



## LICENSING COMMITTEE

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MEETING TO BE HELD IN CIVIC HALL, LEEDS ON  
TUESDAY, 3RD JUNE, 2008 AT 10.00 AM

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### MEMBERSHIP

#### Councillors

D Wilson (Chair) - Rothwell  
S Armitage - Cross Gates and Whinmoor  
M Dobson - Garforth and Swillington  
J Dowson - Chapel Allerton  
J Dunn - Ardsley and Robin Hood  
T Grayshon - Morley South  
G Hyde - Killingbeck and Seacroft  
V Morgan - Killingbeck and Seacroft  
B Selby - Killingbeck and Seacroft

3 x Liberal Democrat Nominees  
3 x Conservative Nominees

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**Agenda compiled by:**  
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**Helen Gray**  
**247 4355**

# A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)</p>	
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></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><b>RESOLVED</b> – That the press and public be excluded from the meeting during consideration of the following 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, as follows:-</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p><b>LATE ITEMS</b></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><b>DECLARATIONS OF INTEREST</b></p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct</p>	
5			<p><b>APOLOGIES FOR ABSENCE</b></p>	
6			<p><b>MINUTES</b></p> <p>To confirm the minutes of the last meeting held on 1<sup>st</sup> April 2008 as a correct record</p> <p>(Copy attached)</p>	1 - 6
7	All Wards		<p><b>TERMS OF REFERENCE - THE LICENSING COMMITTEE</b></p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) setting out the Terms of Reference and Officer Delegation Scheme for the Licensing Committee as approved by Annual Council on 22nd May 2008. The report also includes the Code of Practice for Determining Licensing Matters</p> <p>(Report attached)</p>	7 - 28

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p><b>CREATION OF THE LICENSING SUB COMMITTEES AND TERMS OF REFERENCE</b></p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) setting out the Terms of Reference for the Licensing Sub Committees as approved by Annual Council on 22<sup>nd</sup> May 2008 and seeking approval for the appointment of the Sub Committees</p> <p>(Report attached)</p>	29 - 36
9	All Wards		<p><b>LICENSING PROCEDURE RULES</b></p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) setting out the Procedure Rules associated with the work of the Licensing Committee and Sub Committees</p> <p>(Report attached)</p>	37 - 50
10	All Wards		<p><b>DRAFT PROTOCOL FOR UNDERTAKING SITE VISITS</b></p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) seeking Members approval of the draft Protocol for Undertaking Licensing site visits</p> <p>(Report attached)</p>	51 - 56
11	All Wards		<p><b>ENTERTAINMENT LICENSING SECTION - UPDATE REPORT</b></p> <p>To consider the report of the Assistant Chief executive (Corporate Governance) providing Members with an update on several licensing issues related to the Licensing Act 2003 and the Gambling Act 2005</p> <p>(Report attached)</p>	57 - 72

# Public Document Pack Agenda Item 6

## Licensing Committee

Tuesday, 1st April, 2008

**PRESENT:** Councillor D Wilson in the Chair

Councillors M Dobson, J Dunn,  
R D Feldman, T Grayshon,  
D Hollingsworth, V Morgan, F Robinson,  
B Selby, C Townsley and G Wilkinson

**58 Declarations of Interest**

There were no declarations of interest

**59 Apologies for Absence**

Apologies for absence were received from Councillors Dowson and G Hyde

**60 Minutes**

**RESOLVED** – That the minutes of the meetings held 5<sup>th</sup> and 25<sup>th</sup> February 2008 respectively be confirmed as a correct record

**61 Matters Arising**

Minute 48 – it was noted that no formal report back on the completed ClearTango initiative was yet available

**62 Code of Practice for the Determination of Licensing Matters**

The Assistant Chief Executive (Corporate Governance) submitted a report informing the Committee of proposed amendments to the Code of Practice for the Determination of Licensing Matters. Members' comments were sought on the revised Code which had been updated having regard to the new Members Code of Conduct and from the experience gained during the implementation of both the Licensing Act 2003 and the Gambling Act 2005.

Appended to the report was a copy of the draft Code of Practice due to be considered by the Standards Committee on 14<sup>th</sup> April 2008

Members accepted the contents of the Code, with one suggested minor amendment to section 7.1

**RESOLVED** –

- a) To note the proposals to revise the Code of Practice
- b) That paragraph 4 of Section 7.1 of the Code of Practice be amended to read as follows: "**Do not** take part in the licensing decision making process *but withdraw from the meeting or arrange a substitute, when you have a prejudicial interest in that matter by virtue of you being on the Parish Council or a member of the outside body. (However you may make representations, answer questions on a matter or give evidence on a matter if the public also have the right to do so)*
- c) To note that the revised Code of Practice for the Determination of Licensing Matters, with the suggested amendment, will be now forwarded

to the Standards Committee for consideration at the meeting to be held 14<sup>th</sup> April 2008

### **63 Update on Large Casino Bid**

The Committee considered the report of the Assistant Chief Executive (Corporate Governance) providing an update on the Council's bid to licence a new style large Casino under the Gambling Act 2005 in the light of published Government proposals.

Appended to the report was a copy of the "Code of Practice for the Determinations under paragraphs 4 & 5 of schedule 9 of the Gambling Act 2005 relating to Large and Small Casinos" issued by the Department for Culture, Media and Sport

Members noted that the Authority's own Gambling Statement of Licensing Policy would require amendment once all three Statutory Instruments (S.I's) relating to the licensing of Casinos had received approval by parliament. The first, relating to the application process, had now been issued and Members considered the merits of undertaking an information gathering visit to local existing casinos, in conjunction with the British Casino Association, prior to the approval of the two remaining S.I's

The Committee further noted that officers had joined a best practice working group with the other 15 local authorities which had been selected to licence either a small or large casino and supported the intention to continue working closely with those authorities once the final 2 S.I's had received parliamentary approval

Members discussed the following:

- Current position with regards to the "Majestyks" building, Leeds City Square, which made an application to the Magistrates Court for a casino licence prior to the implementation of the Gambling Act 2005 and would continue to be dealt with by the Magistrates
- Approval process – Members noted the staged approval process and proposed methodology for dealing with applicants at stage 1. The existing Gambling Statement of Licensing Policy did make reference to the selection criteria, however this would need to be revised as more details were released by central government.
- Members noted it was likely that every operator of an existing casino would apply for the large casino licence, therefore every operator was likely to object to each application made by a competitor
- A number of sites within the city had been suggested in the media as the future site for the large casino, and Members noted that although Committee would grant approval for one large casino, the relevant Plans Panel would have to grant planning permission. The Committee discussed the possible conflict presented to those Members who sat on both licensing and planning panels and welcomed the suggestion that officers provide written guidance at the appropriate time.

(Councillor Grayshon joined the meeting at this point)

- The impact of appeals by those applicants unsuccessful at stage 1 on the approval process was noted. Appeals would be made to the Magistrates Court and would have to be decided prior to the Authority considering stage 2 of the process.

**RESOLVED** – That the contents of the report be noted

**64 Application for the Grant of Premises Licence - Elland Road Stadium**

The Assistant Chief Executive (Corporate Governance) submitted a report advising Members of an application made for a Premises Licence in respect of Elland Road stadium, Leeds 11. The application had been made in order to facilitate a proposed concert by the Kaiser Chiefs on 24 May 2008.

It was noted the application had been amended to request a Time Limited Premises Licence. Agreements regarding a number of other issues had been reached which were to the satisfaction of Responsible Authorities who had now withdrawn their representations. The Premise Licence would now be issued subject to approval of the final event management plan. Officers sought Committee authority for the approval of the Event Management Plan to be delegated to the Assistant Chief Executive (Corporate Governance) once all the final technical inspections and arrangements were complete.

The Committee discussed the following matters:

- the event had been advertised locally and no public representations had been received
- a capacity of 32,000 persons had been requested, noting that a normal gate for a Leeds United match was 30,000
- the scheduled finish time of 22:30 hours, would afford the organisers 30 minutes for the band to play encores, and ensure the 23:00 terminal hour of the premise licence was adhered to. Members were keen that officers advise the organiser that any over run would be pursued and likely to incur a fine of £20,000 or 6 months imprisonment for the breach of Licence conditions.
- Members suggested that the three bands due to play be given start times for their sets, as well as finish times, in order to promote adherence to the premise licence and better management of the overall event
- public safety issues – noting media coverage of the application, it was reported that sections of the east stand would not be used and would be controlled through extra stewarding, due to concerns that the movement of the attendees may cause undue stress to the cantilever structure of the stand which may then flex during the concert.
- additional exits from the pitch would be created to facilitate dispersal from the event

In response to a comment that Committee would have benefited from final plans of the site to accompany the report; officers stated that plans for the siting of the stage, exits, entrances, stalls etc would be amended as the multi agency process continued. Definitive plans would not be determined until the final inspection had been undertaken and all parties were satisfied. Committee would have to meet just prior to the event if they wished to view

the final plans prior to delegating authority regarding the Event Management Plan

The Committee supported the Chairs suggestion that the administrative process followed for this application be used as a blueprint for any future applications at Elland Road. Members additionally supported the suggestion that any unexpected issues which may arise through the forthcoming multi-agency process should be reported back directly to the Committee.

