **Within their allocated remits, each Panel**

- (i) has broad-based responsibility for Overview and Scrutiny in its particular area of responsibility, in line with the Council's objectives
- (ii) scrutinises Performance Management information for the allocated performance areas on a scheduled basis and advises the Cabinet accordingly
- (iii) receives and carries out work as allocated, including
  - (a) determination of Call-Ins of executive decisions made but not yet implemented,
  - (b) carrying-out of in-depth reviews, as set out in their Overview and Scrutiny Work Plan
  - (c) undertaking scrutiny of particular Key Decisions and other aspects of Cabinet activity
  - (d) offering overview advice and reports of policy development issues

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<sup>1</sup> Overview and Scrutiny is the legal and generic term for the function carried out by Policy Development and Scrutiny Panels

- (e) evaluating the impact of Council and Cabinet decisions and policies
  - (f) undertaking scrutiny of agreed Action Plans and Policies, to ensure compliance (including those required by the District Auditor)
  - (g) reviewing and/or scrutinising decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - (h) dealing with any relevant Councillor Call for Action
  - (i) carries out its roles within the Council's petition scheme.
- (iv) may send communications and reports directly to other Overview and Scrutiny Panels, Cabinet and Council, and provide them to any member of the Council, subject to provisions regarding confidential and exempt information;
  - (v) may invite persons to be co-opted non-voting members (excepting those statutory co-optees with voting rights)
  - (vi) may invite participants to give evidence, either verbally or in writing, on any issue contained within their Overview and Scrutiny Work Plan, giving a minimum of two weeks notice unless mutually agreed otherwise
  - (viii) may require officers of the Council and members of the Cabinet to attend to give evidence, subject to the provisions of the Overview and Scrutiny Procedural Rules
  - (ix) may form discretionary joint bodies with other Councils for the purpose of enabling joint scrutiny of bodies/activities beyond the remit of Bath and North East Somerset, without delegation of any responsibilities or powers

**All Overview and Scrutiny Panels may also:**

- **on scrutiny issues**
  - i) review and scrutinise the decisions made by and performance of the Cabinet and Council Officers both in relation to individual decisions and over a period of time;
  - ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - iii) question members of the Cabinet and Officers about their decisions and performance\*, whether generally in comparison with service

plans and targets over a period of time, or in relation to particular decisions, initiatives or projects (\*this does not relate to the performance review (“appraisal”) process which is a staff managerial responsibility);

- iv) make recommendations to the Cabinet arising from the outcome of the scrutiny process;
- v) invite any person to give evidence and answer questions (subject to the Overview and Procedure Rules)

- **on overview issues**

- (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues
- (ii) conduct research, community and other consultation in the analysis of policy issues and development of possible options for the future
- (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (iv) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (v) carry out in-depth reviews of key local issues, subject to the provisions of the Overview and Scrutiny Work Plan.
- (vi) request reports from Officers and Cabinet Members.

**Meeting Frequency:**

Panels will determine their own frequency relevant to the requirements of the Overview and Scrutiny Work Plan, and within resources allocated to them.

## **Policy Development and Scrutiny Panel Remits**

### **PLANNING, HOUSING & ECONOMIC DEVELOPMENT**

(Designated Flood Risk Management Panel)

**Panel remit is –**

- Housing, Housing delivery and travellers
- Housing choices for vulnerable people
- Regeneration Projects
- West of England Partnership

- Planning
- Economic Enterprise and Business Development
- Tourism (Heritage Services, Destination Management, Arts & Festivals including the film office)
- World Heritage Management

Membership: 4 Conservative Members; 2 Liberal Democrat Members; and 1 Independent & Village Voice Member.

Chair is nominee of the Liberal Democrat Group. Vice Chair is nominee of the Conservative Group.

### **Quorum**

The quorum of the Panel shall be three councillors.

## **RESOURCES**

### **Panel remit is –**

- Customer Services including Revenues & Benefits and Council Connect
- Finance
- Risk and assurance
- ICT
- Procurement
- Property
- Finance
- Strategy and Performance including, Public Sector Partnerships
- Change Programme
- Equalities
- Legal and Democratic services

Membership: 4 Conservative Members; 1 Liberal Democrat Member; 1 Labour Member and 1 Independent & Village Voice Member

Chair is nominee of Independent & Village Voice Group. Vice Chair is nominee of Conservative Group

### **Quorum**

The quorum of the Panel shall be three councillors.

