



LEEDS
CITY COUNCIL

LICENSING AND REGULATORY PANEL

**Meeting to be held in Civic Hall, Leeds on
Tuesday, 1st July, 2008
at 10.00 am**

MEMBERSHIP

Councillors

S Armitage

J Dowson

J Dunn

V Morgan

B Selby

R D Feldman
(Chair)

G Wilkinson

C Townsley

D Wilson

T Grayshon

**Agenda compiled by:
Constitution & Corporate Governance
Civic Hall**

**Helen Gray
247 4355**

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATIONS OF INTEREST</p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To confirm the minutes of the meeting held 6th May 2008 as a correct record</p> <p>(Copy attached)</p>	1 - 6
7			<p>JOINT LICENSING COMMITTEE AND LICENSING & REGULATORY PANEL MEETING - MINUTES</p> <p>To note the minutes of the Joint Meeting of the Licensing Committee and the Licensing & Regulatory Panel held on 3rd June 2008</p> <p>(Copy attached)</p>	7 - 12
8	All Wards		<p>TAXI RANK PROVISION - UPDATE REPORT</p> <p>To receive the report of the Chief Highways Officer informing the Panel of the current position with regards to provision of taxi ranks within Leeds</p> <p>(Report attached)</p>	13 - 24

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9	All Wards		<p>LICENSING AND REGULATORY PANEL - TERMS OF REFERENCE</p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) setting out the Terms of Reference and Officer Delegation Scheme for the Licensing and Regulatory Panel as approved by Annual Council on 22nd May 2008. The report also includes the Code of Practice for Determining Licensing Matters</p> <p>(Report attached)</p>	25 - 46
10	All Wards		<p>DRAFT PROTOCOL FOR UNDERTAKING SITE VISITS</p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) seeking Members approval of the draft Protocol for Undertaking Licensing Site Visits</p> <p>(Report attached)</p>	47 - 52
11			<p>DATE AND TIME OF THE NEXT MEETING</p> <p>To note the date and time of the next meeting as Tuesday 2nd September 2009 at 10.00 am</p>	

Agenda Item 6

LICENSING AND REGULATORY PANEL

TUESDAY, 6TH MAY, 2008

PRESENT: Councillor R D Feldman in the Chair

Councillors S Armitage, D Hollingsworth,
V Morgan, G Wilkinson and D Wilson

IN ATTENDANCE

Mr P Landau – LAPTA
Mr A Rashid – City Cabs
Mr K Gill – Leeds Taxi Owners Association
Mr B Heptinstall – Leeds Taxi Owners Association
Mr M Darwin – Head of Highways Development Services, LCC
Planning Services,
Mr J Wigmore – Standards Board for England (observing)

36 Chairs Opening Remarks

Noting this was the last meeting of the Licensing and Regulatory Panel for the 2007/08 Municipal Year the Chair thanked all Members and officers for their assistance with the work of the Panel over the last 12 months. Additionally he extended congratulations to all Members of the Panel who had been successfully re-elected at the recent local council elections.

37 Declarations of Interest

There were no declarations of interest

38 Apologies for Absence

Apologies for absence were received from Councillors A Blackburn, Dowson, Dunn, Grayshon and Selby

Additional apologies were received from
Helen Franklin – LCC Acting Head of Highways Services
Gary Bartlett – LCC Chief Highways Officer
Howard Claxton – LCC Traffic Engineering Manager, Highways Services
Keith Darch – LCC Principal Engineer, Highways Services
Clare McCall - LCC Community Safety
Paul Stephens - LCC Chief Economic Services Officer
Mr Tim McSharry – Access Committee for Leeds
Mr David Littlewood - Access Committee for Leeds
Mr Paul Roberts – WYPTE
Mr Des Broster – Section Head, LCC Taxi & Private Hire Licensing
Mr Martyn Johnson – LCC Taxi & Private Hire Licensing

39 Minutes

RESOLVED – That the minutes of the meetings held 8th January and 13th February 2008 respectively be agreed as a correct record

Draft minutes to be approved at the meeting
to be held on Date Not Specified

40 **Hackney Carriage Issues - Update report on Progress**

The Panel considered the report of the Assistant Chief Executive (Corporate Governance) which drew together updates from various parties on the progress so far with each individual issue raised by the Special Meeting in February 2008 called specifically to deal with Hackney Carriage issues in Leeds.

Mr Darwin briefly explained the role of highways services in the planning process for new developments in Leeds which included seeking kerb side provision for various forms of transport.

The Panel noted with regret the lack of attendance by key LCC officers at the meeting to present progress reports from within respective departments and then went on to discuss the matters raised in the report in further detail Ranks at new developments - Mr Heptinstall commented that the planning process did not have regard to taxi rank provision. He recollected only one rank – at the White Rose Centre – being implemented as part of a new development in the last 30 years. Mr Darwin responded that highways provided wherever possible, pick-up/drop-off points outside new hotels in accordance with LCC policy.

- The Panel, noting that pick-up/drop-off points could be utilised by private vehicles and both the HC and PH trade, supported a suggestion that LCC policy should be revised in order to ensure that new ranks be provided outside hotels instead of or in addition to pick-up/drop-off points
- The Panel requested Mr Darwin raise this matter with Mr S Speak, LCC Chief Strategy & Policy Officer and agreed a letter be sent directly to Mr Speak from the Panel

Shelters – information received from Mr Roberts of WYPTE was reported to the meeting regarding positive discussions held between METRO, T&PH Licensing and Highways on the installation of bus stop style shelters (including design; colour and signage) alongside further discussions on possible location of new ranks at existing or new bus stops, subject to appropriate funding. It was noted that Mr Roberts had reiterated METRO's commitment to improve facilities for taxi users with the proviso that this should not be to the detriment to bus operators and passengers

Update from Highways Services – Mr Heptinstall reported receipt of a report and schedule from Mr K Darch, principal engineer (traffic management) Highways Services. The report covered provision of ranks in the city centre; the design/legibility of taxi signs and contained a schedule of all the rank locations suggested previously by the HC Trade. The trade had discussed these with highways officers and the schedule set out the Departments' response on likely future action. The report had been sent to, but not received by the Chair, and copied to Mr Heptinstall for information.

The Legal Adviser briefly outlined the contents of the report. Mr Heptinstall on behalf of the trade welcomed the progress made so far. The Panel, whilst acknowledging that positive steps to address the issue of taxi rank location

had been taken, were concerned that this information had not been widely publicised and could have been presented as a formal late item to the whole Panel

- Members agreed to the suggestion that the report and schedule should be copied to all Members of the Panel

Leeds/Bradford Airport – the clerk reported additional comments received from Mr Tim McSharry of the Access Committee for Leeds. The Access Committee had written to the Chief Executive of Leeds/Bradford airport regarding customer service issues and a response was now awaited. Furthermore, Mr Broster of the T&PH Licensing Section was assisting the Committee in arranging a meeting date with an Airport representative

Enforcement Activity – Noting the local council elections had now taken place, it was agreed that the proposed letter highlighting the necessity of enforcement activity in the city centre having regard to public safety be sent to all Members of Council as soon as possible

RESOLVED –

- (a) To note the contents of the report and the additional information provided at the meeting
- (b) That officers report the Panels' desire to seek a revision to current LCC planning policy to the Chief Strategy & Policy Officer in order that provision of new taxi ranks adjacent to new hotel developments (instead of or in addition to passenger pick-up/drop-off points) be considered during the planning application process
- (c) That the Chair raise this matter directly with the Chief Strategy & Policy Officer in a letter to be sent on behalf of the Panel
- (d) That the report of the Acting Head of Highways Services be copied to all Members of the Panel
- (e) That the proposed letter regarding enforcement activity in the city centre be sent as soon as possible to all Council Members

41 Quarterly Reports of the Taxi and Private Hire Licensing Section (October to December 2007 and January to March 2008)

The Panel considered the report of the Assistant Chief Executive (Corporate Governance) setting out the licensing transactions undertaken by the Taxi & Private Hire Licensing Section under officers delegated powers during the last quarter of 2007 and the first quarter of 2008. Two separate reports were presented to the Panel, however Members considered both items together and went onto discuss the following matters:

Private Hire Vehicle and Driver Suspensions – Members noted the numbers suspended were most likely due to the Policies previously agreed by the Panel which concentrated on the safety and suitability of the older element of the PH fleet, and those drivers caught illegally plying for hire

- Members welcomed the information but requested that future reports include a breakdown of the reasons for the suspensions plus detail of any prosecutions undertaken

Enforcement – The Panel and trade representatives discussed the importance of enforcement work in identifying PH drivers illegally plying for hire. It was

noted that the T&PH Section had recently appointed more enforcement officers to provide a team of 12, however, there were 3500 PH vehicles in Leeds, and only so much could be done to address the problem of PH trade acting outside its' remit – such as illegally ranking up at taxi ranks or plying for hire

Use of CCTV evidence – Members were advised that CCTV footage from static cameras could not be used in evidence against PH drivers illegally plying for hire as the images could not provide evidence beyond reasonable doubt in a court of law. Footage showing a potential customer requesting a fare which the PH driver then agreed to provide could be used – and enforcement officers did undertake operations with WYP using buttonhole cameras to capture film evidence.

Police support – Discussion on the support necessary from WYP to undertake enforcement action followed. Representatives reported on the increasing tension in the city centre at night between the HC and PH trades which they believed was caused by PH drivers illegally ranking and plying for hire. The representatives reported the HC Trade had offered to fund one additional police officer specifically to deal with the traffic problems, but this offer had not been taken up by WYP. Furthermore the Trade now sought the Panels' support in seeking WYP assistance to deal with the increasing problems in the city centre

- The Chair advised representatives to write directly to the WYP Inspector with responsibility for the city centre, and to provide evidence of illegality in order for the police to take immediate action.
- Members agreed that, whilst they supported the trade, they could not provide WYP with the necessary evidence, however did agree that a letter be sent to the relevant Inspector on behalf of the Panel raising their own concerns about the current problems in the city centre.