**RESOLVED –**

- a) That the contents of the report be noted
- b) That Committee delegate authority to the Assistant Chief Executive (Corporate Governance) to approve the Event Management Plan prior to the start of the event
- c) That Committee give delegated authority to the Assistant Chief Executive (Corporate Governance) to approve any minor amendments to the Event Management Plan prior to the start of the event
- d) That Committee be kept informed of any unexpected issues which may arise through the multi agency process.

**65 Sports Cafe of 123 The Headrow, Leeds LS1 5RD - Appeal against Licensing Committee decision on application for variation to Premises Licence**

The Assistant Chief Executive (Corporate Governance) submitted a report on the result of an Appeal against a decision of the Licensing Committee made by the Sports Café Group to the Magistrates Court Appended to the report was a full copy of the Justices' Reasons in respect of the decision

Members had regard to the Magistrates comments concerning the evidence as presented by both parties at the appeal; furthermore Members agreed that closer scrutiny of evidence was required of future Sub Committees

**RESOLVED –** To note the contents of the report and the comments of the Magistrates

**66 Closing Remarks**

- The Chair noted this was the final Committee meeting prior to the local elections and extended best wishes to all Members
- Committee noted recent media coverage of the number of lap-dancing establishments in Leeds had increased general awareness of the issue and discussed whether a Cumulative Impact Policy specifically related to this type of venue would be appropriate. Members noted legal advice that this type of venue held a Licence just like every other venue under the 2003 Act. A Cumulative Impact Policy would require proven evidence that such venues adversely affected the 4 licensing objectives. And the current advice from West Yorkshire Police was that such venues, as they were strictly regulated by conditions, did not cause major issues with relation to crime and disorder. As such Committee noted no Cumulative Impact Policy could be implemented
- Independent training – Having regard to recent comments by the Magistrates, Members considered whether to investigate the focus of the independent training provision supplied to Magistrates





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Agenda Item:

Originator: Gill Marshall

Tel: 2478822

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## Report of the Assistant Chief Executive (Corporate Governance)

### Report to the Licensing Committee

Date: June 2008

Subject: TERMS OF REFERENCE - LICENSING COMMITTEE

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#### Electoral Wards Affected:

All

#### Specific Implications For:

Ethnic minorities

Women

Disabled people

Narrowing the Gap

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## Executive Summary

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 sets out the Terms of Reference for the Licensing Committee as agreed at the Annual Meeting of Council on 22<sup>nd</sup> May 2008.

### 1.0 Purpose Of This Report

1.1 This report is presented to Members in order that they note the agreed Terms of Reference of the Licensing Committee. The Terms of Reference for the Licensing Committee are attached at **Appendix A** of this report and were agreed at the annual Council meeting held on 22<sup>nd</sup> May 2008.

### 2.0 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 The Licensing Committee is authorised to discharge the licensing functions of the authority under the two Acts. This discretion does not extend to any licensing function reserved to full Council or a licensing function where full council has referred a matter to another committee.

2.3 The Licensing Committee is also authorised to delegate functions of the authority to the relevant officers. The Officer Delegation Scheme as previously approved by the Licensing Committee and presented to Annual Council on 22<sup>nd</sup> May 2008 is attached at **Appendix B** for Members reference

2.4 Members attention is also drawn to the Code of Practice for the Determination of Licensing matters attached at **Appendix C** for reference

### **3.0 Main Issues**

3.1 There are no issues raised in this report. It is for Member's information only.

### **4.0 Implications For Council Policy And Governance**

4.1 There are no issues raised in this report. It is for Member's information only.

### **5.0 Legal And Resource Implications**

5.1 Without a properly constituted Committee with agreed Terms of Reference the Council will be open to challenge.

### **6.0 Recommendations**

6.1 Members of the Licensing Committee are requested to note the Terms of Reference for the Licensing Committee as attached at **Appendix A**.

6.2 Members are requested to note the contents of the current Officer Delegation Scheme as attached in **Appendix B**

6.3 Members are asked to note the Code of Practice for the determination of Licensing Matters as attached at **Appendix C**

## **The Licensing Committee**

With the exception<sup>1</sup> of

- any licensing function under the Licensing Act 2003 (the 2003 Act) or the Gambling Act 2005 (the 2005 Act) reserved to full Council;<sup>2</sup> or
- any licensing function where full Council has referred a matter to another committee,<sup>3</sup>

the Licensing Committee is authorised to discharge<sup>4</sup> the following functions<sup>5</sup>:

1. to discharge the licensing functions of the licensing authority;<sup>6</sup>
2. to discharge any other function of the authority referred to it by full Council;<sup>7</sup>
3. to make recommendations to full Council in connection with the discharge of its functions as licensing authority;<sup>8</sup>
4. To receive reports from, and to make recommendations and representations to other committees or bodies as appropriate.<sup>9</sup>

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

<sup>2</sup> Part 3, Section 2A of the Constitution sets out licensing functions reserved to full Council, as licensing authority under the 2003 Act and under the 2005 Act.

<sup>3</sup> Under the provisions of Section 7(5)(a) of the 2003 Act.

<sup>4</sup> 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 s154 of the 2005 Act.

<sup>5</sup> "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.

<sup>6</sup> This includes the power to set fees under s212 of the 2005 Act

<sup>7</sup> 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 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.

Pursuant to this provision on 12 January 2006 Council delegated to the Licensing Committee the power to make a designated public places order in respect of alcohol consumption under the Criminal Justice and Police Act 2001

<sup>8</sup> Including recommendations arising from the monitoring of the operation and impact of the licensing or Gambling policy by the Licensing Committee.

<sup>9</sup> 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)).

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**ASSISTANT CHIEF EXECUTIVE (CORPORATE GOVERNANCE)**

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

**Licensing and Regulatory:**

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

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

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

◆ From 1 September 2007 licences will be granted under the Gambling Act 2005 by the Licensing Committee, except as provided for by the Gambling Act Order<sup>1</sup>,

**Functions relating to elections:**

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

**Functions relating to standing orders:**

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

**Exceptions<sup>2</sup>:**

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

**Licensing Functions delegated by Licensing Committee:**

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

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

<sup>8</sup> "Licensing functions" means functions under the 2003 Act and the 2005 Act.



**Exceptions:**

- any licensing function<sup>3</sup> reserved to full Council;<sup>9</sup> and
- any licensing function where full Council has referred a matter to a committee other than the Licensing Committee;<sup>10</sup> and
- any licensing function within the terms of reference of the Licensing Sub-committees<sup>11</sup>; and
- any function under Section 52(2) or (3) of the 2003 Act; and
- any function under Section 88(2) or (3) of the 2003 Act; and
- any function under Section 167(5) of the 2003 Act: and
- to determine whether Section 20(3) or 74(3) of the 2003 Act applies to a film and make recommendations about the admission of children to that film; and
- to object when the Authority is consultee and not the relevant authority considering an application under the 2003 Act
- any function under Section 198 of the 2005 Act
- any function under Section 201 of the 2005 Act
- any function under Section 202 of the 2005 Act

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

<sup>10</sup> Under the provisions of Section 7(5)(a) of the 2003 Act.

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

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**CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS**

**1.0 BACKGROUND**

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

**2.0 SCOPE**

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

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

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

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

**3.0 RELATIONSHIP WITH THE MEMBERS CODE OF CONDUCT**

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

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

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

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

#### **4.0 DECLARATIONS OF INTERESTS UNDER THE MEMBERS CODE OF CONDUCT**

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

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

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

The Model Members Code of Conduct states<sup>1</sup> that in these cases, provided that you do not also have a prejudicial interest, you only need to declare that interest if you intend to speak on the matter.

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

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

**Do not** participate or give the appearance of trying to participate in any part of the meeting which involves the matter in which you have a prejudicial interest. You may however make representations, answer questions on a matter or give evidence on a matter if the public also have the right to do so<sup>2</sup>. You only have the same right as the public to make representations You will be brought into the meeting when the other parties are called in. You will be subject to the same time limits as all other parties and have the same rights i.e. to make representations, give evidence and answer questions but not to cross examine other parties You must leave the room

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<sup>1</sup> Paragraph 9(2) Model Code of Conduct for Members

<sup>2</sup> Paragraph 12(2) Model Code of Conduct for Members

### *Code of Practice for Determining Licensing Matters*

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

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

**Do not** get involved in the processing of the application.

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

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

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

## **5.0 MEMBERS SPEAKING AT LICENSING HEARINGS**

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

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

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

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

## **6.0 BIAS AND PREDETERMINATION IN THE LICENSING PROCESS**

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

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

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

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

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

**The Standards Board for England** have provided advice and guidance on bias and pre-determination which can be obtained from [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk).

