



LICENSING COMMITTEE

**MEETING TO BE HELD IN CIVIC HALL, LEEDS, LS1 1UR ON
FRIDAY, 20TH MAY, 2016 AT 10.00 AM**

MEMBERSHIP

N Buckley	Alwoodley;
R Downes	Otley and Yeadon;
J Dunn	Ardsley and Robin Hood;
B Gettings	Morley North;
M Harland (Chair)	Kippax and Methley;
G Hussain	Roundhay;
G Hyde	Killingbeck and Seacroft;
A Khan	Burmantofts and Richmond Hill;
B Selby	Killingbeck and Seacroft;
C Townsley	Horsforth;
G Wilkinson	Wetherby;
B Flynn	Adel and Wharfedale;
S McKenna	Garforth and Swillington;
A Ogilvie	Beeston and Holbeck
Vacancy	

**Agenda compiled by:
Tel No:
Governance Services
Civic Hall
LEEDS LS1 1UR**

**John Grieve
224 3836**

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15.2 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 15.2, written notice of an appeal must be received by the Head of Governance Services 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>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13 -16 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence (If any)</p>	
6			<p>MINUTES OF THE PREVIOUS MEETING</p> <p>To approve the minutes of the last meeting held on 8th March 2016</p> <p>(Copy attached)</p>	1 - 4
7			<p>MATTERS ARISING FROM THE MINUTES</p> <p>To consider any matters arising from the minutes (If any)</p>	
8			<p>LICENSING COMMITTEE - ANNUAL GOVERNANCE ARRANGEMENTS</p> <p>To consider the report of the City Solicitor seeking to establish the governance arrangements for the Licensing Committee for the 2016/17 Municipal Year; specifically dealing with the Terms of Reference for the Committee and its Sub-Committees, the Membership of the Sub-Committees and the officer delegation scheme</p> <p>(Report attached)</p>	5 - 24

Item No	Ward/Equal Opportunities	Item Not Open		Page No
9			<p>LICENSING PROCEDURE RULES, THE CODE OF PRACTICE FOR DETERMINING LICENSING MATTERS AND PRESCRIBED LICENSING TRAINING</p> <p>To consider a report of the City Solicitor which sets out draft procedure rules relating to hearings and other meetings of the Licensing Committee and sub-committees and to seek Members approval to the adoption of these procedure rules. The report also requests consideration the Code of Practice for the Determination of Licensing Matters previously approved by Standards Committee and to seek Members to approve and resolve to follow the Code.</p> <p>(Report attached)</p>	25 - 44
10	Armley; City and Hunslet		<p>AMENDMENT TO THE COUNCIL'S LICENSING ACT 2003 STATEMENT OF LICENSING POLICY 2014-18</p> <p>To consider a report by of the Head of Elections, Licensing and Registration which sets out the responses to the two consultations relating to the introduction of a CIP for Armley and an amendment of the CIP for the City Centre.</p> <p>(Report attached)</p>	45 - 66
11			<p>UNMET DEMAND SURVEY: PROVISION OF HACKNEY CARRIAGE PROPRIETOR LICENCES</p> <p>To consider a report by of the Head of Elections, Licensing and Registration which sets out the proposed tender specification document considered appropriate to progress the procurement of an independent consultant.</p> <p>(Report attached)</p>	67 - 98

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12			<p>LICENSING COMMITTEE WORK PROGRAMME 2016/17</p> <p>To note the contents of the Licensing Committee Work Programme for 2016/17.</p> <p>(Copy attached)</p>	99 - 100
13			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note that the next meeting will take place on Tuesday 5th July 2016 at 10.00am in the Civic Hall, Leeds.</p>	
14		10.4(3)	<p>NOTIFICATION OF FIRST DRAFT EVENT MANAGEMENT PLAN FOR LEEDS FESTIVAL 2016</p> <p>To consider a report by of the Head of Elections, Licensing and Registration which sets out the first draft Management Plan for the 2016 Leeds Festival to be held at Bramham Park between the 26th and 28th August 2016.</p> <p>(Report attached)</p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p> <p>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</p> <p>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete</p>	101 - 120

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Licensing Committee

Tuesday, 8th March, 2016

PRESENT: Councillor M Harland in the Chair

Councillors N Buckley, J Dunn, B Gettings,
G Hussain, A Khan, B Selby, G Wilkinson
and A Ogilvie

90 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of inspection of documents.

91 Exempt Information - Possible Exclusion of the Press and Public

There were no items identified where it was considered necessary to exclude the press or public from the meeting due to the confidential nature of the business to be considered.

92 Late Items

There were no late items submitted

93 Declaration of Disclosable Pecuniary Interests

There were no declarations of Disclosable Pecuniary Interests made at the meeting.

94 Apologies for Absence

Apologies for absence were received from Councillors: Downes, Flynn, Hyde, Ingham, S McKenna and Townsley.

In offering comment, Councillor Selby said given the large number of apologies received for today's meeting, could officers investigate the issue of substitute arrangements for the Licensing Committee.

RESOLVED – That the City Solicitor be requested to investigate the issue of substitute arrangements for the Licensing Committee.

95 Minutes of the Previous Meeting

RESOLVED – That the minutes of the previous meeting, held on 9th February 2016 be accepted as a true and correct record.

96 Matters Arising from the Minutes

There were no issues raised under matters arising.

97 Leeds City Centre Night Time Economy and Leeds Business Improvement District

The Head of City Centre Management submitted a report which provided an update on the development of the Leeds Business Improvement District, since its inception in early 2015.

Appended to the report were the following appendices:

- Development of the Leeds Business Improvement District (Appendix 1 referred)
- The BID Business Plan (under the main theme of Leeds Experience) - (Appendix 2 referred)

John Ebo, City Centre Manager, City Development, together with Andrew Cooper, Chief Executive, Leeds Business Improvement District, presented the report and responded to Members' questions and queries.

Detailed discussion ensued on the contents of the report which included:

- The Evolution of BIDs
- What is a BID?
- Governance Arrangements
- Business Priorities
- Evening Economy

In providing an explanation of the BID, Mr Cooper said LeedsBID was focused on delivering a business plan over the next 5 years that would bring increased investment and profile to the City of Leeds. It was reported that there were over 200 BIDs nationally, Leeds was the third biggest.

Responding to a question as to what would happen to the BID after 5 years; Mr Cooper said the BID would be re-balloted for a renewal

Mr Cooper said the BID zone had 955 levy paying organisations contributing £2.5m per annum to achieve the vision of creating an outstanding European destination city.

Referring to the Company accounts Members queried if the accounts were available for inspection? A further query was raised about the BID Board and how often it met.

In responding Mr Cooper said all accounts were open and transparent, in terms of how often the BID Board met, he reported that the Board met on a monthly basis.

The Chair thanked Messrs Cooper and Ebo for their attendance and presentation commenting that the update on the BID was interesting and informative

RESOLVED –

- (i) To note the update on progress of the BID

Draft minutes to be approved at the meeting
to be held on Tuesday, 10th May, 2016

- (ii) To support the approach being taken by the BID and Partners in exploring the attainment of the national accreditation for the night time economy, Purple Flag
- (iii) That a briefing note on the Portland Crescent hotel development be circulated to Committee Members, for information only.

98 Licensing Committee Work Programme 2016

Members considered the contents of the Licensing Committee Work Programme for 2016.

RESOLVED – That the contents of the Licensing Committee Work Programme for 2016 be noted.

99 Date and Time of Next Meeting

RESOLVED – To note that the next meeting will take place on Tuesday, 12th April 2016 at 10.00am in the Civic Hall, Leeds.

100 Update on New Psychoactive Substances in Leeds

The Committee received a report from Inspector Nick Berry (Safer Leeds) - West Yorkshire Police, which provided an update and described the ongoing work streams in Leeds in relation to the sale and use of new psychoactive substances (NPS).

Appended to the report was a copy of the following appendix:

- A simple(ish) guide to the Psychoactive Substances Act (Appendix A referred)

Inspector Berry presented the report and responded to Members questions and concerns.

Detailed discussion ensued on the contents of the report which included:

- The Psychoactive Substances Act would come into force on 6th April 2016
- Existing laws: Misuse of Drugs Act (1971) and Human Medicines Regulations (2012) would remain, Intoxicating Substances Act (1985) would be scrapped
- Possession of a psychoactive substance would not be an offence. Possession with intent to supply, import or export would be an offence
- Supply and production: The main thrust of the Act was intended to act against shops and websites supplying legal highs.
- Penalties under the Psychoactive substances Act 2016
- Powers of stop and search
- Premises and prohibition notices
- Definition of psychoactive
- Exemptions

Responding to a question about previous convictions, Inspector Berry said a number of prosecutions had taken place in December 2015. The action was brought by West Yorkshire Trading Standards. Two shops were successfully convicted each receiving substantial fines and their products being destroyed.

Inspector Berry said the intention of the Act was aimed at the dealers/ shops and the online market.

Members welcomed the intention to prosecute shops/ dealers querying if such actions would lead to under the counter sales.

In responding Inspector Berry said sales may increase during the next few weeks but once the Psychoactive Substances Act came into force on 6th April 2016, the likelihood was that sales would decrease and illegal sales would result in prosecution.

The Chair thanked Inspector Berry for the update and suggested it would be useful to have a further update in due course.

RESOLVED –

- (i) That the contents of the report be noted
- (ii) That a further update be brought back to a future meeting of this Committee

Report of the City Solicitor

Report to Licensing Committee

Date: 20 May 2016

Subject: Licensing Committee – Annual Governance Arrangements

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. Under the Licensing Act 2003 and the Gambling Act 2005 the Licensing Committee is authorised to discharge the licensing functions of the Licensing Authority. This report deals with the annual governance arrangements for Licensing Committee.

2. The Licensing Act 2003 specifically dis-applies Section 101 of the Local Government Act 1972 in respect of the Licensing Committee. The 2003 Act specifically provides that the Licensing Committee may establish one or more sub-committees, and that the Licensing Committee may arrange for the discharge of any functions exercised by it by a sub-committee established by it, or by an officer of the Licensing Authority. This report therefore deals with the appointment and terms of reference of Licensing sub-committees, and the delegation of functions to officers.

Recommendations

3. Members of the Licensing Committee are requested to note the terms of reference of the Licensing Committee as approved by full Council on 19th.May 2016 as shown at Appendix 1.

4. Members of the Licensing Committee are asked to establish five licensing sub-committees.

5. Members of the Licensing Committee are asked to approve the membership of each sub-committee as set out in Appendix 2 of this report.
6. Members of the Licensing Committee are asked to approve the terms of reference for the licensing sub-committees as set out in Appendix 3 of this report.
7. Members of the Licensing Committee are asked to approve the delegation of licensing functions to the Assistant Chief Executive (Citizens and Communities) as shown in Appendix 4 to this report.

1. Purpose of this report

- 1.1 This report is presented to Members to establish the governance arrangements for the Licensing Committee for the 2016/2017 municipal year, namely:
 - Noting the terms of reference of the Licensing Committee as agreed at the annual Council meeting on 19th May 2016.
 - To appoint licensing sub-committees for the 2016/2017 municipal year.
 - To approve terms of reference for the licensing sub-committees.
 - To approve the delegation of functions to Officers as appropriate.

2. Background information

- 2.1 The Council is the Licensing Authority under the Licensing Act 2003 (“the 2003 Act”) and the Gambling Act 2005 (“the 2005 Act”).
- 2.2 In accordance with both the 2003 Act and 2005 Act, with the exception of specified functions (which largely relate to the Authority’s statement of licensing policy), all matters relating to the discharge by the Authority of its licensing functions are automatically referred to the Licensing Committee. This discretion does not extend to any licensing function referred to full Council or a licensing function where full Council has referred the matter to another committee.
- 2.3 The Licensing Committee is also authorised to create sub committees and to delegate functions of the Licensing Authority to sub-committees and to officers.

Legislation

- 2.4 Section 101 of the Local Government Act 1972 sets out the arrangements for the discharge of functions by Local Authorities. Section 101 is, however, amended by the 2003 Act to dis-apply these provisions in respect of any licensing functions of the Licensing Authority.
- 2.5 Instead the 2003 Act specifically provides that a Licensing Committee may establish one or more sub-committees consisting of three members of the committee (Section 9). It also provides that regulations may make provisions about the proceedings of Licensing Committees, and their sub-committees (including the validity of proceedings and the quorum of the meeting).

- 2.6 Subject to any such regulations the Licensing Committee may regulate its own procedure and that of its sub-committees (Section 9 (3) of the 2003 Act).
- 2.7 The 2003 Act also provides that the Licensing Committee may arrange for the discharge of any functions exercisable by it:
- (a) by a sub-committee established by it, or
 - (b) by an officer of the Licensing Authority.
- 2.8 Where arrangements are made for a sub-committee to discharge functions, that sub-committee may in turn arrange for the discharge of the function by an officer of the Licensing Authority.
- 2.9 The powers of the sub-committee to delegate to officers are subject to any direction given by the Licensing Committee to the sub-committee (Section 10(5) of the 2003 Act).
- 2.10 The arrangements may provide for more than one sub-committee or officer to discharge the same function concurrently (Section 10(3)).
- 2.11 There are limitations to the power to delegate in relation to a number of different functions. Generally where representations or objections have been made in respect of particular applications decisions cannot be delegated to an officer. These limitations are set out in Section 10(4) of the 2003 Act.

3 Main issues

Licensing Committee Terms of Reference

- 3.1 The terms of reference for the Licensing Committee were agreed at the annual Council meeting held on 19 May 2016. The terms of reference are attached at **Appendix 1** of this report for members' information.
- 3.2 Members should note that under Section 7(3) of the 2003 Act, full Council may arrange for the Licensing Committee to discharge any function of the Authority which "relates to" a matter referred to the committee but which is not a licensing function.
- 3.3 Members should note that the power to make a Designated Public Places Order in respect of alcohol consumption under the Criminal Justice and Police Act 2001 was delegated by full Council to the Licensing Committee on 11 January 2006.
- 3.4 Members should also note that the following functions were also delegated by full Council to the Licensing Committee on 14 July 2010

hackney carriages and private hire vehicles
sexual entertainment venues, sex shops and sex cinemas
performances of hypnotism
charitable collections

Appointment of Sub-Committees

- 3.5 As referred to above, the Licensing Committee may establish one or more sub-committees consisting of three members of the committee. Previously five sub-committees were established each with three members. It is again proposed that five sub-committees are established in order to deal with hearings under the 2003 Act, the 2005 Act and other routine matters. Due to changes in the membership of the Licensing Committee it is now necessary to re-appoint the sub-committees.

3.6

Membership

The proposed membership of each sub-committee is set out in **Appendix 2** to this report. The rules on political balance do not apply to sub-committees however officers have suggested sub committee membership which takes into account levels of experience as well as ensuring a mix of political parties and wards.

Substitutes

- 3.7 The licensing procedure rules approved previously provide that the fifteen members of the licensing committee form a pool for the purposes of substitutions to the sub-committees. Therefore any member of the Licensing Committee can substitute for any other member at any meeting of a sub-committee.

Appointment of Chairs

- 3.8 Chairs are not appointed to each sub-committee, but instead, the members present at each meeting of a sub-committee appoint the chair from their numbers.

Quorum

- 3.9 The quorum of meetings of the Licensing Committee is five, and for the sub-committee, three. However, on 5 June 2007 the Licensing Committee did approve that in exceptional circumstances on the day of the sub-committee hearing and after all other avenues to seek a third member have been exhausted, a quorum of two will be permissible. It is proposed that the same principles be applied. These rules are set out in the proposed procedure rules set out in a separate report.

Sub-Committee Terms of Reference

- 3.10 The proposed terms of reference for the licensing sub-committees are set out at **Appendix 3** to this report. Members will recall that sub-committees do not deal with large scale or outdoor events like the Leeds Festival. Such events raise serious issues of public safety, crowd control and public nuisance. As such it was felt they should be the subject of consideration by the full Licensing Committee. Sub-committees will still deal with smaller outdoor events. These applications do not raise the same issues as large scale outdoor events.
- 3.11 Members will note a paragraph in the terms of reference which states that the sub-committee can also deal with any other hearing required under the 2003 or 2005 Acts, but which may not be specified in the terms of reference. This is to ensure

that as legislation comes into force the sub-committee is able to continue to deal with all hearings relating to the council's licensing functions without having to necessarily amend the licensing sub-committees terms of reference each time. It is intended that the licensing sub-committees terms of reference will be regularly updated with any new legislation, this proposal is a measure designed to prevent potential difficulties with the timely disposal of licensing hearings.

- 3.12 The terms of reference also include some matters that were previously delegated to the Licensing and Regulatory Panel which was disbanded during the 2010/11 municipal year. Licensing Committee has previously delegated contract driver permit appeals, hypnotism and street collection licensing and appeals against an officer refusal to allow a trade representation to join the hackney carriage forum. It is proposed that those matters be re-delegated in the municipal year 2016/2017.
- 3.13 Members should also note that under the proposed terms of reference all applications for the grant, renewal, variation or transfer of sexual entertainment venues licences irrespective of whether objections have been received, the grant or variation of sex shop or sex cinema licences irrespective of whether objections have been received, the renewal or transfer of sex shop or sex cinema licences where objections have been received will be heard by a sub-committee. Officers will have delegated authority to deal with the renewal or transfer of sex shop or sex cinema licences where no objections have been received. Any case where an officer has decided not to exercise their delegated authority will refer the matter to the subcommittee for determination.
- 3.14 The committee is asked to approve the licensing sub-committee terms of reference as shown at **Appendix 3**.