Alternative direct action – Moving on, the Panel considered whether more immediate action could be taken when a driver was found to be acting illegally, such as the immediate suspension of a vehicle. Members were advised that the law provided for a vehicle to be suspended from use to allow time for it to be repaired to suitable standard, it did not provide for suspension to be employed as punishment for wrong-doing

Enforcement of parking fines – Mr Gill reported that during recent meetings held between the HC Trade and Mr M Jefford, LCC Parking Manager (Enforcement), Mr Jefford had favourably viewed the possibility of employing additional parking attendants during the early hours of the morning to enforce parking fines, which would go some way to address the problems caused by illegally parked cars, including PH vehicles

- The Panel were keen to receive more information on this initiative and requested that Mr Jefford be invited to attend a future meeting to provide a detailed update
- Noting that traffic problems impacted on dispersal of people after closing hours and the desire of WYP and the licensing authority to tackle this under the auspices of the Licensing Act 2003, it was

suggested that a joint meeting between the Licensing and Regulatory Panel and the Licensing Committee be arranged so that members of both decision making bodies could be updated on the initiative and other shared issues.

- Members reiterated their considerable concern at the lack of attendance of relevant officers and visible progress of the issues raised initially in 2004. The Panel considered future direct action to take, including approaching the Chief Executive, should this perceived slow progress continue.

RESOLVED -

- (a) That the contents of both reports be noted
- (b) To request that any future quarterly reports include a breakdown of the reasons for the suspension of vehicles or drivers and any subsequent prosecutions
- (c) That officers be requested to write, on behalf of the Panel, to the WYP Inspector with responsibility for the City Centre expressing the Panel's continuing concern over the traffic problems caused by PH drivers in the city centre and the impact of this on the night time economy and safety issues for passengers
- (d) That officers be requested to write Mr Jefford inviting him to attend the next appropriate Panel meeting in order to provide an update to Members on the initiative proposed to employ additional parking attendants through the early hours of the morning
- (e) That a joint meeting of the Licensing and Regulatory Panel and the Licensing Committee be arranged in order that both can consider shared issues relating to the night time economy, such as dispersal, traffic and the parking attendant initiative. To note that this meeting is likely to be held on Tuesday 3rd June 2008 at the conclusion of the first Licensing Committee for the 2008/09 Municipal Year

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Agenda Item 7

JOINT LICENSING COMMITTEE & LICENSING AND REGULATORY PANEL

TUESDAY, 3RD JUNE, 2008

PRESENT: Councillor D Wilson in the Chair

Councillors S Armitage, A Castle,
M Dobson, J Dunn, R D Feldman,
T Grayshon, D Hollingsworth, G Hyde,
V Morgan, L Rhodes-Clayton, B Selby and
G Wilkinson

Apologies Councillor J Dowson and C Townsley

IN ATTENDANCE

D Littlewood – Access Committee for Leeds
T McSharry – Access committee for Leeds
Sgt Maxfield – West Yorkshire Police
PC Hemingway – West Yorkshire Police
B Heptinstall – Hackney Carriage Trade Representative
K Gill – Hackney Carriage Trade Representative
G Nabi – Hackney Carriage Trade Representative
A Rashid – Hackney Carriage Trade Representative
M DePlacido – LCC Taxi & Private Hire Licensing
J Mulcahy – LCC Head of Licensing & Registration
K Lawrance – LCC Community Safety
M Jefford – LCC Parking Manager (Enforcement)
M Darwin – LCC Head of Highways Development (Planning Services)
H Claxton – LCC Principal Traffic Engineer (City Services)
N Raper – LCC Entertainment Licensing

1 Declarations of Interest

There were no declarations of interest

2 Apologies for Absence

Apologies for absence were received from Councillors Castle, Dobson, Dowson, Hyde, Selby and Townsley

Apologies were received from the following officers
Mr P Roberts – METRO
Mr D Broster – Section Taxi & Private Hire Licensing
Mr G Bartlett – LCC Chief Highways Officer

3 Remit of the Meeting

Draft minutes to be approved at the meeting
to be held on Date Not Specified

The Assistant Chief Executive (Corporate Governance) submitted a report briefly setting out the remit of this special joint meeting of the Licensing and Regulatory Panel and the Licensing Committee called specifically to discuss issues relating to the Hackney Carriage trade in Leeds and impact on the night-time economy.

The request for the meeting had arisen from a meeting of the Licensing and Regulatory Panel in May 2008 when it was felt it would be beneficial to both decision making bodies if discussions could be continued with the Committee and interested parties in attendance

Appended to the report were copies of the minutes of the Licensing and Regulatory Panel held 13th February and 6th May 2008 to provide the basis of discussion

RESOLVED – To note the remit for the Joint Meeting as set out in paragraph 3.1 of the submitted report

4 Update on Highways Issues

The Acting Head of Highway Services submitted a report first discussed at the Licensing and Regulatory Panel meeting on 6th May 2008 covering the progress made so far by the Department on the provision of taxi ranks in the city centre and the design/legibility of taxi signs. A schedule of all rank locations previously suggested by the Hackney Carriage (HC) trade and including the Departments response on likely future action was also included within the report.

General Comments

Comments of Highways Services

Mr Howard Claxton informed the meeting that Highways Services were scheduled to meet with representatives of the HC trade the following day. That meeting would review the schedule of ranks proposed by the trade and prioritise favoured locations that both parties could agree on. Following that, the Department would progress the Traffic Regulation Orders necessary for the new and amended ranks. This would include placing advertisements and addressing any subsequent disputes which might arise from the current use of the identified sites as loading bays/service areas. Any such disputes might delay the implementation of the ranks however a budget for the works had been identified within the Departments' 2008/09 schedule of works.

Comments of the Members

The Chair on behalf of the Members expressed his dissatisfaction with progress so far, particularly as the issue of new or amended ranks was first discussed by the Licensing and Regulatory Panel 4 years ago. Moving on, it was suggested that as the process had been ongoing for some time, it would be prudent where locations were known to be problematic to provide an alternative for discussion with the trade

Noting highways' written responses to the proposed ranks; Members commented that, as some of the locations were proposed for night time use

only, the predicted disputes over service delivery areas/loading bays would not be applicable

Members also raised serious public safety concerns over certain areas of the city centre, such as The Calls/Lower Briggate which were not currently well served by taxi ranks, where members of the public spilled out from bars/clubs onto the streets and highways. Members recalled previous discussions on the fact that certain taxi ranks were empty yet others were over ranked

Comments of HC Trade Reps

Mr Heptinstall reported traffic problems on Boar Lane/New Station Street had escalated and HC drivers were being issued with Fixed Penalty Notices or points on their Driving Licence for traffic/parking offences. He acknowledged the trade in general needed to address the problem of some ranks being underused by drivers, however reiterated the importance of ensuring city centre ranks being in appropriate and popular locations for customers.

Comments of West Yorkshire Police

Sgt Maxfield stated the main responsibility for WYP in the city centre at night was to prevent violent crime, but he added that an operation was being planned to address Private Hire drivers illegally plying for hire. He agreed that HC drivers were being issued with FPN due to the driving and traffic offences they committed.

Comments of Access Committee for Leeds

Mr McSharry stated that as a public body, the Authority had a duty to undertake an impact assessment on the proposed rank changes with particular regard to needs of disability groups and up until now, officers had not requested the comments of the Access Committee.

Mr McSharry accepted the offer made by Mr Claxton to meet to discuss the schedule of ranks once officers and the HC trade had met on 4 June to prioritise the existing draft schedule

Mr McSharry offered to provide a separate briefing to Members on the relevant provisions of the Disability Discrimination Act which required Public Bodies to undertake equality assessments. However neither the Panel nor the Committee had powers to approve taxi rank locations and signage and therefore responsibility for any impact assessment lay with the relevant Highways Officers.

Notwithstanding that fact Members expressed strong concern that officers had not abided by the Panel resolution of 13th February 2008 to include the Access Committee in any rank discussions.

Comments on the schedule

Casa Mia/Great George Street - WYP reported no concerns with this proposed rank. Mr Lawrance stated this lay-by was used at night by staff of Casa Mia/Red Chilli as a car park and was only used for service deliveries during the day. Mr Darwin confirmed the planning permission for the entire

Electric Press building required the use of the lay-by as the designated loading area for daytime only. Mr Claxton stated further investigation would be required to look at the night time use of the lay-by including consultation with all users of the Electric Press Building. Users who objected to the re-designation of the bay as a night time rank would be required to provide evidence of its continuous use as a loading bay

Members expressed concern that the schedule had been drafted without reference to WYP. Additionally it was felt that the city centre CCTV system would provide relevant officers with the evidence they required to prove the use of any lay-bys/service areas

Members, noting that the schedule would be re-prioritised the following day and that they may have to review the list again, considered whether to continue or adjourn the meeting to allow time for WYP and the Access Committee to have input into the discussions. Members agreed at this point to continue in order that any comments made publicly could be taken on board by the relevant officers

Albion Street – Sgt Maxfield stated the police would object to the use of the bus stop outside Tiger Tiger as a rank and agreed with METRO that late buses did utilise that stop. Problems already occurred with buses unable to access the lay-by and kerbside. WYP reported considerable public safety concerns here with cars double parking and performing U-turn manoeuvres across traffic. In order to alleviate this problem they suggested restricting vehicular access to Albion Street or separating the carriage ways in order to prevent U-turns. The Chair instructed this be noted

Call Lane – Sgt Maxfield described the current access and traffic problems in this area caused by the existing rank being overburdened. He strongly suggested this remain as a rank and be properly enforced, additionally the authority could consider restricting night time vehicular access. The Chair instructed this be noted

Corn Exchange – Sgt Maxfield stated this cobbled street was effectively closed at night due to the nature of the businesses in the area

Enforcement Matters -

The trade sought clarification on why those 3 areas caused problems to WYP. Sgt Maxfield responded this was due to over-ranking and ranks spilling over onto junctions. Furthermore, in response to the comment that PH drivers inundated those areas and prevented proper use of the ranks by HC drivers, Sgt Maxfield stated that prosecutions of double yellow line offences fell within the remit of the local authority. Members commented that those police officers who were operational on an evening in the city centre but were reportedly not taking action against PH drivers ranking up, should be encouraged to tackle the issue or enforce parking/traffic matters. Sgt Maxfield reiterated that not all traffic matters were WYP responsibility. Furthermore, 2 entirely different policing teams operated at night – the Neighbourhood Policing Team which may move on problematic cars and the Operational Support Unit – which

would not as their remit was to respond to specific instances of crime. Additionally there was evidence that those cars which were moved on simply returned later.