## **7.0 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES**

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

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

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

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

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

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

## **8.0 AREA COMMITTEES**

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

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<sup>3</sup> Paragraph 10(2) Model Code of Conduct for Members

<sup>4</sup> Paragraph 10(1) Model Code of Conduct for Members

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

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

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

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

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

## **9.0 SPOUSE/PARTNER COUNCILLORS**

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

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

**Relevant person**<sup>5</sup> includes your spouse or partner.

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

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

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<sup>5</sup> Paragraph 8(2) Model Code of Conduct for Members  
Part 5 (I)  
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## **10.0 EXECUTIVE BOARD MEMBERS**

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

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

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

## **11.0 CONTACT WITH APPLICANTS AND OBJECTORS**

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

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

**Do** refer those who approach you for advice to officers.

**Do** follow the rules on lobbying

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

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

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

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

## 12.0 MEMBERSHIP OF A LOBBY GROUP

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

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

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

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

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

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

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

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

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

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

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

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

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

## **13.0 SITE VISITS**

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

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

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

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

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

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

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

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

## **14.0 TRAINING**

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

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

## **15.0 OFFICERS**

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

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

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

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

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

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

## **16.0 RELATIONSHIP WITH THE OFFICER CODE OF CONDUCT**

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

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

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

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

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

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

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

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

### **17.0 PROCEDURES AT LICENSING HEARINGS**

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

### **18.0 MONITORING AND REVIEW**

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

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

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

## **19.0 BREACHES OF THE CODE OF PRACTICE**

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

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

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

**Do** seek advice if you are in doubt.

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

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

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

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Agenda Item:

Originator: Gill Marshall

Tel: 2478822

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## Report of the Assistant Chief Executive (Corporate Governance)

### Report to the Licensing Committee

Date: June 2008

Subject: CREATION OF THE LICENSING SUB COMMITTEES AND TERMS OF REFERENCE

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<b>Electoral Wards Affected:</b>	<b>Specific Implications For:</b>
All	Ethnic minorities <input type="checkbox"/>
	Women <input type="checkbox"/>
	Disabled people <input type="checkbox"/>
	Narrowing the Gap <input type="checkbox"/>

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## Executive Summary

The Licensing Committee is, with specified exceptions, authorised to discharge licensing functions. On 22<sup>nd</sup> May 2008 Annual Council approved Terms of Reference for the Licensing sub committees which are appended for Members information. Members are asked to appoint the sub committees for the 2008/09 Municipal Year

### 1.0 Purpose Of This Report

1.1 To note the Terms of Reference of the Licensing sub committees

1.2 To appoint Licensing sub-committees for the 2008/09 Municipal Year

## 2. BACKGROUND INFORMATION

2.1 Members will note the Terms of Reference for the Licensing Committee as set out in the report of the Assistant Chief Executive (Corporate Governance) earlier on this agenda.

In accordance with both the Licensing Act 2003 (the 2003 Act) and the Gambling Act 2005 (the "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 referred to its Licensing Committee.

## 2.2 Legislation

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 functions of the Licensing Authority.

Instead, the 2003 Act specifically provides that a Licensing Committee may establish one or more sub-committees consisting of 3 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 for meetings).

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).

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) an officer of the licensing authority.

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.

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).

The arrangements may provide for more than one sub-committee or officer to discharge the same function concurrently (Section 10 (3)).

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.

## 3.0 **MAIN ISSUES**

### 3.1 Sub Committee Terms of Reference

3.2 In April 2007 the Licensing Committee considered the impact of the implementation of the Gambling Act 2005 on the work of the Authority. It was agreed that the implementation of the 2005 Act would be dealt with through the Licensing Committee and its sub committees in a similar fashion to the 2003 Act

3.3 The Licensing Authority has approved Terms of Reference as set out at **Appendix 1** to this report. Essentially this enables the sub committees to conduct the bulk of the hearings required under both the 2003 and 2005 Acts.

3.4 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.

3.5 Sub committees will still deal with smaller outdoor events such as the Garforth Arts Festival. The sub committees will also deal with all outdoor events applications such as those made by Parks and Countryside to licence Council Parks. These applications do not raise the same issues as large scale outdoors events

3.6 Sub committees are also empowered to deal with Reviews of Premises Licences

## **4.0 SUB COMMITTEES**

### **4.1 Appointment of sub-committees**

As referred to above, the Licensing Committee may establish one or more sub-committees consisting of 3 Members of the committee. Previously 5 sub-committees were established, each with three Members. It is again proposed that 5 sub-committees are established. Due to changes in the Membership of the Licensing Committee it is now necessary to re-appoint the sub committees.

### **4.2 Membership**

The membership of the full Licensing Committee is not yet known. As such the memberships of each sub-committee as set out in **Appendix 2** to this report is purely a proposal.

It is hoped that by the time of the Committee meeting on 3 June 2008 all nominees will be known and the memberships of the sub-committees can be completed. Previously, membership has been allocated to each sub-committee alphabetically by surname given that the rules on political balance do not apply, however it should be noted that during 2006/07 and 2007/08 the three Members for Killingbeck and Seacroft were split amongst the sub committees.

### **4.3 Substitutes**

The approved Licensing Procedure Rules provide that the 15 Members of the Licensing Committee form a pool for the purposes of substitutions to the sub-committees. Therefore any Member of the Licensing Committee may substitute for any other Member of the Licensing Committee at any meeting of a sub-committee.

### **4.4 Appointment of Chairs**

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.

### **4.5 Quorum**

The quorum for meetings of the Licensing Committee is five, and for the sub-committees, three.

However, on 5 June 2007 Licensing Committee did approve that, in exceptional circumstances on the day of a sub committee hearing and after all avenues to seek a third member have been exhausted, a quorum of 2 will be permissible.

## **5.0 Implications for Council Policy and Governance**

The appointment of sub committees to carry out the licensing functions within their terms of reference is consistent with good corporate governance.

## **6.0 Legal and Resource Implications**

6.1 This report raises no legal or resource implications.

## **7.0 RECOMMENDATIONS**

Members are asked to note the contents of this report and:

- (a) establish 5 Licensing Sub-Committees; noting the arrangements for the membership as set out in Para. 4 above
- (b) note the terms of reference for the sub-committees set out as Appendix 1 to this report;
- (c) approve the membership of each sub-committee as set out in Appendix 2 to this report

## **Licensing Sub-Committees**

The Licensing Sub-Committees are authorised to discharge<sup>1</sup> the following functions<sup>2</sup> concurrently<sup>3</sup>:

1. functions<sup>4</sup> 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(3) of the 2003 Act (determination of an application for review of a premises licence);
- (h) section 72(3) of the 2003 Act (determination of application for club premises certificates where relevant representations have been made);
- (i) section 85(3) of the 2003 Act (determination of application to vary club premises certificates where representations have been made);
- (j) section 88(3) of the 2003 Act (determination of application for review of a club premises certificate);
- (k) section 105(2)(decision to give counter notice following police objection to a temporary event notice);
- (l) section 120(7) of the 2003 Act (determination of application for grant of personal licence following police objection);
- (m) section 121(6) of the 2003 Act (determination of application for renewal of personal licences following police objection);
- (n) section 124(4) of the 2003 Act (revocation of licence where convictions come to light after grant or renewal of personal licences);
- (o) section 20(3) of the 2003 Act (making recommendations for restricting the admission of children to the exhibition of any film)
- (p) section 159 of the 2005 Act (determination of application for premises licences where representations have been made)<sup>5</sup>

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<sup>1</sup> 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)).

<sup>2</sup> "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.

<sup>3</sup> Section 10(3) of the 2003 Act.

<sup>4</sup> Including agreeing whether a hearing is necessary.

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

- (q) section 187 of the 2005 Act (determination of application for variation of premises licence where representations have been made);<sup>5</sup>
  - (r) section 188 of the 2005 Act (determination of application for transfer of premises licences following objection);<sup>6</sup>
  - (s) section 195 of the 2005 Act (consideration of objection made to an application for reinstatement);<sup>6</sup>
  - (t) section 203 of the 2005 Act (determination of review of a premises licence);
  - (u) section 204 of the 2005 Act (determination of application for provisional statements where representations have been made);<sup>6</sup>
  - (v) section 224 of the 2005 Act (decision to give counter notice following an objection to a temporary use notice);
  - (w) schedule 10 of the 2005 Act (consideration of representations in relation to the proposed rejection of a family entertainment centre permit);
  - (x) schedule 14 of the 2005 Act (consideration of representations in relation to the proposed rejection of a prize gaming permit);
  - (y) schedule 13 of the 2005 Act (consideration of representations in relation to the proposed rejection of an alcohol licensed premises gaming machine permit);
  - (z) 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. 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.