Officer Delegation Scheme

- 3.15 Members will recall as set out in paragraph 2.7 above that the Licensing Committee may arrange for the discharge of any functions exercisable by it to be carried out by an officer of the Licensing Authority. The Licensing Committee has previously delegated functions to the Assistant Chief Executive (Citizens and Communities) as set out in the Officer Delegation Scheme shown at **Appendix 4**. Licensing Committee is now requested to delegate the same functions to the Assistant Chief Executive (Citizens and Communities).
- 3.16 Members will be aware that the Police Reform and Social Responsibility Act 2011 allows the licensing authority to act as a responsible authority in relation to the 2003 Act and so to make representations on applications and seek reviews where appropriate. The Guidance issued by the Secretary of State recommends that there be separation between the roles of those involved in making representations or seeking reviews and those involved in making decisions on such matters. That separation should extend to keeping the role separate to that of the officers supporting the sub-committee decision making process. Both these roles are covered in the delegation by the Licensing Committee to the Assistant Chief Executive (Citizens and Communities). However it is proposed to again sub-delegate this responsibility to the appropriate officers of Entertainment Licensing.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 There are no implications for consultation and engagement arising from this report

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

4.3 Council policies and City Priorities

4.3.1 There are no policies which cover the matters set out in this report.

4.4 Resources and value for money

4.4.1 Adopting the recommendations of this report will ensure efficient decision making and reduce legal challenges.

4.5 Legal Implications, Access to Information and Call In

4.5.1. A clear delegation framework will minimise the risk of legal challenge.

4.5.2. There are no matters contained in this report which are potentially exempt from the press and public.

4.5.3. The matters in this report are not eligible for call in as they relate to council functions.

4.6 Risk Management

4.6.1 The appointment of sub-committees to carry out the licensing functions and delegations to officers as appropriate is consistent with good corporate governance arrangements.

5 Conclusions

5.1 That the Licensing Committee should adopt the arrangements set out in this report.

6 Recommendations

6.1 Members of the Licensing Committee are requested to note the terms of reference of the Licensing Committee as approved by full Council on 19 May 2016 as shown at Appendix 1.

6.2 Members of the Licensing Committee are asked to establish five licensing sub-committees hearings required under the 2003 and 2005 Acts

6.3 Members of the Licensing Committee are asked to approve the membership of each sub-committee as set out in Appendix 2 of this report.

- 6.4 Members of the Licensing Committee are asked to approve the terms of reference for the licensing sub-committees as set out in Appendix 3 of this report.
- 6.4.1 Members of the Licensing Committee are asked to approve the delegation of licensing functions to the Assistant Chief Executive (Citizens and Communities) as shown in Appendix 4 to this report.

7 Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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The Licensing Committee

With the exception¹ of

- any function of the licensing authority under the Licensing Act 2003 (the 2003 Act), the Gambling Act 2005 (the 2005 Act), or the Police Reform and Social Responsibility Act 2011 (the 2011 Act) reserved to full Council;² or
- any licensing function where full Council has referred a matter to another committee,³

the Licensing Committee is authorised to discharge⁴ the following functions⁵:

1. to discharge the licensing functions of the licensing authority;⁶
- 2.1 to discharge any other function of the authority referred to it by full Council;⁷
- 2.2 pursuant to the provision in section 2.1 above full Council has delegated to the Licensing Committee the following functions:
 - 2.2.1 the power to make a designated public places order in respect of alcohol consumption under the Criminal Justice and Police Act 2001⁸
 - 2.2.2 hackney carriages and private hire vehicles⁹
 - 2.2.3 sexual entertainment venues, sex shops and sex cinemas¹⁰
 - 2.2.4 performances of hypnotism¹¹
 - 2.2.5 charitable collections¹²
 - 2.2.6 the late night levy¹³

¹ In accordance with Section 7(2) of the 2003 Act or s154 (2) (a) and (c) of the 2005 Act.

² Part 3, Section 2A of the Constitution sets out functions of the licensing authority reserved to full Council, as licensing authority under the 2003 Act, 2005 Act or 2011 Act.

³ Under the provisions of Section 7(5)(a) of the 2003 Act.

⁴ The Committee may arrange for any of its functions to be discharged by one or more sub-committees, or by an officer, subject to the exceptions set out in Section 10(4) of the 2003 Act see also Section 154 of the 2005 Act.

⁵ '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.

⁶ This includes the power to set fees under Section 212 of the 2005 Act

⁷ Full Council may arrange for the Licensing Committee to discharge any function of the authority which relates to a matter referred to the Committee but is not a licensing function (Section 7(3)). It may also refer a matter to the Committee where a matter relates to both a licensing function and to a function of the authority which is not a licensing function, and arrange for the Committee to discharge the other function (Section 7(5)(b) of the 2003 Act). Before exercising this power, the Council must consult with the Committee.

⁸ Item 49 of Para I of Schedule 1 to the 2000 Regulations

⁹ Item 3 – 5 of Para. B of Schedule 1 to the 2000 Regulations

¹⁰ Item 15 of Para. B of Schedule 1 to the 2000 Regulations and Section 27 Policing and Crime Act 2009 and Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

¹¹ Item 16 of Para. B of Schedule 1 to the 2000 Regulations

¹² Item 39 of Para. B of Schedule 1 to the 2000 Regulations

¹³ In accordance with Chapter 2 of Part 2 of the 2011 Act including decisions in relation to the late night supply period, permitted exemption categories and permitted reduction categories in accordance with Sections 132 and 133 of that Act.

- 3 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.
4. to make recommendations to full Council in connection with the discharge of its functions as licensing authority;¹⁴ and
5. to receive reports from, and to make recommendations and representations to other committees or bodies as appropriate.¹⁵

¹⁴ Including recommendations arising from the monitoring of the operation and impact of the licensing or Gambling policy by the Licensing Committee.

¹⁵ Where the licensing authority exercises its power under Section 7(5)(a) of the 2003 Act the other Committee must consider a report of the Licensing Committee. Where the Council does not make arrangements under Section 7(3), it must (unless the matter is urgent) consider a report of the Licensing Committee with respect to the matter before discharging the function (Section 7(4)).

LICENSING COMMITTEE 2016/17

SUB COMMITTEE MEMBERSHIP

A			
B			
C			
D			
E			

Names to be added.

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Licensing Sub-Committees

The Licensing Sub-Committees are authorised to discharge¹ the following functions² concurrently³:

1. functions⁴ under:

- (a) section 18(3) of the 2003 Act (determination of application for premises licences where representations have been made);
- (b) section 31(3) of the 2003 Act (determination of application for provisional statements where representations have been made);
- (c) section 35(3) of the 2003 Act (determination of application for variation of premises licence where representations have been made);
- (d) section 39(3) of the 2003 Act (determination of application to vary designated premises supervisors following police objection);
- (e) section 44(5) of the 2003 Act (determination of application for transfer of premises licences following police objection);
- (f) section 48(3) of the 2003 Act (consideration of police objection made to an interim authority notice);
- (g) section 52(2) or (3) of the 2003 Act (determination of an application for review of a premises licence);
- (h) section 53A-C of the 2003 Act (summary expedited review hearings);
- (i) section 72(3) of the 2003 Act (determination of application for club premises certificates where relevant representations have been made);
- (j) section 85(3) of the 2003 Act (determination of application to vary club premises certificates where representations have been made);
- (k) section 88(2) or (3) of the 2003 Act (determination of application for review of a club premises certificate);
- (l) section 105(2)(decision to give counter notice following an objection to a temporary event notice);
- (m) section 120(7) of the 2003 Act (determination of application for grant of personal licence following police objection);
- ~~(n) section 121(6) of the 2003 Act (determination of application for renewal of personal licences following police objection);~~
- ~~(no)~~—section 124(4) of the 2003 Act (revocation of licence where convictions come to light after grant or renewal of personal licences);
- ~~(o) section 167(5) of the 2003 Act (review following closure order)~~
- (p) section 20(3) of the 2003 Act (making recommendations for restricting the admission of children to the exhibition of any film)
- (q) section 159 of the 2005 Act (determination of application for premises licences where representations have been made)⁵

¹ With the exception of those functions set out in paragraphs 1 and 2 above, and subject to any direction given by the Licensing Committee, the Licensing Sub-Committees may arrange for any of these functions to be discharged by an officer (Section 10(2) and (5) of the Licensing Act 2003 (the 2003 Act)).

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 Section 10(3) of the 2003 Act.

⁴ Including agreeing whether a hearing is necessary.

- (r) section 187 of the 2005 Act (determination of application for variation of premises licence where representations have been made);⁵
 - (s) section 188 of the 2005 Act (determination of application for transfer of premises licences following objection);⁶
 - (t) section 195 of the 2005 Act (consideration of objection made to an application for reinstatement);⁶
 - (u) section 201~~3~~ of the 2005 Act (determination of review of a premises licence);
 - (v) section 204 of the 2005 Act (determination of application for provisional statements where representations have been made);⁶
 - (w) section 224 of the 2005 Act (decision to give counter notice following an objection to a temporary use notice);
 - (x) schedule 10 of the 2005 Act (consideration of representations in relation to the proposed rejection of a family entertainment centre permit);
 - (y) schedule 14 of the 2005 Act (consideration of representations in relation to the proposed rejection of a prize gaming permit);
 - (z) schedule 13 of the 2005 Act (consideration of representations in relation to the proposed rejection of an alcohol licensed premises gaming machine permit);
 - (aa) schedule 12 of the 2005 Act (consideration of representations in relation to the proposed rejection of a club gaming permit or club machine permit);
2. Functions relating to any other hearings required under the 2003 Act or the 2005 Act that have not been reserved to the Licensing Committee.
 3. The function of hearing appeals against the refusal to grant a contract driver permit.
 4. The function of licensing performances of hypnotism⁷ where an officer has considered they should not exercise their delegated authority and has referred the matter to the sub-committee for determination.
 5. The function of licensing sex establishments⁸ (sex shops, sex cinemas or sexual entertainment venues) where either the application is for the grant, renewal or transfer of a licence irrespective of whether objections have been received, or in any other case where an officer has decided not to exercise their delegated authority and has referred the matter to the sub-committee for determination.

⁵ Including deciding whether representations are vexatious, frivolous, or will certainly not influence the authority's determination of the application

⁶ Including deciding whether representations are vexatious, frivolous, or will certainly not influence the authority's determination of the application

⁷ The Hypnotism Act 1952

⁸ s2 and sch 3 of the Local Government (Miscellaneous Provisions) Act 1982

6. The function of licensing persons to collect for charitable and other causes⁹ where either objections have been received, or an officer has decided not to exercise their delegated authority and has referred the matter to the sub-committee for determination.
7. Hearing any appeal against an officer decision to refuse to recognise an applicant for the purposes of the constitution for the Hackney Carriage Trade Forum or the removal of recognition under the terms of that document.
8. To discharge any other function referred by the Licensing Committee, including making representations to the Licensing Committee in connection with the discharge of its functions.

Exceptions

A Sub Committee is not authorised to discharge functions under paragraph 1 (a) to (e) above where the application relates to an event in the open air, in a temporary structure and where the proposed capacity of the event exceeds 30,000 people.

⁹ Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939

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Assistant Chief Executive (Citizens and Communities)

Subject to the exceptions listed below, the Assistant Chief Executive (Citizens and Communities)¹ is authorised to discharge the following Council (non-executive) functions:

1. Regulatory Functions

(a)	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)
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Exceptions²

The Assistant Chief Executive is not authorised to discharge the function above where objections have been received.

2. Functions of the Licensing Authority delegated by Full Council

Subject to the exception set out below, the Assistant Chief Executive (Citizens and Communities) is authorised to discharge the functions of the licensing authority as set out below:-

(a)	Any function of a Licensing Authority ³	Licensing Act 2003 and any regulations or orders made under that Act ⁴ .
(b)	Powers and functions relating to late night levy requirements	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that Chapter.

Exceptions:

- any function of the Licensing Authority reserved to full Council⁵;

¹ The fact that a function has been delegated to the Assistant Chief Executive does not require the Assistant Chief Executive to give the matter his/her personal attention and the Assistant Chief Executive may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However, the Director remains responsible for any decision taken pursuant to such arrangements.

² Under this delegation scheme (Council functions). The General Purposes Committee may however arrange for the discharge of any of its functions by the Assistant Chief Executive - (Section 101(2) Local Government Act 1972.

³ These functions will be carried out to support those matters which cannot be delegated by the Licensing Authority.

⁴ Including functions which, by virtue of the Gambling Act 2005 Act are delegated to the Licensing Committee.

⁵ Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as

3. Functions of the Licensing Authority delegated by Licensing Committee

Subject to the exceptions listed below, the Assistant Chief Executive (Citizens and Communities) is authorised to discharge the licensing functions⁶ of the licensing authority as set out below:-

(a)	Any function of a Licensing Authority	Licensing Act 2003 and any regulations or orders made under that Act ⁷ .
(b)	Powers and functions relating to late night levy requirements	Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 and any regulations made under that chapter
(c)	Duty to comply with requirement to provide information to Gambling Commission.	Section 29 of the Gambling Act 2005
(d)	Functions relating to the exchange of information	Section 30 of the Gambling Act 2005
(e)	Functions relating to occasional use notices	Section 39 of the Gambling Act 2005
(f)	Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises	Section 304 of the Gambling Act 2005
(g)	Power to institute criminal proceedings	Section 346 of the Gambling Act 2005
(h)	Power to exchange information	Section 350 of the Gambling Act 2005
(i)	Functions relating to the registration and regulation of small society lotteries	Part 5 of Schedule 11 to the Gambling Act 2005

Exceptions:

- any function of the Licensing Authority⁸ reserved to full Council⁹;
- any function of the Licensing Authority where full Council has referred a matter to a committee other than the Licensing Committee¹⁰;
- any function of the Licensing Authority reserved to the Licensing Committee;
- any function of the Licensing Authority within the terms of reference of the Licensing Sub-committees¹¹;and

licensing authority under the 2011 Act.

⁶ “Licensing functions” means functions under the Licensing Act 2003 Act, the Gambling Act 2005 2005 and the Police Reform and Social Responsibility Act 2011.

⁷ Including functions which, by virtue of the 2005 Act are delegated to the Licensing Committee.

⁸“Licensing functions” - see footnote 6 above

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 by

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- to object when the Authority is consultee and not the relevant authority considering an application under the 2003 Act

4. Functions related to the Licensing Functions delegated by Licensing Committee¹²

Subject to the exceptions listed below, the Assistant Chief Executive (Citizens and Communities) is authorised to discharge the functions set out in the following table that are delegated to the Assistant Chief Executive (Citizens and Communities) by Licensing Committee¹³

(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 license sex shops and sex cinemas and sexual entertainment venues.	The Local Government (Miscellaneous Provisions) Act 1982, Section 2, Schedule 3, the Policing and Crime Act 2009, Section 27.
(e)	To license performances of hypnotism.	The Hypnotism Act 1952
(f)	*** 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

an Officer.

¹² These functions were delegated to the Licensing Committee by full Council on 14 July 2010.

¹³ These delegations include functions where these have been delegated to Leeds City Council by any other Council.

		Collections Act 1939
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Exceptions

The Assistant Chief Executive (Citizens and Communities) is not authorised to discharge those functions marked ** above where the application is for the grant, renewal or transfer of a sexual entertainment venue licence irrespective of whether objections have been received, or the grant of a sex shop or sex cinema licence irrespective of whether objections have been made, or renewal or transfer of a sex shop or cinema licence where objections have been received

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

Report of the City Solicitor

Report to Licensing Committee

Date: 20th May 2016

Subject: Licensing Procedure Rules, the Code of Practice for Determining Licensing Matters and Prescribed Licensing Training.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. This report sets out the proposed Rules of Procedure to be followed by the Licensing Committee and the licensing sub-committees in respect of all meetings including those held under the provisions of both the Licensing Act 2003 and the Gambling Act 2005.

2. It is necessary for the Licensing Committee to re-affirm the Rules of Procedure each time the Committee is appointed.

3. It also highlights the Code of Practice for the Determination of Licensing Matters for Members' information. This code was previously approved by Standards Committee but, following changes to the Member Code of Conduct in 2012, the Standards Committee resolved to transfer responsibility for reviewing, amending and approving the Code of Practice to Licensing Committee.

4. Finally the report sets out the arrangements for the prescribed Member Training on licensing under the provisions of Article 8A of the constitution and the Code of Practice.

Recommendations

5. That Members approve the Licensing Procedure Rules as set out as **Appendix 1** to this report.
6. That Members approve and follow the contents of the Code of Practice for the Determination of Licensing Matters as attached at **Appendix 2**.
7. That Members note the arrangements for the prescribed training programme.

1. Purpose of this report

- 1.1 To put forward for Members' consideration, draft procedure rules relating to hearings and other meetings of the Licensing Committee and sub-committees and to seek the approval of Members to the adoption of these to govern committee procedure.
- 1.2 To put forward for members' consideration the Code of Practice for the Determination of Licensing Matters previously approved by Standards Committee and to ask members to approve and resolve to follow the Code.

2. Background information

- 2.1 Under the Licensing Act 2003 Leeds City Council is appointed as the licensing authority for the Leeds district. With the exception of certain functions (most notably the development of a licensing policy), the Act automatically refers all matters relating to the discharge of licensing functions to a licensing committee, which had to be created and which must discharge those functions on behalf of the authority.
- 2.2 Section 9 (2) of the 2003 Act provides that the Secretary of State may issue regulations governing
 - The proceedings of licensing committees and their subcommittees (including provision about the validity of proceedings and the quorum for meetings)
 - Public access to the meetings of those committees and subcommittees
 - The publicity to be given to those meetings
 - The agendas and records to be produced in respect of those meetings
 - Public access to such agendas and records and other information about those meetings
- 2.3 Subject to the regulations, a licensing committee may regulate its' own procedure and that of its sub-committees.
- 2.4 On 12 January 2005 the Secretary of State issued regulations under Section 9(2) of the 2003 Act¹ in respect of licensing matters, although these only apply to the procedure to be followed in respect of hearings as defined in column 1 of schedule 1 to the Regulations. Effectively this relates to the normal business of licensing-sub committee such as determining applications for premises licences and certificates, variations and transfers of licences and certificates and reviews.