Comments of LCC Parking Services Manager

Mr M Jefford addressed the meeting and confirmed that problems created by vehicles double parking or obstructing the highway fell within the remit of the police, however parking restrictions would be enforced by the local authority. Mr Jefford went on to say he was aware of the increasing concerns regarding this type of offence in the city centre during the night. To this end, the section had extended the hours of the traffic warden patrols from 20:00 hours until 23:00 hours, plus one further night until 01:00 hours. However, due to the current number of staff available this was on a voluntary basis. Proposals had been drawn up to employ additional staff which would provide teams to cover nights until 01:00 hours. He envisaged the full team would be operational within 4 months.

Members welcomed and supported the proposal urging close liaison between WYP and Parking Services. Members noted the request to provide details of those areas of the city centre which required late patrols to Mr Jefford

Members again considered whether to continue, and expressed their dissatisfaction that the officer meeting scheduled for 4 June could not have been held earlier and that several matters previously raised remained unresolved by officers. The Chair, noting the continuing concerns expressed by the Members

RESOLVED – To close the meeting

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Report from: The Chief Highways Officer

To: Licensing and Regulatory Panel

Date: 1st July 2008

Subject: Taxi Rank Provision - Update Report

Electoral Wards Affected:

City & Hunslet

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In
(Details contained in the report)

EXECUTIVE SUMMARY

Recent developments have identified that further actions are required to ease the issue of the number of taxis seeking rank space within the city centre. A further request for new and modifications to existing ranks has been received from the Taxi Trade. Work is ongoing to ease the demand and congestion currently being experienced within the city. This report seeks to keep members of the Panel informed.

1.0 Purpose Of This Report

1.1 To update members on the current position with regard to taxi ranks within the city centre.

2.0 Background Information

2.0 Following a previous request from this Panel and members of the Taxi Trade Associations a review of the taxi rank provision within the city centre was undertaken. The review identified several actions which have now all been actioned and the final pieces of work have recently been completed.

2.1 Subsequently a new list of suggested locations for new ranks and modifications to existing ones has been submitted by the Taxi Trade representatives.

3.0 Main Issues

- 3.1** The last two pieces of the first review have recently been completed. They are the new 24 hour, 12 space rank on Greek Street and the changes requested by the Trade for the New Brigggate location. The Greek Street rank in particular has been well received especially during the busy night time periods.
- 3.2** Whilst the compact nature of the city centre and the numerous demands upon available kerbspace limits the opportunities to increase the number of taxi ranks, Highways Officers are investigating the various suggestions recently submitted by the Trade. The attached schedule identifies each of the Trade's suggestions, initial highway comments and further details agreed with the representative from the Trade at a meeting held on the 4th June. Highways officers are now working on actions to pursue the agreed measures as quickly as possible.
- 3.3** In recognition that not all of the suggestions can be pursued at the same time, the Trade has given an indication as to which ones they wish to see pursued first. This is also shown on the attached schedule.
- 3.4** Since January of this year there has been a big increase in the number of taxis attending the ranks at the Rail Station. This has led to a congestion issue along Boar Lane at peak times (inter city train peak periods rather than traffic flow peaks). This has resulted in many taxis queuing to turn into Boar Lane and affecting the movement of other traffic, especially buses along Boar Lane. In an attempt to ease this congestion a yellow box road marking has been provided at the Boar Lane / New Station Street junction. A scheme has also been developed to remove the central island at the Mill Hill junction in order that vehicles queuing to enter New Station Street do not block the through movements along Boar Lane.
- 3.5** A report has been submitted for consideration by the Joint Highways Technical Board for approval for the scheme and funding. It is intended to carry out the work as soon as approval is granted and the work can be programmed by a contractor.
- 3.6** At the recent meeting with representative from the Trade the opportunity was also taken to show them the proposed new taxi rank sign plates which will be provided in order to make the ranks more visible to the public. The signs will be much larger than the existing, all have a clear legend of 'TAXIS' on them and will indicate whether the ranks are 24 hour or only part time. The signs will be made from high reflective material and be double sided. The new signs were well received by the Trade and an example of a typical sign plate will be available at the panel meeting for Members to view.
- 3.7** The signs in question are subject to rules stated by the Government and in order to ensure the ranks can be enforced must accord with those rules. The new signs will be provided at all existing and future ranks although because of the number involved this will be a staged operation.
- 3.8** Correspondence is still taking place with officers from the Government Office with regard to the legality of using bus stops as taxi ranks after the bus services have stopped operating. The objective of acquiring a blanket approval that will allow ranks to be introduced at any bus stop within the Leeds District (subject of course to the necessary Orders being processed) is proving difficult to obtain. The next approach is to revert to a site by site application, which although not the preferred option, is looking to be the only way forward.

- 3.9** The locations agreed with the Police in order to have the most benefit for dispersal of people late at night will be pursued in the first instance.
- 3.10** Highways Officers are also assisting in the concept of providing taxi ranks within the city centre by liaising with those officers promoting the initiative and providing advice where appropriate.

4 Implications For Council Policy And Governance

- 4.1** This report does not affect Council Policy and Governance.

5 Legal And Resource Implications

- 5.1** The provision of new and amendments to existing taxi ranks is subject to traffic regulation Orders, which must follow a set legal procedure. The design work associated with the new ranks has begun, however, because of the number involved there will be a phased programme of work. The Trade has indicated which they wish to see progressed as a priority. Should any adverse comments be received to any of the advertise taxi rank draft Orders then they will be reported back to the Joint Highways Technical Board for consideration.

6 Conclusions

- 6.1** Following discussions with representative of the Trade a schedule of additional ranks and modifications to existing ones has been developed. Work has already started on progressing those regarded as having a higher priority.
- 6.2** The new taxi ranks will help reduce the high demand at particular locations and help cater for the recent additional taxi demands within the city centre.

7 Recommendations

- 7.1** Members are requested to note the contents of this report.

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Phase II - Suggested taxi ranks as submitted by the Hackney Carriage Trade

	Location	Description	Highways initial comment	Type of Rank.	Additional Comments following 4 th June 2008 Meeting	Priority
1	Chapel Allerton (24 hour)	In lay-by outside Yorkshire Bank, Stainbeck Lane – facing west, Or outside Somerfields Store facing west Or outside the Mustard Pot facing east.	Subject to further consultations part of the parking bay outside the Yorkshire Bank could be used for an evening/ night time rank. Perhaps operating between 20:00 and 02:00 hours. There is demand for parking during the working day, but the introduction of a limited parking restriction during this period could be considered.	Night time	A fourth alternative was suggested by the Trade as on Harrogate Road between Regent Street and Town Street. Actual location subject to more detailed consideration and consultation.	High
2	Street Lane (Night time)	Outside the Flying Pizza facing east.	Could utilise a length of Street Lane that is currently not subject to any restrictions and possibly by combining a rank with limited parking restrictions during the working day, a night time rank can be accommodated.	Night time	Agreed.	High
3	Headingley (Night time)	Outside the Box PH - facing south	The section is protected by waiting restrictions during the working day. However, it is considered that a night time rank could be supported at this location.	Night time	Agreed	High
4	Headingley (24 hour)	Extend the existing rank outside the Lounge Cinema	Existing rank caters for 2 taxis. Rank could be extended to the zig-zag markings associated with the adjacent pedestrian crossing. However, in view of on-street parking within the area being at a premium objections to extending the rank are more than likely.	24 hour	Agreed to pursue an extension of the existing rank. Extension would take rank up to pedestrian crossing zig-zags. NB. 'Whizz Go' Car Club bays nearby.	High

	Location	Description	Highways initial comment	Type of Rank.	Additional Comments following 4 th June 2008 Meeting	Priority
5	Kirkstall Road (Night time)	Warner Village the View	This location has not been clearly identified and it is assumed that the request relates to a location within the complex itself. The area within the complex is private and any provision within it would have to be negotiated between the Trade and the complex management.	Night time	Taxi Trade to pursue possible agreement with private owners. In meantime request made to seek a location on the Kirkstall Road itself.	Medium
6	Burley Road (24 hours)	Vicinity of Opal Court 1 & 2	There are general parking issues within this area following the completion of the student accommodation. A project to resolve the parking issues has been identified and the provision of a taxi rank could be part of that project. Unfortunately the project is not scheduled until 2009/10 at the earliest.	24 hour	Target is to serve the student accommodation. Agreed to look at a possible rank independent of the parking control issue.	Medium
7	Eiland Road (match day only)	Outside the East Stand.	Preliminary discussions with the Police have identified that they will not support a rank in this location because of their crowd control operations. They close Lowfields Road and Eiland Road at the busiest periods and utilise sections of Lowfields Road itself for their own operational vehicles. There is the possibility of using Stadium Way, however, taxis would not be allowed to move in or out until the crowd has dispersed. This would negate the provision of a rank. Thought is being given to approaching Metro to request them to allow taxis to utilise the bus point at the end of Lowfields Road. This area has its own access off the roundabout at Junction 2 of the M621. A direct approach from the Trade or even the Licensing Panel may help persuade Metro to permit this use.	Event days only	Trade accept Police's view. Suggested Trade approaches Metro direct to seek permission to use bus point. Highways Officers will also approach Metro. Trade also asked for consideration to be given to allowing Taxis to use the Eiland Road Bus Gate. This was supported by the Access Group Representatives.	High