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

## LICENSING COMMITTEE 08/09

3x Conservative nominees

3 x Liberal Democrat Nominees

**A**

S ARMITAGE (Lab)  
M DOBSON (Lab)  
J DOWSON (Lab)

**B**

J DUNN (Lab)

**C**

T GRAYSHON (M B I)  
V MORGAN (Lab)

**D**

G HYDE (Lab)

**E**

B SELBY (Lab)  
D WILSON (Lib Dem)

## LICENSING COMMITTEE 2008 - 2009

## SUB COMMITTEE MEMBERSHIP

3x Conservative nominees

3 x Liberal Democrat Nominees

<b>A</b>	<b>SUZI ARMITAGE</b>	LAB	Crossgates & Whinmoor
	<b>MARK DOBSON</b>	LAB	Garforth & Swillington
	<b>JANE DOWSON</b>	LAB	Chapel Allerton
<b>B</b>	<b>JACK DUNN</b>	LAB	Ardsley & Robin Hood
<b>C</b>	<b>TERRY GRAYSHON</b>	M B I	Morley South
	<b>VONNIE MORGAN</b>	LAB	Killingbeck & Seacroft
<b>D</b>	<b>GRAHAM HYDE</b>	LAB	Killingbeck & Seacroft
<b>E</b>	<b>BRIAN SELBY</b>	LAB	Killingbeck & Seacroft
	<b>DONALD WILSON</b>	LIB DEM	Rothwell





**Report of the Assistant Chief Executive (Corporate Governance)**

**Licensing Committee**

**Date: 3 June 2008**

**Subject: Licensing Procedure Rules**

<p><b>Electoral Wards Affected:</b></p> <p>All</p>
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<p><b>Specific Implications For:</b></p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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**Executive Summary**

This report sets out the proposed Rules of Procedure to be utilised in support of the work of the Licensing Committee and the Licensing Sub Committees under the provisions of both the Licensing Act 2003 and the Gambling Act 2005. It is necessary for the Licensing Committee to re-affirm the Rules of Procedure each time the Committee is appointed. The rules are substantially the same as those approved previously save that the quorum has been altered to reflect the amendment previously approved to allow two Member sub Committees in exceptional circumstances.

**1.0 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 under the Licensing Act 2003 ('The 2003 Act') and the Gambling Act 2005 ('The 2005 Act').

**2.0 Background Information**

2.1 Under the Licensing Act 2003 Leeds City Council was 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 referred 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

Subject to the regulations, each licensing committee may regulate its own procedure and that of its sub committees.

- 2.3 On 12 January 2005 the Secretary of State issued regulations under Section 9 (2) of the 2003 Act<sup>1</sup> 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 Committees such as determining applications for premises licences, variations and transfers of licences and reviews.
- 2.4 On 2 March 2005 the Licensing Committee approved two sets of procedure rules under the 2003 Act and the associated regulations. The first set 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 2.3 above.
- 2.5 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 she may make separate regulations for each Act.
- 2.6 On 27 January 2007 the Secretary of State issued regulations in respect of premises licensing under the 2005 Act<sup>2</sup>. 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 Licensing Committee and Sub Committees dependant upon which functions are being exercised.
- 2.7 On 3<sup>rd</sup> 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 and 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.

### 3.0 Main Issues

- 3.1 One set of Licensing Committee Procedure Rules, which apply to both the 2003 Act and the 2005 Act and which cross refer to the relevant regulations were approved by the Licensing Committee in March 2007. On 5<sup>th</sup> June 2007 the Committee considered and approved an amendment to these rules to permit two Member Sub Committees in exceptional cases (Minute 11(c) refers). The Rules proposed at **Appendix 1** to this

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

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

report are substantially the same as those approved in 2007 save for this amendment which is now incorporated at paragraph 5.

3.4 However it will be necessary for Members, Officers and the public to be aware of the different rules and how they apply. An information sheet setting out the corresponding provisions in relation to both licensing and gambling in relation to key issues such as time limits, right to call witnesses, right to question other parties has been available to Members within the Members Information Pack and is attached at **Appendix 2**

3.5 A simple information sheet has been drafted and is available to members of the public at hearings and is attached at **Appendix 3**

#### **4.0 Implications For Council Policy And Governance**

4.1 The Licensing Committee must operate within the relevant statutory provisions to ensure that it's decisions are valid and can withstand challenge

#### **5.0 Legal And Resource Implications**

5.1 Failure to adopt and adhere to relevant procedure rules might render decisions susceptible to challenge.

5.2 There are no resource implications in adopting the rules.

#### **6.0 Conclusions**

6.1 That the updated Rules of Procedure should be approved.

#### **7.0 Recommendations**

7.1 That Members approve the Licensing Procedure Rules as set out as Appendix 1 to this report and note the contents of the associated information sheets as attached at Appendix 2 and Appendix 3.

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## LICENSING 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 2003<sup>1</sup> 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.

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<sup>1</sup> Hearings are defined as those matters referred to in column 1 of schedule 1 to the regulations

## **5. APPOINTMENT OF CHAIR**

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

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 non availability of a Sub-Committee Member it shall be possible for a sub committee to conduct a hearing with only two Members present provide 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

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

## **7. SUBSTITUTE MEMBERS**

### Allocation

No substitute Members are appointed for the Licensing Committee. In relation to each Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other Members of the Licensing Committee.

### 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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**COMMITTEE PROCESS**

<b>LICENSING ACT 2003</b>	<b>GAMBLING ACT 2005</b>
<p>Time within which hearing is to be held:-</p> <ul style="list-style-type: none"> <li>- Set out in Schedule 1 – generally 20 working days starting the day after the end of the period for representations.</li> </ul>	<p>Time within which hearing is to be held:-</p> <ul style="list-style-type: none"> <li>- As soon as reasonably practicable after the end of the period for representations</li> </ul>
<p>Hearings longer than 1 day to be held on consecutive days.</p>	<p>Hearings longer than 1 day to be held on consecutive days.</p>
<p>Notice of hearing:-</p> <ul style="list-style-type: none"> <li>- Generally 10 working days</li> <li>- Shorter periods for tens, interim authority notice (2 days) and review of closure order (5 days)</li> </ul>	<p>Notice of hearing:-</p> <ul style="list-style-type: none"> <li>- Sent so it is received no later than 10 working days before the first day of the hearing</li> </ul>
<p>Notice to be given to:-</p> <ul style="list-style-type: none"> <li>- Licence holder/applicant and those who made reps.</li> </ul>	<p>Notice to be given to:-</p> <ul style="list-style-type: none"> <li>- Licence holder, applicant and those who made reps.</li> </ul>
<p>Information to be given with notice:-</p> <ul style="list-style-type: none"> <li>- Rights of the parties</li> <li>- Consequences of failing to attend</li> <li>- Procedure at hearing</li> <li>- Points requiring clarification</li> <li>- Copies of relevant reps</li> </ul>	<p>Information to be given with notice:-</p> <ul style="list-style-type: none"> <li>- Rights of the parties under reg 8 and 9.</li> <li>- Consequences of failure to attend.</li> <li>- Procedure at the hearing.</li> <li>- Time limit (if any) for informing that the party:-                             <ul style="list-style-type: none"> <li>• Wishes to attend.</li> <li>• Wishes to be represented.</li> <li>• Will be calling witnesses.</li> <li>• Wishes to withdraw representations.</li> <li>• Is content to have the matter determined without a hearing.</li> </ul> </li> <li>- Points requiring clarification</li> <li>- Copy documents to licence holder/applicant</li> <li>- Right to request documents to those making reps.</li> </ul>

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LICENSING ACT	GAMBLING ACT
<p>Action following notice of hearing:-</p> <ul style="list-style-type: none"> <li>- Parties to return counter notice to include:-               <ul style="list-style-type: none"> <li>• Request for permission to call witnesses</li> <li>• Whether he will attend/be represented</li> <li>• Whether he considers a hearing to be necessary</li> </ul> </li> </ul>	
<p>Dispensing with a hearing:-</p> <p>All parties give notice that they consider a hearing is unnecessary and the Authority agrees.</p> <p>Notice that hearing has been dispensed with must be given forthwith</p>	<p>Dispensing with a hearing:-</p> <p>All parties notify the Authority that they consent to matter being dispensed with.</p> <p>Notice that hearing has been dispensed with must be given as soon as reasonably practicable.</p>
<p>Withdrawal of representations:-</p> <ul style="list-style-type: none"> <li>- In writing up to 24 hours before hearing.</li> <li>- Orally at the hearing.</li> </ul>	
<p>Power to extend time:-</p> <ul style="list-style-type: none"> <li>- Any time limit can be extended unless it relates to a review following closure order.</li> <li>- If time limit is extended a notice to that effect must be given forthwith</li> </ul>	<p>Power to extend time:-</p> <ul style="list-style-type: none"> <li>- Applies only to time for determining an application or review following a hearing.</li> </ul>