¹ Licensing Act 2003 (Hearings) Regulations 2005 SI 2005/44

- 2.5 On 2 March 2005 the Licensing Committee approved two sets of procedure rules under the 2003 Act and the associated regulations. The first sets of rules were referred to as the Licensing Committee General Procedure Rules and the second as the Licensing Committee Hearings Procedure Rules. The second set mirrored the Regulations issued by the Secretary of State referred to in paragraph 2.4 above.
- 2.6 Under the Gambling Act 2005 the functions of the council as licensing authority for gambling are also automatically referred to the Licensing Committee created under the 2003 Act. Section 154(5) of the 2005 Act ensures that the provisions of section 9 of the 2003 Act apply to the proceedings of Licensing Committee and Sub Committees when exercising functions under part 8 of the 2003 Act (premises licensing). The Secretary of State can therefore use this provision to make regulations that may apply to both licensing and gambling functions, or may make separate regulations for each Act.
- 2.7 On 27 January 2007 the Secretary of State issued regulations in respect of premises licensing under the 2005 Act². These regulations apply only to the exercise of functions in respect of premises licensing and provisional statements under the 2005 Act. Therefore there are two separate sets of regulations which apply to the conduct of hearings before the Licensing Committee and sub-committees dependant upon which functions are being exercised.
- 2.8 On 3 April 2007 the Committee considered whether the provisions of the Gambling Regulations could be incorporated into the then existing Procedure Rules and concluded that they could not. The Committee then considered whether two full sets of rules should be drafted in relation to the gambling and licensing functions but agreed instead that a revised set of Rules be approved which cross refer to the two sets of regulations without setting out the full provisions of either.

3. Main issues

Licensing Committee Procedure Rules

- 3.1 The Committee has previously approved one set of Licensing Committee Procedure Rules, which apply to proceedings under both the 2003 Act and the 2005 Act and which cross refer to the relevant regulations. The Rules proposed for adoption by the Licensing Committee and sub-committees at **Appendix 1** to this report are identical to those approved previously.
- 3.2 In relation to hearings held under the 2003 or 2005 Acts before a licensing sub-committee, these must follow the relevant regulations. A legal advisor is present at all hearings of the sub committee and will provide advice on the regulations as required.

Licensing Code of Practice

² The Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licence and Provisional Statements) (England and Wales) Regulations 2007 SI 2007/173

- 3.4 The Code of Practice for the Determination of Licensing Matters was previously approved by the Standards Committee of the council following consultation with the Licensing Committee. It substantially followed the guidance previously produced by LACORs (Local Authority Coordinators of Regulatory Services).
- 3.5 The code applies to all licensing decisions made including decisions of the Licensing Committee, decisions of the licensing sub-committee and any delegated decisions within the terms of reference of the preceding bodies. The code also applies at all times when Members are involved in the licensing process, such as meetings with the public. The aim of the code of practice is to ensure that there are no grounds for suggesting that a licensing decision has been biased, partial or not well founded in any way.
- 3.6 The previously approved Code of Practice for the Determination of Licensing Matters is attached at **Appendix 2** for Members to consider.
- 3.7 A new Members Code of Conduct was adopted by full Council on 12th September 2012 and this reflected new guidance issued by DCLG. In addition, the Standards and Conduct Committee met on Friday 11th January 2013 and considered a report on the review of the Codes of Practice. Members concluded that the Licensing Committee was better placed to formulate the contents of the Code of Practice than the Standards and Conduct Committee. They also agreed that the Code of Practice should not contain repetition of the requirements of the Members' Code of Conduct and instead should deal with issues affecting the legality of the decision, such as bias and predetermination.
- 3.8 The Code of Practice has been amended to remove any repetition of the Members' Code of Conduct and to make clear that responsibility for amending and approving the Codes of Practice has now been transferred to the Licensing Committee.
- 3.8.1 The Code of Practice provides clarity for Members about the need to give the members Code of Conduct primary consideration followed by the need to avoid a finding of bias and pre-determination in decision making.
- 3.9 Members are requested to consider the Code in the light of their requirements as a Licensing Committee and determine whether or not to approve the Code and if so, to resolve to follow it.

Licensing Training

- 3.11 Members will note from paragraph 10 of the Code of Practice at Appendix 2 that Members on Licensing Committee are required to attend two sessions of licensing training in each municipal year. These are
- a Licensing Update session, to receive guidance in relation to regulations and procedures; and
 - a Governance and Conduct session, for training on disclosable pecuniary interests and the Members' Code of Conduct.
- 3.12 In addition Article 8A of the constitution provides that Members of the Licensing Committee must complete all compulsory training and shall not sit as a member of

the committee or its sub-committees unless such training has been undertaken in accordance with the Council's prescribed training programme.

- 3.13 Members are asked to note that the prescribed training programme consists of a training session for new members appointed to the Licensing Committee. There will be a further refresher training session for all members at the November committee meeting.
- 3.14 In addition to the prescribed training programme officers will continue to offer briefings and training on relevant developments as appropriate wherever possible to be arranged at a time when licensing committee meetings take place to ensure as many members as possible can attend. Members asked to sit on Licensing sub committees dealing with SEV matters would receive specific training on this if required.

4. Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 No implications

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 No implications

4.3 Council policies and City Priorities

- 4.3.1 There are no policies which cover the matters set out in this report.

4.4 Resources and value for money

- 4.4.1 There are no resource implications in adopting the rules.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 Failure to adopt and adhere to relevant procedure rules might render decisions susceptible to challenge.
- 4.5.2 There are no potentially exempt matters referred to in this report.
- 4.5.3 This decision is not eligible for call in as it relates to a council function.

4.6 Risk Management

- 4.6.1 Following the Procedure Rules and the Code Of Practice for the Determination of Licensing Matters will assist in preventing claims that decisions have been biased, partial or not well founded.

5. Conclusions

5.1 That Members should adopt the proposed procedure rules, approve the requirements of the Code of Practice for the Determination of Licensing Matters and note the arrangements for the prescribed training programme.

6. Recommendations

6.1 That Members approve the Licensing Procedure Rules as set out as **Appendix 1** to this report

6.2 That Members approve and resolve to follow the contents of the Code of Practice for the Determination of Licensing Matters as attached at **Appendix 2**.

6.3 That Members note the arrangements for the prescribed training programme

7. Background documents³

7.1 None

³ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

LICENSING COMMITTEE AND SUB COMMITTEE PROCEDURE RULES

1. INTERPRETATION

'The Chair' means the Chair of the Licensing Committee.

'The Committee' means the Licensing Committee or Licensing Sub Committee.

'The Relevant Regulations' means the Licensing Act 2003 (Hearings) Regulations 2005 SI 2005/44 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 SI 2007/173

'The 2003 Act' means the Licensing Act 2003

'The 2005 Act' means the Gambling Act 2005

2. SCOPE

These Procedure Rules will apply in respect all matters which are dealt with by the Committee under either the 2003 Act or the 2005 Act

3. APPLICATION OF COUNCIL PROCEDURE RULES/ACCESS TO INFORMATION PROCEDURE RULES

Except where the Relevant Regulations provide differently, the Council Procedure Rules and Access to Information Procedure Rules (in so far as they apply to committees and sub-committees) will be followed for all meetings of the Committee.

4. APPLICATION OF THE RELEVANT REGULATIONS

The provisions of the Licensing Act (Hearings) Regulations 2005 shall apply to any hearings conducted under the provisions of the Licensing Act 2003¹ and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to such hearings the provisions of the Relevant Regulations shall prevail.

The provisions of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 shall apply to the exercise of functions under Section 162 (1) and (2) and Section 201 (4) of the Gambling Act 2005 and in the event of any conflict between the Relevant Regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to the exercise of such functions the provisions of the Relevant Regulations shall prevail.

5. APPOINTMENT OF CHAIR

The Authority shall appoint the Chair of the Licensing Committee at its AGM.

¹ Hearings are defined as those matters referred to in column 1 of schedule 1 to the regulations.

The Chair of each Licensing Sub-Committee shall be elected by the Sub-Committee at the start of each meeting.

6. QUORUM

Five Members (including the Chair) shall form a quorum for meetings of the Licensing Committee.

Three Members shall normally form a quorum for meetings of a Licensing Sub-Committee.

In exceptional circumstances such as illness or unanticipated none availability of a Sub-Committee Member it shall be possible for an ordinary business sub committee to conduct a hearing with only two Members present provided that

- Attempts have been made to identify a Member who can substitute for the Member who is not available without success and
- The parties present agree to a quorum of two and
- The resultant decision is unanimous

The Large Casino Sub-committee and the SEVs Sub-committee may not operate to a quorum of less than 3 Members present.

Except where authorised by statute, business shall not be transacted at a meeting unless a quorum is present.

7. SUBSTITUTE MEMBERS

Allocation

No substitute Members are appointed for the Licensing Committee.

In relation to each ordinary business Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other Members of the Licensing Committee.

In relation to the Large casino Sub-committee and the SEVs Sub-committee the Licensing Committee has appointed 5 Members to each sub-committee. That pool of 5 Members will form a sub-committee of three Members with two substitute Members if required.

Substitution

A substitute Member shall be entitled to attend in place of a regular Member provided that the Committee Clerk has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that agenda item as a Member of the Licensing Sub-Committee concerned.

Powers and duties

A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.

A substitute Member shall be for all purposes a duly appointed Member of the Licensing Sub-Committee to which s/he is appointed as a substitute Member for the meeting in question and shall have the like duties, powers and responsibilities as the member whom s/he is replacing.

8. MEETINGS OF THE COMMITTEE

The Chair of the Committee or the Chief Executive may call a meeting at any time.

A special meeting of the Committee may be called on the requisition of any 3 Members of the Committee delivered in writing to the Chief Executive. The summons to such a special meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

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CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS

1.0 INTRODUCTION

1.1 **This code applies** to all licensing decisions including:

- 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.

1.2 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.

1.3 This code of practice applies as follows:

- Sections 1-2 apply to all Members.
- Sections 3-8 apply particularly to Members of the Licensing Committee.
- Sections 9-10 apply to officers.
- Sections 11-13 deal with monitoring and review

1.4 **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.

1.5 **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 Monitoring Officer.

1.6 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.

1.7 If you make or are involved in a licensing application, 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.
- Ensure that you have arranged for a substitute to attend the hearing in your place.

2.0 BIAS AND PREDETERMINATION IN THE LICENSING PROCESS

- 2.1 Section 25(2) of the Localism Act 2011 sets out that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –
- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
 - (b) the matter was relevant to the decision.
- 2.2 The above section was enacted to clarify that predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The section makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue, so that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.
- 2.3 Having said this, the words ‘just because’ in Section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination so care still needs to be taken.
- 2.4 Given the requirement that Members of the 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 decision prior to its full consideration at the Licensing Committee or Sub Committee.
- 2.5 **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.
- 2.6 **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.
- 2.7 **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.
- 2.8 **Do not** use any political group meetings prior to the 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.

3.0 MEMBERSHIP OF PARISH COUNCILS, AREA COMMITTEES AND OUTSIDE BODIES

3.1 This section concerns the position of Members of Leeds City Council who are also Parish Councillors or members of an outside body.

3.2 **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 where it is a consultee provided:

- 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.

4.0 SPOUSE/PARTNER COUNCILLORS

4.1 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. 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.

4.2 **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.

5.0 CONTACT WITH APPLICANTS AND OBJECTORS

5.1 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 Monitoring Officer 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.

6.0 MEMBERSHIP OF A LOBBY GROUP

- 6.1 Lobbying by Councillors is a legitimate activity but in the case of Members of the 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.
- 6.2 **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.
- 6.3 **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
- 6.4 **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.
- 6.5 **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).
- 6.6 **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 where that organisation has made representations on a particular proposal, you should make it clear to both the organisation and the Committee that you have not made up your mind on each separate proposal

- 6.7 **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.
- 6.8 **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.
- 6.9 **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. 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.

7.0 SITE VISITS

- 7.1 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. They are not to be used to determine a proposal prior to a hearing. Due to the tight timescales involved in licensing decisions, site visits must be viewed as an exception rather than the rule.
- 7.2 When undertaking a site visit Members should also have regard to the following paragraphs of the Code of Practice for Determining Licensing Matters:
- ❖ Paragraph 2 - Bias and Predetermination in the Licensing Process.
 - ❖ Paragraph 5 - Contact with Applicants and Objectors.

7.3 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT

- 7.3.1 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 a Principal Licensing 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.

- 7.3.2 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.
- 7.3.3 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.
- 7.3.4 In the case of a meeting of the Licensing Committee, a majority of the Members present must be in favour of a site visit.
- 7.3.5 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.
- 7.3.6 **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.
- 7.3.7 **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.
 - There are significant policy or precedent implications and specific site factors need to be carefully addressed.
 - 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.

7.4 THIS SECTION APPLIES TO SITE VISITS AS PROPOSED BY OFFICERS

- 7.4.1 The Principal Licensing 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.
- 7.4.2 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.
- 7.4.3 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 visit.
- 7.4.4 Some site visits can only be conducted at night in order to gauge an accurate impression of the proposal being discussed. On occasion the site visits will also include a viewing of the site ‘in performance’.
- 7.4.5 In other cases it is usual for the site visit on an application 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.

- 7.4.6 Having made proposals for a site visit, officers will seek confirmation from the Members able to attend that they are happy to undertake the propose site visit.

7.5 ON THE SITE VISIT

- 7.5.1 **DO** ensure that any information gained from the site visit is reported back at the subsequent hearing.
- 7.5.2 **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.
- 7.5.3 **DO** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 7.5.4 **DO** be prepared to listen to and ask questions of fact from the Applicant or other parties.
- 7.5.5 **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.
- 7.5.6 **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.
- 7.5.7 **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.
- 7.5.8 **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.
- 7.5.9 **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.
- 7.5.10 **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.

8.0 TRAINING

- 8.1 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 disclosable pecuniary interests and the Members' Code of Conduct.
- 8.2 Failure to undertake either or both sessions will result in the Elected Member being unable to sit on the Licensing Committee or Sub Committee. Therefore, **do not** participate in decision making on licensing matters if you have not undertaken mandatory training.
- 8.3 **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.
- 8.4 **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.

9.0 OFFICERS

- 9.1 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.
- 9.2 The role of the Legal officer is to assist the committee in gathering evidence and understanding all relevant issues in order for Members to make a decision, and to advise on the sub committees' legal duties under the relevant legislation and on the admissibility of evidence.
- 9.3 As and when appropriate legal advice should be given or repeated in open session for all parties to be made aware of.
- 9.4 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.
- 9.5 The role of the Licensing Officer attending the hearing is neutral. They will make no recommendations to the 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. However there is a separate but distinct officer role which is exercised by Liaison and Enforcement Officers from Entertainment Licensing who may make representations on applications or seek

reviews. The roles of these officers and the Licensing Officer processing applications and hearing reports are (and must remain) separate.

- 9.6 **Do not** put pressure on Licensing officers to put forward a particular recommendation.
- 9.7 **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.
- 9.8 **Do** recognise and respect that officers involved in the processing and determination of licensing application must act in accordance with the Council's Employee Code of Conduct. As a result, officers reports will be presented on the basis of their overriding obligation of professional independence.

10.0 RELATIONSHIP WITH THE EMPLOYEE CODE OF CONDUCT

- 10.1 The Council has an approved Employee 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.
- 10.2 Officers must apply the rules in the Employee Code of Conduct at all times. If they do not they may put the Council at risk of proceedings on the legality of any related decision, and may put themselves at risk of disciplinary action.
- 10.3 Generally licensing officers have little discretion in making licensing decisions. 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.
- 10.4 In all cases officers must avoid any improper conduct or occasion for suspicion of the appearance of improper conduct and should:-
- 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 Employee Code of Conduct.
 - Declare to their Director 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; and
 - 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.

- 10.5 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.
- 10.6 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.

11.0 PROCEDURES AT LICENSING HEARINGS

- 11.1 The Licensing Committee and Sub Committee Procedure Rules (Part 4(n) of the Constitution), set out the procedure for hearings before the Licensing Committee and Sub Committees.

12.0 MONITORING AND REVIEW

- 12.1 The Monitoring Officer shall monitor the following, and will report annually to the Corporate Governance and Audit Committee in relation to these matters:-
- the number of appeals upheld;
 - any external inspection reports in respect of relevant issues; and
 - any ombudsman complaints or reports in respect of relevant issues.

13.0 BREACHES OF THE CODE OF PRACTICE

- 13.1 Failure to comply with this code of practice may lead to a finding of maladministration by the Ombudsman or could lead to a decision being challenged in the courts.
- 13.2 Allegations of a breach of this code of practice by Officers will be referred to the relevant Director for consideration under the Council's Disciplinary Procedure.



Report author: Susan Holden
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Report of the Head of Elections, Licensing and Registration

Report to **Licensing Committee**

Date: **20th May 2016**

Subject: **Amendment to the Council’s Licensing Act 2003
Statement of Licensing Policy 2014-18**

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of main issues

1. The Licensing Act 2003 Statement of Licensing Policy 2014-18 (the Licensing Policy) was adopted by Council on 15th January 2014. It would normally be reviewed every 5 years unless matters dictate that it should be reviewed.

2. The Licensing Authority has been working with partners to address issues around anti-social behaviour amongst people drinking on the street in Armley. A cumulative impact policy (CIP) for Armley has been investigated and consulted upon. This report includes the responses to the consultation and the changes to the Licensing Policy required to introduce the CIP for Armley.

