

West Surrey Shadow Authority		
Report title: Proposed Licensing Arrangements for Vesting Day		
Report to: Constitution Working Group		
Date: 29 October 2026		
Executive Portfolio Holder: Cllr. Victoria Kiehl		
Contact Email: Victoria.Kiehl@westsurrey.gov.uk		
Report of Susan Sale, Monitoring Officer (interim), susan.sale@westsurrey.gov.uk		
Report author(s): Deborah Davies, Deputy Monitoring Officer (interim) Deborah.davies@westsurrey.gov.uk		
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Ward councillors informed: No		
Exempt from publication: No		
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Report cleared for publication by:		
People Workstream	N/A	N/A
Equalities Impact Assessment complete	N/A	N/A
Senior Responsible Officer (or their delegate)	N/A	N/A
S151 Officer	Susan Sale on behalf of Vicky Radford	21 October 2026
Monitoring Officer	Susan Sale	21 October 2026
Executive Portfolio Holder consultation	Cllr Victoria Kiehl	21 October 2026
Committee Chair consultation	Cllr Joanne Shaw Cllr Richard Wilson	21 October 2026
Head of Paid Service	Susan Sale on behalf of Andy Brown	21 October 2026

1. Executive Summary

- 1.1. This report presents and invites comment on the proposed governance arrangements for the discharge of the licensing and registration functions of West Surrey Council from Vesting Day on 1 April 2027.
- 1.2. From Vesting Day, West Surrey Council will assume responsibility for the licensing and registration functions currently exercised by the West Surrey predecessor councils. Appropriate constitutional arrangements are therefore required to ensure that these functions can be exercised by Full Council, the Licensing Committee, Licensing Sub-Committees and officers, as appropriate.
- 1.3. The current West Surrey Shadow Authority does not have a Licensing Committee as it does not have responsibility for the delivery of licensing services during the Shadow period. The current Constitution expressly provides that responsibility for service delivery remains with Surrey County Council and the predecessor councils until Vesting Day.
- 1.4. In developing the proposed arrangements, a review has been undertaken of the licensing functions and committee arrangements of Guildford Borough Council, Waverley Borough Council, Woking Borough Council, Spelthorne Borough Council, Runnymede Borough Council and Surrey Heath Borough Council. Consideration has also been given to relevant functions currently exercised by Surrey County Council which will transfer to West Surrey Council, together with the arrangements of other unitary authorities.
- 1.5. It is proposed that West Surrey Council establishes a Licensing Committee comprising 15 councillors, supported by two three-Member Licensing Sub-Committees to determine individual licensing matters where Member determination is required. Routine and operational licensing functions should be delegated to officers through the Scheme of Delegation to Officers.
- 1.6. A Members' Licensing Code is also proposed to provide guidance to Members on their role in licensing matters and the standards expected when participating in licensing decisions.
- 1.7. The Constitution Working Group is invited to consider the proposed arrangements and provide comments and feedback before they are considered by the Standards Committee.

2. Recommendations:

2.1. It is recommended that the Constitution Working Group:

- 2.1.1. **considers the proposed Terms of Reference for the Licensing Committee and Licensing Sub-Committee and Regulatory Sub-Committee attached at Appendix 1;**

- 2.1.2. **notes the proposed amendments to Part 3-A – Responsibility for Functions attached at Appendix 2;**
- 2.1.3. **considers the proposed Members’ Licensing Code attached at Appendix 3;**
- 2.1.4. **provides comments and feedback on the proposed licensing governance arrangements; and**
- 2.1.5. **recommends Appendices 1 to 3, subject to any suggested amendments, to the Standards Committee for their approval.**

3. Reason(s) for recommendation:

- 3.1. West Surrey Council will be responsible for the discharge of licensing and registration functions from Vesting Day on 1 April 2027. Appropriate constitutional arrangements need to be in place to ensure that responsibility for these functions and their delegation is clear and that individual licensing matters can be determined lawfully and effectively from Vesting Day.
- 3.2. Consideration by the Constitution Working Group will enable Member comments and feedback to inform the final arrangements before they progress through the formal approval process.

4. Next steps

- 4.1. Comments and feedback received from the Constitution Working Group will be considered and any required amendments made to the proposed documents prior to submission to the Standards Committee.
- 4.2. The proposed documents will be presented to the Standards Committee for approval and recommendation to the Shadow Authority, as part of the Constitution for West Surrey Council.
- 4.3. Subject to the recommendation of the Standards Committee, the proposed arrangements will be presented to the Shadow Authority for adoption as part of the West Surrey Council Constitution, which will take effect from Vesting Day on 1 April 2027.

