

23 May 2018

Report of	Monitoring Officer	Author	Andrew Weavers
Title	Amendments to the Constitution		☎ 282213
Wards affected	Not applicable		

1. Executive Summary

- 1.1 This report outlines changes required to the Constitution to enable the Trading Board to be changed and renamed the Policy Panel with revised terms of reference. In addition this report confirms the delegated powers from Council to the Licensing Committee.

1. Decision(s) Required

- 1.1 To agree the transformation of the Trading Board in to the Policy Review Panel with the terms of reference as detailed at Appendix 1 of this report.
- 1.2 To agree that the Governance and Audit Committee is the shareholder committee for Colchester Commercial (Holdings) Limited and that the additional functions (23) – (27) detailed at Appendix 2 are included in its terms of reference.
- 1.3 To agree that the Scrutiny Panel will scrutinise Colchester Commercial (Holdings) Limited's business plans and financial performance at year end.
- 1.4 To agree the delegated functions from Council to the Licensing Committee as contained at Appendix 3 of this report.

2. Background

Trading Board

- 2.1 The Trading Board was created in 2013 to advise Cabinet on its approach to commercial matters and how it could generate income. Its terms of reference were expanded last year following the creation of Colchester Commercial (Holdings) Ltd and its subsidiary companies including its role as the shareholder committee.
- 2.2 The Trading Board at its meeting on 7 March 2018 considered a report which considered the meeting governance arrangements for the 2018/19 municipal year and it was agreed that the Trading Board had achieved its original aims and it would now be appropriate for its responsibilities in relation to Colchester Commercial (Holdings) Limited to be transferred to other meetings and for it to focus on legislative and policy issues facing the Council including the impact of Brexit.
- 2.3 Following a workshop for the members of the Trading Board held in November 2017 it was suggested that the Trading Boards' terms of reference should include advising Cabinet on wider policy issues.
- 2.4 It is proposed that the Trading Board be transformed into a new advisory panel to Cabinet and it be named the Policy Review Panel. This Panel would provide legislative,

improvement and policy advice to Cabinet and Portfolio Holders on issues that may affect executive functions. The proposed terms of reference for the Policy Review Panel is attached at Appendix 1. It would be for the Policy Review Panel to manage its work programme.

- 2.5 It is proposed that the role of shareholder committee for Colchester Commercial (Holdings) Limited be undertaken by the Governance and Audit Committee and that the additional functions (23) – (27) set out at Appendix 2 be included as part of its terms of reference. It would be for the Governance and Audit Committee to determine how it undertakes this as part of its work programme. Whilst the Committee's terms of reference appears to be large, the functions mentioned at (8) – (21) are rarely required to be used.
- 2.6 The Scrutiny Panel will have a role in scrutinising the performance of Colchester Commercial (Holdings) Limited in the same context as it does for Colchester Borough Homes Limited. It is suggested that this would be probably twice a year. The first being to scrutinise the Company's business plans and second to review the Company's performance at the end of the financial year. Again it would be for Scrutiny Panel to manage its work programme.
- 2.7 Meetings of the Policy Review Panel will be held on the meeting dates already agreed in the municipal diary for the Trading Board.

Licensing Committee

- 2.8 The Council last reviewed the Licensing Committee's delegated functions in 2014. These have been updated to reflect legislative changes and are attached at Appendix 3.

3. Strategic Plan References

- 3.1 The manner in which the Council governs its business is an underpinning mechanism in the Council's Strategic Plan aims to set out the direction and future potential for our Borough.

4. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health, Publicity and Safety and Risk Management Implications

- 4.1 None identified.

	Membership	Terms of Reference
Policy Review Panel	Councillors tbc	<p>(1) To proactively identify issues and legislative changes that may require review and improvement and to seek Cabinet's agreement as to whether and how they should be examined.</p> <p>(2) To review strategies and policies at the request of the Cabinet and to make recommendations back to Cabinet for decision.</p> <p>(3) To review issues at the request of a Portfolio Holder and to make recommendations back to the Portfolio Holder for decision.</p>

	Membership	Terms of Reference
Governance and Audit Committee	Councillors tbc	<p>Accounts and Audit</p> <p>(1) To consider and approve the Council's Statement of Accounts in accordance with the Accounts and Audit Regulations.</p> <p>(2) As part of the Council's governance arrangements, to consider the findings of the annual review of governance (which includes a review of the effectiveness of the system of internal audit) and approve the signing of the Annual Governance Statement by the Leader of the Council and the Chief Executive in accordance with the Accounts and Audit Regulations.</p> <p>(3) To have an overview of the Council's control arrangements including risk management and in particular with regard to the annual audit plan, the audit work programme and progress reports and to make recommendations to Cabinet as appropriate.</p> <p>(4) To review the Council's external auditor's annual audit letter.</p> <p>Miscellaneous regulatory matters</p> <p>(5) To make recommendations to Council on the Council's functions contained in Parts D (elections), E (name and status of areas and individuals), F (making, amending, revoking , re-enacting or enforcing byelaws) G (promotion or opposing local or personal bills), of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).</p> <p>(6) To determine Community Governance Reviews.</p> <p>(7) An overview of the Council's complaint handling procedure and Local Government Ombudsman investigations</p> <p>Standards</p> <p>(8) Promoting and maintaining high standards of conduct by Members and Co-opted Members of the Council.</p> <p>(9) Advising the Council on the adoption or revision of the Members' Code of Conduct.</p> <p>(10) Advising and assisting Parish Council(s) and Councillors to maintain high standards of conduct.</p> <p>(11) To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the Council's assessment criteria.</p> <p>(12) Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Members' Code of Conduct.</p> <p>(13) Advising, training or arranging to train Members and Co-opted Members on matters relating to the Members' Code of Conduct.</p> <p>(14) Assisting Councillors and co-opted Members to observe the Members' Code of Conduct.</p> <p>(15) To create a Hearings Sub-Committee to hear and determine complaints about Members and Co-opted Members referred to it by the Monitoring Officer.</p>