3. Whilst this major review was being undertaken, officers, on request from West Yorkshire Police have reviewed the wording in the City Centre CIP and have amended some working to remove an area of ambiguity.

Recommendations

4. That Licensing Committee reviews the response to consultation on the Armley and City Centre CIPs and endorses this report as the Council’s response.

5. That Licensing Committee refers the amended Licensing Policy to full Council for adoption.

1 Purpose of this report

- 1.1 This report presents the response to the two consultations relating to the introduction of a CIP for Armley and the amendment of the CIP for the City Centre.

2 Background information

- 2.1 The Licensing Act 2003 Statement of Licensing Policy 2014-18 was adopted by full Council in November 2013. This Licensing Policy was to run for five years. The Council has the option, in its role as Licensing Authority to review and update the Licensing Policy as the need arises.
- 2.2 It was brought to the attention of the Area Community Safety Officers that Armley was experiencing antisocial behaviour from people drinking in the street. A multiagency group was formed and some initial work had been undertaken. Two groups were identified; dependant street drinkers and groups of Eastern European men. The public, through a survey undertaken by Mrs Rachel Reeves MP, had expressed concern and fear about shopping in Armley.
- 2.3 Entertainment Licensing officers were invited to join the group to identify if there were any measures that could be introduced that would alleviate the problems. After some initial research it became apparent that Armley has experienced a growth in the off licence sector with the number of businesses selling alcohol for consumption off the premises (off licences) having increased five fold in 12 years.
- 2.4 Leeds Anti-Social Behaviour Team and West Yorkshire Police provided information that showed that Armley was experiencing high levels of disorder and antisocial behaviour, a matter that is relevant to the Licensing Act 2003 as the prevention of crime and disorder and public nuisance are licensing objectives under the Act.
- 2.5 A cumulative impact policy was proposed that could halt the increase in off licences on Town Street and Branch Road, the main shopping areas in Armley. The inclusion of a new CIP requires an amendment to the current Licensing Policy and consequentially requires public consultation under the legislation.
- 2.6 As the Licensing Policy was to undergo a review and approval process, officers, on request from West Yorkshire Police, reviewed the wording to the city centre CIP and suggested amendments to remove some ambiguity about the scope of the CIP.
- 2.7 Both matters have been subject to a public consultation. The Armley CIP Consultation ran from 27th January to 8th April. The City Centre CIP ran from 14th March to 15th April. The responses to the consultation are outlined in this report.
- 2.8 Approval of a revised Licensing Policy is a matter for full Council and the matter always referred from Licensing Committee. Therefore this report recommends endorsing this report as the response to the consultation and referring the revised Licensing Policy to Council for adoption.

3.0 Main issues

Armley CIP

- 3.1 Armley is an area which, like other areas in Leeds, has shown a decrease in premises licensed for the sale of alcohol on the premises, such as pubs and registered clubs. However it has also seen an increase in off licences.
- 3.2 A quick survey of the licensing statistics shows an increase as follows:
- In 2011 there was the usual mix of applications across Armley including two on licences, an off licence and a take away.
 - In 2012 and 2013 there were no applications.
 - In 2014 there were two off licence applications and an on licence (Neli's Bar which was subsequently revoked on review).
 - In 2015 there have been 4 off licence applications granted.
 - In 2016 so far there have been 2 applications with a third expected.
- 3.3 It demonstrates there is an increase in off licence applications in an area that currently has 10 off licences on Town Street and Branch Road and so this would highlight that this area is becoming attractive to businesses wanting to establish an off licence type operation.
- 3.4 This alone does not warrant a cumulative impact policy. However there has been some negative press regarding antisocial behaviour around Armley Town Street. Part of the issue is that there is a culture of street drinking which involves two distinct groups. Firstly, adult Eastern European males drinking in small groups, generally orderly and compliant and who hand over alcohol when requested as per the DPPO. The second group are a more anti-social group of white British males who congregate on Town Street and whilst in drink commit crimes, and generally make a nuisance of themselves to passers-by and shop premises.
- 3.5 A multiagency partnership was formed in 2015 and consists of officers from West Yorkshire Police, Leeds Antisocial Behaviour Team, Front Door (social workers), Housing, Public Health, Community Safety, and Entertainment Licensing. The group meets regularly to discuss case work as well as more general long term solutions for antisocial behaviour on Town Street.
- 3.6 One of the issues highlighted is the prevalence of strong and cheap alcohol at various off-licence premises on and around Town Street. West Yorkshire Police can identify the shops concerned as they are finding littered bottles and cans that are only available in certain shops and so are confident that the issue seems to be with the smaller independently owned off licences. However each premises is working within the Licensing Act and so would not be subject to enforcement action.
- 3.7 Added to this is the increase in off licences opening on Town Street, and more recently Branch Road. The multiagency group decided the number of off licensed premises and their cumulative impact warranted further investigation to see if a cumulative impact policy would be appropriate.

- 3.10 In order to establish if the problems reported in Armley are tangible or perceived problems, West Yorkshire Police provided a crime report and Leeds Antisocial Behaviour Team (LASBT) produced a report which provided examples of the complaints and issues they are dealing with in Armley.
- 3.10 The LASBT report showed that it was worth investigating a CIP further including consulting with Community Committees, local residents and requesting further reports from Partner Agencies who are dealing with disorder in this area.
- 3.8 The report from the Police shows that although the types of crimes associated with on licensed premises remain low or are decreasing, there has been a significant increase in violent crime and antisocial behaviour of the type that could be linked with alcohol.
- 3.11 The CIP was developed in conjunction with the multiagency group, and presented to the public along with a consultation questionnaire. Consultation packs were available online on the council website, through Talking Point and were placed in Armley One Stop Centre. Officers attended a meeting of the Community Committee to present the consultation and also the Armley Forum which is a meeting of both Ward Members and members of the public. 50 packs were distributed this way.
- 3.12 The Ward Members and interested members of the public distributed packs to the shops on Armley Town Street to ensure that businesses affected by the change were also aware of the consultation and had the ability to respond. Volunteers distributed packs through Helping Hands, an organisation that supports older people.
- 3.13 The consultation ended on the 8th April. 158 responses were received. A breakdown of the results to the four main questions were as follows:

	Yes	No	Not sure	No answer
Q1 Do you think people who live in Armley mostly buy their alcohol in Armley	92	15	36	8
Q2 Do you think the number of off licences in Armley contributes to the anti-social behaviour of the street drinkers on Town Street?	111	15	12	8
Q3 If a CIP is introduced for Armley, it may mean that new licences for off licences, mini markets and convenience stores could be refused even if other shops close. Is this acceptable?	108	12	19	9
Q4 The CIP would cover Armley Town Street, Branch Road and some of the neighbouring streets. Is this the right area?	111	9	22	11

- 3.14 People were given an opportunity to provide any further comments. We asked respondents to tell us about anything they think might help us in reducing anti-social behaviour in Armley, such as other schemes they may have heard of that they think we should look into. Overwhelmingly people wanted more police presence, with the police on foot patrols.

“More rounds for police to come into the area as there is very little impact on this unacceptable issue/behaviour. An increased number of foot patrols of the area would benefit substantially.”

“Community Police. I never see any around. It was proved a few years ago that their presence made things better.”

“Not enough police presence to move people on. People especially the elderly daren't shop on Town Street where groups of men hang about on the seats drinking all day.”

“A high visible presence on Town Street and surrounding area by police is necessary. They need to engage with the public not sit in cars or vans.”

- 3.15 However other suggestions included solving the problem directly with the individuals concerned either through education or punishment.

“Education and job opportunities for citizens in area to create better wellbeing and respect for not just themselves but their neighbours. Drug and alcohol programs to help addicts.”

“Arts projects which support mental health - the sort of work Space 2 does. Investment in things like I Love West Leeds arts festival. Enforcement when there are misdemeanours. Public art commissions (like Chapeltown and Dewsbury Road).”

“Reducing the number of off-licences will not reduce the problem of anti-social drinking; at best it will just move it somewhere else. Education and action is the answer.”

“Closing, or refusing further alcohol licenses won't make any difference, as they only need one place to be able to purchase alcohol - this would stifle competition and mean that normal law-abiding people don't have a choice in where to buy alcohol in the consultation area. More should be done to tackle the bad behaviour, rather than punishing everybody because of a minority causing problems. Imposing and enforcing drinking in public spaces would be a better solution.”

- 3.16 A number of people suggested reducing the sale of cheap alcohol:

“Reduction of the sale of cheap alcohol should hopefully make it less convenient to drink on Armley Town Street. The local police need as much support as possible to be able to positively act against ASB. Community projects to 'reclaim' areas frequented by street drinkers and other anti-social behaviour needs to be embraced

to bring about long term change and improvement, and root causes identified and addressed.”

“Shops selling cheap alcohol have contributed to the rise in antisocial behaviour around Town Street, the shops should be made more accountable and be responsible to a certain extent. They could inform customers when purchasing alcohol (especially single cans), that street drinking is not acceptable in Armley. Shops selling illegal alcohol and tobacco should have their licences revoked. We are in danger of our children and grandchildren thinking it is perfectly normal to drink alcohol in the streets. It is very intimidating to walk past a group of men who are or have been drinking for me as an adult even more so for the elderly or school children.”

3.17 A broader, more holistic view was suggested by several people.

“Anti-social behaviour and deprivation go hand in hand; you cannot resolve one without the other. There are short term strategies, such as restrictions suggested in this report, increased community policing and the use of CCTV to name a few. However to really increase the wellbeing of residents and to decrease the anti-social behaviour, a more holistic view of the issues should be taken into consideration. Looking to curb social misconduct by regulating the physical space in which it occurs is not a new concept and case studies both for and against such policy can be found. I do believe that controlling the number of off licences would be a useful starting point, so I am in agreement with this, however this cannot be looked at as a success if it is done in isolation. I would be really interested to learn more about the wider approach planned for Armley in order to make these first steps really count. Thank you.”

“a strong community comes from a community that has pride in its self. 30 years ago we had a pub on every corner and one off licence, the pub was the social meeting place for the whole community, now half the pubs have gone and the amount of off licenses have increased so has the trouble and community pride has been eroded. get serious and reduce the amount of off licences, get tough with public drinking and drink related crimes, even if this offends the business community.”

3.18 Overall the consultation elicited a positive response to the proposal for a CIP in Armley. We received many very useful comments which will be considered by the multi-agency group and taken forward if appropriate.

3.19 We were pleased that some people felt that the CIP alone wouldn't make a significant difference but that a more holistic approach is needed. This is a view shared by the multiagency group and one on which the group is based. Entertainment Licensing, on behalf of the licensing authority and the Council, is working with partners across all departments of the council, as well as with Public Health, treatment services and West Yorkshire Police to provide a multi-system solution to anti-social behaviour in Armley.

City Centre

- 3.20 The council introduced the City Centre CIP in 2007 when the first Licensing Policy was adopted. Over the years the CIP has been amended and changed as the city centre has changed. In 2014 it was recognised that moving to a five year Licensing Policy, as well as the 2012 Brewdog Appeal Judgement, would necessitate a new approach and so the city was zoned red, amber and green, with red being the area where no new licences should be granted, amber encouraging new and different concepts, with green being kept under review.
- 3.21 The City Centre CIP has always applied to all new and variation applications as stated at paragraphs 7.4, 7.5, 7.14, 7.20, and 7.24. However an amendment made when the Council changed the CIP to specify red and amber zones for the city centre has introduced an ambiguity at paragraph 7.20 by inferring that the council is only concerned with applications for new licences and those seeking an amendment to vary hours of operation.
- 3.22 As it is clear in the rest of the section that any new or variation application in the red area will be within scope the suggestion is to remove the reference to hours in 7.20 to make it clear.
- 3.23 Officers emailed and wrote to all businesses in the City and Hunslet ward, and sent an email to all known contacts including licensing solicitors, PubWatch, BACIL and anyone else representing businesses affected by the proposal. West Yorkshire Police and the other responsible authorities were also informed. A closing date for comments was set for 15th April. To date we have had no responses.
- 3.24 Therefore is it recommended that the Licensing Policy be changed as follows:
- 7.20 The council will seek to refuse all applications in these **red areas** on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or **existing premises** extending their **hours operation** no matter how impressive the concept or application is. The council will only grant applications in the red zone in exceptional cases.*
- 3.25 A copy of Section 7, with the amendments which relate to the CIP for Armley and the changes to the City Centre CIP is attached at **Appendix A**. You will note that there are also a few minor typographical changes included.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Both the CIP for Armley and the changes to the City Centre CIP have been consulted upon. The CIP for Armley has been discussed at residents meetings and all businesses in Armley have received a copy of the consultation pack. The amendments to the CIP for the City Centre have been sent to all premises in the City and Hunslet area and licensing solicitors who represent them.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no implications for equality in the imposition of a cumulative impact policy and the consultation took into consideration religious and cultural events.

4.3 Council Priorities and Best Council Plan

4.3.1 The Statement of Licensing Policy sets out the principles the council will use to exercise its functions under the Licensing Act 2003. Applicants for licences are expected to read the Licensing Policy before making their application and the council will refer to the Licensing Policy when making its decisions.

4.3.2 The licensing regime contributes to the following Best Council Plan 2015-20 outcomes:

- Improve the quality of life for our residents, particularly for those who are vulnerable or in poverty;
- Make it easier for people to do business with us.

4.3.3 The licensing regime is linked to the Best Council Plan objectives:

- Supporting communities and tackling poverty, and
- Becoming a more efficient and enterprising council

4.4 Resources and Value for Money

4.4.1 The consultation and implementation of the Armley CIP has a cost implication, however it is low in comparison to the expected improvements in Armley. There are no cost implications for the other amendments.

4.5 Legal Implications, Access to Information and Call In

4.5.1 A cumulative impact policy is a concept described in the Guidance issued under S182 of the Licensing Act 2003, produced by the Home Office. Although a CIP states that the council will refuse licence applications, it can only do so if it is appropriate for the promotion of the licensing objectives. Therefore a CIP is backed by statistical evidence provided by the Police or other parties and the council which shows a direct link between a cumulative impact of licensed premises and the licensing objectives. This, in itself, ensures the CIP is robust to legal challenge.

4.6 Risk Management

4.6.1 A CIP must be supported by evidence which shows the necessity for such a policy. In addition existing businesses have been consulted during the public consultation and were able to make their views known on the proposal.

5 Conclusions

- 5.1 Armley is a town in a deprived area of Leeds and Armley Town Street is reportedly suffering from antisocial behavior. The work already undertaken by the multiagency partnership group could be supported by the introduction of a cumulative impact policy. The people of Armley have been consulted with and in broad agreement with the proposals.
- 5.2 The minor changes to the City Centre CIP have also been consulted upon. There is no major objection to the imposition of the Armley CIP, although some members of the public question its value standing on its own. There were no objections to the City Centre CIP changes.

6 Recommendations

- 6.1 Members of Licensing Committee are recommended to:
- 6.1.1 Review the response to consultation on the Armley and City Centre CIPs and endorse this report as the Council's response
- 6.1.2 Refer the amended Licensing Policy to full Council for adoption

Background documents¹

None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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Section 7 Cumulative Impact Policy

- 7.1 Cumulative impact means the potential impact on the promotion of the licensing objectives where there are a significant number of licensed premises concentrated in one area.
- 7.2 The licensing policy is not the only means of addressing such problems. Other controls include:
- planning controls
 - CCTV
 - provision of transport facilities including taxi ranks
 - Designated Public Places Orders
 - police powers
 - closure powers
 - positive measures to create safer, cleaner and greener spaces
 - Voluntary or best practice schemes such as Street Wardens, Street Angels or Taxi Marshals
- 7.3 The council encourages the development of a variety of premises providing a range of licensed activities catering for a wide range of users. Any policy adopted from time to time on the cumulative impact of licensed premises imposes restrictions only to the extent that they are justified by the available evidence having regard to the guidance issued by the Secretary of State.

Applications

- 7.4 A cumulative impact policy creates a rebuttable presumption that applications within the designated cumulative impact area for new premises licences or variations that are likely to add to the existing cumulative impact will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.
- 7.5 An applicant wishing to obtain a new or varied licence for premises falling within any of the cumulative impact areas must identify, through the risk assessment process (if used) and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.
- 7.6 To assist this process applicants are encouraged to submit a full and thoroughly considered application at the earliest opportunity. The onus is on the applicant to demonstrate to the responsible authorities the suitability and detail for their site. The applicant is encouraged to make early contact with the responsible authorities to discuss their plans, and suggested control measures. Applicants should also have particular regard to the guidance issued by the Home Office under section 182 of the Act.
- 7.7 Despite the presumption against grant, responsible authorities and other persons will still need to make a relevant representation before the council may lawfully consider giving effect to its cumulative impact policy. The licensing authority, in its role as a responsible authority and in consultation with the relevant ward members, will make a representation to any application received in a cumulative impact area. This representation will include the latest evidence in relation to that cumulative impact policy area. Any other representations, from responsible authorities and members of the public, which are based on the negative effects of cumulative impact will stand in their own right, but will also support and strengthen the licensing authority representation.

7.8 The council recognises that a cumulative impact policy should not be absolute. The circumstances of each application will be considered properly and application for licences that are unlikely to add to the cumulative impact on the licensing objectives may be granted. After receiving representations in relation to a new application or for a variation of a licence, the licensing authority will consider whether it would be justified in departing from its cumulative impact policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the council decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

Cumulative Impact Policies

7.9 The council has applied a cumulative impact policy in five areas of the Leeds district:

- the city centre (Area 1)
- Headingley/Hyde Park (Area 2)
- Woodhouse (Area 3)
- Chapel Allerton (Area 4)
- Horsforth (Area 5)

7.10 These areas have been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in these areas continue to adversely affect the promotion of the following licensing objectives:

- prevention of crime and disorder
- the prevention of public nuisance

7.11 A summary of the evidence of the problems being experienced in these areas is included in this policy. A full report may be accessed via the council's website or from Entertainment Licensing.