**HEARING PROCEDURE**

	<b>LICENSING ACT</b>	<b>GAMBLING ACT</b>
<p>Postponing/adjourning the hearing:-</p> <ul style="list-style-type: none"> <li>- Where it is considered necessary the hearing may be adjourned to a specified date.</li> <li>- Notice of adjournment must be given forthwith.</li> </ul>	<p>Postponing/adjourning the hearing:-</p> <ul style="list-style-type: none"> <li>- If necessary to consider any information or documents.</li> <li>- Or if necessary having regard to the ability of any party, representative or witness to attend.</li> <li>- Notice of adjournment must be given as soon as reasonably practicable.</li> </ul>	
<p>Hearings in public:-</p> <ul style="list-style-type: none"> <li>- General rule that the hearing must be in public.</li> <li>- May exclude the public if the public interest in excluding the public outweighs the public interest in having a public hearing.</li> <li>- A party or representative may be regarded as a member of the public.</li> </ul>	<p>Hearings in public:-</p> <ul style="list-style-type: none"> <li>- General rule that the hearing must be in public.</li> <li>- May exclude the public if necessary in the circumstances having regard to:-                             <ul style="list-style-type: none"> <li>• Any unfairness that is likely to result to a party from a public hearing</li> <li>• The need to protect as far as possible the commercial or other legitimate interests of a party.</li> </ul> </li> </ul>	
<p>Failure to attend:-</p> <ul style="list-style-type: none"> <li>- If a party has indicated they will not attend the hearing may proceed in his absence.</li> <li>- If a party has not notified the Authority it may either adjourn the hearing or proceed in his absence.</li> <li>- If the hearing proceeds in absence the party's application, representation or notice must be considered.</li> </ul>	<p>Failure to attend:-</p> <ul style="list-style-type: none"> <li>- If a party has indicated they will not attend the hearing may proceed in his absence.</li> <li>- If a party has failed to notify the Authority whether he intends to attend the hearing may proceed in his absence.</li> <li>- If a party has left the hearing in circumstances where the committee reasonably concludes he does not intend to participate further the hearing may proceed in his absence.</li> <li>- If a party has said they intend to attend but does not the Authority may adjourn if it is in the public interest to do so or proceed in his absence.</li> <li>- If the hearing proceed in absence the party's application or representation must be considered.</li> </ul>	

LICENSING ACT	GAMBLING ACT
<p>Representation at the hearing:- A party may attend and be assisted or represented by any person whether or not they are legally represented (subject to exclusion of the public or disruptive persons).</p>	<p>Representation at the hearing:- A party may attend and be assisted or represented by any person whether or not they are legally represented (subject to exclusion of the public or disruptive persons).</p>
<p>Rights of a party:- A party has a right to address the committee. A party has a right to give further information on any matter where clarification has been requested.</p>	<p>Rights of a party:- A party has a right to address the committee. A party has a right to give further information on any matter where clarification has been requested.</p>
<p>Calling Witnesses:- If given permission by the committee following a request in a party's notice of intention</p>	<p>Calling Witnesses:- Right to call witnesses to give evidence on a matter relevant to the application or representation.</p>
<p>Questions of other parties:- Only if given permission to do so by the committee.</p>	<p>Questions of other parties:- Party must be allowed to question any other party or representative on any relevant matter where the committee considers it appropriate to do so.</p>
<p>Documents in support:- May be considered where produced before the hearing or (with the consent of all parties) at the hearing.</p>	<p>Documents in support:- Must be considered if produced before the hearing or at the hearing with the consent of all those in attendance.</p>
<p>Time Limits:- All parties must have equal maximum periods of time to exercise their rights.</p>	<p>Time Limits:- No provision.</p>
<p>Disruptive Parties:- May be required to leave and not permitted to return or may impose conditions on their return. But such a person may before the end of the hearing make submissions in writing.</p>	<p>Disruptive Parties:- May be required to leave and not permitted to return or may impose conditions on their return. But such a person may before the end of the hearing make submissions in writing.</p>

## Licensing Committee

### Procedure adopted under the Licensing Act 2003



**Leeds**  
CITY COUNCIL

#### Rights of a party at the hearing

If you have made an application or representation within the 28 day time limit you are a party to the hearing.

As a party you have the right

- To address the Committee
- To give further information on any matter which requires clarification

#### Documents

Additional documents may only be tabled at the hearing with the consent of all parties

#### Calling witnesses

You may only call witnesses where the Committee has given you permission to do so. You will need to explain why you want to call the witness and why the Committee will find their evidence useful in making the decision.

#### Cross Examination

Is not usually permitted although you can ask the chair of the Committee to consider and ask any questions you feel are necessary

#### Order of Speeches (time limits can be imposed – see below)

On an application

- Those objecting address the Committee first. Responsible Authorities (e.g. the police) usually start, Residents address the Committee second
- Those making the application address the Committee last

On a Review

- The party requesting the review address the Committee first
- Those making representations after the review request go second
- The licence holder goes last

There is no right to open the case (all papers have been circulated and read)

Summing up is not generally allowed.

#### Time Limits

The Committee can impose a time limit on presentations. This must be the same time limit for all parties

Members can ask questions after each presentation. This does not form part of the time allowed.

## Licensing Committee

### Procedure adopted under the Gambling Act 2005



**Leeds**  
CITY COUNCIL

### Rights of a party at the hearing

If you have made an application or representation within the 28 day time limit you are a party to the hearing.

As a party you have the right

- To address the Committee
- To give further information on any matter which requires clarification
- To call witnesses on a matter relevant to the application or representation
- To question any other party or representative on a relevant matter IF THE COMMITTEE CONSIDERS IT APPROPRIATE

### Documents

Additional documents may only be tabled at the hearing with the consent of all parties

### Cross Examination

Is not usually permitted but you can ask permission from the Chair of the Committee to ask questions (see parties rights above)

### Order of Speeches

On an application

- Those objecting address the Committee first. Responsible Authorities (e.g. the police) usually start, Residents address the Committee second
- Those making the application address the Committee last

On a Review

- The party requesting the review address the committee first
- Those making representations after the review request go second
- The licence holder goes last

There is no right to open the case (all papers have been circulated and read)

Summing up is not generally allowed.



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**Report of the Assistant Chief Executive (Corporate Executive)**

**LICENSING COMMITTEE**

**Date: 3<sup>rd</sup> June 2008**

**Subject: DRAFT PROTOCOL FOR UNDERTAKING LICENSING SITE VISITS**

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**Electoral Wards Affected:**

All

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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**Executive Summary**

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

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

**1.0 Purpose Of This Report**

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

**2.0 Background Information**

2.1 To date only two site visits in respect of applications under the Licensing Act 2003 have been undertaken. However Members did discuss arrangements to undertake site visits prior to hearings to consider applications under the Gambling Act 2005 at the Committee meeting held on 5<sup>th</sup> February 2008. At that time, officers proposed that site visits would only be suggested and arranged on the advice of the Principal Gambling Officer and would have regard to the size of the premises and nature of the application and would not be a regular request

- 2.2 The Committee agreed to site visits prior to hearings under the Gambling Act 2005 for those applications deemed appropriate by the Principal Gambling Officer
- 2.3 Officers have discussed the possibility of arranging site visits to a selection of premises used for the purpose of gambling as part of the Member training programme to provide an overview of the different types of gambling on offer – however that issue is raised purely for information and not for further discussion here.