## **CHILDREN & YOUNG PEOPLE**

(Designated Curriculum Complaints Panel)

(Designated Panel for determining appeals for transport to school/college for post 16 Learners with learning difficulties and/or disabilities)

### **Panel remit is –**

- Learning and inclusion
- Children, young people and family support
- Safeguarding children
- Primary, secondary and further education
- Improving environment and opportunities for disadvantaged teenagers
- Corporate Parenting, including transition of vulnerable/looked after children to Adult care
- Health, commissioning and planning (Children)<sup>2</sup>

Membership: 4 Conservative Members, 2 Liberal Democrat Members, 1 Labour Member

Chair is nominee of the Liberal Democrat Group. Vice Chair is nominee of Conservative Group

### **Quorum**

The quorum of the Panel shall be three councillors.

## **COMMUNITIES, TRANSPORT & ENVIRONMENT**

### **Panel remit is –**

- Transport Development (transport planning/policy, major transport infrastructure)
- Major Transport Schemes
- Highways, Parking and Transport
- Community Safety
- Big Society/3<sup>rd</sup> Sector Funding Initiatives
- Improve the quality of life of the communities (older people and of children, young people and families) at risk and narrow the gap between the worst performing wards / neighborhood's and other areas across the district.
- Leisure and Culture (Sport & Active Lifestyles),
- Libraries
- Environmental Services
- Natural Environment, Green Infrastructure & Sustainability

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<sup>2</sup> When relevant, issues will also be referred to the Health & Wellbeing Select Committee



Membership: 5 Conservative Members; 2 Liberal Democrat Members; 1 Labour and 1 Green.

Chair is nominee of the Labour Group. Vice Chair is nominee of Conservative Group.

### **Quorum**

The quorum of the Panel shall be three councillors.

### In addition to General Terms of Reference

Further to the Police and Justice Act 2006 (and associated regulations), the designated Crime and Disorder Panel in relation to responsible authorities (or co-operating bodies or persons) may

- a. review the decisions and performance at least once per year;
- b. with reasonable notice, require the attendance of an officer or employee to answer questions, and more recently to include the new Police and Crime Commissioner
- c. require a response in writing to reports and recommendations of the Panel within 28 days, or as soon as reasonably possible

## **HEALTH & WELLBEING SELECT COMMITTEE**

(Delegated Committee for the statutory health scrutiny function under the Health & Social Care Act 2012)

### **Panel remit is –**

- Adult health and social care
- Public Health (Improving health and reducing health inequalities)
- Health Scrutiny
- Healthwatch
- *[When relevant - Health, commissioning and planning (Children)].<sup>3</sup>*

Health Scrutiny - The Health and Social Care Act 2012 requires local authorities with social services responsibilities to have in place arrangements to scrutinise health services. This function is bestowed on the local authority's

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<sup>3</sup> Principle responsibility rests with Children and Young People PDS Panel – Health & Wellbeing Select Committee to be involved when relevant

Full Council but can be delegated however the Full Council sees fit. In Bath & North East Somerset Council, the function is delegated to the Health & Wellbeing Select Committee. Councillors on the Health & Wellbeing Select Committee therefore have a role, as representatives of the public, to hold to account local Health organisations when they are making big decisions about the future of health care provision in Bath & North East Somerset.

Membership: 4 Conservative Members, 1 Liberal Democrat Member; 1 Labour Member and 1 Green Member.

Chair is nominee of the Conservative Group.

### **Quorum**

The quorum of the Committee shall be three councillors.

### **In Addition to General Terms of Reference**

Further to the Local Government and Public Involvement in Health Act 2007 (and associated regulations), the designated Health Scrutiny Committee may

- a. receive referrals from the Local Healthwatch and acknowledge receipt,
- b. decide which if any of its powers are exercisable in relation to the matter and whether to exercise them (either by Council or by the delegated Committee), and
- c. keep the referrer informed of the Committee's actions and decisions in relation to the matter.