	Location	Description	Highways initial comment	Type of Rank.	Additional Comments following 4 th June 2008 Meeting	Priority
8	City Centre (24 hours)	Gt George Street Lay-by between Casa Mia and Chilli – facing east	This lay-by is required for loading purposes to the adjacent buildings. It is well used for parking in the evenings. However, a night time rank can be supported albeit at the expense of displacing the evening/night time parking.	Night time	Day time rank not possible due to loading requirements, but evening/night time between 7:00 pm and 7:00 am to be pursued.	High
9	City Centre (night time)	Cookridge Street opposite the planning office	This request has been added to another project in the area which is ongoing. A report outlining the scheme has recently been approved and the measures will be advertised in the near future. The Trade are aware of the proposal and have expressed their support.	Night time	This site has been included on another on-going project and the Orders are to be advertised soon.	On-going
10	City Centre (night time)	Albion Street – bus stop outside Tiger Bar	This location has been considered many times before and Metro and bus operators continue to object to the idea. Bus services continue through the night although at a reduced service. Metro regularly receive complaints that buses are not able to kerb correctly in line with the DDA requirements and are constantly seeking enforcement action. The Trade have previously been offered the use of the loading lay-by around the corner on Great George Street, but taxis would be ranked on the offside of the road and passengers would enter the taxis from the drivers side albeit from within a lay-by. There is also an existing rank on the other side of the junction outside the Oceana Bar.	Night time	Agreed the lay-by on the Loop Road would provide an alternative, although the Access Representatives indicated they could only support it as an interim measure because the rank would be on the off-side of a one-way street. Highways Officers suggested it may be possible to provide a late night rank on the nearside of the Loop Road as an alternative. Possible times to be considered are 9:00 pm to 4:00 am.	Medium

	Location	Description	Highways initial comment	Type of Rank.	Additional Comments following 4 th June 2008 Meeting	Priority
11	City Centre (night time)	Headrow – opposite the Guildford Life Bar	<p>A new rank has recently been provided on the westbound carriageway. This location can be accommodated in principle; however there are one or two issues that would need to be resolved.</p> <p>For taxis to safely and comfortably use a rank here the existing kerbing would require lowering.</p> <p>Future aspirations for the Headrow, in terms of improving the Public Real aspect, are still being debated. Any taxi rank provision would be subject to the outcomes of that debate.</p> <p>There may also be scope to provide a 24 hour rank at his location provided the adjacent bus stops are not hindered by any over ranking.</p> <p>This is not an easy project and will most likely take some time to achieve agreement from all interested parties, but worth pursuing if the Trade agrees to the concept.</p>	24 hour	<p>Taxi Trade welcomed possible 24 hour rank, but appreciate it is a sensitive area and will be a much longer project to pursue.</p> <p>Highway officers will begin initial consultations to identify acceptability by other parties interested in the development of The Headrow and to identify if there are any statutory undertakers apparatus under the paved area that will prevent a rank being installed.</p> <p>Access representatives pointed out that should a rank be possible here it would be well received and could be regarded as best practice in terms of inclusion and accessibility.</p>	Medium
12	City Centre (night time)	Headrow – outside Town Hall facing east	<p>This location could utilise the existing bus stop if agreement can be reached with Metro etc.</p> <p>If above location progress is the need still there?</p>	Night time	<p>The Taxi Trade representatives agreed to this location being held in reserve pending the outcome of The Headrow site above.</p>	Low

	Location	Description	Highways initial comment	Type of Rank.	Additional Comments following 4 th June 2008 Meeting	Priority
13	City Centre (night Time)	Call Lane – extra spaces	Existing 24 hour rank for 6 taxis on Call Lane. Possible use of bus stop near Cloth Hall Street at night time, but Metro suggest better if stop on Duncan Street used instead. Further debate required with Trade to confirm their requirements.	Night time	Trade would still like to pursue the Call Lane location rather than Duncan Street. There are two aspects here a) extending the existing rank and b) night time use of the bus stop.	High
14	City Centre (night time)	Corn Exchange – outside Town House	This can be accommodated within the loading bay(s) if they are made 7:00 am till 7:00 pm with evening and night time taxi rank operating outside those times. NB. Police have requested that consideration be given to closing Cloth Hall Street to assist in reducing antisocial behaviour in area. This would mean all access to Crown Street would be via the City Centre Loop – The Calls.	Night time	Agreed.	High
15	City Centre	Vicar Lane – extend to full lay-by	This has been suggested many time before but the reasons for not being able to accede to the request stand. The other half of the lay-by is used by the Access Bus operation and they have stated their wish for their provision to remain as it provides a very good opportunity for disabled people to have convenient and easy access to the pedestrian precinct area. The whole lay-by available as a rank after 7:00pm.	24 hours	The situation here has not changed, but the Access Bus managers will be contacted again to repeat the request for them to reconsider their view and seek a new location for the Access Bus thus freeing up the lay-by for further taxi use.	Medium

	Location	Description	Highways initial comment	Type of Rank.	Additional Comments following 4 th June 2008 Meeting	Priority
16	City Centre (24 hours)	Lower Briggate – near Dysons Extend rank	This is part of the proposal to utilise the bus stop as a night time rank.	24 hour	Agreed	High
17	City Centre (24 hour)	Gascoigne Street - off Lower Briggate	This is a private road and does not come under the remit of Highways Services.		Private Road Status – so highways can not pursue	
18	City Centre (night time)	Boar Lane – lay-by outside BHS facing east	This area has been identified as a night time problem area by the Police and have already requested the night time bus service be removed from this location. There is a night time rank opposite within the day time loading bay. Further night time ranks are being pursued – one outside Yates PH as part of a scheme to improve the Boar Lane Mill Hill junction and another as part of the use of bus stops initiative outside the Square PH. Another so close by can not be supported.	Night time	See Highways Initial Comments Also development work at the Leeds Shopping Plaza is due to start soon which will affect the Boar Lane frontage.	On-going
19	City Centre (night time)	Park Row – outside the Slug and Lettuce	Metro are not keen on this location due to the night time bus services along Park Row. The impending introduction of a 24 hour rank on Greek Street opposite, the night time rank outside the Guildford Life Bar and the 24 hour rank on Cookridge Street outside the Radisson Hotel does question the need for another on Park Row.	Night time	Agreed to keep this location in reserve pending the take up and demands placed upon the new Greek Street rank.	Low

	Location	Description	Highways initial comment	Type of Rank.	Additional Comments following 4 th June 2008 Meeting	Priority
20	City Centre	Near the Royal Armouries	Further discussions with the Trade are needed to clarify the best location to suit their needs.	24 hour	Agreed to seek suitable location on Armouries Drive.	High
21	City Centre (night time)	Playhouse – outside the Wardrobe	This location is supported and will be progressed as part of an identified project to provide a loading bay in this location on St Peter's Square. As part of the project consideration will be given to either providing a night time taxi rank within the loading bay or possibly the provision of a dedicated 24 hour rank in the area.	Night time	Agree that a night time rank be pursued as part of the loading bay proposal, however, it was also agreed to investigate the possibility of a 24 hour rank. This would serve the BBC and Playhouse area.	High
22	City Centre	Sovereign Street	The event special bus arrangements are being relocated onto Sovereign Street as a consequence of the Neville Street (Dark Arches) Improvement Scheme. A location will be sought, but initial thoughts are that a 24 hour rank near the junction with Swinegate would also provide for the hotels etc in the area.	Mainly for during events, but could be 24 hours	Agreed that a 24 hour rank near Swinegate will be pursued if a suitable location can be identified.	High
23	Vicinity of Leeds Bradford Airport	Whitehouse Lane	Whitehouse Lane is already protected by waiting restrictions, but there may be scope to provide a rank subject to normal considerations with regard to minimising congestion and maintaining traffic flows.	24 hour	Agreed to investigate options.	High

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Report of the Assistant Chief Executive (Corporate Governance)

Licensing and Regulatory Panel

Date: 1st July 2008

Subject: Terms of Reference and Officer Delegation Scheme for the Licensing and Regulatory Panel

Electoral wards affected:

All

Specific implications for:

Ethnic minorities

Women

Disabled people

Narrowing the gap

Executive Summary

This report sets out the current Terms of Reference and Officer Delegation Scheme associated with the work of the Licensing and Regulatory Panel.

Members' attention is also drawn to the Code of Practice for the Determination of Licensing Matters

1.0 Purpose of this report

1.1 The purpose of this report is to seek Members approval of the Terms of Reference and Officer Delegation Scheme for the Licensing and Regulatory Panel for the 2008/09 Municipal Year

2.0 Background information

2.1 The Terms of Reference (as attached at Appendix A) and the Officer Delegation Scheme (as attached at Appendix B) were approved by Annual Council on 22nd May 2008.