### **3.0 Main Issues**

- 3.1 The main issue has been to address Members desire to undertake visits with regard to applications under the Licensing Act 2003 as well as those proposed by the Principal Gambling Officer for applications submitted under the Gambling Act 2005
- 3.2 To this end, the draft Protocol for Licensing Site Visits attached at Appendix A has been drawn up, having regard to the relevant Regulations, The Code of Practice for the Determination of Licensing Matters and the Acts

### **4.0 Implications For Council Policy And Governance**

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

### **5.0 Legal And Resource Implications**

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

### **6.0 Conclusions**

- 6.1 The introduction of a Protocol for Licensing Site Visits would provide Members with a code of best practice for site visits and introduce an element of consistency of approach, particularly across the 5 Licensing Sub Committees, should site visits be undertaken in the future

### **7.0 Recommendations**

#### **7.1 Members are asked to**

- (a) **EITHER** approve the draft Protocol for Licensing Site Visits as presented at Appendix A
- (b) **OR** Comment upon the Protocol for Licensing Site Visits, suggesting any amendments they deem necessary and authorise the Assistant Chief Executive (Corporate Governance) to incorporate the amendments and issue an updated version to Members accordingly
- (c) To have regard to the Protocol for Licensing Site Visits when considering requests for site visits and during any subsequent site visits



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

**1.0 BACKGROUND**

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

**2.0 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT**

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

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

This might arise where:-

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

### **3.0 THIS SECTION APPLIES TO SITE VISITS AS PROPOSED BY OFFICERS**

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

### **4.0 ON THE SITE VISIT**

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

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

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

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

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

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

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## Report of the Assistant Chief Executive (Corporate Governance)

### Licensing Committee

Date: 3<sup>rd</sup> June 2008

Subject: Entertainment Licensing Section – Update Report

#### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

### Executive Summary

This report offers Members an update on licensing issues related to the Licensing Act 2003 and the Gambling Act 2005 as follows:

1. The Entertainment Licensing Section (ELS) is currently carrying out a full review of the city centre CIP including the Hyde Park / Woodhouse corridor policy in line with undertakings made to Executive Board when the current policy was approved in December last year.
2. Issues related to Alcohol Home Delivery Services are being investigated by Community Safety with a report going to Executive Board later this year.
3. A nationwide report has highlighted problems associated with the burgeoning numbers of lapdancing bars across the country and has called for their reclassification as 'Sex Encounter Establishments'.
4. The Gambling Commission is reviewing its guidance on the definition of 'premises' in light of recent court rulings. This may have implications for the council's statement of licensing policy for gambling.
5. The Lords have recently approved the statutory instrument which gives Leeds the authority to licence a large casino and work will commence now on the two stage licensing process associated with this.
6. The ELS is currently carrying out a statutory review of the council's gambling licensing fees to ensure the fees are still cost neutral.
7. The City Centre Divisional Community Safety Partnership is applying for Beacon Status for its work related to managing the night-time economy.
8. The ELS's enforcement team is now seeking to carry out their enforcement duties in accordance with the new Regulators Compliance Code which places a significantly greater emphasis on risk based enforcement.

## **1.0 Purpose Of This Report**

The purpose of this report is to update the Licensing Committee on licensing and associated matters.

## **1.1 Licensing Act 2003**

### **1.1.1 Statement of Licensing Policy – Licensing Act Cumulative Impact Policy (CIP) Review**

Members will be aware that the 3yr Statement of Licensing Policy was approved by Full Council in December 07. At that time Cumulative Impact Policy (CIP) statements were agreed for areas of the City Centre, Woodhouse/Hyde Park Corridor, Headingley, Chapel Allerton and Horsforth.

It was however recognised that the City Centre and the Woodhouse/Hyde Park Corridor was in need of a comprehensive review given that this was the first CIP to be adopted in 2005 and at Executive Board undertaking was provided that a review of the said districts would be undertaken during 2008.

The Licensing Section is in the process of initial consultation with the Responsible Authorities and other identified agencies following which it is proposed to undertake a formal consultation exercise.

For the purpose of any review the Authority will in particular be looking for the Responsible Authorities to provide sound evidence to support the existing and any expansion of the current policies.

A copy of the current policies can be found at Appendix 1 to this report.

### **1.1.2 Alcohol Home Delivery Services**

There has been recent concern about the licensing and enforcement of businesses providing alcohol home delivery services, particularly with regards to the provision of alcohol to persons under 18 years of age.

There are presently three licences issued to businesses which operate solely as home delivery services. These licences are subject to rigid conditions, an example of which can be found at Appendix 2.

The Licensing Section is not aware of any intelligence to suggest that these three businesses are operating unlawfully, and all members of the Licensing Enforcement Group have been asked to be vigilant in this respect.

It should however also be noted that there is nothing to prevent premises licensed to sell alcohol off the premises, ie off-licences, to provide a home delivery service without further consent from the licensing authority.

The most appropriate enforcement authority in this instance would be the police and/or trading standards.

It is understood that Keith Lawrance on behalf of Community Safety is presently writing a report for Executive Board on this matter.

### 1.1.3 Lap Dancing

Lap dancing and similar establishments are licensed under the Licensing Act 2003. Insofar as the licensing process, there is nothing to distinguish these premises between café bars and nightclubs provided that the applicant demonstrates in their operating schedule how they will meet the licensing objectives and particular protect children from harm.

There is nothing in the legislation which permits the Authority to restrict the numbers of such venues, and the only means for the Licensing Authority to attach conditions or refuse an application is if the application to be subject to relevant representation hence requiring a hearing.

It is recognised that operators of such venues are taking advantage of the new regime, and in Leeds alone we now have ten such licensed premises compared to just four premises pre the 2003 Act.

There has been a recent study by the lobby group 'Object' into the growth of lap dancing clubs nationwide.

Below follows an extract from the Object website which outlines their aims:

'Object calls for lap dancing clubs to be licensed as Sex Encounter Establishments, rather than as cafes.

A Sex Encounter Establishment (eg a peep show) is 'a venue where there is toplessness or nudity, whose purpose is to sexually stimulate'.

Lap dancing clubs clearly *are* Sex Encounter Establishments. We call for lap dancing to be licensed, regulated and recognised for what it is.

This is urgently needed given that research suggests lap dancing is part of the commercial sex industry (with a culture of expectation and demand for sexual services) and that women experience harassment both inside and outside of clubs.

It is a first step in redressing the wider impact of this form of normalising of sexual objectification'.

The study identifies links to the sex industry, poor pay and conditions for the workers, and the implications for licensing authorities in restricting the numbers of such venues.

The study calls for the DCMS to change its stance to recognise that adult venues need to be treated differently, and carefully monitored. It suggests the re-categorisation of lap dancing clubs as Sex Encounter Establishments, legislation used by the London authorities. This would allow local communities to have a greater say in the granting of licences and local authorities would have better capacity to monitor and control the number of premises and improved powers to adequately control working practices.

## **1.2 Gambling Act**

### **1.2.1 Gambling Commission Guidance to Licensing Authorities – Review**

1.2.2 Similar to the Licensing Act, licensing authorities should carry out their gambling licensing functions in accordance with the Gambling Commission's Guidance to Licensing Authorities issued June 2007.

However, certain weakness in the Guidance has already been identified, in particular the reference to Provisional Statements. The Guidance presently suggests that a full premise licence application may not be accepted unless the premises are ready to be used for gambling.

However following a recent judgement the Court declared that a premises licence may lawfully be granted in respect of premises that are not ready to be used for gambling (for example, in respect of premises which are about to be constructed or in the course of construction or alteration), provided that the applicant has a right to occupy the premises and holds an operating licence authorising him to carry on the activity in respect of which the premises licence is sought.

Furthermore, there are sections in the Guidance which are unclear on the meaning of 'premises' and the multiple licence of an individual premise. This has led to the trade sub-dividing their premises and applying for additional licences in order to increase the high payout machine quota. Following representation by licensing authorities, the Gambling Commission has issued further statements for clarification.

The Gambling Commission has consulted on revisions to the Guidance, the closing date being 30<sup>th</sup> May. The revised Guidance will be published in June 2008.

### **1.2.2 Large Casino**

Members will be aware that Leeds was successful in the original bid for one of the 8 large casinos. The Order was initially in doubt, as the Regional Casino awarded to Manchester was withdrawn and there were further debates in Parliament as to the contents of the various bids submitted.

The Order was however granted on the 15<sup>th</sup> May last. Now the Licensing Section together with relevant stakeholders will start preparing the application process. All sixteen authorities who have been awarded either a large or small casino have formed a Casino Network Group, to ensure consistency, legal support and best practice during the process.

Initially Leeds' will have to revise its Statement of Licensing Policy – Gambling, in recognition of the casino and matters arising.

The application process will be two tier. The first process will be similar to that for any premise licence. The number of applications and successful applications at the initial stage are unpredictable and only those which are subject to relevant representations will come before Members.

All successful applications at the first stage will then proceed to the second stage which will take the form of a tender exercise. The final decision as to the successful applicant for the Large Casino Premise Licence will lie with the Members of the Licensing (Sub) Committee.



In considering applications at both stages Members are reminded that they may not have regard as to whether planning permission is, has or is likely to be approved. Any decision may be subject to appeal.

### **1.2.3 Fees**

The Gambling Act 2005 sets a maximum level for the licence fee's that may be charged, but licensing authorities should set their fee's to ensure all expense for providing the service is recovered (excluding set up costs).

A report approved before the Licensing Committee on the 3rd April 2007 set the fees to the maximum level given that it was difficult to predict the cost for providing the service at that initial stage. It was agreed that the fee's would be reviewed at year one.

The Licensing Section is in the process of this exercise with a report to come before Members in the near future.