7.12 The council **first** consulted on the draft policies as part of ~~the a~~ wider consultation on the council's ~~revised draft~~ licensing policy. The consultation was carried out with:

- the responsible authorities
- licensees and those representing licensees
- local residents and businesses
- those representing local residents and businesses

7.13 In early 2016, the inclusion of the Armley CIP and amendments to the wording of the City Centre CIP to remove ambiguity were subject to directed consultations. Both consultations were open to the public and anyone could respond but particular emphasis was given to ensure those most affected were aware of the consultations.

7.14 The council is also aware that the police have concerns related to the concentration of premises in the localities of Pudsey, ~~Armley~~, Otley and Guiseley. The council, in conjunction with the responsible authorities, will be keeping these areas under review during the life of the policy in case it becomes necessary to instigate formal cumulative impact investigation. Applicants wishing to apply for new licences or variations in these areas should note this paragraph and tailor their operating schedules accordingly.

7.14 The council will keep the cumulative impact areas under an annual review. Applicants should contact Entertainment Licensing to ensure they are in possession of the latest information before making their application.

Area 1 – City Centre

7.15 Area 1 relates to the city centre. West Yorkshire Police have provided information that the nature of the city centre is such that the problem areas and cumulative impact is directly related to the style of businesses opening in that area and their clientele.

7.16 In addition the close proximity of a number of venues on a street can result in difficulties in identifying individual premises as causing problems which can be dealt with via an action plan or a review process.

7.17 As a consequence the closure or opening of businesses can have a dramatic effect on reported crime and reported incidents in an area. While individual premises are dealt with using the review process, there are areas in Leeds city centre which may temporarily become temporarily saturated as new businesses open or existing businesses change their style of operation.

7.18 In addition the council recognises that a previous problem area can be improved by the introduction of new styles of business types, such as food led premises, and seeks to encourage this.

7.19 This dynamic nature has created difficulties in setting a policy for the city centre that will be relevant for five years until the next formal review of the policy. Therefore the council will adopt an approach of designating areas within the city centre CIP as ‘red’ or ‘amber’ based upon an analysis of night time economy related issues that are relevant to the licensing objectives. Areas that are considered highly saturated will be designated as red areas.

7.20 The council will seek to refuse all applications in these **red areas** on the basis that the impact on the licensing objectives are at such a level that the area cannot support any more premises opening or existing premises extending their hours-operation no matter how impressive the concept or application is. The council will only grant applications in the red zone in exceptional cases.

7.21 An **amber area** is an area which is of concern based upon an analysis of night time economy related issues that are relevant to the licensing objectives, and the council will expect applicants to offer additional measures tailored to the problems in that area.

7.22 All other areas within the city centre CIP will be designated **green areas** where good quality applications will be generally be more acceptable even though the area is a CIP area.

7.23 The current map and evidence is available on the council’s website and from Entertainment Licensing.

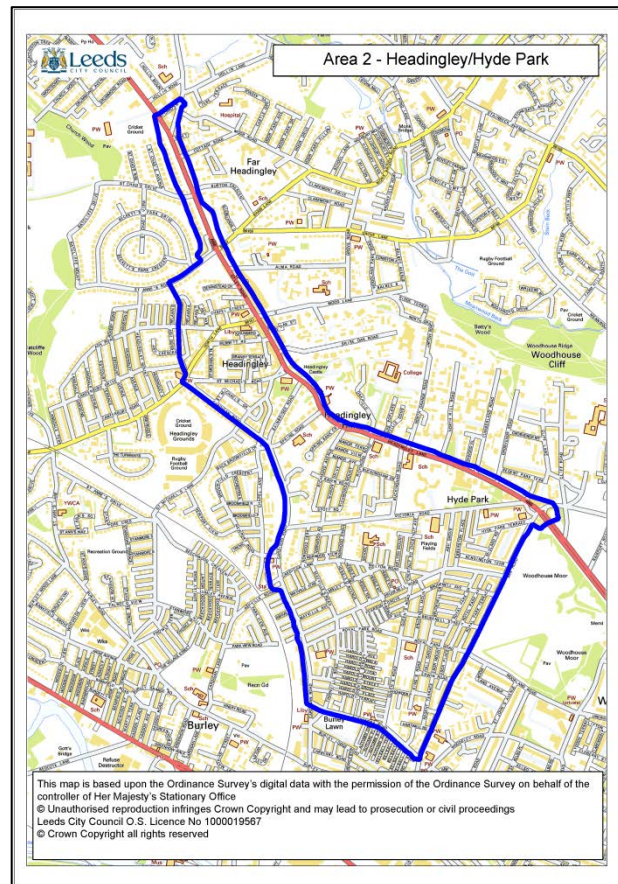
7.24 It is the council’s policy, on receipt of relevant representations, to

- refuse new and variation applications in the red area
- to seek additional measures for new and variation applications in the amber area
- To seek good quality applications for application in the green area

7.25 This applies to alcohol led premises such as bars, pubs and nightclubs, and for premises seeking late night refreshment such as takeaways and late opening restaurants.

Area 2 – Headingley/Hyde Park

7.26 Area 2 relates to the Headingley and Hyde Park districts of Leeds as defined within the blue boundary. It also includes premises on both sides of the boundary roads.

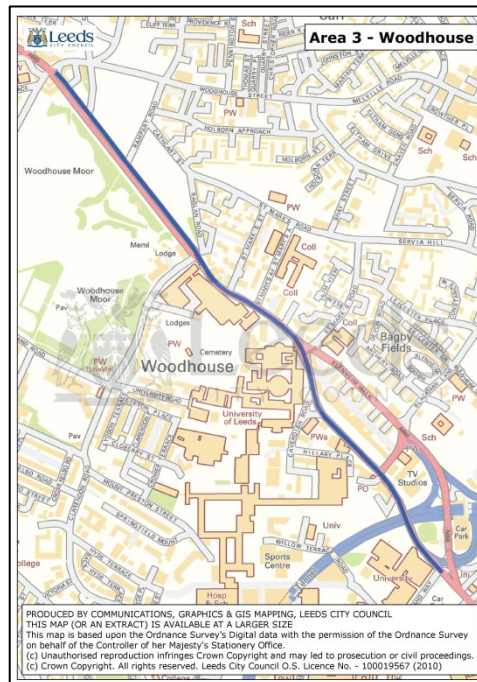


- 7.27 The Headingley cumulative impact policy was put in place in 2005 and has worked well in ensuring that the adverse effect of an accumulation of licensed premises in Headingley has not increased.
- 7.28 There have been ongoing problems, both public nuisance and anti-social behaviour in the Hyde Park area which can be attributed to licensed premises. For this reason the geographical area of the CIP was increased in 2011 to include the problem areas.
- 7.29 There is evidence that the lengthening of the opening hours of premises had an impact on the area. For this reason the scope of the policy was increased to include variation applications.
- 7.30 There is new evidence that the increase in 24 hour opening off licences has led to an increase in reported nuisance complaints.
- 7.31 It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 2 for the following premises:
- Alcohol led premises such as bars, pubs and nightclubs
 - Café bars and restaurants
 - Premises seeking late night refreshment such as takeaways and late opening restaurants
 - Premises seeking to sell alcohol for consumption off the premises after midnight, such as off licences and convenience stores.

7.32 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

Area 3 – Woodhouse

7.33 Area 3 as defined on the map relates to the arterial road (the A660) linking Area 1 (City Centre) and Area 2 (Headingley District).



7.34 When the council approved its first statement of licensing policy it contained a cumulative impact policy for the area shown in the above appendix. At that time the council had concerns that by adopting policies in respect of areas 1 and 2 that there could be a tendency to displace either the crime and disorder or public nuisance impact into Area 3. The council was also mindful of police representations from West Yorkshire Police that also backed up this concern.

7.35 The most recent evidence and public consultation responses gathered in respect of Area 3 shows that the A660 corridor still experiences a greater proportion of alcohol related crime and antisocial behaviour than the rest of the Hyde Park/Woodhouse area. The police attribute this trend to the high concentration of licensed venues in the area. There are also worrying signs that displacement of problems may be taking place as evidenced by the strong responses received during the consultation process about public nuisance problems and alcohol fuelled anti-social behaviour and criminal damage.

7.36 It appears that the proximity of the Headingley area and its significant concentration of venues coupled with the growing number of premises licensed into the early hours of the morning to the north of the city centre and along the A660 corridor is causing problems related to the licensing objectives. The evidence suggests that there is likely to be movements of inebriated people who may have a tendency to loud and disorderly behaviour late at night, either travelling into the city centre from Headingley, or travelling out of the city centre towards Headingley. The council takes the view

that the existing policy should be retained as follows to ensure that these problems are not allowed to worsen.

7.37 It is the council's policy in respect of Area 3 that, on receipt of relevant representations, necessary conditions will be applied to all premises licences in the area to ensure that the problems experienced in Areas 1 and 2 are not displaced into Area 3.

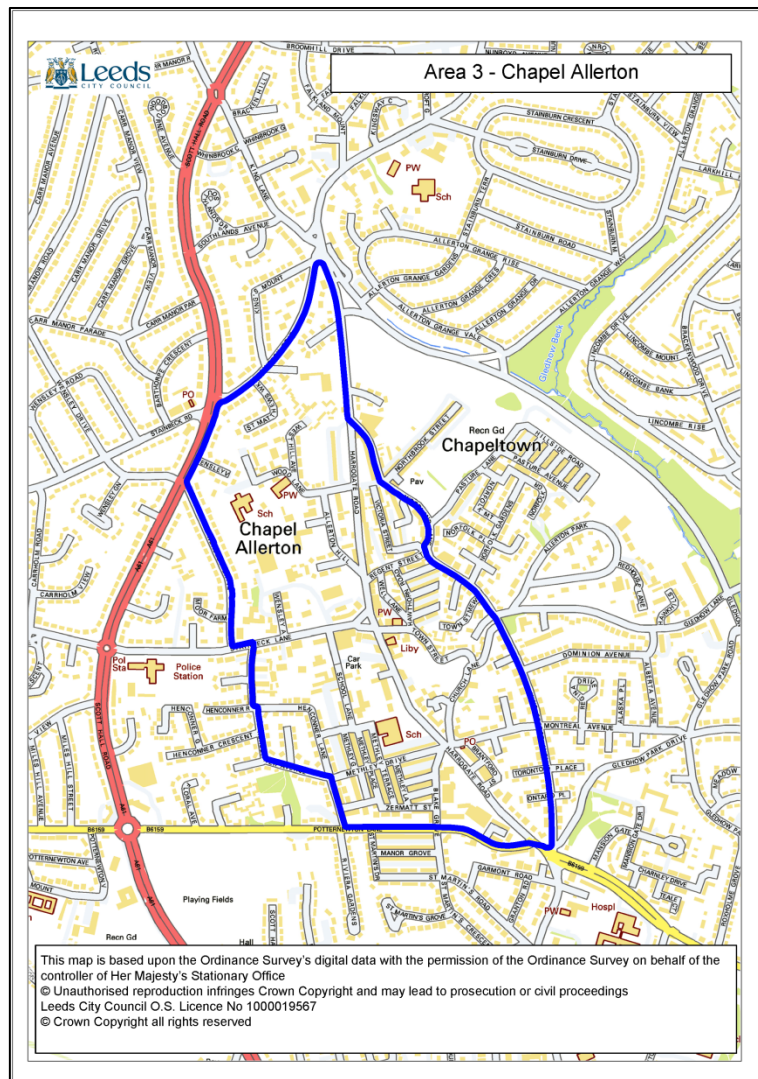
7.38 Such conditions might include (but are not limited to):

- Restriction of hours
- Restriction of capacity

7.39 Or the Authority may refuse to grant the licence or variation sought due to the impact on the licensing objectives.

Area 4 – Chapel Allerton

7.40 Area 4 relates to the Chapel Allerton district of Leeds as defined within the blue boundary.



7.41 The Chapel Allerton CIP has performed well since its inclusion in the Statement of Licensing Policy. However, residents of Chapel Allerton have noticed an increase in the amount of takeaway litter. There is also a concern relating to premises applying to vary their licence to increase the licensed area of their premises. In some cases this includes altering conditions to allow the use of the outside area to facilitate smokers following the smoking ban. This has a knock on effect on nuisance issues.

7.42 Since the CIP was introduced in 2005 and extended in 2011 the council has noted there have been very few applications to grant or vary premises licences in this area. This suggests that the CIP is having the desired effect in this area. Therefore the CIP remains unchanged.

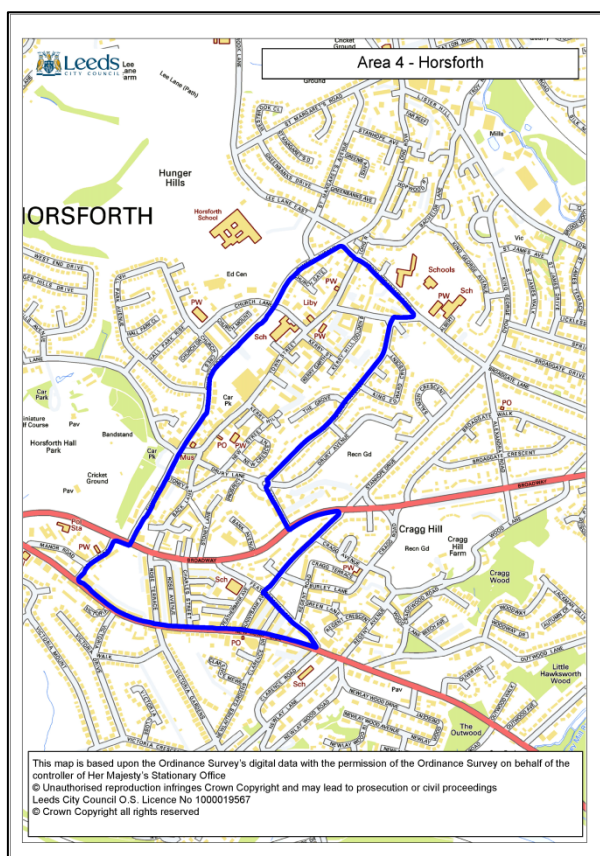
7.43 It is the council's policy, on receipt of relevant representations, to refuse new and variation application in Area 4 for the following premises:

- Alcohol led premises such as bars, pubs and clubs
- Café bars and restaurants
- Premises seeking late night refreshment such as takeaways and late opening restaurants

7.44 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

Area 5 - Horsforth

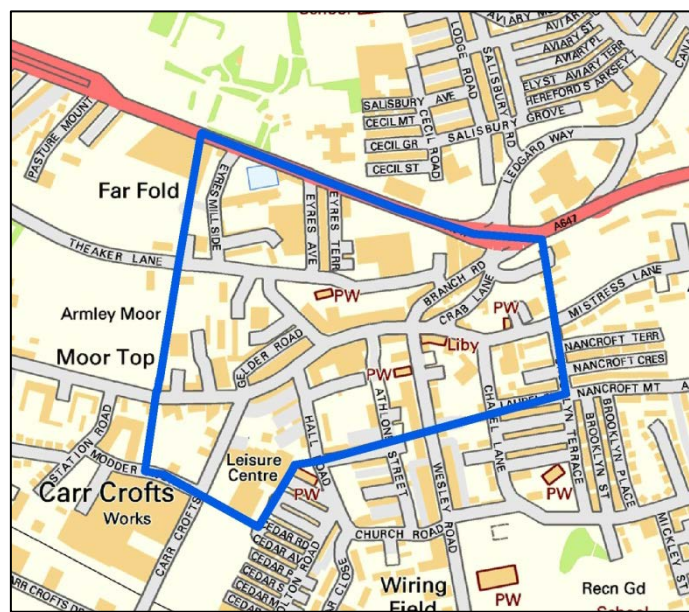
7.45 Area 5 relates to the Horsforth district of Leeds centred on Town Street. It includes all areas inside the blue boundary, but also the premises on the south side of New Road Side.



- 7.46 Since the adoption of the Horsforth CIP the council has recognised that the accumulation of licensed premises along New Road Side has contributed to public nuisance in that area, especially as it encourages the use of a route through residential areas used by people moving from Town Street to New Road Side. As a consequence this area was included in the cumulative impact area for Horsforth in 2011.
- 7.47 Concern has been expressed by residents about the litter nuisance and public nuisance caused by takeaway premises. The council has received a number of complaints relating to litter and odour nuisance that can be related to takeaway premises.
- 7.48 Since the CIP was introduced in 2007 and extended in 2011 the council has noted there have been very few applications to grant or vary premises licences in this area. This suggests that the CIP is having the desired effect in this area. Therefore the CIP remains unchanged.
- 7.49 It is the council's policy, on receipt of relevant representations, to refuse new and variation applications in Area 5 for the following premises:
- Alcohol led premises such as bars, pubs and clubs
 - Café bars and restaurants
 - Premises seeking late night refreshment such as takeaways and late opening restaurants
- 7.50 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

Area 6 - Armley

7.51 Area 6 relates to the main shopping areas of Armley, known as Armley Town Street and Branch Road.



7.52 In recent years Armley has been highlighted due to levels of deprivation, poor health outcomes and, more recently, an increase of disorder in the main shopping areas.

7.53 In 2014 the Council recognised this as an area that would benefit from Local Licensing Guidance due to poor health outcomes of people living in LS12. This gives potential businesses extra information about the problems in Armley and encourages new businesses to think about the impact they are having in the area.