### **HEALTH SCRUTINY: Background**

Local Authorities with social services powers are required to ensure that the Council has the power to scrutinise the planning, provision and operation of health services. This power may be undertaken by the Full Council, a designated health scrutiny committee/panel or any other method that the Council deems appropriate. This power relates to reviewing, scrutinising and reporting on NHS services and institutions, and helps the Council build on existing health partnerships and other work to tackle causes of ill-health and health inequalities.

Under the Health and Social Care Act 2012, this function will now apply to any provider of health care services including private and third sector suppliers.

### **Provisions of the Health Scrutiny Regulations**

- The council's overview and scrutiny body can scrutinise any NHS

Commissioning Board, Clinical Commissioning Group or NHS body that provides services for people in the council's area.

- Local NHS bodies must provide any information the council reasonably requires (excluding information about individuals), and NHS staff can be required to attend and provide information.
- Scrutiny reports can be made to the council and to NHS bodies. If requested, the NHS body must respond within 28 days.
- NHS bodies must consult the designated health scrutiny function of the council about proposals for substantial development or variation of NHS services in the area. The designated health scrutiny function can refer a matter to the Secretary of State for Health, if the local authority is not satisfied of the merits for change or if it considers there has been inadequate consultation on the proposals.
- Councils can set up joint health scrutiny committees with one or more other councils. Councils can delegate aspects of this role to another council's overview and scrutiny body. Joint Health Scrutiny Committees also have the power to directly refer a matter to the Secretary of State for Health.
- County councils can co-opt neighbouring authority council members onto their scrutiny committees dealing with health scrutiny, either for an indefinite time or for a particular project.

### **Reporting Arrangements**

Following any health overview & scrutiny topic undertaken, the Committee will make a report with recommendations to NHS bodies and B&NES Council. Such reports will also be copied to key stakeholders including local MPs, Healthwatch, Clinical Commissioning Groups and/or the NHS Commissioning Board.

### **JOINT HEALTH SCRUTINY FUNCTION**

#### **Working across Local Authority Boundaries**

Some health issues will be specific to the B&NES area whilst others (e.g. performance of large hospitals or regional health services with a wide catchment area) will extend beyond the B&NES local authority boundaries. In such cases, B&NES will adopt the following approach:

Protocols for a Joint Health Scrutiny Committee for cross-boundary overview and scrutiny of health issues and institutions have been established with the other Councils in the former Avon area (as agreed at Council November 2003).

#### **Membership**

The membership of each Joint Health Scrutiny Committee should be made up of not more than 3 Councillors from each Council participating in the review(s) being undertaken by that Committee.

The requirement to observe political proportionality in making appointments to these Joint Committees has been waived by all four Councils so as to give each Council maximum flexibility in making its appointments.

The three B&NES Councillors participating in the Joint Health Scrutiny will be agreed by and appointed from the Committee designated as the health overview and scrutiny Committee, as and when it is agreed to participate in a Joint Health Scrutiny Committee.

It is intended that these arrangements form the basis for constituting Joint Health Overview and Scrutiny Committees with other neighbouring local authorities e.g. Somerset or Wiltshire County Councils.

### **Quorum**

The quorum of the Committee shall be three councillors.

### **Terms of Reference**

- 1) Where more than one local authority is consulted by a local NHS body in respect of any proposal that it has under consideration for the substantial development of the health service or the substantial variation of such service, to review and scrutinise such proposal jointly with any other local authority so consulted.
- 2) Where more than one local authority has an interest in the planning, provision and operation of health services which cross-geographical boundaries, to review and scrutinise any such matters jointly with any such other local authority.
- 3) To require the local NHS body to provide information about the proposal under consideration and where appropriate to require the attendance of a representative of the NHS body to answer such questions as appear to it to be necessary for the discharge of its function in connection with the consultation.
- 4) To prepare a report to the health body and the participating local authorities, setting out any comments and recommendations on any matter reviewed or scrutinised.
- 5) To report to the Secretary of State in writing where it is not satisfied that consultation on any proposal referred to in paragraph (1) has been adequate in relation to the content or time allowed.