### **1.2.4 Gambling Licence Statistics**

The Act came into effect on the 1 September 2007. Prior to this date all existing premises used their grandfather rights to convert to the new style licence or permit. The total number of licences are broken down as follows:

Casino	4	premises licences
Bingo	10	premises licences
Betting Office	105	premises licences
Track Betting	2	premises licences
Amusement Arcades (over 18's)	28	premises licences
Small Society Lottery	268	permits

The conversion of notices/permits issued to public houses and private members clubs for gaming machines and prize gaming is a gradual process as these need not be transferred to the new system until the present authorisation expires. It is however predicted that all of these should be registered under the new system by 2009, totaling approximately 2,900 notices/permits (a notice authorises upto two gaming machines, a permit is for more than two 2 machines, and a prize gaming permit is for gaming in Members Clubs).

Similar to the Licensing Act, Premises Licences issued under the Gambling Act are for an indefinite period. However, in this instance a licence does lapse if the licence holder fails to pay the annual fee to the licensing authority.

Permits and notices are valid for 10 years, with permits subject to an annual fee.

## **1.3 Beacon Status Application**

Members may be familiar with the City Centre Divisional Community Safety Partnership (CCDCSP), chaired by the Police in association with City Centre Management and involves partner agencies such as Safer Leeds, Leeds University, Leeds Teaching Hospitals, Network Rail, LCC Environmental Health Services, Entertainment Licensing and Taxi & Private Hire Licensing to name some examples.

The CCDCCSP are proposing to submit an application to the Beacon Status Award Scheme Round 10, which includes the theme - 'After Dark' Managing the Nighttime Economy'.

Members are referred to Appendix 3 of this report which contains a Briefing Note on the Award and the application process.

## **1.4 Regulators Compliance Code**

The Regulators' Compliance Code, which came into force on 6th April 2008, is a central part of the Government's better regulation agenda. Its aim is to embed risk-based, proportionate and targeted approach to regulatory inspection and enforcement among the regulators it applies to (including licensing authorities).

The Code's main aim is for regulators to become more efficient and effective in their work. They will be expected to use their resources in a way that demonstrates best value, whilst delivering significant benefits to low risk and compliant businesses through better-focused inspection activity, increased use of advice for businesses, and lower compliance costs.

The Code supports the government's better regulation agenda and is based on the recommendations of the Hampton Report.

The Code stresses the need for regulators to adopt a positive and proactive approach towards ensuring compliance by helping and encouraging regulated entities e.g. licensed / unlicensed operators to understand and meet regulatory requirements more easily; and responding proportionately to regulatory breaches.

In essence the new Code does not support general ad-hoc inspections without the enforcement agencies having good reason. As a consequence all future premises inspections will have to be risk based, proportionate to the degree of risk, and intelligence led.

To assist the Entertainment Licensing Section in meeting its statutory requirements it is in the process of building a system which will score premises on their licence information, such as the capacity, special conditions, history of complaints and any intelligence received from agencies.

The score ratings will then be used to identify and support enforcement inspections where and when they are most needed.

## **2.0 Implications for Council Policy And Governance**

There will be need to review the current Statement of Licensing Policy – Gambling, for the purpose of including information on the large casino, and in addition following any review of the Gambling Commissions Guidance to Licensing Authorities.

### **3.0 Legal and Resource Implications**

Work associated with the Casino licence application process will require dedicated legal support, including the provision of Member Training.

### **4.0 Recommendation**

Members are requested to note the contents of this report.

## STATEMENT OF LICENSING POLICY – LICENSING ACT – CIP REVIEW

Extracts from existing CIP's for Area 1 – the City Centre, and Area 3 – Hyde Park/Woodhouse Corridor.

### **AREA 1 – City Centre – the area around the Corn Exchange, along Boar Lane, up Park Row and to the top of Cookridge Street. (see map on following page)**

It is the council's policy on receipt of relevant representations to refuse applications in Area 1 for night clubs and for pubs and clubs which are characterised as large capacity vertical drinking premises (sometimes called high volume vertical drinking establishments) which are premises with large capacity used primarily or exclusively for the sale or consumption of alcohol, and which have little or no seating for patrons.

It is also the council's policy on receipt of relevant representations to refuse applications for new premises seeking a licence to provide hot food between 11.00 pm and 5.00 am where the food is purchased to take away from the premises as opposed to premises where the food is to be consumed on the premises and whilst patrons are seated at tables provided for that purpose.

**A map of the CIP for Area 1 can be found on the following page**

### **AREA 3 – Hyde Park and Woodhouse Corridor –relates to the arterial road (the A660) linking Area 1 (City Centre) and Area 2 (Headingley District).**

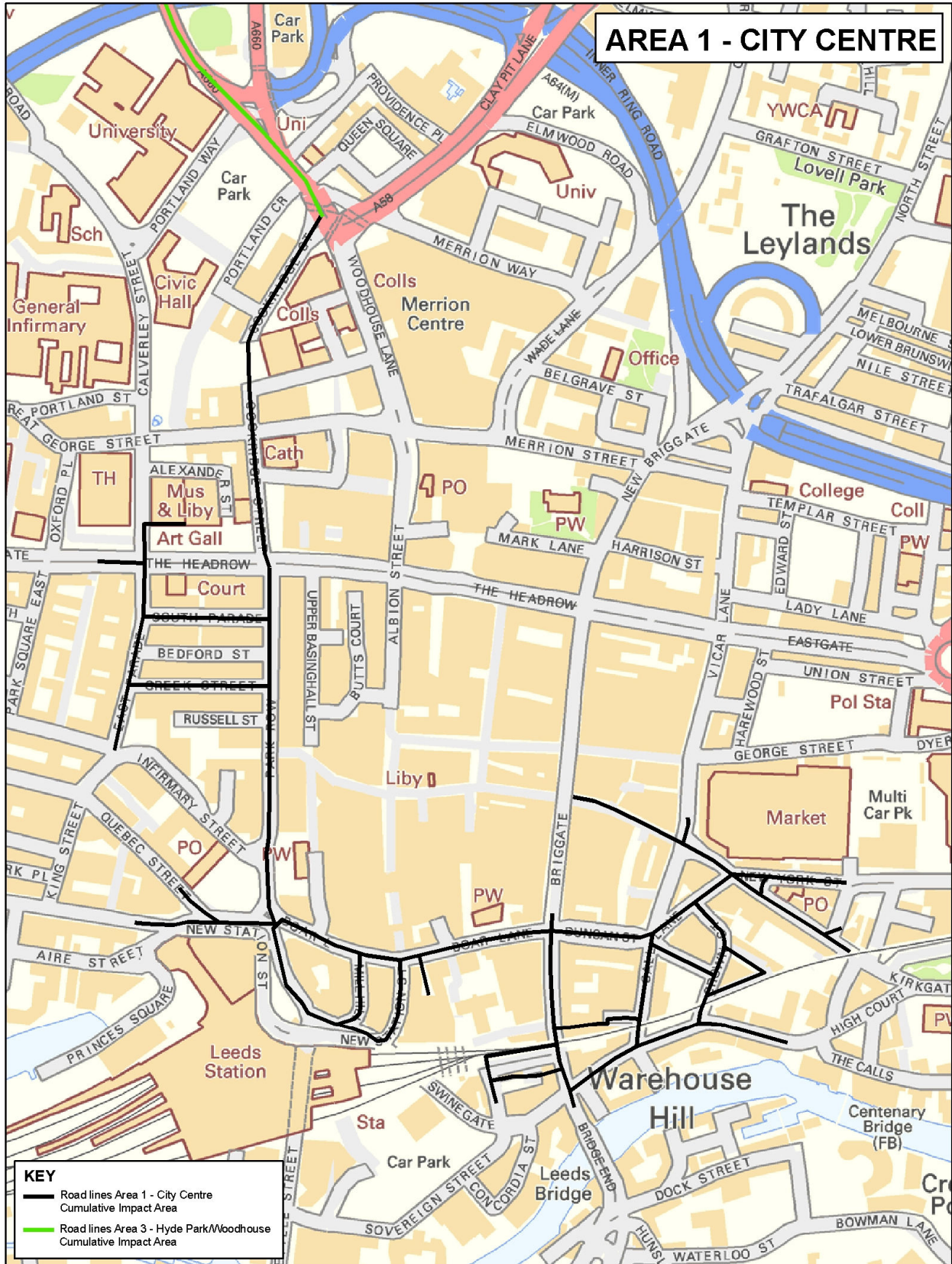
It is the council's policy in respect of Area 3 that, on receipt of relevant representations, necessary conditions will be applied to all premises licences in the area to ensure that the problems experienced in Areas 1 (City) and 2 (Headingley) are not displaced into Area 3.