2.2 The Code of Practice for the Determination of Licensing Matters was also approved by Annual Council (attached at Appendix C)

3.0 Main issues

3.1 These documents are presented in order to inform Members of the rules which will govern the work and remit of the Panel for the 2008/09 Municipal Year

4.0 Implications for council policy and governance

4.1 There are no implications for Council policy or governance identified.

5.0 Legal and resource implications

5.1 There are no legal and resource implications, other than the usual administration provided by officers to the Panel.

6.0 Recommendations

- 6.1
- a) That Members note the Terms of Reference and Officer Delegation Scheme for the Licensing and Regulatory Panel 2008/09.
 - b) That Members note the contents of the Code of Practice for the Determination of Licensing matters

REGULATORY PANELS

Licensing and Regulatory Panel

The Licensing and Regulatory Panel is authorised to discharge¹ the following functions:²

1. To discharge all Council (non-executive)³ functions relating to:
 - (a) licensing and registration functions⁴ in respect of:
 - (i) caravan sites⁵
 - (ii) hackney carriages and private hire vehicles⁶
 - (iii) pool promoters^{7*}
 - (iv) track betting licences^{8*}
 - (v) amusement machines^{9*}
 - (vi) lotteries^{10*}
 - (vii) amusements with prizes^{11*}
 - (viii) sex shops and sex cinemas¹²
 - (ix) performances of hypnotism¹³
 - (x) acupuncture, ear-piercing and electrolysis¹⁴
 - (xi) pleasure boats and vessels¹⁵
 - (xii) market and street trading¹⁶
 - (xiii) game¹⁷
 - (xiv) premises for the preparation of food¹⁸
 - (xv) scrap yards¹⁹
 - (xvi) dog breeding, pet shops, animal breeding, animal trainers and exhibitors, zoos, wild animals²⁰
 - (xvii) knackers' yards²¹

¹ With the exception of any licensing function under the Licensing Act 2003, the Panel and the Council may arrange for any of these functions to be discharged by an officer – the functions for the time being so delegated are detailed in Section 2 of Part 3 of this Constitution

² "Functions" for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

³ Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the 2000 Regulations).

⁴ Para. B of Schedule 1 to the 2000 Regulations

⁵ Items 1 and 2 of Para. B of Schedule 1 to the 2000 Regulations

⁶ Item 3 – 5 of Para. B of Schedule 1 to the 2000 Regulations

⁷ Item 6 of Para. B of Schedule 1 to the 2000 Regulations

⁸ Items 7 and 8 of Para. B of Schedule 1 to the 2000 Regulations

⁹ Item 9 of Para. B of Schedule 1 to the 2000 Regulations

¹⁰ Item 10 of Para. B of Schedule 1 to the 2000 Regulations

¹¹ Item 11 of Para. B of Schedule 1 to the 2000 Regulations

¹² Item 15 of Para. B of Schedule 1 to the 2000 Regulations

¹³ Item 16 of Para. B of Schedule 1 to the 2000 Regulations

¹⁴ Item 17 of Para. B of Schedule 1 to the 2000 Regulations

¹⁵ Item 18 of Para. B of Schedule 1 to the 2000 Regulations

¹⁶ Item 20 of Para. B of Schedule 1 to the 2000 Regulations

¹⁷ Item 23 of Para. B of Schedule 1 to the 2000 Regulations

¹⁸ Item 24 of Para. B of Schedule 1 to the 2000 Regulations

¹⁹ Item 25 of Para. B of Schedule 1 to the 2000 Regulations

²⁰ Items 29 - 33 of Para. B of Schedule 1 to the 2000 Regulations

Council Committees' Terms of Reference

- (xviii) the employment of children²²
- (xix) premises for the solemnisation of marriage²³
- (xx) charitable collections²⁴
- (xxi) operation of loudspeakers²⁵
- (xxii) movement and sale of pigs and cattle²⁶
- (xxiii) storage of celluloid²⁷
- (xxiv) meat product premises and dairy establishments²⁸
- (xxv) egg products, butchers and fish products²⁹
- (xxvi) auction and wholesale markets³⁰
- (xxvii) food business premises³¹
- (xxviii) motor salvage operators³²

*From 1 September 2007 these licences will be granted under the Gambling Act 2005, except as provided for by the Gambling Act Order³³

- (b) health and safety at work³⁴ to the extent that those functions are discharged otherwise than in the authority's capacity as an employer; and
- (c) smoke-free premises under the Health Act 2006 and regulations.³⁵

2. In respect of any approval, consent, licence, permission, or registration which they may grant,

- (a) To impose conditions limitations or restrictions;
- (b) To determine any terms;
- (c) To determine whether and how to enforce any failure to comply;
- (d) To amend, modify, vary or revoke;
- (e) To determine whether a charge should be made or the amount of such a charge.

3. To discharge any licensing function³⁶, where full Council has referred a matter to the Panel.³⁷

²¹ Item 34 of Para. B of Schedule 1 to the 2000 Regulations

²² Item 35 of Para. B of Schedule 1 to the 2000 Regulations

²³ Item 36 of Para. B of Schedule 1 to the 2000 Regulations

²⁴ Item 39 of Para. B of Schedule 1 to the 2000 Regulations

²⁵ Item 40 of Para. B of Schedule 1 to the 2000 Regulations

²⁶ Items 43 – 46 of Para. B of Schedule 1 to the 2000 Regulations

²⁷ Item 56 of Para. B of Schedule 1 to the 2000 Regulations

²⁸ Items 57 – 59 of Para. B of Schedule 1 to the 2000 Regulations

²⁹ Items 60 - 63 of Para. B of Schedule 1 to the 2000 Regulations

³⁰ Item 66 of Para. B of Schedule 1 to the 2000 Regulations

³¹ Items 67-68 of Para. B of Schedule 1 to the 2000 Regulations

³² Item 71 of Para. B of Schedule 1 to the 2000 Regulations

³³ That is, the Gambling Act 2005 (Commencement No 6 and Transitional Provisions) Order 2006

³⁴ Para. C of Schedule 1 to the 2000 Regulations

³⁵ Para FA, of Schedule 1 to the 2000 Regulations.

³⁶ Under the Licensing Act 2003

³⁷ (Section 7(5)(a) of the Licensing Act 2003). The matter must relate to

- a licensing function of the licensing authority under the Licensing Act 2003 and
- a function which is not a licensing function.

Unless the matter is urgent, the Panel must consider a report of the Licensing Committee in respect of the matter before discharging the function concerned (Section 7(6)).

ASSISTANT CHIEF EXECUTIVE (CORPORATE GOVERNANCE)

1. The Assistant Chief Executive (Corporate Governance) is the Monitoring Officer for the Council.
2. Subject to the exceptions listed below, the Assistant Chief Executive (Corporate Governance) is authorised to discharge the following Council (non-executive) functions:

Licensing and Regulatory:

(a)	To license hackney carriages and private hire vehicles	(a) As to hackney carriages, the Town Police Clauses Act 1847 as extended by section 171 of the Public Health Act 1875 and section 15 of the Transport Act 1985 and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (b) As to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(b)	To license drivers of hackney carriages and private hire vehicles	Section 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(c)	To license operators of hackney carriages and private hire vehicles	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
(d)	*To register pool promoters♦	Schedule 2 to the Betting, Gaming and Lotteries Act 1963
(e)	*To grant track betting licences♦	Schedule 3 to the Betting, Gaming and Lotteries Act 1963
(f)	*To licence inter-track betting schemes♦	Schedule 5ZA to the Betting, Gaming and Lotteries Act 1963
(g)	*To grant permits in respect of premises with amusement machines♦	Schedule 9 to the Gaming Act 1968
(h)	*To register societies wishing to promote lotteries♦	Schedule 1 to the Lotteries Amusements Act 1976
(i)	*To grant permits in respect of premises where amusements with prizes are provided♦	Schedule 3 to the Lotteries and Amusements Act 1976
(j)	*To licence sex shops and sex cinemas	The Local Government (Miscellaneous Provisions) Act 1982, Section 2, Schedule 3
(p)	*To license dealers in game and the killing and selling of game	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860 section 4 of the customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874 and section 213 of the Local Government Act 1972
(q)	*To license scrap yards	Section 1 of the Scrap Metal Dealers Act

Officer Delegation Scheme (Council (non-executive) functions)

		1964
(r)	*To approve premises for the solemnisation of marriages	Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995(SI 1995/510)
(s)	*To license persons to collect for charitable and other causes	Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939
(t)	To register motor salvage operators	Part I of the Vehicles (Crime) Act 2001

◆ From 1 September 2007 licences will be granted under the Gambling Act 2005 by the Licensing Committee, except as provided for by the Gambling Act Order¹,

Functions relating to elections:

(a)	Functions in relation to parishes and parish councils	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part
(b)	To dissolve small parish councils	Section 10 of the Local Government Act 1972
(c)	To make orders for grouping parishes, dissolving groups and separating parishes from groups	Section 11 of the Local Government Act 1972
(d)	To make temporary appointments to parish councils	Section 91 of the Local Government Act 1972

Functions relating to standing orders:

(a)	To make standing orders	Section 106 of, and paragraph 42 of Schedule 12 to the Local Government Act 1972
(b)	To make standing orders as to contracts	Section 135 of the Local Government Act 1972

Exceptions²:

The Assistant Chief Executive (Corporate Governance) is not authorised to discharge those functions marked *above where objections have been received.

Licensing Functions delegated by Licensing Committee:

Subject to the exceptions listed below, the Assistant Chief Executive (Corporate Governance) is authorised to discharge the licensing functions ⁸ of the licensing authority.	Licensing Act 2003 and the Gambling Act 2005.
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¹ That is, the Gambling Act 2005 (Commencement No 6 and Transitional Provisions) Order 2006

² Under this delegation scheme (council functions). The Licensing and Regulatory Panel may however arrange for the discharge of any of its functions by the Assistant Chief Executive (Corporate Governance) - (Section 101(2) Local Government Act 1972.

⁸ "Licensing functions" means functions under the 2003 Act and the 2005 Act.

Officer Delegation Scheme (Council (non-executive) functions)

Exceptions:

- any licensing function³ reserved to full Council;⁹ and
- any licensing function where full Council has referred a matter to a committee other than the Licensing Committee;¹⁰ and
- any licensing function within the terms of reference of the Licensing Sub-committees¹¹; and
- any function under Section 52(2) or (3) of the 2003 Act; and
- any function under Section 88(2) or (3) of the 2003 Act; and
- any function under Section 167(5) of the 2003 Act: and
- to determine whether Section 20(3) or 74(3) of the 2003 Act applies to a film and make recommendations about the admission of children to that film; and
- to object when the Authority is consultee and not the relevant authority considering an application under the 2003 Act
- any function under Section 198 of the 2005 Act
- any function under Section 201 of the 2005 Act
- any function under Section 202 of the 2005 Act

⁹ Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act.