		<p>(16) To conduct hearings on behalf of the Parish and Town Councils and to make recommendation to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish or Town Councillor to comply with the Code of Conduct.</p> <p>(17) To inform Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints.</p> <p>(18) Advising the Council upon the contents of and requirements for codes/ protocols/ other procedures relating to standards of conduct throughout the Council.</p> <p>(19) To grant dispensations after consultation with the Independent Person pursuant to Sections 33(2) (b), (c) and (e) of the Localism Act 2011.</p> <p>(20) To hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to Sections 33(2)(a) and (d) of the Localism Act 2011.</p> <p>(21) To make recommendations to Council regarding the appointment of Independent Persons in accordance with section 28 (7) and (8) of the Localism Act 2011.</p> <p>General</p> <p>(22) Review of the Constitution including governance issues around formal meetings, processes and member training and to make recommendations to Council.</p> <p>Colchester Commercial (Holdings) Limited</p> <p>(23) Consider and review the activities and financial performance of:</p> <p>(a) Colchester Commercial (Holdings) Limited and its subsidiary companies i.e. Housing Company, Energy Company and Trading Company;</p> <p>(b) those Council services generating income of approximately £250,000 or above; and</p> <p>(c) any other partly or wholly owned company of the Council</p> <p>(24) Receive, review and recommend Colchester Commercial (Holdings) Limited's business plans (including its subsidiary companies) annually.</p> <p>(25) Monitor, challenge and make recommendations to Cabinet regarding Colchester Commercial (Holdings) Limited and its subsidiary companies and other Council services with significant income streams.</p> <p>(26) Make recommendations to Cabinet on how it should exercise the functions flowing from its ownership of shares in Colchester Commercial (Holdings) Limited and its subsidiary companies.</p> <p>(27) Recommend the constitution and appointment of the Board of Directors of Colchester Commercial (Holdings) Limited to Cabinet.</p>
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Extract from SCHEME OF DELEGATION TO REGULATORY COMMITTEES

Licensing Committee

1. Authority to determine on behalf of the Council:
 - (a) The Council's licensing and registration functions as detailed in Part B of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended);
 - (b) To hear and determine licensing applications and appeals including applications for hackney carriages and private hire vehicles and drivers and private hire operators; and sex establishments and any other licensing matters as may from time to time require determination by the Committee;
 - (c) All licensing functions pursuant to the Licensing Act 2003;
 - (d) All gambling functions pursuant to the Gambling Act 2005;
 - (e) Authorisation of all enforcement actions in relation to the Council's licensing and registration functions;
 - (f) To review, consider and recommend to Council all policies related to those matters with the remit of the Licensing Committee;
 - (g) To agree policy and licensing of markets and street trading.

Licensing Sub-Committees

- (1) Authority to determine on behalf of the Licensing Committee in relation to Licensing Act 2003 matters

Matter to be dealt with	Delegated to the Licensing Sub-Committee
Personal Licences	
Determination of an application for a personal licence	Where a Police objection notice is received
Determination of an application for the renewal of a personal licence	Where an objection is received from the Police
Revocation of licence where convictions come to light after grant	Where a Police objection notice is received
Determination of an application to vary a designated premises supervisor	Where a notice is received from the Police
Premises Licences and Club Premises Certificates	
Determination of an application for a premises licence/club premises certificate	Where representations have been made
Determination of an application for a provisional statement	Where representations have been made
Determination of an application to vary a premises licence/club premises certificate	Where representations have been made
Determination of an application for the	Where a notice is received from the

transfer of a premises licence	Police
Consideration of Police objection made to an interim authority notice	Where a notice is received from the Police
Determination of an application to review a premises licence/ club premises certificate	Where relevant representations have been made
Review following a Closure Order	Where relevant representations have been made
Temporary Event Notices	
Decision to give a counter notice to a temporary event notice	Where an objection is received from the Police

- (2) Authority to determine on behalf of the Licensing Committee in relation to Gambling Act 2005 matters.

Matter to be dealt with	Delegated to the Licensing Sub-Committee
Determination of an application for a premises licence	Where representations have been received and not withdrawn
Determination of an application for the variation of a premises licence	Where representations have been received and not withdrawn
Determination of an application for the transfer of a premises licence	Where representations have been received and not withdrawn
Application for a provisional statement	Where representations have been received and not withdrawn
Determination of an application club gaming/club machine permits	Where objections are made and not withdrawn
Cancellation of club gaming/ club machine permits	In all cases
Decision to give a counter notice to a temporary use notice	In all cases