5. Exemption from publication

- 5.1. None of this report is exempt from publication.

6. Background and Proposal

6.1. Context

- 6.1.1. Part 3 of the Constitution sets out responsibility for functions and the Terms of Reference of the Council's committees. The current Part 3 was prepared for the West Surrey Shadow Authority and reflects the functions and committee arrangements required during the Shadow Period.
- 6.1.2. The Shadow Authority does not have responsibility for the delivery of licensing services. From 1 April 2027, West Surrey Council will become responsible for the full range of licensing and registration functions of a unitary authority. Part 3 therefore needs to be updated to provide appropriate arrangements for the discharge of these functions.
- 6.1.3. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) identify a range of licensing and registration functions which are not to be the responsibility of an Authority's Executive. There are also specific requirements governing the discharge of functions under the Licensing Act 2003 and Gambling Act 2005.
- 6.1.4. The proposed arrangements have been developed to provide a clear allocation of responsibility between Full Council, the Licensing Committee, Licensing Sub-Committees and officers while retaining sufficient flexibility for the effective administration of licensing services.
- 6.2. **Review of predecessor and comparator arrangements**
 - 6.2.1. As part of the development of the proposed arrangements, the licensing functions and committee arrangements of the six West Surrey borough & district predecessor councils have been reviewed.
 - 6.2.2. The review identified a common group of licensing and registration functions currently exercised across the predecessor councils. These include functions under the Licensing Act 2003 and Gambling Act 2005, hackney carriage and private hire licensing, street trading, sex establishments, scrap metal dealers, animal licensing, charitable collections, caravan and site licensing and other licensing and registration functions.
 - 6.2.3. The predecessor councils do not all use the same committee structure. Some place a broad range of functions with a Licensing Committee, while others use separate licensing and regulatory arrangements or different sub-committees for different types of licensing determination. The proposed West Surrey arrangements have therefore been developed by considering the functions which need to be discharged rather than replicating the committee structure of any individual predecessor council.
 - 6.2.4. Consideration has also been given to the arrangements of other local authorities, including authorities operating unitary licensing services. This supports the use of a sufficiently large parent Licensing Committee from which smaller panels can be drawn to determine individual cases. Cheshire East, for example, currently operates a 15-Member Licensing Committee and an ad hoc three-Member Licensing Sub-Committee and Somerset Council operates a Licensing Committee with a separate Licensing Sub-Committee and Regulatory Sub-Committee. We have had regard to the amount of work

carried out by the predecessor councils and there were at least 28 licensing hearings last year, therefore we are recommending that there are two distinct sub-committees.

- 6.2.5. Relevant regulatory functions currently exercised by Surrey County Council are also being considered as part of the wider review of responsibility for functions. Those functions will be allocated to the appropriate committee or officer within the wider Part 3 arrangements rather than being included within the Licensing Committee solely because they are regulatory in nature. Those which currently go to a committee are in respect of commons registration matters.

6.3. Proposed Licensing Committee and Sub-Committees

- 6.3.1. Appendix 1 set out the proposed terms of reference for the Licensing Committee and Licensing Sub-committee and Regulatory Sub-committee. It is proposed that the Committee comprises 15 councillors, to provide a sufficient pool of trained Members from which Licensing Sub-Committees can be drawn. The Committee will reflect the political composition of the Council.
- 6.3.2. The Committee will be responsible for the Council's licensing and registration functions which are not reserved to Full Council, allocated to another committee or delegated to an officer. The proposed Terms of Reference identify the principal licensing regimes for which the Committee will be responsible while also providing for other licensing and registration functions allocated to it by law or under the Constitution.
- 6.3.3. The Committee will have responsibility for relevant licensing policies, conditions, standards, fees and charges where these matters are not reserved to Full Council or delegated to officers. Where legislation requires a matter to be determined by Full Council, the Committee will make recommendations to Full Council as appropriate.
- 6.3.4. It is proposed that individual licensing matters requiring Member determination are considered by a Sub-Committee comprising three Members drawn from the Licensing Committee, constituted as required from the wider pool of trained Licensing Committee Members. This provides flexibility to arrange hearings while retaining a consistent pool of Members with appropriate licensing knowledge and training.
- 6.3.5. The Licensing Sub-Committee will determine matters under the Licensing Act 2003 and Gambling Act 2005 which require Member determination and contested, referred or disciplinary matters arising under the Council's other licensing regimes where these have not been delegated to officers. The Regulatory Sub-Committee will consider taxi licensing and other licensing matters.
- 6.3.6. Two Sub-Committees are suggested as they have different statutory frameworks governing the functions. This would help to ensure each sub-committee adopts the correct decision making procedures. The nature of the

evidence, the legal tests and considerations appropriate to the decisions given the nature of the licensing are different.