¹⁰ Under the provisions of Section 7(5)(a) of the 2003 Act.

¹¹ Except where a Licensing sub-committee has arranged for the discharge of any of their functions to an Officer.

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CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS

1.0 BACKGROUND

- 1.1 This Code of Practice for the determination of licensing matters substantially follows the Guidance produced by LACORs (Local Authority Co-ordinators of Regulatory Services) in consultation with the Standards Board for England, the Association of Council Secretaries and Solicitors (ACSeS), the Association of London Government (ALG) and the Society of Local Authority Chief Executives (SOLACE) for Licensing Committee Hearings under the Licensing Act 2003 (Updated October 2007).

2.0 SCOPE

- 2.1. This code **applies** to all licensing decisions including
Decisions of the Licensing and Regulatory Panel
Decisions of the Licensing Committee
Decisions of any Licensing Sub committee
Delegated decisions within the terms of reference of the above bodies

All decisions made by the above bodies will be referred to within this code as decisions of the licensing authority

This code **also applies** at all times when Members are involved in the licensing process. This includes taking part in decision making meetings of the Council in exercising the functions of the licensing authority and on less formal occasions such as meetings with officers or the public and consultative meetings. It applies as equally to licensing enforcement matters, reviews, or site specific issues as it does to licensing applications.

- 2.2 **The aim of this code of good practice is** to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 2.3 Sections 3-5 apply to all Members. Sections 6-14 apply particularly to Members of the Licensing Committee or Licensing and Regulatory Panel. Sections 15-16 apply to officers. Sections 17-19 deal with procedures, monitoring and review
- 2.4 **If you have any doubts** about the application of this Code, you should seek early advice, preferably well before any meeting takes place from the Assistant Chief Executive (Corporate Governance).

3.0 RELATIONSHIP WITH THE MEMBERS CODE OF CONDUCT

- 3.1 Leeds City Council's Members Code of Conduct was adopted by the Council on the 24th May 2007 and must be complied with throughout the decision making process.

Do apply the rules in the Members Code of Conduct first and at all times.

Do then apply the rules of this Code which seek to explain and supplement the Members Code of Conduct for the purposes of licensing. If you do not abide by this Code you may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision; and
- yourself at risk of either being named in a report made to the Standards Committee or Council or, if the failure is also likely to be a breach of the Members Code of Conduct, a complaint being made to the Standards Committee.

4.0 DECLARATIONS OF INTERESTS UNDER THE MEMBERS CODE OF CONDUCT

4.1 It is your responsibility to declare any personal or prejudicial interest you may have, or be perceived as having, in a matter at any relevant meeting, including informal meetings or discussions with officers and other Members preferably at the beginning of the meeting. You should declare the existence and nature of that interest.

If your personal interest in a matter arises due to solely from your membership of, or position of control/ management on:

- Any other body to which you were appointed or nominated by the authority;
- Any other body exercising functions of a public nature (for example another local authority).

The Model Members Code of Conduct states¹ that in these cases, provided that you do not also have a prejudicial interest, you only need to declare that interest if you intend to speak on the matter.

If you have a personal or prejudicial interest in a matter do then act accordingly depending on the interest that you have declared.

Where your interest is personal and prejudicial you should withdraw from the room or chamber where the meeting is being held:-

Do not participate or give the appearance of trying to participate in any part of the meeting which involves the matter in which you have a prejudicial interest. You may however make representations, answer questions on a matter or give evidence on a matter if the public also have the right to do so². You only have the same right as the public to make representations You will be brought into the meeting when the other parties are called in. You will be subject to the same time limits as all other parties and have the same rights i.e. to make representations, give evidence and answer questions but not to cross examine other parties You must leave the room

¹ Paragraph 9(2) Model Code of Conduct for Members

² Paragraph 12(2) Model Code of Conduct for Members

Code of Practice for Determining Licensing Matters

immediately after making representations, answering questions or giving evidence and must take no part in the decision making. If the public have no right to make representations, answer questions on a matter or give evidence on a matter then you must withdraw from the meeting room when the matter in which you have a prejudicial interest is discussed.

Where you have a prejudicial interest in the matter is to be determined by a Licensing Sub Committee you should ensure that you have arranged for a substitute to attend the hearing in your place as although you may have a right to make representations, answer questions on a matter or give evidence on a matter you are not able to take part in the decision.

Do not get involved in the processing of the application.

Do not seek to improperly influence a decision on a matter in which you have a prejudicial interest. Not all attempts to influence a decision will be improper. Improper influence would be any attempt to use your position to further your own interests in a way that would not be open to an ordinary member of the public. Do not seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment because of your position as a Councillor.

Do be aware that, whilst you are not prevented from seeking to explain or justify a proposal in which you have a personal or prejudicial interest to an appropriate officer, the Code places greater limitations on you than would apply to an ordinary member of the public and sensible steps must be taken to ensure openness and fairness in the decision making process. In particular you should:

- Notify the Monitoring Officer in writing of your own application (or that of a relative or employer where known) or where you are employed as an agent.
- Consider whether it is advisable to employ an agent to act on your behalf in dealing with officers and any public speaking at a licensing hearing.

5.0 MEMBERS SPEAKING AT LICENSING HEARINGS

5.1 All Members of the Council should be aware of the planning case involving a North Yorkshire Councillor, Councillor Richardson. The Councillor was not a member of the Planning Committee but sought to represent the views of his constituents. However his property was affected by the application and the Standards Board for England disqualified him from being a Councillor on the basis that he did not disclose a Personal and Prejudicial interest even though he was not the decision maker and was making representations as either the ward member or in an individual capacity. The Court of Appeal upheld the Standards Board decision.

As a result of this case the Model Members Code of Conduct was amended and now provides that you can make representations, answer questions on a matter or give evidence on a matter in which you have a prejudicial interest if the public also have the

Code of Practice for Determining Licensing Matters

right to do so. You must leave the room immediately after making representations, answering questions or giving evidence.

You only have the same right as the public to make representations. You will be brought into the meeting when the other parties are called in. You will be subject to the same time limits as all other parties and have the same rights i.e. to make representations, give evidence and answer questions but not to cross examine other parties. You must not remain in the room when the decision is made even if you are not making the decision.

6.0 BIAS AND PREDETERMINATION IN THE LICENSING PROCESS

6.1 Given the requirement that Members of the Licensing and Regulatory Panel or Licensing Committee or Sub committee should exercise an independent mind and decide proposals in accordance with the relevant licensing considerations, Members must not favour any person, company, group or locality or commit themselves to a particular point of view on a licensing application prior to its full consideration at the Licensing and Regulatory Panel or Licensing Committee or Sub committee.

Do not make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the decision making meeting and of your hearing the officer's presentation and the evidence and arguments on both sides.

Do be aware that you are likely to be biased or pre-determined where the Council is the landowner or applicant **if** you have been or are perceived as being, a chief advocate for the proposal. This will not necessarily arise from being a member of the proposing board or the Executive but through a significant personal involvement in preparing or advocating the proposal by which you may be perceived as being unable to act impartially or determine the proposal purely on its licensing merits and in the public interest.

Do remember that you are, of course, free to listen to a point of view about a licensing proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate licensing officer.

Do not use any political group meetings prior to the Licensing and Regulatory Panel or Licensing Committee or Sub committee meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but decisions can only be taken after full consideration of the Licensing Officer's report and documents and information considered at the Hearing.

The Standards Board for England have provided advice and guidance on bias and pre-determination which can be obtained from www.standardsboard.gov.uk.

7.0 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

7.1 This section concerns the position of Members of Leeds City Council who are also Parish Councillors or members of an outside body. These should be recorded on your register of interests.

Do consider if you have a prejudicial interest in a matter by virtue of you being a member of the Parish Council or a Member of the outside body. If the matter affects the financial position of the Parish Council or outside body, or the matter relates to an application made by the Parish Council or outside body then it is capable of being a prejudicial interest.³ (If the matter does not affect the financial position or relate to an application made then it cannot be a prejudicial interest)

If the matter is capable of being a prejudicial interest then you should go onto consider whether the interest is one that a member of the public with knowledge of all the relevant facts would reasonable regard as so significant that it would be likely to prejudice your judgement of the public interest.⁴

Do not take part in the licensing decision making process but withdraw from the meeting or arrange a substitute when you have a prejudicial interest in that matter by virtue of you being on the Parish Council or a member of the outside body. (However you may make representations, answer questions on a matter or give evidence on a matter if the public also have the right to do so)

Do consider yourself able to take part in a licensing debate and vote on a proposal at a meeting of the Parish Council or outside body is a consultee provided:

- The proposal does not substantially affect the well being or financial standing of the consultee body.
- You make it clear that that you are keeping an open mind and may vote differently at the licensing hearing when full details are available.
- You do not commit yourself so far to a particular point of view that you cannot be considered as open to persuasion at a licensing hearing when the proposal is decided.
- You disclose a personal interest regarding your membership or role when the proposal comes to a licensing hearing.

8.0 AREA COMMITTEES

8.1 The introduction of Area Committees within Leeds City Council also requires recognition of the “Dual Hatted” roles which members of the Licensing Committee or Licensing and Regulatory Panel and Area Committees must consider. It is unlikely you would have a Personal and Prejudicial Interest for the purpose of the Members Code of Conduct purely by being a member of the Area Committee but there is a possibility that you may be considered as pre determining a matter if you

³ Paragraph 10(2) Model Code of Conduct for Members

⁴ Paragraph 10(1) Model Code of Conduct for Members

Code of Practice for Determining Licensing Matters

have spoken in support or against it or are closely associated with such a decision taken at the Area Committee.

Do consider whether it is appropriate for you to speak at the Area Committee if you wish to speak also on the application at a licensing hearing.