7.54 In the last few years residents have reported to the local councillors and MP their concerns about large groups of mostly male street drinkers gathering on Town Street. Residents find this intimidating and have reported feeling that this area is becoming a no-go zone. There is a culture of street drinking which involves two distinct groups.

- Firstly, adult Eastern European males drinking in small groups, generally orderly and compliant and who hand over alcohol when requested as per the DPPO.
- The second group are a more anti-social group of white British males who congregate on Town Street and whilst in drink commit crimes, and generally make a nuisance of themselves to passers-by and shop premises.

7.55 West Yorkshire Police, Leeds Antisocial Behaviour Team and the Council are already working with these two groups to stop the antisocial behaviour and have issued injunctions to stop a number of people from coming back to Town Street.

7.56 The number of off licences in the Armley area has steadily increased over the last ten years. This table show the number of licences issued as at 1st January each year.

		2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
<u>LS12</u>	<u>On</u>	<u>51</u>	<u>52</u>	<u>50</u>	<u>49</u>	<u>44</u>	<u>41</u>	<u>41</u>	<u>42</u>	<u>38</u>	<u>40</u>	<u>36</u>
<u>Postcode</u>	<u>Off</u>	<u>43</u>	<u>43</u>	<u>43</u>	<u>49</u>	<u>51</u>	<u>54</u>	<u>56</u>	<u>56</u>	<u>57</u>	<u>57</u>	<u>61</u>
<u>Armley</u>	<u>On</u>	<u>30</u>	<u>30</u>	<u>27</u>	<u>27</u>	<u>24</u>	<u>23</u>	<u>25</u>	<u>24</u>	<u>23</u>	<u>24</u>	<u>20</u>
<u>Ward</u>	<u>Off</u>	<u>24</u>	<u>25</u>	<u>30</u>	<u>31</u>	<u>34</u>	<u>37</u>	<u>38</u>	<u>38</u>	<u>37</u>	<u>38</u>	<u>41</u>
<u>CIP</u>	<u>On</u>	<u>8</u>	<u>8</u>	<u>7</u>	<u>7</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>8</u>	<u>6</u>
<u>Area</u>	<u>Off</u>	<u>2</u>	<u>2</u>	<u>5</u>	<u>5</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>9</u>	<u>9</u>	<u>11</u>	<u>12</u>

7.57 In the CIP area, by the end of 2015, there were a total of 12 premises licensed to sell alcohol for consumption off the premises (convenience stores, mini-markets and off licences) and 6 premises licensed to sell alcohol for consumption on the premises (pubs, bars and clubs).

7.58 At the same time licensed premises have increased reports of antisocial behaviour, disorder and domestic violence have also increased in the wider Armley area.

7.59 In areas where there is an excessive accumulation of on-licensed premises, it is easy to provide a direct correlation between those premises and crime and disorder in the area, through an analysis of the operating hours of the premises and the peak times for incidents and calls for service.

7.60 It is harder to provide a direct correlation between the accumulation of off licensed premises and disorder in the same way as people are not drinking on the premises where they purchased the alcohol, and may delay drinking the alcohol until they arrive at home.

7.61 However in this area there is an issue with people drinking on the street and causing disorder and anti-social behaviour issues. West Yorkshire Police have identified that smaller independently owned off licences in the area are selling strong and cheap alcohol popular with street drinkers as they are finding bottles and cans as litter that are only available in certain shops. However as the

shops aren't committing any offences selling these products they would not be subject to enforcement action.

7.62 Common sense would denote that new off licensed premises opening in the area where street drinking and the associated anti-social behaviour is most problematic would add to the problems already being experienced in the area and this view is supported by officers from LASBT and West Yorkshire Police.

7.63 It is the council's policy, on receipt of relevant representations to refuse all applications (new and variation) for premises licences which authorise the sale of alcohol for consumption off the premises in the CIP area.

7.64 It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the Armley area.

7.65 Further information and a full report of the evidence used to support this CIP is available from Entertainment Licensing.

Rebutting the presumption against grant in a CIP area

7.51 When considering whether the presumption against grant in a CIP area the council will need to be satisfied that the grant will not impact on the cumulative impact of existing licensed premises in the area. Applicants will often suggest measure which they assert will demonstrate there will be no impact.

7.52 Examples of factors the licensing authority may consider as demonstrating there will be no impact may include, though are not limited to:

- Small premises who intend to operate before midnight.
- Premises which are not alcohol led and only operate during the day time economy
- Instances where the applicant is relocating their business to a new premises but retaining the same style of business.
- Conditions which ensure that the premises will operate in a particular manner such as a minimum number of covers or waiter/waitress service to secure a food led operation.

7.53 Examples of factors the licensing authority will not consider as meeting the standard of rebuttal include:

- That the premises will be well managed and run as all licensed premises should meet this standard
- That the premises will be constructed to a high standard
- That the applicant operates similar premises elsewhere, such as in another licensing authority area, without complaint

7.54 Any relevant representation of support will be taken into consideration by the council when making its determination.

Representations on cumulative impact outside cumulative impact areas

7.55 In cases where either responsible authorities or other persons seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact

in an area not designated as a saturation zone, which would undermine one or more of the licensing objectives, they shall:

- Identify the boundaries of the area from which it is alleged problems are arising
- Identify the licensing objective which it is alleged will be undermined
- Identify the type of licensable activity alleged to be causing the problem (e.g. sale of alcohol, late night refreshment)
- Provide full details and evidence to show the manner and extent to which it is alleged that the licensing objectives are being, or at risk of being, undermined in the area
- Provide evidence to show that the undermining of the objective is caused by the patrons of licensed premises in the area.

7.56 The reason for this is to ensure that objections are neither frivolous nor vexatious and that there is an evidential basis for the licensing subcommittee to reach a decision.

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Report author: Des Broster

Tel: 0113 3781562

Report of **Head of Elections, Licensing and Registration**

Report to **Licensing Committee**

Date: **20 May 2016**

Subject: **Unmet Demand Survey: Provision of Hackney Carriage Proprietor Licences**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. The Town Police Clauses Act, 1847, as amended by the Transport Act 1985, allows a Local Authority to limit the number of Hackney carriage proprietor licences but only if it is satisfied there is no significant demand for the service of Hackney carriages within its area. The results of the last unmet demand survey to be carried out in Leeds were presented to the Licensing & Regulatory Panel in March 2010 and indicated that there was no significant unmet demand.

2. Best practice guidance requires any limit to be regularly considered by carrying out an unmet demand survey. The Taxi and Private Hire Licensing Section must now proceed to a tendering exercise to select a consultant to conduct the survey in accordance with the Council's specification and within set time scales.

Recommendations

3. That Members approve the proposed tender specification document, enabling Officers to progress to identifying a consultant in line with the Council's procurement policy.

1 Purpose of this report

- 1.1 To inform Members of the proposed tender specification document considered appropriate to progress the procurement of an independent consultant.

2 Background information

- 2.1 Hackney carriage proprietor licences are granted by the Local Authority under Section 37 of the Town Police Clauses Act, 1847.
- 2.2 The Town Police Clauses Act, 1847, as amended by the Transport Act 1985, allows a Local Authority to limit the number of Hackney carriage proprietor licences but only if it is satisfied there is no significant demand for the service of Hackney carriages within its area. The Council currently remains satisfied that there is no significant unmet demand.
- 2.3 Best practice guidance requires any limit to be regularly considered and that by carrying out an unmet demand survey; such a survey can be used as evidence to respond to any legal challenge. In order to respond to any challenge it is best practice to commission an independent report.
- 2.4 In the event of there being an unmet demand identified, an assessment needs to be conducted about whether the right balance between saloons and wheelchair accessible vehicles exists across the licensed fleet and advise the Council on the most appropriate type of vehicle to which new proprietor licences should be issued.
- 2.5 There are frequent complaints from disability groups regarding no access to wheelchair accessible vehicles outside of the city centre, or unnecessarily long waiting times. The survey should give a more informed summary of the situation, what improvement proposals could be considered and identify any best practice which could improve the service within the suburbs, tourist destination points and all areas where taxi ranks are not immediately available.

3 Main issues

- 3.1 Members are advised that before a decision can be made on whether or not to continue with or change its existing policy to restrict the number of Hackney carriage proprietor licences it issues, it is essential that the most appropriate information is gained through an unmet demand survey.
- 3.2 To enable this, a tender specification document sets out, amongst other things, key stakeholders to engage & consult with, time frames, outputs and performance accountability.
- 3.3 There may be a variety of issues which could be included but Members are advised that the requirement for this survey is to measure 'unmet demand'. Including other issues may lengthen the process, incur additional expense and confuse the purpose of the report.

- 3.4 The selection process to identify the successful consultant will be conducted within the Council's procurement policy. Verbal updates will be given to Members at regular intervals throughout the procurement process.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The information contained within this report has not been the subject of consultation.

- 4.1.2 Extensive consultation will take place throughout the duration of the Unmet Demand survey itself with the extent of consultation being identified within the proposed tender specification.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no issues affecting this report. Equality and Diversity/ Cohesion and Integration will be fully considered throughout the duration of the Unmet Demand survey itself.

4.3 Council policies and Best Council Plan

- 5.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 The process for identifying a consultant will be carried out in line with the Council's procurement policy, offering best value for money.

4.4.2 The cost of the survey will be paid for by the Taxi & Private Hire Licensing Section but the cost will not be known precisely until the tenders have been submitted.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The results of the last unmet demand survey were presented in March 2010. As such the Council must repeat the survey, even to justify maintaining the existing limits.

4.5.2 If the Council does not carry out another survey then any decision to refuse an application for a new licence is subject to challenge on the grounds that the Council cannot be satisfied that there is no significant unmet demand with the licensing district.

4.5.3 Once the survey has been completed, the Council must decide whether to remove the restriction, maintain the existing restriction or to increase the number of licences on a managed basis until there is no significant unmet demand.

4.6 Risk Management

4.6.1 Best practice guidance requires any limit to be regularly considered and that by carrying out an unmet demand survey; such a survey can be used as evidence to respond to any legal challenge. In order to respond to any challenge it is best practice to commission an independent report.

5 Conclusions

- 5.1 The proposals set out in the proposed tender specification document are in the format approved within the procurement policy.
- 5.2 The timetable for the survey enables a whole year overview. Verbal updates will be given to Members at regular intervals throughout the procurement process as it progresses.
- 5.3 The proposed tender specification document is aimed specifically at identifying those key areas of information required to influence and guide the decision making process.

6 Recommendations

- 6.1 That Members approve the scope of the proposed tender specification, enabling Officers to progress to identifying a consultant in line with the Council's procurement policy.

7 Background documents¹

- 7.1

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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TENDER DOCUMENTS

PART 2 – SPECIFICATION (SERVICES)

Contract title	Taxi & Private Hire Licensing: Unmet Demand Survey
Contract ID	YOR[Insert – from YORtender]

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SECTION 1

1 PREAMBLE

INTRODUCTION

- 1.1 This specification sets out the City Council's requirements in respect of Taxi & Private Hire Licensing: Unmet Demand Survey
- 1.2 It details the standards and outputs which the Contractor is required to achieve and how these will be measured.
- 1.3 It will form part of the contract with the City Council.

GENERAL DESCRIPTION

- 1.4 The Council currently regulates the number of Hackney carriage proprietor licences it issues. The undertaking of an unmet demand survey is required to ensure that the restriction is not adversely affecting the public across a range of hours and days.

VISION AND OUTCOMES

- 1.5 Before a decision can be taken by the Council as to whether or not to continue with or change its existing policy to restrict the number of Hackney carriage proprietor licences it issues, it is essential that the most appropriate information is gained through an unmet demand survey.

DRIVERS AND BENEFITS

- 1.6 Hackney carriage proprietor licences are granted by the Local Authority under Section 37 of the Town Police Clauses Act, 1847.
- 1.7 The Town Police Clauses Act, 1847, as amended by the Transport Act 1985, allows a Local Authority to limit the number of Hackney carriage proprietors licences but only if it is satisfied there is no significant demand for the service of Hackney carriages within its area.
- 1.8 It is accepted practice to identify and use a consultant with the appropriate levels of expertise in the field to carry out the survey.

SECTION 2

2 STATEMENT OF REQUIREMENTS

SCOPE

- 2.1 The review is to be conducted within the Licensing District of Leeds City Council. It should include those who are accessing a service they may not normally use e.g. professional, business and tourism issues at their point of arrival or departure within the city. It is particularly important that detailed consultation is undertaken with the disability groups to properly assess access issues and best practice elsewhere in the UK.
- 2.2 Since 2000, Leeds City Council has only issued new 'plates' to wheelchair accessible vehicles. The traditional range of 'side loading' purpose built Hackney carriages has become more diverse and smaller five seater rear loading vehicles have become more popular. The number of larger 5/6/7 seater vehicles has diminished thereby reducing the capacity for families to travel with a wheelchair occupant. Qualified observations on the benefits of retaining such 5/6/7 seater vehicles for the general public and wheelchair users are sought, along with the best practice from elsewhere in the UK.
- 2.3 There are frequent complaints from disability groups regarding no access to wheelchair accessible vehicles outside of the city centre, or unnecessarily long waiting times. The survey should give a more informed summary of the situation, what improvement proposals could be considered and identify any best practice which could improve the service within the suburbs, tourist destination points and all areas where taxi ranks are not immediately available.
- 2.4 It is necessary to conduct the survey in respect of potential unmet demand over a twelve month cycle to be able to support and balance recommendations.
- 2.5 A requirement to provide a four weekly written report of progress electronically and to attend review meetings at the Taxi and Private Hire Licensing Section as specified or, additionally in the event of any other issues requiring early attention.
- 2.6 Before developing the final report, an interim report must be made available outlining alternative options investigated and recommendations for consideration and discussion.
- 2.7 Written evidence should be provided of any alternative approaches which have been considered but discounted and the reasons for doing so.
- 2.8 The Taxi and Private Hire Licensing Section is conscious that demand for taxis may fluctuate not only through the day and night but also have trends throughout the year. The methodology statement should present appropriate seasonal schedules as a daily demand survey on which a cycle of observation can be agreed.
- 2.9 The gathering of data and the methodology statement must be capable of satisfying legal challenge and be supported by the Contractor in the event of legal challenge.
- 2.10 All staff resources used must have experience and skills for this area of work.

- 2.11 The author of the report must be prepared to formally present the report to;
- The Management team at Taxi and Private Hire Licensing
 - Licensing Committee
 - Executive Board
- 2.12 The Council will undertake to permit necessary information and questionnaires to be displayed at contact centres and appropriate offices and supply contact detail to assist the survey.
- 2.13 SERVICE REQUIREMENTS
- The Contractor must;
- 2.13.1 Be responsible for the effective risk assessments and recording of all aspects of Health and Safety issues for the duration of the contract.
- 2.13.2 Ensure all visits and meetings to Council buildings are pre-arranged and that personal identification is carried
- 2.13.3 Ensure confidentiality of information at every stage and that no information is released without written consent of the nominated Officer within the Council.
- 2.13.4 Not discuss their views or opinions with anyone other than the nominated Officer of the Council.
- 2.13.5 Ensure that all media interest in the issues involved are passed to the Leeds City Council Press Office.
- 2.13.6 Not pass comment on issues in other authorities which may reflect on this authority
- 2.13.7 Ensure the terminology used at all times to describe the Council's licensed fleet is;
- Hackney carriage or taxi
 - Private hire vehicle
- 2.13.8 Ensure all staff employed are fully conversant with the above terms and who they apply to. The Council undertakes to carry out a knowledge briefing for all of those people involved in the report to ensure that they are conversant with the key issues and relevant parts of legislation.
- 2.14 The Council maximises the use of its office space and is unable to provide accommodation other than that required for pre-arranged conferences.

KEY CONTRACT DATES

- 2.15 It is necessary to conduct the survey in respect of potential unmet demand over a twelve month cycle to be able to support and balance recommendations.

STATUTORY REQUIREMENTS AND GUIDELINES

- 2.16 The Contractor will ensure that all relevant consents and certification required by legislation, guidance or Good Industry Practice are obtained and maintained.

CLIENT DETAILS

- 2.17 The key contact at TPHL will be the Service Development Officer contactable on 0113 3781563 or via email at kate.coldwell@leeds.gov.uk, although the Licensing Office (0113 3781570 or taxiprivat hire.licensing@leeds.gov.uk) can be contacted Monday – Friday, 8:00 – 15:30 in their absence..
- 2.18 Regular contact will be required with the Service Development Officer. The Contractor will allow unhindered access to the Council's representatives to observe at any time.

COMMUNICATIONS STRATEGY

- 2.19 The Contractor is required to provide a comprehensive approach to the provision of information and included in a Contractor's Communications Strategy. This should include marketing activity (e.g. newsletters, information dissemination, websites, use of liaison officers, presentations), media relations (e.g. messages, milestones, risks and protocols with the City Council), partnership working and community engagement strategy.
- 2.20 The Communications Strategy shall take account of, and provide for the diversity and local demographics in each area for the Service provision.
- 2.21 The Contractor will be required to respond appropriately to the differing communication needs, requirements and preferences of the community and to provide a service which addresses issues of language, literacy, hearing, visual, and/or cognitive impairment, and other forms of support in communication.
- 2.22 The Contractor shall ensure that the information is provided verbally and in written and other formats and that all written material follows good practice guidance and recommendations, such as Plain English Crystal Mark.
- 2.23 The Contractor's Communications Strategy will be reviewed in line with performance against customer satisfaction and the overall Contract.
- 2.24 The Contractor shall be responsible for creating an appropriate level of awareness of the unmet demand survey and its purpose.

DATA AND INFORMATION TECHNOLOGY

- 2.25 It is the Contractor's responsibility to collect such data as is considered pertinent to undertake the study.
- 2.26 Taxi and Private Hire Licensing will endeavour to make available all relevant information that is readily accessible. However it is likely that this will be limited

and not previously collected for the purpose of an unmet demand survey. Due consideration should be given to the collection of additional information as necessary.