- 6) To report to the Secretary of State in writing in any case where it considers that the proposal would not be in the interests of the health service in the area of the joint committees participating local authorities.

### **Health Services located within B&NES**

*E.g. Royal United Hospital (RUH), Bath.*

B&NES Council will take the lead on any health overview & scrutiny activities based in its area and invite participation from neighbouring authorities that have an interest. Neighbouring authorities may provide a Member of their council for co-opted membership.

### **Health Services located elsewhere but used by B&NES residents**

*E.g. Bristol Royal Infirmary (BRI)*

B&NES Council would expect that a 'host' local authority would take the lead on a major issue within its area, given that they are likely to have the majority of residents affected by the service. In such cases, B&NES could seek to have representative(s) from the health overview and scrutiny Committee co-opted (on a reciprocal agreement, as above) to the host authority's own Health Overview & Scrutiny arrangements so that it may contribute and represent B&NES residents on the specific topic.

A Member of the B&NES Health & Wellbeing Select Committee attend such joint meetings, as are relevant, and report back to the rest of the Panel at B&NES' own Health Overview & Scrutiny meetings.

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## **West Of England Joint Scrutiny Committee**

Membership: 2 Conservative Members; 1 Liberal Democrat Member

### **Background**

The West of England Partnership comprised the 4 Councils that were previously Avon (Bristol, Bath and North East Somerset, South Gloucestershire, North Somerset), in order to jointly progress key infrastructure projects and funding bids. In 2011, this was changed to the statutorily based Local Enterprise Partnership.

There are no statutory powers to establish a joint overview and scrutiny committee, therefore each of the four Councils established their own politically

balanced scrutiny body (September 2008) comprising three non-executive Councillors.

These meet together in public session, known as the West of England Joint Scrutiny Committee:

- and will conduct overview and scrutiny on behalf of the Local Enterprise Partnership (statutory);
- and may also meet individually in their own right and as and when necessary to consider their authority's position on a particular issue.

Political makeup of each is at the discretion of each Council. Substitute members may be appointed where a designated member is unable to attend.

### **Bath and North East Somerset Council's West of England Partnership Joint Scrutiny Committee**

This comprises 3 non-executive Councillors with the politically proportionate balance of 2 Conservatives, 1 Liberal Democrat. Each Group will also nominate a reserve Councillor. Substitutes to be allowed. For the avoidance of doubt, a substitute takes the place of the committee member for the entire meeting.

### **Reporting Arrangements**

Members of this Scrutiny Committee may be requested to provide a briefing to a B&NES Panel Chair, or to attend Panel with a related remit, to discuss the activities of the Joint Scrutiny Committee.

### **Terms of Reference**

Three members have been nominated to a West of England Scrutiny Committee by each of the four authorities to meet jointly as the West of England Joint Scrutiny Committee. It will conduct an overview and scrutiny function on their behalf of the Local Enterprise Partnership (LEP).

The Committee shall be concerned with the aspects of the Local Enterprise Partnership that relate to public funding and resources. Within the LEP structure the Committee shall:

1. scrutinise any relevant proposals from the Joint Transport Executive Committee, Planning Housing and Communities Board and the Strategic Leaders Board in relation to the activities outlined in their terms of reference;
2. scrutinise other relevant proposals related to public funding and resources made from the Local Enterprise Partnership Board and the Skills Sub-Group;

3. review actions taken and decisions made by these bodies related to public funding and resources;
4. make reports or recommendations to these bodies, as appropriate and/or the constituent authorities' respective Overview and Scrutiny Committees or equivalent.
5. scrutinise the activities of private sector companies, recognising that the private sector is not under the same obligation to appear in public or have regard to recommendations made by a Scrutiny committee in the same way that public service providers are required to do so.

[NB : for the most part, this Committee will hold its meetings “jointly” with the equivalent scrutiny committees of the 3 partner authorities ].

As a general rule (taking account of the limited resources available), sub groups will only be contemplated where absolutely necessary and should be of a task and finish variety.

\*It follows that if members wish to amend the ToR that it will be necessary to make recommendations to the leaders and chief executive of the participating unitary authorities via their respective overview and scrutiny management committees

Where scrutiny is focussing on the activities of the Local Economic Partnership and/or executive committees/bodies, only those authorities involved in or affected by the executive committee activity should be involved in the scrutiny.