- 6.3.7. Separate sub-committees would also allow for training to be tailored to the responsibilities of the sub-committees, whilst providing flexibility if members are appropriately trained and able to sit on both.
- 6.3.8. The application of political balance requirements to Licensing Sub-Committees will be dealt with in accordance with the relevant statutory provisions and any resolution of the Council. The political balance requirements do not apply to Licensing Sub-Committees to determine matters under S9 Licensing Act or the Gambling act 2005. Where sub-committees exercise other regulatory licensing functions e.g. taxi licensing, the political balance requirements will depend on the particular function being exercised. The LGA guidance confirms that Licensing Act sub-committees do not need to be politically balanced.
- 6.3.9. It is recommended that routine administrative and operational licensing functions will be delegated to officers through the Scheme of Delegation to Officers at Part 3-C1. The detailed officer delegations will be considered as part of the wider review of Part 3 – Scheme of Officer Delegation. However some areas cannot be delegated, such as i.e. contested licensing applications and reviews.
- 6.3.10. Recent case law (Walk Safe Security v LB Lewisham 2024) has provided that local authorities can conduct their hearings remotely. This has benefits for both members and participants, and the Licensing Committee will be asked to consider whether they wish to adopt this approach, on the formation of the Committee unless this is a matter which the Standards Committee wish to consider at this stage.

6.4. Member training

- 6.4.1. As licensing decisions can directly affect the rights and interests of applicants, licence holders, residents, businesses and other parties. Members determining individual licensing matters must therefore understand the relevant statutory framework, the Council's policies and the requirements of fair decision-making.
- 6.4.2. It is proposed that Members must undertake relevant mandatory licensing training before participating in the business of the Licensing Committee or determining an individual matter as a member of a Licensing Sub-Committee. Refresher or additional training may also be required to ensure that Members' knowledge remains up to date.

6.5. Members' Licensing Code

- 6.5.1. Appendix 3 sets out a proposed Members' Licensing Code to be included in the Constitution to provide guidance to Members on their role in the licensing process and the standards expected when participating in licensing decisions.
- 6.5.2. The proposed Code addresses the relationship between a Member's representative role and their role as a decision-maker, together with interests, bias and predetermination, lobbying, contact with parties, site visits, conduct at hearings, enforcement, appeals and training.
- 6.5.3. The Code will apply alongside the Members' Code of Conduct, the Terms of Reference of the Licensing Committee and Licensing Sub-Committee, relevant licensing policies and the procedures applying to individual hearings. It is not intended to duplicate detailed hearing procedures or statutory guidance.
- 6.5.4. The proposed Code has been informed by the approach taken by other local authorities who uses the Members' Licensing Code to support proper, consistent and open licensing decision-making and to provide guidance on approaches to Members, interests, bias, lobbying and related matters.
- 6.5.5. The proposed Code has also had regard to the guidance produced by the Local Government Association.

6.6. Amendments to Part 3-A – Responsibility for Functions

- 6.6.1. The establishment of the Licensing Committee requires consequential amendments to Part 3-A – Functions. The current Part 3-A provides a summary of the Council's non-Executive committees, their principal functions and the arrangements for delegation, with the detailed responsibilities contained within the relevant Terms of Reference.
- 6.6.2. It is proposed that the summary table is amended to include the Licensing Committee with responsibility for functions relating to licensing and registration, as set out in Appendix 2 of this report. The delegation column will identify that functions may be delegated to officers through Part 3-C1 and to a Licensing Sub-Committee in accordance with its Terms of Reference.
- 6.6.3. The more detailed Responsibility for Functions table will also be amended to identify the Licensing Committee as the responsible body for licensing and registration functions which are not reserved to Full Council or otherwise allocated under the Constitution.
- 6.6.4. This approach ensures that the Articles provide the main constitutional framework for the Council whilst the detailed responsibilities, procedures and rules remain within the relevant Parts of the Constitution.
- 6.6.5. Members should be aware that numbering will change as the new Constitution is developed.

Options for Sub-Committees

6.6.5 There are options as to how the Committee and sub-committees could operate across West Surrey, as follows:-

- (a) Centralised – One Licensing Committee and a centrally managed pool of hearing panels
- (b) Area based hearings – One Licensing Committee and panels by area (either legacy district or larger areas)
- (c) Hybrid – One Licensing Committee and flexibility using local members and venues if necessary

6.6.6 As set out above, there is also an option for remote hearings to be conducted.

7. Consultation

- 7.1. The proposed arrangements have been developed as part of the wider review of the West Surrey Constitution in preparation for Vesting Day.
- 7.2. The development of the Constitution is not considered something that should be subject to public consultation.
- 7.3. Consultation has been undertaken with the Monitoring Officer and relevant legal and licensing officers will be consulted as part of the development of the final provisions. However there is currently no licensing workstream.
- 7.4. The Executive have been consulted informally and are of the view that the sub-committees should operate on an area basis, where possible, albeit that this might be over a wider geography than predecessor district and borough boundaries.
- 7.5. The Constitution Working Group is now being asked to consider the proposed arrangements and provide comments and feedback to support the Standards Committee.