- 2.27 The Contractor may need to collect additional background information in order to develop and justify their proposals. Adequate provision should be made for this within the tender price.
- 2.28 It is essential that all data collected is evaluated and weighted when preparing recommendations, to the extent that unsupported documentary or oral submissions should carry less value than that which is supported by statements of fact.
- 2.29 Accessing the sources of potentially important and relevant information is a key part of the unmet demand survey. Some important contacts will be provided but during the course of the research others may be identified. The Contractor must evaluate each one and qualify and record their point of view in determining whether or not to use that source or to what extent it is used. The impact of those decisions should also form part of a Consultation section in the final report to the Council.

SECTION 3

3 GENERAL REQUIREMENTS

The General requirements Section 3 should be considered in conjunction with the terms and conditions of the terms of the agreement in **Tender Documents: PART 4 – Legal**

EQUALITY

- 3.1 The Contractor will provide method statements and plans detailing how they will provide and maintain an Equality Plan in respect of the services that must;
- Be complete and accurate in all material respects;
 - Consider and reflect the terms and conditions set out in PART 4 (Legal) relating to disability and diversity;
 - Consider and reflect Legislation, Guidance and Good Industry Practice in respect of equal opportunities and in the preparation of equality plans;
 - Identify the specific equality activities which the Contractor will undertake; and
 - Identify how compliance with the plan is to be evidenced.
 - Identify which equality issues are specific to the contract or the council which the contractor is required to follow in the provision of the contracted services.

EMPLOYMENT SKILLS AND ENGAGEMENT PLAN

- 3.2 To assist the City Council in meeting its strategic aims and objectives all contracts being let that will have a value of £100,000.00 or greater, shall put in place an Employment Skills and Engagement Plan.

CORPORATE SOCIAL RESPONSIBILITY

- 3.3 The Contractor shall develop a robust corporate social responsibility strategy, which must be monitored and reported within the Annual Service Report identifying;
- How they will engage suppliers to maximise the benefits to the Leeds economy;
 - Specific plans to involve staff in CSR initiatives/activities (e.g. specified number of hours allocated for volunteering per annum), include examples of local organisations which could be engaged to participate in the provision of employee volunteering; and
 - Identify any requirement for a commitment to engage in research and development of innovative technologies.

ENVIRONMENT AND SUSTAINABILITY

- 3.4 The Contractor shall in performing the service for this contract meet all Legislation, Guidance and Good Industry Practice in environmental management and meeting the objectives of the City Councils sustainability policies.
- 3.5 The Contractor shall provide a method statement and an Environmental Plan in respect of the Services provided which must be;
- Be complete and accurate in all material respects;
 - Consider and reflect the obligations set out in this Agreement (including but without limitation the Output Specification) relating to environmental matters;
 - Consider and reflect Legislation, Guidance and Good Industry Practice in environmental management and the preparation of environmental management plans;
 - Identify any scope for reducing consumption of utilities, water, products (particularly those harmful to the environment) and reducing generation of waste including waste water and any scope for increasing re-use or recycling;
 - Consider and reflect any complaints received in relation to environmental management in the preceding 12 months;
 - Identify specific environmental management activities which the Contractor will undertake;
 - Identify how compliance with the plan is to be evidenced; and
 - Confirm the status of all environmental management activities identified in the previous Annual Environmental Management Plan.

QUALITY MANAGEMENT

- 3.6 The Contractor shall maintain a Quality Management system for the delivery of the Services to be provided by this contract.
- 3.7 Note that the standard terms require the contract to be performed to the 'Quality Standards' defined as 'the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body (and their successor bodies), that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with.

WORKING PRACTICES

- 3.8 To meet the obligations of this contract the contractor shall ensure that Good Industry Practice is maintained for;
- Code of Conduct
 - Staff Conduct

- Staff Identification
- Dealing with press and the media
- Protection of the general public etc

INFORMATION GOVERNANCE

3.8 Annex 1 also contains some guidance on wider Information Governance

SAFEGUARDING

3.9 Safeguarding is the term used for a range of measures employed to keep children and adults at risk safe and protected from harm. Safeguarding is an important role that must be embedded into organisations that come into contact with children, young people and adults at risk. This is not just restricted to social care services; safeguarding is everyone's business and includes anyone that comes into contact with other humans as part of their work!

3.10 As a contractor or provider, you will familiarise yourself, and those who work on this contract or project, with the Leeds Safeguarding Children Board's and the Leeds Safeguarding Adults Partnership Board's safeguarding policies and procedures. These can be found at www.leedslscb.org.uk and www.leedssafeguardingadults.org.uk

3.11 You will ensure that your organisation actively ensures that it and those who work on this contract or project understand the signs and symptoms of child abuse and abuse of adults at risk. And if, as a contractor or provider you suspect that there is any incident of child abuse or abuse of adults at risk, you will report it to the Leeds Safeguarding Children Board or Leeds Safeguarding Adults Partnership Board in accordance with their published procedures.

3.12 If you or your employees suspect that a child or adult at risk is at risk of harm or being harmed, call: 0113 222 4403 for children and 0113 222 4401 for adults. In an emergency call 999.

HEALTH AND SAFETY

3.13 The Contractor will provide and maintain Quality Plans and Health and Safety Plans in respect of this Service in accordance with the **Health and Safety at Work etc. Act 1974** and the terms and conditions of the terms of the agreement in **Tender Documents: PART 4 - Legal**.

LEEDS CITY COUNCIL POLICIES

3.14 Include all the Council Policies that are relevant to the service the contractor will be providing including but not exclusively the following;

- Vision for Leeds 2011 – 2030.
- The City Priority Plans.
- The Council Business Plan.
- Clear Desk & Screen Policy.
- Leeds Interagency Policy for Sharing Information (2009).
- Raising Concerns Policy.
- LCC Whistle Blowing Policy.
- Equality and Diversity.

SECTION 4

4 PERFORMANCE AND MEASUREMENT

The performance and measurement requirements Section 4 should be considered in conjunction with the requirements for payment contained within **Tender Documents: PART 3 – Financial**.

CONTRACT MANAGEMENT

- 4.1 There is a requirement to provide a four weekly written report of progress electronically and to attend review meetings at the Taxi and Private Hire Licensing Section as specified or, additionally in the event of any other issues requiring early attention.
- 4.2 The Council recognises that is good practice to provide planned contract management for all contracts. This will assist the Council in achieving value for money and supporting a positive working relationship with the Contractor.
- 4.3 The key contact at TPHL will be the Service Development Officer although the Licensing Office can be contacted Monday – Friday, 8:00 – 15:30 in their absence.
- 4.4 Regular contact will be required with the Service Development Officer; meetings may be requested by either party on an ad hoc basis.
- 4.5 Performance will be monitored by the Service Development Officer and/ or Section Head.
- 4.6 The Contractor will be required to prepare any necessary advice, information or reports on performance and attend meetings where required.

GOVERNANCE

- 4.7 The Council's Head of Service for Elections, Licensing & Registration is responsible for the implementation of the unmet demand survey. Information and update reports will be presented to the Licensing Committee as requested.

PAYMENT

- 4.8 The Council standard payment terms will apply

PERFORMANCE

4.9 TIMESCALES FOR SUBMISSION

4.9.1 The survey shall be delivered to the timescales stated below;

- **First interim report proposals:** 2 weeks from the commencement of contract
- **Council's response to interim report:** 1 week from receipt of proposal report
- **Second interim report for 4 month period following review of first interim report:** 16 weeks from commencement of first survey
- **Council's response to second interim report:** 1 week from receipt
- **Third interim report for 4 month period following second interim report:** 16 weeks from the date of conclusion of first survey
- Council's response to third interim report: 1 week from receipt

SECTION 5

5 BACKGROUND INFORMATION

DEFINITIONS AND INTERPRETATIONS

The General requirements Section 5 should be considered in conjunction with the terms and conditions of the terms of the agreement in **Tender Documents: PART 4 – Legal**

1 ANNEX 1

DATA PROTECTION ACT 1998 AND INFORMATION GOVERNANCE

Part A: Guide to specifying Data Protection Act and information governance Requirements in Contracts

1. Do you need to specify Data Protection Act requirements in a new contract?

- 1.1 Yes, if the proposed contract requires that a third party organisation handles personal data by
 - (a) Accessing the Leeds City Council information or information systems; or
 - (b) Handling Leeds City Council information in any way (transmit, receive, store, manipulate, use etc.) either electronically or manually.
- 1.2 The Data Protection Act while it requires compliance overlays and endorses good practice in relation to information processing. It is essential to check for every procurement whether information processing is involved and consider sensitivity and the required quality of information. It is the use of information, with or without the involvement of ICT which creates information governance requirements.

2. Sensitive data

- Personal - relating to identifiable living individuals
- Sensitive - certain personal data is defined as sensitive by the Data Protection Act (relating to mental or physical health, criminal offences, religious beliefs, political beliefs, Trade Union membership, ethnicity, sexual life) and this imposes stricter conditions on its processing
- Commercial – commercial details of any kind may be sensitive
- Confidential - any information that has explicit conditions attached to its subsequent use or disclosure, or where these conditions are obvious or implied such as child welfare records, adoption records, client/solicitor etc. or
- Restricted by specific conditions where the restriction is applied by someone else such as the police or the Home Office. If you are dealing with this type of information you will be told that it is restricted

3. Data Quality

Data Protection principles and operational requirements mean we are obliged to ensure that what is captured is accurate, valid, reliable, timely, relevant, and complete. Good quality data can lead to reduced costs and improved services. Important factors to consider:

- Why and how is the data being captured?
- What will it be used for?
- Who else may use it? (internal or external)
- Does the data conform to any standards?
- Seek advice from data quality officers to ensure adherence to existing standards
- Will capture of data be validated in any way?
- Will the quality of the data be checked/ maintained over its life/usage?
- Assume that the data may be made publicly available

4. How the Data Protection Act affects the framing of certain contracts

4.1 In the Data Protection Act 1998 the handling of information is known as “processing” and this covers doing anything at all with personal data. The contractor is therefore known as a data processor. The contracting organisation, in our case Leeds City Council is, in Data Protection terms, known as the “data controller”.

4.2 Although contractors do have responsibilities, accountability for compliance with the Data Protection Act remains with the data controller. Leeds City Council enters into many such contracts and it is therefore essential that Data Protection and any other relevant Information Governance requirements are specified in the contract.

4.3 The Data Protection Act 1998 requires that organisations who enter into contracts with third parties to handle personal data on their behalf

4.3.1 assure themselves that they only deal with organisations who can demonstrate that they will handle information in accordance with the principles of the Data Protection Act

4.3.2 specify that the data will be kept secure and handled only in accordance with the instructions of the contracting organization

4.4 This means the Council needs, in relation to each procurement involving personal data, to

4.4.1 Define the “processing” to be carried out (this means user identifying the information, the strict purposes for which it is being disclosed and where possible requiring the Contractor to identify the staff to whom it is disclosed - part of the specification and tender requirements)

4.4.2 Specify any minimum requirements for the technical and organisational security measures which should govern this processing - ensure this is covered by client as part of the specification and tender requirements - suggest specific

measures are followed by a 'catch-all' which states contractor must implement 'such other technical and organisational measures as may be required during the contract period to ensure compliance with the DPA'

- 4.4.3 Get sufficient guarantees, or covenants from the contractor in this respect (tender return - method statement on DPA if necessary)
- 4.4.4 Decide what are "reasonable steps" to ensure compliance in the particular circumstances (identify information/monitoring requirements in Spec are sufficient to enable monitoring of compliance - also contract manager to include in contract management plan)
- 4.5 Although contractors do have responsibilities, accountability for compliance with the Data Protection Act remains with the data controller. Leeds City Council enters into many such contracts and it is therefore essential that Data Protection and any other relevant Information Governance requirements are specified in the contract.
- 4.6 Specifying Information Governance requirements is achieved in the following ways.
 - 4.6.1 At the Pre-Qualification Questionnaire Stage - where IG matters are central to the contract you will need to consider whether interested suppliers have an adequate information governance regime which will ensure that Leeds City Council data is handled responsibly (pass/fail)
 - 4.6.2 Leeds City Council Terms and Conditions contain conditions relating to confidentiality and Data protection. These confirm the core requirements of the Act and the relationships and general obligations, but do not provide contract-specific detail of the 'measures' required to be implemented [link]
 - 4.6.3 The specification will include specific requirements which the Council would like the suppliers to fulfill and is the key document for IG requirements
 - 4.6.4 Tenderers may also be asked to provide contract specific written method statements/policies/procedures to demonstrate how they will comply with the specification, which can be marked in evaluation on a pass/fail basis or scored as part of the qualitative evaluation.
- 4.7 The remainder of this document covers the areas which need to be included in the specification if they are relevant and proportionate.
- 4.8 Many information governance requirements arise from the context or particular circumstances of a contract and often requirements are defined as a result of a risk assessment. Because of this, it is essential to specify for each contract, or class of contracts, separately.

5. What level of security is required by the Act?

- 5.1 NB: the following applies both to Leeds City Council and any organisation we contract with so the following should be considered as requirements for the contractor and specified as such.
- 5.2 The Act says organisations should have security that is appropriate to:
- 5.2.1 the nature of the information in question; and
 - 5.2.2 the harm that might result from its improper use, or from its accidental loss or destruction
 - 5.2.3 the harm that might result from inadequate data quality
- 5.3 The Act does not define “appropriate”. But it does say that an assessment of the appropriate security measures in a particular case should consider technological developments and the costs involved. The Act does not require you to have state-of-the-art security technology to protect the personal data held, but you should regularly review your security arrangements as technology advances. As we have said, there is no “one size fits all” solution to information security, and the level of security you choose should depend on the risks to your organisation.
- 5.4 So, before deciding what information security measures you need to specify, you will need to assess your information risk: you should review the personal data held and the way it is used to assess how valuable, sensitive or confidential it is, and what damage or distress could be caused to individuals if there were a security breach.

Example

An organisation holds highly sensitive or confidential personal data (such as information about individuals’ health or finances) which could cause damage or distress to those individuals if it fell into the hands of others. The organisation’s information security measures should focus on any potential threat to the information or to the organisation’s information systems.

- 5.5 This risk assessment should take account of factors such as:
- 5.5.1 the nature and extent of the organisation’s premises and computer systems;
 - 5.5.2 the number of staff you have;
 - 5.5.3 the extent of their access to the personal data; and
 - 5.5.4 personal data held or used by a third party on your behalf (under the Data Protection Act you are responsible for ensuring that any [data processor](#) you employ also has appropriate security).

6. What kind of security measures might be appropriate?

- 6.1 The Data Protection Act does not define the security measures you should have in place. However, particular security requirements that apply within particular industries may impose certain standards or require specific measures. In general terms, which security measures are appropriate will depend on your circumstances, but there are several areas you should focus on. Physical and technological security is likely to be essential, but is unlikely to be sufficient of itself. Management and organisational security measures are likely to be equally important in protecting personal data.

7. Management and organisational measures

- 7.1 Carrying out an information risk assessment is an example of an organisational security measure, but you will probably need other management and organisational measures as well. You should aim to build a culture of security and awareness within your organisation.
- 7.2 Perhaps most importantly, it is good practice to identify a person or department in your organisation with day-to-day responsibility for security measures. They should have the necessary authority and resources to fulfil this responsibility effectively.

Example

The Chief Executive of a medium-sized organisation asks the Director of Resources to ensure that the organisation has appropriate information security measures, and to make regular reports on security to the organisation's board. The Resources department takes responsibility for designing and implementing the organisation's security policy, writing procedures for staff to follow, organising staff training, checking whether security measures are actually being adhered to and investigating security incidents.

- 7.3 Unless there is clear accountability in your organisation for such security measures, they will probably be overlooked and your organisation's overall security will quickly become flawed and out of date.
- 7.4 Not every organisation will need a formal information security policy – this will depend on things like the size of the organisation, the amount and nature of the personal data it holds, and the way it uses the data. Whether or not these matters are written into a formal policy, all organisations will need to be clear about them, and about related matters such as the following:

- co-ordination between key people in the organisation (for example, the security manager will need to know about commissioning and disposing of any IT equipment);
- access to premises or equipment given to anyone outside the organisation (for example, for computer maintenance) and the additional security considerations this will generate;
- business continuity arrangements that identify how to protect and recover any personal data the organisation holds; and
- periodic checks to ensure that the organisation's security measures remain appropriate and up to date.

7.5 Staff

It is vital that your staff understand the importance of protecting personal data; that they are familiar with your organisation's security policy; and that they put its security procedures into practice. So you must provide appropriate initial and refresher training, and this should cover:

- 7.5.1 your organisation's duties under the Data Protection Act and restrictions on the use of personal data;
- 7.5.2 the responsibilities of individual staff members for protecting personal data, including the possibility that they may commit criminal offences if they deliberately try to access, or to disclose, information without authority;
- 7.5.3 the proper procedures to use to identify callers;
- 7.5.4 the dangers of people trying to obtain personal data by deception (for example, by pretending to be the person whom the information is about or by making "phishing" attacks) or by persuading you to alter information when you should not do so; and
- 7.5.5 any restrictions your organisation places on the personal use of its computers by staff (to avoid, for example, virus infection or spam).

The effectiveness of staff training relies on the individuals concerned being reliable in the first place. The Data Protection Act requires you to take reasonable steps to ensure the reliability of any staff who have access to personal data.

Example

An organisation verifies the identity of its employees when they are recruited by asking to see passports or driving licences before they start work. It also obtains appropriate references to confirm their reliability. The organisation's standard contract of employment sets out what staff can and cannot do with the personal data they have access to.