### **Work Programme**

A work programme will be developed for approval by the Joint Scrutiny Committee

### **Chair/Vice Chair**

The Chair and Vice Chair of the Committee will be agreed at the annual meeting.

### **Expert Witnesses**

It shall be for the Joint Committee to decide whether expert witnesses are necessary. Expert witnesses will only be sought where it is clear that there is a significant gap in the expertise which is readily available to the committee. Expert witnesses can only be appointed in an advisory capacity and do not have voting rights.

### **Quorum and Voting Arrangements**

As the Joint Scrutiny Committee is a combined meeting of the LEP scrutiny bodies of the 4 unitary authorities, a “quorum” will require that a minimum of 2 representatives per authority attend the meeting. In the event of one or more of the component scrutiny bodies not being quorate, a combined meeting may still take place but the minutes should indicate which scrutiny bodies were quorate and which were not.

Voting - meetings will aim for consensus. In the event of members considering it necessary to have a formal vote on a matter before them then each component authority's scrutiny body will vote separately, and the outcomes will be recorded in the minutes.

The Chair of the Joint Scrutiny Committee will not have a casting vote.

Where the Joint Scrutiny Committee is responding to consultation on proposals by a LEP executive committee/body, then the scrutiny report will make clear the outcome of any voting which took place.

### **Meeting Frequency:**

The Committee will determine their own frequency relevant to the requirements of the Overview and Scrutiny Work Plan, and within resources allocated to them.

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## **PARISH LIAISON MEETING**

### **Membership**

1. Bath & North East Somerset Council will appoint representatives to the Parish Liaison meetings in such numbers as it decides. One of its representatives (usually the Chair of Council) will chair each meeting.
2. The Parish and Town Councils will each be entitled to send their nominated representative and Clerk to the meetings
3. The Local Councils Association for the Council's area will be entitled to send representation to the meetings in their own right
4. Officers of Bath & North East Somerset Council will attend meetings as necessary to advise and assist discussion

### **Purpose**

5. The Liaison Meeting will provide an opportunity for the discussion of issues of common interest, identified by the Council or by Parish/Town



Councils (individually or collectively), that are relevant for discussion in this forum

6. Items of relevance are likely to be those:

- That have direct impact on all, or a significant number of, Parish/Town Councils
- That support an effective working partnership between tiers of local government
- Relating to the Parish Charter
- Where a collective view from Local Councils would be helpful

7. Items that are not likely to be relevant for the Liaison meeting include;

- Those that relate to a single, or small number of, Parish/Town area(s)
- Those for which other effective channels of communication exist (including issues that are already the subject of detailed consultation)

8. The infrequency of Liaison Meetings means that it is not a practical forum through which to engage in routine consultation

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## **Pension Board for Avon Pension Fund**

### **Function and role**

The regulations state that the role of the local Pension Board (the “Board”) is to assist the administering authority

a. to secure compliance with:

i. The LGPS (Amendment) (Governance) Regulations 2014 (the “regulations”)

ii. Any other legislation relating to the governance and administration of the Scheme

iii. Requirements imposed by the Pensions Regulator in relation to the Scheme; and

b. to ensure the effective and efficient governance and administration of the Scheme.

The Board has an advisory role in assisting the Administering Authority by making recommendations about compliance, process and governance. The Board does not have a decision making role with regard to strategy or policy

nor will it ratify or challenge decisions made by the administering authority. Its role is to have oversight of the governance process for making decisions and agreeing policy.

The Board will exercise its duties in the following areas:

- i. Compliance with the relevant legislation and Codes of Practice set by The Pensions Regulator;
- ii. Policies and processes are in place to deliver the objectives of the pension fund;
- iii. Policies and processes are in place to ensure that employers comply with their obligations under the Scheme and regulations;
- iv. The processes for setting strategy, policy and decision-making are robust;
- v. A framework of controls is in place to ensure fund and employer compliance;
- vi. From time to time the administering authority may consult the Board or ask assistance on specific issues.