8. Key Risks

- 8.1. The principal risk is that appropriate arrangements for the discharge of licensing and registration functions are not in place for Vesting Day. This could result in uncertainty as to which body or officer has authority to exercise a licensing function and could affect the Council's ability to determine applications and other licensing matters from 1 April 2027.
- 8.2. There is also a risk of legal challenge where an individual licensing decision is not taken by the appropriate decision-maker or where the decision-making process is not fair and consistent with the relevant statutory requirements.

- 8.3. These risks can be mitigated by agreeing clear Terms of Reference, delegations and Member guidance and ensuring that Members undertaking licensing functions have received appropriate training before Vesting Day.
- 8.4. West Surrey Council will inherit the licensing functions of the predecessor councils, including those licence applications which are in the course of being processed before vesting day, and those which exist with their licence terms and conditions. Therefore there will be a significant volume of work for the Committee from vesting day, and members will need to be trained and in a position to deal with licensing matters, and there will need to be appropriate legal and other professional advice in place.

9. Options

- 9.1. To consider and provide comments on consider the proposed arrangements and provide comments and feedback so that the documents can be finalised and presented to the Standards Committee.
- 9.2. Not to consider the arrangements (not recommended as comments and feedback are required for the development of appropriate constitutional arrangements for the discharge of its licensing and registration functions from Vesting Day).

10. Issues for Consideration

10.1. Financial Implications

- 10.1.1. There are no direct financial implications arising from the proposed constitutional arrangements. The establishment and operation of the Licensing Committee and Licensing Sub-Committees will form part of the Council's wider democratic and licensing arrangements from Vesting Day.

10.2. Section 151 Officer Commentary

- 10.2.1. No additional comments.

10.3. Legal Implications

- 10.3.1. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) identify functions which are not to be the responsibility of an authority's Executive, including a range of licensing and registration functions.
- 10.3.2. The Licensing Act 2003 and Gambling Act 2005 contain specific provisions governing responsibility for licensing functions and the arrangements for their discharge. Other licensing regimes also contain statutory provisions which will need to be reflected in the allocation and delegation of individual functions.

- 10.3.3. West Surrey Council must have appropriate arrangements in place from Vesting Day for the lawful exercise and delegation of the licensing and registration functions transferring to the Council.
- 10.3.4. The proposed Terms of Reference will need to be read alongside Part 3-A – Functions and the Scheme of Delegation to Officers at Part 3-C1 to ensure that responsibility for licensing functions is clear and that the Constitution is internally consistent.

10.4. Monitoring Officer Commentary

- 10.4.1 Licensing is a function which is reserved to the Council and it is likely that there will be a substantial amount of work required by this Committee. Although the Committee can have 10-15 members, it is likely that the full amount of members will be needed to ensure that the Council is able to service any necessary sub-committees.
- 10.4.2 Both the Regulatory and Licensing Sub-Committee can sit on a geographical location basis for the purposes of hearings, but as sub-committees of the Licensing Committee their functions cannot be delegated to area based committees.

10.5. People/Human Resources Implications

- 10.5.1. There are no direct People or Human Resources implications arising from this report.

10.6. Equality and Diversity Implications

- 10.6.1. The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
 - (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 10.6.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 10.6.3. This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report

10.7. Climate Change and Sustainability Implications

- 10.7.1. There are no climate change and sustainability impacts arising directly from this report.

10.8. Stakeholders Implications

- 10.8.1 The proposed arrangements concern the Council's governance of licensing and registration functions. The way in which these functions are exercised affects applicants, licence holders, residents, businesses, responsible authorities and other stakeholders across West Surrey.

11. Overview & Scrutiny Comments

- 11.1 Not applicable

12. List of Appendices

- 12.1. Appendix 1 – Terms of Reference of the Licensing Committee and Licensing Sub-Committee.
- 12.2. Appendix 2 – Amendments to Part 3-A – Responsibility for Functions.
- 12.3. Appendix 3 – Members' Licensing Code.

13. List of Background papers

- 13.1. The West Surrey Shadow Authority Constitution
- 13.2. Constitutions of the West Surrey predecessor Councils.