Do consider, whatever your own views, whether as Chair of the Area Committee or a member of any Panel, Committee or Sub Committee, you would be so closely associated with that decision that it would be unreasonable to expect you to disregard it.

Do remember that you can speak and vote on an application which is before the Area Committee for consultation so long as you make it clear that you have only formed a provisional view and will still approach the issue with an open mind and be open to persuasion when the matter is discussed at the licensing hearing.

Do remember that it is not always sufficient to make such a statement if it is not demonstrably genuine. The more controversial the application and or the more vehemently you have supported or opposed it, the more difficult it will be to show that you have not predetermined the matter and therefore render the decision susceptible to challenge. In those circumstances you should not attend the hearing for that application.

9.0 SPOUSE/PARTNER COUNCILLORS

9.1 There may be occasions when the spouse or partner of a Member, usually a member for the same Ward, is also a Member of the Licensing Committee or Sub Committee or the Licensing and Regulatory Panel. That Member might quite properly refer constituents who wish to make representations to his or her spouse or partner rather than be directly lobbied. Generally the fact that the spouse or partner Councillor has been approached will not affect your ability to speak and vote at a licensing hearing.

Be aware that the Members Code of Conduct defines that you have a personal interest in any business of the authority where a decision in relation to that business might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision.

Relevant person⁵ includes your spouse or partner.

Acknowledge that in certain circumstances, such as a particularly controversial application in the run up to an election, there is the possibility that a Personal and Prejudicial interest could exist.

Consider if your spouse or partner is so closely involved with the support for, or opposition to, an application that a member of the public might reasonably think that the involvement is such that you must be biased or have predetermined the application.

⁵ Paragraph 8(2) Model Code of Conduct for Members
Part 5 (I)
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10.0 EXECUTIVE BOARD MEMBERS

- 10.1 There is no Constitutional or legal reason why an Executive Board Member should not also be a Member of the Licensing and Regulatory Panel or Licensing Committee and take part in the decision making processes which are not part of the executive function.

Be aware that you should not speak or vote on any matter which you have discussed at Executive Board unless you have demonstrated there and can do so at the licensing hearing that you have not predetermined the application.

Do not take part in any meeting of the Licensing and Regulatory Panel or Licensing Committee or Sub Committee on a matter in which you may have been seen as advocating a proposal as an Executive or Lead Member.

11.0 CONTACT WITH APPLICANTS AND OBJECTORS

- 11.1 In order to maintain impartiality, it is preferable that Members are not involved in pre-application discussions but there will be occasions when this can be unavoidable. The following guidance is given:

Do not agree to any formal meeting with applicants, or groups of objectors where you can avoid it. Where you feel that a formal meeting would be helpful in clarifying the issues, you should not arrange it yourself, but request the Licensing Officer to do so. The officer will then ensure that those present are aware that any discussion will not bind the Council and maintain a written file record of the meeting.

Do refer those who approach you for advice to officers.

Do follow the rules on lobbying

Do report any significant contact with the applicant or other parties to the Assistant Chief Executive (Corporate Governance) explaining the nature and purpose of the contacts and your involvement and ensure that this is recorded on the licensing file.

Do not attend a presentation by an applicant unless an officer is present and/or it has been arranged by an officer.

Do ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other members might vote.

Do make it clear that the presentation is not part of the formal decision making process and any view is both personal and provisional since not all relevant information will be to hand and the views of interested parties will not have been obtained.

12.0 MEMBERSHIP OF A LOBBY GROUP

12.1 Lobbying by Councillors is a legitimate activity but in the case of Members of the Licensing and Regulatory Panel or Licensing Committee or Sub Committee significant care needs to be taken to avoid any challenge of bias or predetermination or an allegation of bringing the Council into disrepute.

Do declare the existence and nature of your interest in any lobby group at a licensing hearing so that members of the public are informed about interests that may relate to your decisions. Often this will be a personal interest and you can continue to participate but note that it can sometimes be a prejudicial interest or lead to allegations of bias or predetermination and in those circumstances you must withdraw from the meeting.

Do not take part in any matter that affects the financial position of the lobby group or that relates to the determination of any application for approval, consent, licence, permission or registration made by the lobby group of which you are a member. If the Licensing and Regulatory Panel or Licensing Committee or Sub committee is discussing such a matter you should consider whether you have a prejudicial interest and should act accordingly.

You may take part in a matter than involves issues upon which your lobby group has simply campaigned as long as your involvement has not resulted in you being biased and/or predetermining the matter. You will have personal interest in this matter as the lobby group should be registered on your register of interests and a personal interest arises when the matter directly affects the lobby group, or where the lobby group is otherwise concerned about the outcome of the matter.

Do weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you are biased or have pre-determined a matter. The factors are:

- the nature of the matter to be discussed
- the nature of your involvement with the lobby group
- the publicly expressed views of the lobby group
- what you have said or done in relation to the particular issue

Do not lead, be part of the management of, or represent an organisation whose primary purpose is to promote or oppose licensing proposals. If you do, you may have fettered your discretion (be biased/pre-determined) and have to withdraw.

Do not become a member of an organisation whose primary purpose is to promote or oppose specific licensing proposals or those within a limited geographical area as you may be perceived as having fettered your discretion (be biased/pre-determined).

Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular licensing proposals such as a local Civic Society but declare a personal interest where that organisation has made representations on a particular proposal and make it clear to both the organisation

and the Panel or Committee that you have not made up your mind on each separate proposal

Do remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as being the Chairperson or a member of the Board or Committee, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may consider that you are biased and/or pre-determined and should withdraw from the meeting.

Do not excessively lobby fellow members regarding your concerns or views or attempt to persuade them that they should decide how to vote in advance of the hearing at which the decision is to be made. It is difficult to define 'excessively' but you need to consider whether a member of the public, knowing the facts would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.

Do not publicly support a particular outcome on a proposal or actively campaign for it if you wish to take part in the decision making process. Although in most circumstances this would not amount to a prejudicial interest, it would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the Application in accordance with the law.

13.0 SITE VISITS

13.1 Site Visits can play a legitimate part in the decision making exercise but due to the tight timescales involved in licensing decisions will be the exception rather than the rule. They must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to the meeting of the Licensing and Regulatory Panel or Licensing Committee or Sub Committee.

The need for a site visit may be discussed at a Hearing and, if approved, the reasons for it and the name of the member requesting it should be recorded.

Do not request a site visit unless there is a real benefit from viewing the site. This might arise where particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or

Do ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the licensing hearing;

Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection;

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Do be prepared to listen to and ask questions of fact from the Applicant or other parties but do not be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind. The decision can only be made at the Licensing Hearing and you should make this clear to any applicant or other party;

Do not express opinions or views to anyone which may suggest bias or predetermination. As indicated above you should make it clear that formal consideration of the proposal will take place in public at the licensing hearing;

Do not enter a site which is subject to an application otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

14.0 TRAINING

14.1 Members making licensing decisions must attend two training sessions each and every year: a Licensing Update session, to receive guidance in relation to regulations and procedures and a Governance and Conduct session for training on declaration of personal and prejudicial interests. Failure to undertake either or both sessions will result in the Elected Member being unable to sit on Licensing and Regulatory Panel or Licensing Committee or Sub Committee.

- **Do not** participate in decision making on licensing matters if you have not undertaken mandatory training.
- **Do** try to attend any other specialised training session provided, since these will be designed to extend your knowledge of licensing law, regulations, procedures and Policies beyond the minimum required and assist you in carrying out your role properly and effectively.
- **Do** revisit a sample of implemented licensing decisions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public, confidence in the licensing system, and can help with reviews of planning policies.

15.0 OFFICERS

15.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers are employed by the Council and not by individual Councillors and instructions can only be given through a decision of the Council, the Executive or a Panel or Committee. A successful relationship can only be based on mutual respect, trust, courtesy and understanding of each others positions.

15.2 The role of the Legal officer is to assist the panel in gathering evidence and understanding all relevant issues in order for Members to make a decision; to advise on the sub committees legal duties under the relevant legislation and on the admissibility of evidence.

- 15.3 All legal advice should be given or repeated in open session for all parties to be made aware of
- 15.4 The role of the Governance Officer is to facilitate the smooth running of the hearing; advise on the Rules of Procedure and Regulations relating to hearings; make notes of the proceedings and reasons for granting or refusing applications and ensure that decision letters are sent to all parties as soon as possible after the hearing.
- 15.5 The role of the Licensing Officer is neutral. They will make no recommendations to the Panel or Committee and attend hearings only to provide a summary report of the application, giving details of the representations received and any relevant legislative or policy considerations.

Do not put pressure on officers to put forward a particular recommendation.

Do recognise that officers are part of a management structure and only discuss an application, outside of any arranged meeting with those officers who are authorised to deal with the application at Member level.

Do recognise and respect that officers involved in the processing and determination of licensing application must act in accordance with the Council's Code of Conduct for Officers. As a result, officers reports will be presented on the basis of their overriding obligation of professional independence

16.0 RELATIONSHIP WITH THE OFFICER CODE OF CONDUCT

- 16.1 The Council has an approved Officer Code of Conduct.

That Code applies at all times when officers are involved in the licensing process. This includes decision making by officers under delegated powers and attendance at meetings whether those are formal decision making meetings or informal meetings with members or the public.

Officers must apply the rules in the Officer Code of Conduct at all times. If they do not they may put the Council at risk of proceedings on the legality maladministration of any related decision put themselves at risk of disciplinary action.

- 16.2 Generally licensing officers have little discretion in making licensing decisions. For example they may only grant licences where there are no objections. However there may be situations where they are called upon to exercise discretion such as deciding whether an objection is relevant. Other officers such as those employed by Environmental Health or Development have discretion on whether to object. Legal officers and committee clerks remain in the room with Members when decisions are made.