The costs of the Board will be met by the Avon Pension Fund (as set out in the regulations) subject to approval of their annual workplan and budget. This may enable the Board to commission independent advice as appropriate. It is important that the Board maintains its independence from the Avon Pension Fund Committee's decision-making process in order to effectively scrutinise the decision-making process.

### **Establishment**

The Board is to be established by 1 April 2015 and must be operational by 31 July 2015. The Terms of Reference must be approved by the Administering Authority and formally adopted by the Board once it is established.

### **Board Membership**

There will be seven Board members comprising three member representatives, three employer representatives and an Independent Chairperson. Member representatives can be drawn from the membership and are not restricted to Trades Union representatives. Employer representatives should be representative of the employers within the scheme. No officer or councillor of the administering authority who is responsible for the discharge of any function under the LGPS regulations can be a member of the Board. In respect of the Chairperson the term independent means having no current employment, contractual, financial or other material interest in either the Council or any scheme employer in the Avon Pension Fund, and not being a member of the Avon Pension Fund. The Chairperson can delegate to another Board member if unable to attend a meeting.

### **Appointment process**

The Avon Pension Fund will facilitate the nominations process for all Board members; the appointment process will be undertaken by the Strategic Director of Resources. The appointment of the Chair will be following an advertised competitive process, which shall be subject to the Board's approval of the successful candidate.

The selection process for employer and employee reps will take into account their capacity to fulfil the role as set out in the Role and Person Specification.

### **Role of advisors**

The Board may appoint professional advisors as appropriate to their work plan. The cost will be met within the budget approved by the administering authority. Where possible the advisors should be independent from those used by the administering authority.

### **Role of officers**

Democratic Services will be responsible for providing secretariat services to the Board. The Strategic Director of Resources will ensure appropriate officer support is provided to the Board. Avon Pension Fund officers will be required to provide information to the Board for the Board to fulfil its task.

### **Frequency of meetings**

The Frequency to be determined by Board once agreed workplan, with a minimum of three meetings annually.

### **Voting rights**

The objective is to reach consensus on all issues; however, each employer and employee rep has one vote. The Under Regulation 106 (7) of the LGPS Regulations 2013 the Independent Chairperson is explicitly excluded from having the right to vote.

### **Board Quorum**

The quorum of the Board shall comprise three members who shall include at least one member and one employer representative.

### **Substitutes**

Substitutes will not be permitted as they would have to be nominated as part of the appointment process.

### **Sub-committees**

Sub-committees will not be permitted.

### **Board work plan and Budget**

The Board will agree its work plan annually and the budget required to deliver it. As the expenses of the Board are to be met by the Avon Pension Fund the Board's workplan and budget, having taken advice from the Strategic Director of Resources, will be submitted to the Avon Pension Fund Committee for approval annually. The Board will be required to operate within the approved budget and approved budget purposes. It is envisaged that the Board will review aspects of the pension fund over time rather than react to the regular monitoring cycle of the pension committee.

### **Access to Board papers**

Board meetings will be held in open session with closed sessions where appropriate. The agenda papers will be circulated in advance of meeting in line with council policy. The minutes of meetings will be recorded and published in line with Council policy.

### **Term of office**

Two of the initial appointments (one employer representative and one member representative) will be for a two year period. All other appointments will be for a four year term with the maximum term of Board membership limited to two terms.

### **Code of Conduct**

Board members are required to adhere to the Council's Code of Conduct.

### **Declarations of Interest and Conflicts of interest**

Board members are required to adhere to the Council's policy for declarations of interests. Members must provide information that the administering authority may reasonably require from time to time.

The Board is required to act within its Terms of Reference. The Board should ensure that in addition to the Council Policy it has its own policy for managing conflicts of interest in line with any further stipulations from the Pensions Regulator and members must abide by this policy.

### **Removal from Board**

A Board member can be removed from the Board in the following circumstances (but not limited to):

- A poor attendance record;
- If a member does not undertake training as requested by the administering authority; If a member is in breach of Council's Code of Conduct / Declarations policy; If a member has a conflict of interest that cannot be managed in accordance with the Board's conflicts policy;

□ If a representative member ceases to represent his constituency e.g. leaves the employer so no longer has the capacity to represent the Fund's employers. If there is an unsatisfactory annual review of individual members

If there is a vote of no confidence in the Chairperson by the Board then the Administering Authority will conduct a process to appoint another Chairperson. The Council's Standards Committee and Monitoring Officer will determine any removal from the Board.