7.6 Physical security

Technical security measures to protect computerised information are of obvious importance. However, many security incidents relate to the theft or loss of equipment, or to old computers or hard-copy records being abandoned.

Physical security includes things like the quality of doors and locks, and whether premises are protected by alarms, security lighting or CCTV. However, it also includes how you control access to premises, supervise visitors, dispose of paper waste, and keep portable equipment secure.

Example

As part of its security measures, an organisation ensures that the information on laptop computers issued to staff is protected by encryption, and that desktop computer screens in its offices are positioned so that they cannot be viewed by casual passers-by. Paper waste is collected in secure bins and is shredded on site at the end of each week.

7.7 Computer security

Computer security is constantly evolving, and is a complex technical area. Depending on how sophisticated your systems are and the technical expertise of your staff, you may need specialist information-security advice that goes beyond the scope of this Guide. A list of helpful sources of information about security is provided at the end of this chapter. You should consider the following guiding principles when deciding the more technical side of information security.

- 1.7.1 Your computer security needs to be appropriate to the size and use of your organisation's systems
- 1.7.2 As noted above, you should take into account technological developments, but you are also entitled to consider costs when deciding what security measures to take
- 1.7.3 Your security measures must be appropriate to your business practices. For example, if you have staff who work from home, you should put measures in place to ensure that this does not compromise security
- 1.7.4 The measures you take must be appropriate to the nature of the personal data you hold and to the harm that could result from a security breach
- 1.7.5 Many information governance requirements arise from the context or particular circumstances of a contract and often requirements are defined as a result of a risk assessment. Because of this, it is essential to specify for each contract, or class of contracts, separately.

2. Main Information Governance requirements which may need to be included in the specification

- 8.1 The Terms and Conditions may cover baseline requirements but the larger, more complex or more sensitive the contract the more likely it that detailed specifications should be included and the greater the need to look at this section. Requirements are built up from an understanding as much detail as possible of how you see the contracted activity operating. The more you can do this the better and easier the information governance specification will be. Not all the following requirements will be relevant in every case nor is this list exhaustive. It is only indicative and you may need to consult your INCO and/or your Records Manager when considering this section.

- 8.2 Consider in each case the extent to which the tenderers need to provide specific method statements/evidence/assurances in the following areas

- 8.3 Overall governance
 - 8.3.1 Responsibility for looking after Leeds City Council contract and data

- 8.4 Data Protection requirements
 - 8.4.1 Consent to processing
 - 8.4.2 Fair processing
 - 8.4.3 Secondary use
 - 8.4.4 Sub-contractors
 - 8.4.5 Anonymisation

- 8.5 Subject Access Requests and Freedom of Information/Environmental Information Regulations
 - 8.5.1 Responsibilities around responding to requests under FoI or EIR law

- 8.6 Information security/assurance
 - 8.6.1 Design, development process and testing
 - 8.6.2 Access
 - 8.6.3 Downtime limits etc. see SLA
 - 8.6.4 Back-up and restore
 - 8.6.5 Disaster recovery and business continuity
 - 8.6.6 Helpdesk
 - 8.6.7 Incidents
 - 8.6.8 Network, data centre security
 - 8.6.9 Accreditations for service, security

- 8.6.10 Which country (ies) our data is stored, or otherwise held for any length of time
- 8.6.11 Leeds City Council data partitioned or otherwise protected from other customer' data/systems
- 8.7 Records Management
 - 8.7.1 Disposal
 - 8.7.2 Retention
 - 8.7.3 Control of copies
 - 8.7.4 Use of naming conventions and version control systems
 - 8.7.5 Storage
 - 8.7.6 Access
 - 8.7.7 Surrender
- 8.8 Data Quality
 - 8.8.1 How it is established and maintained
 - 8.8.2 Quality checking procedures
- 8.9 Monitoring, risk assessments and revisions
- 8.10 How IG matters are to be considered at Contract Management meetings

2. Part B: Template Drafting for Section 3: Data Protection:

- 1.1 If the information in Section 2: data and Information Technology identifies that Information Governance is required then the following drafting should be included within the specification at Section 3: Data Protection Act 1998

The Agreement

- 1.2 Agreement terms and conditions require that the Contractor shall (and shall procure that all of its Staff) comply with the Data Protection Act 1998 (DPA) in carrying out the Services.
- 1.3 The Contract will require the following Data to be processed on behalf of the Council [list]. The processing will include [list].
- 1.4 Where the Contractor is Processing Personal Data as a Data Processor under the DPA for the Council the Contractor shall:-
- 1.4.1 process the Personal Data only in accordance with any requirements specified herein or as otherwise notified by the Council;
 - 1.4.2 process the Personal Data only to the extent, and in such manner as is necessary for the provision of the Contractor's obligations under this Agreement;
 - 1.4.3 implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure, including without limitation those listed in paragraph [] below (Measures);
 - 1.4.4 take reasonable steps to ensure the reliability of its employees and agents who may have access to the Personal Data and use all reasonable endeavours to ensure that such persons have sufficient skills and training in the handling of Personal Data;
 - 1.4.5 not cause or permit the Personal Data to be transferred outside the European Economic Area without the prior written consent of the Council;
 - 1.4.6 not disclose the Personal Data to any third parties in any circumstances other than with the written consent of the Council or in compliance with a legal obligation imposed upon the Council; and
 - 1.4.7 co-operate with the Council to enable the Council to comply with any request under section 7 of the DPA.

1.4.8 notify the Council within five Working Days if it receives:

1.4.8.1 a request from a Data Subject to have access to that person's Personal Data; or

1.4.8.2 a complaint or request relating to the Council's obligations under the DPA.

Measures

1.5 The Council has set out below some minimum practical requirements for compliance with data processing obligations within the Data Protection Act 1998. This list is not exhaustive and the Contractor must consider whether additional measures are required to ensure appropriate security and compliance with the Data Protection Act.

General Points

1.6 The Contractor shall;

1.6.1 Identify whether the contractor shall maintain at a written policy and procedure document, for example with respect to the operation and use of CCTV system(s), to ensure the service complies with the City Council's policies and code of practice;

1.6.2 Where a contract is to require processing of personal data to be carried out by a data processor on its behalf the Council must in order to comply with the seventh principle;

1.6.3 Choose a data processor providing sufficient guarantees in respect of the technical and organisational security measures governing the processing to be carried out; and

1.6.4 Take reasonable steps to ensure compliance with those measures

Annex 2

Employment and Skills Plan.

Delivery of Outputs

- 1.1 The contractor shall actively participate in the potential for economic and social regeneration which results from this contract and shall deliver the requirements set out in the contractor's Employment and Skills Method Statement and the associated outputs in the employment and skills requirements.

Modification of output levels:

- 1.2 The Employment and Skills Method Statement, including the outputs and or their levels, may be modified at any time by mutual agreement between the parties.

Recruitment:

- 1.3 Every vacancy in relation to this contract, including those with subcontractors, is to be notified to Employment Leeds, and candidates identified by them are to have an equality of opportunity in the selection process.

Remuneration:

- 1.4 All trainees shall be paid in accordance with industry / sector norms and shall have terms and conditions of employment that are at least equivalent to those provided to staff and employees that have equivalent skills and experience.

- 1.4.1 The contractor is encouraged to increase the remuneration of trainees in line with their experience and productivity in accordance with the practices applied to all other employees of the contractor.

Monitoring and verification of Information:

- 1.5 Every [four] weeks the contractor shall provide the client with an Employment and Skills Performance Statement setting out in relation to the reporting period the following;
 - 1.5.1 the levels of outputs achieved in that period and cumulatively for the contract period;
 - 1.5.2 the number of vacancies notified to Employment Leeds;
 - 1.5.3 the postcodes of all people engaged in providing the services / supplies/ works in any capacity;
 - 1.5.4 a trainee recruitment notification signed by the trainee permitting the provision of personal data to the Client for contract monitoring purposes;
 - 1.5.5 a trainee transfer notification where a trainee is moved between sites, or between employers engaged in the contract; and
 - 1.5.6 a Trainee completion or termination notification.

Contractor and subcontractor compliance.

- 1.6 It is the contractor's responsibility to develop a working method that will deliver the employment and skills requirements and related monitoring and verification data, and obtain the full cooperation of any subcontractors and suppliers in delivering these requirements.

Support:

- 1.7 The inclusion of recruitment and training requirements does not comprise or imply any promise on the part of the client or their agents to provide suitable trainees or labour. Any action taken by these bodies or their agents to broker relationships between the contractor and local individuals / firms / agencies does not imply that they or their agents consider the individual / firm / agency as suitable for engagement by the contractor. All recruitment, supervision and discipline responsibilities rest with the contractor and its subcontractors. Within this context the client will work with local agencies to help facilitate the achievement of the recruitment and training requirements.

Performance monitoring:

- 1.8 As part of the council's contract monitoring process, the projected contract outputs will be reviewed against delivered outputs by the contract manager.
 - 1.8.1 Contractors will be required to include details of how these outputs have been met, providing supporting evidence where appropriate and identifying measures for improvement where targets have not been met.
 - 1.8.2 The council's Employment Leeds team will provide a dedicated resource for support and guidance in developing and implementing the Employment and Skills plan.
- 1.9 Performance on individual contracts will be aggregated and reported on a six monthly basis to the relevant Chief Officers for monitoring purposes.

LICENSING COMMITTEE WORK PROGRAMME 2016/17 - LAST UPDATED 11/05/16 (JG)

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
Items Currently Unscheduled			

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
	Meeting date: 9th February 2016 HELD - Activity Update – Taxi and Private Hire Licensing – 1st July to 31st December 2015, Review of Driver Licensing Requirement for Group ii Medicals, Hackney Carriage Forum Constitution, Entertainment Licensing Section – Update Report July to December 2015, Mint Festival 2015 D- Brief		
	Meeting date: 8th March 2016 – Held - The Night Time Economy - Leeds City Bids, Update Report on Legal Highs'		
	Meeting date: 12th April 2016 - Postponed		
	Meeting date: 10th May 2016 - Postponed		
	Meeting date: 20th May 2016		
Unmet Demand Survey	To receive a report which provides an update on the unmet demand survey	D Broster	B
Leeds Festival 2016 – Update	To receive an update on the Leeds Festival 2016	S Holder	B
Amendment to the Council's Licensing Act 2003 Statement of Licensing Policy 2014-18	To receive a report which sets out the responses to the two consultations relating to the introduction of a CIP for Armley and an amendment of the CIP for the City Centre.	S Holden	SC

Key: RP – Review of existing policy DP – Development of new policy PM – Performance management B – Briefings SC – Statutory consultation

LICENSING COMMITTEE WORK PROGRAMME 2016/17 - LAST UPDATED 11/05/16 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Governance Arrangements	To receive a report which sets out the Annual Governance arrangements for the Licensing Committee	M O'Shea	R
Meeting date: 5th July 2016			
Advertising on Wheel Chair Accessible Vehicles	To receive a report which sets provides an update around wheel chair accessible vehicles	D Broster	B
Convictions Criteria - Psychoactive substances	To receive a report which sets provides an update around the convictions criteria and psycho active substances	D Broster	B
Meeting date: 9th August 2016			
Meeting date: 6th September 2016			
Clean Air Zone	To receive a report which sets provides an update around the clean air zone	D Broster	B



Report author: Stephen Holder
0113 247 4095

Report of the Head of Licensing and Registration

Report to the Licensing Committee

Date: 20th May 2016

Subject: Notification of First Draft Event Management Plan for Leeds Festival 2016

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Wetherby and Harewood		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: 10.4 (3)		
Appendix number: Appendix A and B		

Summary of main issues

- 1.0 The Leeds Festival is an annual event held within the grounds of Bramham Park on the August Bank Holiday Weekend, held under the authorisation of a premises licence issued under the Licensing Act 2003.
- 2.0 Members of the Licensing Committee and Ward Members of the surrounding area are engaged in the process and receive an annual update of any proposed changes to the Event Management Plan.

Recommendations

- 3.0 Members are requested to note the summary of changes to the 2016 event and to note that a further report will be brought back before the Licensing Committee in August 2016 to inform Members of the final arrangements and agency comments.

1.0 Purpose of this Report

1.1 To advise Members of the arrangements for the 2016 Leeds Festival to be held at Bramham Park between the 26th and 28th August 2016.

1.2 To advise Members, that the promoter, Mr. Melvin Benn of Festival Republic Limited has provided a schedule of changes to be made to the 2016 event. A copy of the same may be found at Appendix A of this report. It should be noted that the contents of the Event Management Plan and the document containing the summary of changes are potentially exempt information under Access to Information Procedure Rule 10.4(3) as these include information relating to the financial or business affairs of any particular person. Members are asked to consider exclusion of the press and public from the hearing if these matters contained within the summary of changes are to be discussed.

2.0 History of Premises

2.1 The premises licence for Leeds Festival was considered and approved by the members of the Licensing Committee on the 28 April 2006.

2.2 The Licence is held for Bramham Park and allows the Festival to take place every August Bank Holiday.

2.3 Members resolved to grant the application as requested and accepted the applicants offer to include the following additional three conditions:

1) There shall be an Event Management Plan which incorporates the operating schedule submitted to the licensing authority at least 6 months prior to the Festival each year.

2) The Event Management Plan and any revisions must be approved by the Licensing Authority prior to the Festival.

3) The premises licence holder shall comply with the terms and requirements of the Event Management Plan each year.

2.4 In addition the Committee reserved the right to determine how the final amended Event Management Plan for the Festival should be agreed with the facility for the final plan to be agreed by the Committee or officers under delegated authority.

2.5 A variation application to increase the capacity of the site from 69,999 to 89,999 implemented at 5,000 per year was made in December 2010. The application received no representations from responsible authorities or interested parties and was deemed granted on the 10 January 2011.

2.6 The variation was reported to Members at the Licensing Committee meeting on the 15 February 2011 where it was confirmed that the 5,000 a year increase would be agreed with the responsible authorities on an annual basis and become part of the Event Management Plan, which in turn would be considered by the Licensing Committee prior to the start of the event. Members agreed to note the report.

- 2.7 Since 2011 each year the authorised capacity has increased by 5,000 persons and by 2014 the maximum capacity had increased to 89,999 persons but as in previous years ticket sales did not reach the maximum capacity.
- 2.8 Members of the Licensing Committee were provided with a de brief report from the 2015 Festival at their meeting in November 2015. The consensus between responsible authorities was that they were broadly satisfied with the running of the event. Attached at Appendix B are the reports submitted at the de-brief for Members information and are potentially exempt information under Access to Information Procedure Rule 10.4(3) as these include information relating to the financial or business affairs of any particular person. Members are asked to consider exclusion of the press and public from the hearing if these matters contained within the summary of changes are to be discussed.

3.0 Main Issues

- 3.1 The Summary of Changes from the 2015 event to the 2016 event was received in February 2016 and circulated to members of the Licensing Committee and Ward Members of the constituencies surrounding the event site.

Member's attention is drawn to the capacity of the site which increased to its maximum of 89,999 in 2014. Whilst the increase of 20,000 since 2010 has not been tested, consultation with the responsible authorities suggests that there would be no objection to this capacity provided that the site facilities and supporting infrastructures were adequate to support this.

- 3.3 The first multi- agency meeting was held on the 23rd February 2016 and will continue on a bi-monthly basis until the event.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The application for a premises licence considered in 2006 underwent the full 28 day consultation process including a newspaper advertisement and public notices displayed around the site for the required 28 day period and full liaison with the Ward Members and responsible authorities. Mr. Benn continues to consult with community representatives through the Parish Councils and local residents on all aspects of the impact of the event.

4.2 Equality and Diversity/Cohesion and Integration

- 4.2.1 At the time of writing this report there were no implications for equality and diversity. Any decision taken by the Licensing Committee will be in accordance with the four licensing objectives as prescribed by the Licensing Act 2003.

4.3 Council Policies and City Priorities

- 4.3.1 When determining applications under the Licensing Act 2003 the Licensing Authority must have regard to the relevant legislation, guidance issued by the Home Office, the council's own statement of licensing policy and any associated local area guidance.

4.3.2 Applicants are expected to have had consideration to the relevant policy and any local area guidance when completing their applications and the licensing authority will refer to the policy/local area guidance when making its decision.

4.3.3 The licensing regime contribute to the following outcome:

Best Council Plan 2013-17:

- Improve the quality of life for our residents, particular those who are vulnerable or in poverty;
- Make it easier for people to do business with us: and
- Achieve the savings and efficiencies required to continue to deliver frontline services.

4.3.4 The application was granted in 2006 with regard to the Council's Licensing Act 2003 Statement of Licensing Policy, and the event will operate in accordance with the licensing objectives as set out in the current Statement of Licensing Policy 2014-2018.

4.4 Resources and Value for Money

4.4.1 There are no resource implications to the licensing authority. The premises licence is subject to an annual maintenance fee as prescribed under the Licensing Act 2003.

4.5 Legal Implications, Access to Information and Call In

4.5.1 There are no legal implications known to the Council in terms of its responsibilities held under the Licensing Act 2003.

4.6 Risk Management

4.6.1 The event is subject to a number of multi-agency meetings.

4.6.2 Any matters arising during the planning of the 2016 event having an implication on the premises licence and objectives of the Licensing Act will be brought back before the Licensing Committee.

5.0 Conclusions

5.1 This report presents the summary of changes to the Leeds Festival 2016 Event Management Plan in accordance with the promoter's plans to identify and carry out improvements to the event year on year.

6.0 Recommendations

6.1 Members are requested to note the summary of changes to the 2016 event and to note that a further report will be brought back before the Licensing Committee in August 2016 to inform Members of the final arrangements and agency comments.

7.0 Appendices

7.1 Appendix A – Summary of Changes, and Appendix B – debrief reports (Exempt information)

8.0 Background Papers

None

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