In all cases officers must avoid any improper conduct or occasion for suspicion of the appearance of improper conduct and should:-

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- Ensure that they have given notice of any financial interest in any contract which has been or is proposed to be entered into by the Council
- Not accept gifts, entertainment, hospitality or any benefits in kind as set out in the Officers Code of Conduct
- Declare to their Departmental Chief Officer by completing the Register of Interests Form any personal interests which may conflict with licensing applications such as
 - any involvement with an outside organisation which has an interest in any licensing application
 - any financial interest in any licensing application
 - any other interest where others may think that a conflict of interest may arise
 - Examples of such situations include where the officer lives adjacent to any licensed premises or visits the premises in a personal capacity on a regular basis

16.3 Officers should also consider whether their spouse, partner or close relative has a financial or other interest in a licensing application which may give rise to the suspicion of the appearance of improper conduct and where the officer may therefore need to declare an interest.

16.4 Where an officer has declared an interest he or she should not participate in the processing of a licensing application but should instead refer the matter to his or her Manager who will arrange for another officer to discharge the duties.

17.0 PROCEDURES AT LICENSING HEARINGS

17.1 Procedure Rules exist for hearings before the Licensing Committee and Sub committees. Hearings before the Licensing and Regulatory Panel will be governed by the Council Procedure Rules as they apply to Regulatory Panels.

18.0 MONITORING AND REVIEW

18.1 The Assistant Chief Executive (Corporate Governance) will report annually to the Standards Committee regarding whether the arrangements set out in this Code have been complied with and will include any proposals for amendment in the light of any issues that have arisen during the year.

18.2 In particular, the Assistant Chief Executive (Corporate Governance) shall monitor the following:-

- the number of complaints made about breaches of the Code and the outcome of those complaints
- the number of appeals upheld
- any external inspection reports in respect of relevant issues
- any ombudsman complaints or reports in respect of relevant issues

19.0 BREACHES OF THE CODE OF PRACTICE

19.1 Maintaining high ethical standards enhances the general reputation of the Council, its Members and its officers. Open and transparent decision making enhances local democracy and should lead to better informed citizens. This Licensing Code, along with Leeds Council's Members Code of Conduct, and the Officer Code of Conduct are intended to promote these standards.

Do be aware of your responsibilities under this Code and the Members Code of Conduct

Do report any apparent breaches of either Code to the Monitoring Officer.

Do seek advice if you are in doubt.

19.2 Failure to comply with the Members Code of Conduct may lead to a complaint to the Standards Board for England who can, in certain circumstances disqualify a Councillor. Failure to comply with this Licensing Code may lead to a finding of Maladministration by the Ombudsman or could lead to a decision being challenged in the courts.

19.3 Allegations of breach of this Licensing Code of Practice by Members may be referred to the Assistant Chief Executive (Corporate Governance) for referral to the Standards Committee, the relevant Leader and/or Chief Whip of the Party.

19.4 Allegations of breach of this Licensing Code by Officers will be referred to the relevant Director for consideration under the Council's Disciplinary Procedure.

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Report of the Assistant Chief Executive (Corporate Executive)

LICENSING AND REGULATORY PANEL

Date: 1st July 2008

Subject: DRAFT PROTOCOL FOR UNDERTAKING LICENSING SITE VISITS

Electoral Wards Affected:

All

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

The Licensing and Regulatory Panel, along with the Licensing Committee and the Licensing Sub Committees, can undertake site visits where Members or officers deem it necessary. Until recently there have been very few visits undertaken; however there is a slow increase in the number of applications made under the Gambling Act 2005 coming to a hearing and it is likely that more site visits will be undertaken.

As such it is felt to be prudent to present a Draft Protocol for Licensing Site Visits for Members approval in order to introduce an element of consistency of approach and best practice

1.0 Purpose Of This Report

1.1 This report is presented to Members to seek their approval of the draft Protocol for Licensing Site Visits

2.0 Background Information

2.1 To date the Licensing Sub Committees have undertaken only two site visits in respect of applications under the Licensing Act 2003 and it has been some time since the Licensing and Regulatory Panel undertook a site visit.

3.0 Main Issues

3.1 The main issue has been to address Members desire to undertake visits with regard to applications under the Licensing Act 2003 as well as those proposed by the Principal Gambling Officer for applications submitted under the Gambling Act 2005.

3.2 In doing so, it is felt to be in the best interests of all Licensing Members that a document outlining best practice be produced in support of the work undertaken on site visits by both the Licensing and Regulatory Panel and the Licensing Committee

3.3 To this end, the draft Protocol for Licensing Site Visits attached at **Appendix A** has been drawn up, having regard to the relevant Regulations, The Code of Practice for the Determination of Licensing Matters and the Acts

4.0 Implications For Council Policy And Governance

4.1 The draft Protocol for Licensing Site Visits as provided for in the relevant Terms of Reference and Code of Practice for the Determination of Licensing Matters is consistent with good corporate governance

5.0 Legal And Resource Implications

5.1 There are no legal or resource implications other than those already provided for.

6.0 Conclusions

6.1 The introduction of a Protocol for Licensing Site Visits would provide Members with a code of best practice for site visits and introduce an element of consistency of approach, should site visits be undertaken in the future

7.0 Recommendations

7.1 Members are asked to

(a) **EITHER** approve the draft Protocol for Licensing Site Visits as presented at Appendix A

(b) **OR** Comment upon the Protocol for Licensing Site Visits, suggesting any amendments they deem necessary and authorise the Assistant Chief Executive (Corporate Governance) to incorporate the amendments and issue an updated version to Members accordingly

(c) To have regard to the Protocol for Licensing Site Visits when considering requests for site visits and during any subsequent site visits

PROTOCOL FOR LICENSING SITE VISITS BY THE LICENSING COMMITTEE; LICENSING SUB COMMITTEES AND LICENSING AND REGULATORY PANEL

1.0 BACKGROUND

- 1.1 Site Visits can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise.
- 1.2 They are not to be used to determine a proposal prior to a hearing.
- 1.3 Due to the tight timescales involved in licensing decisions, site visits must be viewed as an exception rather than the rule
- 1.4 When undertaking a site visit Members should have regard to the following paragraphs of the Code of Practice for Determining Licensing Matters
 - ❖ Paragraph 6 Fettering Discretion in the Licensing Process
 - ❖ Paragraph 11 Contact with Applicants/Objectors

2.0 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT

- If a Member feels, on receipt of the report on an application that a site visit would be beneficial, s/he should first discuss their concerns with the Principal Licensing or Gambling Officer. Officers have powers to request additional information from parties, which can then be discussed at the hearing. This information may resolve the issues without the need for a site visit. If a Member still feels that a site visit is necessary then, in the interest of fairness, it is preferable that concerns should be expressed at the scheduled hearing since Members may find that the applicant, interested parties or responsible authorities can provide verbal information to the satisfaction of the Members present.
- Views of the parties present must be canvassed and considered before a site visit is agreed since that is likely to result in a delay to the decision making.
- In the case of a Sub Committee hearing, three Members or a 2:1 majority must be in favour of a site visit for arrangements to be made. The same three Members will be expected to undertake the requested site visit and attend the hearing for the application, which will be re-convened at a later date
- In the case of a meeting of the Licensing Committee or the Licensing and Regulatory Panel, a majority of the Members present must be in favour of a site visit. The same Members will be expected to undertake the requested site visit and be able to attend the re-convened meeting which will consider the application subsequent to the site visit
- **DO** raise the need for a site visit at a hearing and be prepared to give reasons why it is of real benefit. The reason will be recorded in the Minutes.

- **DO NOT** request a site visit unless there is a real benefit from viewing the site.

This might arise where:-

- ❖ Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- ❖ There are significant policy or precedent implications and specific site factors need to be carefully addressed or
- ❖ Relevant factors cannot be fully ascertained from any supporting information or the plans submitted to the Licensing Officer and available at the hearing, to Members satisfaction

3.0 THIS SECTION APPLIES TO SITE VISITS AS PROPOSED BY OFFICERS

- The Principal Licensing or Gambling Officer may suggest the Committee or a Sub Committee undertake a Site Visit without prior discussion at a hearing, where in the professional opinion of the Officer there is a real benefit from viewing the site.
- In such cases, officers will approach Members seeking a date for the site visit and hearing – usually in the form of an e-mail in the first instance
- The e-mail should set out the proposal for a site visit, the reasons behind the request; the projected benefit for Members; the address of the premise; the type of application and set out the arrangements for the day.
- In such cases it is usual for the site visit to commence at 9.30 am (departing from the Civic Hall) and for the formal meeting to commence at 11.00 am in the Civic Hall to determine the application. As such it is anticipated that hearings will not conclude until the afternoon.
- Having done this, officers will seek confirmation from the Members able to attend that they are happy to undertake the propose site visit

4.0 ON THE SITE VISIT

- **DO** ensure that any information gained from the site visit is reported back at the subsequent hearing.
- **DO** ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the hearing
- **DO** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **DO** be prepared to listen to and ask questions of fact from the Applicant or other parties

- **DO** be aware that Officers will make all parties aware of the site visit. All parties may attend subject to being granted access by the owner (see below). If only one party is present be particularly careful only to obtain information and ensure that that information is repeated at the public meeting where the other parties have a right to comment on it.
- **DO** be aware that access to the site is at the discretion of the owner. The owner can legitimately refuse access to objectors and even Members. If access is to be refused consider whether it is still appropriate to undertake the visit.
- **DO NOT** be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind

Note that the decision can only be made at the Licensing Hearing and you should make this clear to any applicant or other party

- **DO** note comments of the applicant or other parties which are made solely for the purpose of making members aware of any specific local circumstances and issues relevant to the application site.
- **DO NOT** express opinions or views to anyone which can suggest bias or predetermination.

As indicated above, you should make it clear that formal consideration of the proposal will take place in public at the subsequent hearing/meeting.

- **DO NOT** enter a site which is subject to an application otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

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