### **Expenses**

The pension fund will meet reasonable meeting expenses, reasonable training expenses relevant to discharging the role and independent advice required to support work agenda (including legal, technical and other professional advice).

### **Allowances**

An annual allowance will be paid to the Independent Chairperson.

### **Knowledge and understanding**

The Board are required to agree and maintain a policy and framework to address the knowledge and understanding requirements, as set out in various legislation and the Pension Regulator's Code of Practice, that apply to its members. The knowledge and understanding requirement applies to each Board member individually rather than to the members as a collective group. The policy and framework will be considered in light of the role of the Board; however, Board members will need to understand the duties and obligations of the administering authority in order to be able to assist it.

Board members will be required to undertake training to ensure they acquire the appropriate level of knowledge and understanding and keep a record of the learning activities of individual members and of the Board as a whole.

### **Reporting**

The Board will publish an annual report to Council containing any recommendations on process or governance. This should be circulated to members and employers.

The annual report will cover:

- i. summary of the work of the Board
- ii. details of areas the Board has investigated and how they have been dealt with
- iii. details of conflicts of interest that have arisen in respect of the Board members and how have been managed
- iv. whether there are any risks or other areas of potential concern which the Board wishes to raise with the Administering Authority

v. details of training a future training needs

vi. the work plan of the last year and draft work plan for following year

vii. details of expenses and other costs incurred and anticipated expenses for forthcoming financial year

Direct reporting line if the Board has material concerns – The Strategic Director of Resources.

The Board minutes will be circulated to administering authority (the pension committee) S151 Officer and Monitoring Officer.

The Board is required to report breaches of law or material (and not actioned) breaches of the Code of Practice to the Pensions Regulator.

Where any breach of duty is committed or alleged to have been committed by the Administering Authority (the Pensions Committee) the Board shall:

1. Discuss the breach or alleged breach that is identified with Pension Committee Chair and the proposed actions to be taken by the Board
2. Enable the Chair of the Committee to review the issue and report back the Board on the breach
3. The Board will determine action and if sufficiently material will report the breach to the Pensions Regulator or the Scheme Advisory Board as set out in the regulations.

### **Data protection and Freedom of Information**

For legal purposes the Board is considered a committee of and part of the administering authority legal entity. Therefore the Board must comply with the Council's Data Protection and Freedom of Information policies.

## **Regulatory (Access) Committee**

The Committee is granted delegated authority to exercise all the Council's powers and duties in respect of:

- (1) Modification Orders, Reclassification Orders and Public Path Orders where the matters are contentious
- (2) Commons Registration (including Town and Village Greens)

***\*Note 1*** – *The Service Manager: Highways and Team Leader: Highways and Drainage have been delegated general as well as specific responsibility in respect of these functions.*

***\*Note 2*** – *The Committee's delegated authority is framed in such a way that it will be able, if appropriate, to deal with matters other than strict "quasi-judicial" functions relating to Public Rights of Way. This would, however, be within the overall policy framework set by the Council.*

**Membership:**

4 members of the Council in the political proportion - 3 Conservative Members and 1 Independent & Village Voice Group Member.

Chaired by nominee of the Conservative Group.

**Quorum**

The quorum of the Committee shall be three councillors.

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## **Re-Structuring Implementation Committee**

**The Committee's Span of Responsibility**

To determine all necessary arrangements for implementing the indicative senior management structure.

To decide on numbers of 1<sup>st</sup> and 2<sup>nd</sup> Tier officers and the span of work responsibility allocations for those officers.

To determine appointments to or dismissal from the posts of Director and other JNC Officers reporting to the Chief Executive, or Head of Paid Service, subject to there being no objection to the appointment / dismissal being lodged by the Leader of the Council.

To recommend to the Council the appointment or dismissal of the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer.

**Membership**

The Committee shall comprise 5 Members in the political proportion 1 Conservative Member, 1 Liberal Democrat Member, 1 Labour Member, 1 Independent Member and 1 Green Member.

**Quorum**

The quorum of the Committee shall be three councillors.

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## **Education (School Appeals) Panels**

**Function**

To hear and to determine appeals under the School Standards and Framework Act 1998, School Admissions (Appeal Arrangements) (England) regulations 2012, School Admissions Code 2012, Education Act 2002 as amended by Education Act 2011, School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012 and Education and Inspections Act 2006 relating to school admission, exclusion and reinstatement matters as applicable, within the general framework contained in the Code of Practice on Procedure produced by the local authority associations.

### **Membership**

No fixed membership - panels are constituted from independent persons in accordance with the provisions of the above legislation and Code of Practice. Councillors are not eligible to serve.

### **Timetable**

Meetings fixed as and when necessary.

## **Standards Committee**

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives
- (b) Assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) To recommend to the Council one or more Codes of Conduct and Practice or protocols for members and/or employees of the Council;
- (d) To monitor and from time to time review such Codes and Protocols and make recommendations to the Council;
- (e) To make representations to the Government, Local Government Association and other external bodies on matters relating to the general principles of conduct for members and employees of the Council;
- (f) To liaise with the District Auditor and the Local Government Ombudsman in connection with any matter within the committee's terms of reference;
- (g) To provide advice and guidance to members, co-opted members and employees and to make arrangements for training in connection with any matter within the terms of reference of the Committee.
- (h) To consider any reports from the Council's Monitoring Officer regarding illegality, unlawfulness or maladministration and any report of the Local Government Ombudsman.



- (i) To oversee the effectiveness of the Council's constitutional arrangements from an ethical perspective including Standing Orders and the Terms of Reference of Committees and internal and external codes of conduct and make recommendations to the Council on any desirable or necessary changes concerning matters of accountability, transparency, good administration or the promotion of high standards of conduct in the administration of local government.
- (j) To recommend to the Council a Code of Practice on relations between members and officers.
- (k) To develop support mechanisms for councillors in all their roles, in conjunction with a member level steering panel.
- (l) To oversee the democratic decision making process and make recommendations to the Council from time to time on any desirable or necessary changes.
- (m) To consider the Council's procedures for investigating and responding to complaints and other procedures referred to it by the Monitoring Officer.
- (n) To oversee the register of member interests.
- (o) To approve a code of practice on planning issues.
- (p) To undertake such other functions as the Secretary of State may by regulations refer to a local authority Standards Committee.
- (q) To consider and determine the Council's response to any Internal or District audit regulatory recommendations referred to the Committee by the Monitoring Officer.
- (r) To recommend to the Council from time to time as necessary the appointment of co-opted members to the Committee following open advertisement, short listing and interview.
- (s) To exercise the functions at (a) to (g) above and (x) below in relation to the Parish Councils wholly or mainly in the B&NES area and the members of those Parish Councils.
- (t) Considering i) any application for exemption from political restrictions in respect of a post, by the holder of that post, and ii) any application from any person for a direction requiring a post to be included in the list of politically restricted posts.
- (u) Granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to disclosable pecuniary interests as set out in the Localism Act 2011.
- (v) Dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring office of any matter which is referred by an ethical standards officer, the Standards Board or a Case Tribunal to the monitoring officer.
- (w) Determination, following complaint by a majority of members of a Policy Development and Scrutiny Panel, of whether or not a Member of the Cabinet, or the Chair of a Committee (including Policy Development and Scrutiny Panels) has acted without good cause or reason either in breach of any requirement of the Constitution or in breach of the Council's Local Code of Conduct for Councillors.

- (x) To consider and determine any allegations of misconduct against Members of the Council

**Membership of the Standards Committee**

5 x elected members (voting) - 3 Conservative, 1 Liberal Democrat and 1 Independent and Village Voice member. Chairing rights allocated to the Conservative group.

3 x independent members selected by an independent panel (non-voting)

3 x parish representatives

**Quorum**

3 members, at least one of whom shall be an independent member, for ordinary business.

When considering parish matters, the quorum of 3 shall include the parish representative.

The quorum for considering individual cases shall be 5 members.

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