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

- Restriction of hours
- Restriction of capacity

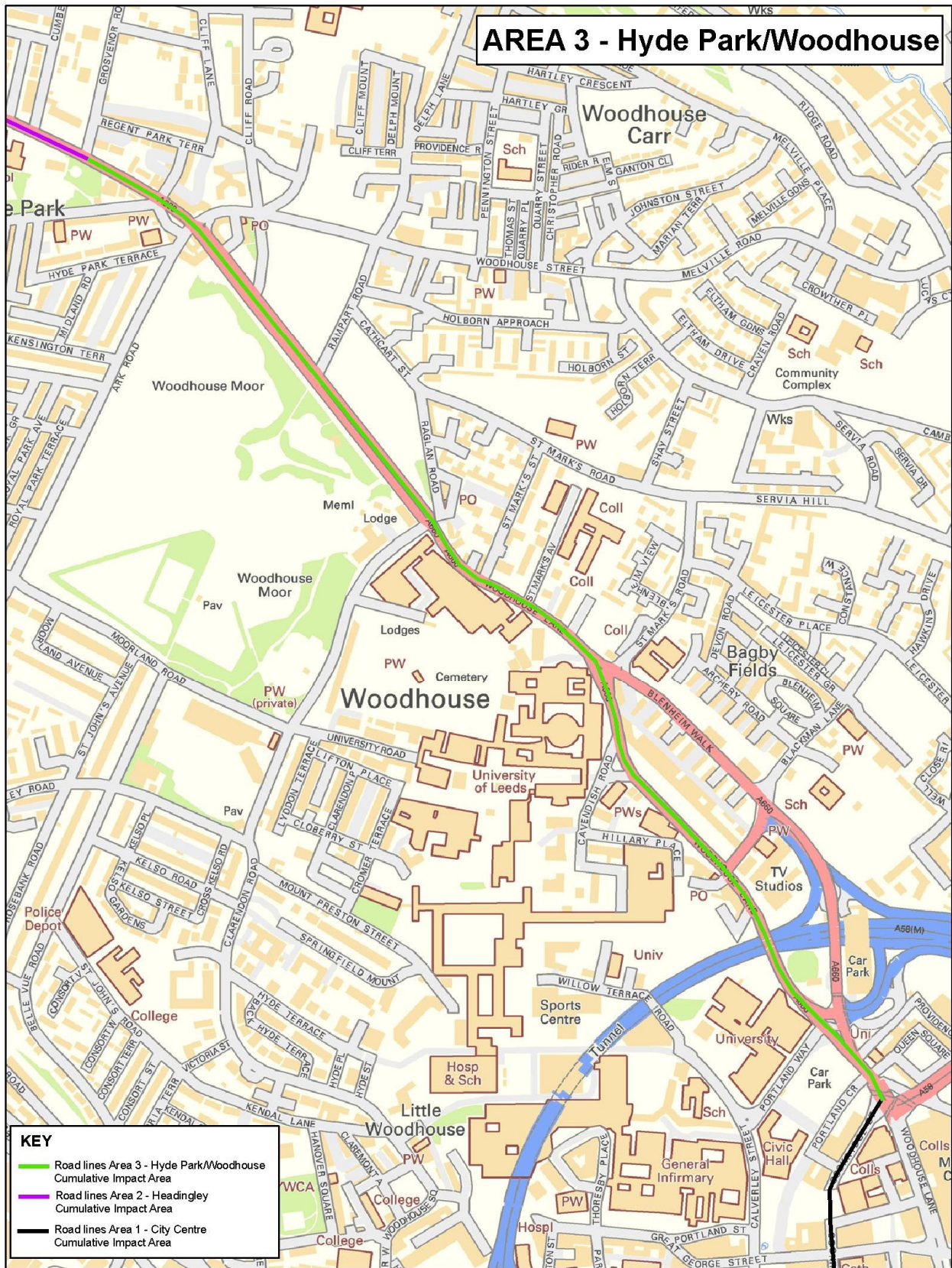
Or the Authority may refuse to grant the licence or variation sought due to the impact on the licensing objectives.

**A map of the CIP for Area 3 can be found on the following page**



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**LICENSING ACT – ALCOHOL DELIVERY SERVICES**  
**Example of typical licence conditions for an alcohol delivery business**

**Annex 1 – Mandatory conditions**

No supply of alcohol may be made under this licence

- a. At a time when there is no designated premises supervisor in respect of the premises licence, or
- b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

**Annex 2 – Conditions consistent with the Operating Schedule**

**Conditions Agreed with West Yorkshire Police**

**Advertising**

Any computer website, business cards or any other form of advertising promoting this business (including any signage to be displayed on delivery vehicles), shall AT ALL TIMES quite clearly indicate:-

The name of the delivery service and appropriate details of the premises licence which includes all telephone ordering numbers;

The ordering by, sale/supply of any alcohol product to anybody under the age of 18, or delivery of any alcohol products to anybody under the age of 18 is strictly forbidden;

Any person placing an order by telephone or having alcohol delivered to them, will always have to provide some acceptable and recognised means of proving their age;

REFUSAL TO PROVIDE PROOF OF AGE DETAILS WILL RESULT IN AN ORDER, SALE OR DELIVERY BEING REFUSED;

NO ORDERS FOR ANY ALCOHOLIC PRODUCTS CAN BE PROCESSED OVER THE INTERNET AT ANY TIME.

Any forms of advertising which indicate the price of alcoholic products, will at all times adopt a pricing policy which discourages binge-drinking or orders being placed in excessively large quantities. Any such pricing policy should at all times be open to negotiation with the Licensing Authority, West Yorkshire Police and other appropriate authorities, who may wish to contest the pricing of certain items with a view of promoting the licensing objectives.

Orders for sale/supply of alcoholic products:

No person under the age of 18 will be employed as a sales assistant who is involved in the operation of this business and has a responsibility for the ordering and sale/supply of alcohol at the licensed premises;

ANY SALE/SUPPLY OF ANY ALCOHOLIC PRODUCTS WILL BE BY TELEPHONE ORDER ONLY;

THERE WILL BE NO PUBLIC ACCESS TO THE LICENSED PREMISES TO MAKE AN ORDER OR BE SOLD ALCOHOLIC PRODUCTS;

Payment of alcoholic products will be in a variety of ways, BUT will ONLY be at the time of the order, OR at the time of delivery;

Sales assistants taking orders for alcoholic products over the telephone will always ask for the persons date of birth who is placing the order;

If a date of birth cannot be established with the telephone order, then the sales assistant will REFUSE the order outright;

All sales assistants who have responsibility for taking orders for the sale/supply of alcohol products, will have regard to the 'Check 21' or a similar proof of age scheme, but only one which is recognised by West Yorkshire Police, when invoicing the order for delivery;

Sales assistants taking the orders for alcoholic products over the telephone will also REFUSE the order outright to someone who in their opinion is already drunk on the telephone.

If a sales assistant refuses any order for EITHER age reasons or drunkenness, the details of the person (where known), their address (where known) and the date and time of the order will be entered in a separate refusal book, to be retained at the licensed premises, for possible inspection at any time by a police constable or an authorised officer of the licensing authority;

Every time an order for any alcoholic product is processed, then a 3 page invoice will be produced by sales assistants;

Every invoice must contain the following information at least:-

Personal details of the person placing the order which the proprietor thinks appropriate, but which must include the name, full postal address, telephone number and the date of birth of that person,

The quantity, description and price of the alcohol products ordered,

The date and time that the order took place,

The business telephone number used to place the order and where the order was accepted,

How the invoice total was or will be paid for, by credit/debit card with the order or cash on delivery,

The date and time that the ordered goods were placed on a vehicle at the licensed premises ready to deliver,

The date and time it is expected that the delivery will start from the licensed premises to the address given at (a),

Registration details of the vehicle being used and the name of the driver or any other person involved with the delivery, and,

Other details as provided by the delivery driver and customer as part of the delivery procedure shown below.

The top copy of every 3 page invoice shall AT ALL TIMES be retained in a register at the licensed premises for possible inspection at any time by a police constable or an authorised officer of the licensing authority;

The other 2 pages of every 3 page invoice will be passed on to the driver making delivery of the alcohol order, one page of which will be for the customer when the delivery is completed in accordance with the following procedure.

**Dispatch/delivery of alcohol products previously ordered:**



Delivery of ANY alcohol products shall ONLY be dispatched from this address (the licensed premises) NO OTHER;

Delivery of ANY alcohol products, shall ONLY take place where an order for those products has previously taken place, in a manner described before;

Delivery of ANY alcohol products, shall ONLY be to addresses of districts which the relevant licensing authority has jurisdiction over, namely Leeds District;

NO PERSON UNDER THE AGE OF 18 will be employed as the driver of a vehicle who is involved in the operation of this business and has any responsibility for the delivery of alcoholic products from these licensed premises;

All drivers of vehicles or persons involved in the delivery of alcohol products, will follow the following procedure, when making delivery of an order previously made:-

Carry the 2 copy pages of all invoice orders on the vehicle, containing the information as outlined above in the previous section, throughout the whole delivery;

NO OTHER ALCOHOLIC PRODUCTS shall be carried on ANY vehicle by Any driver, which are not properly invoiced previously at the licensed premises and then duplicated by the invoice copies kept on the delivery vehicles and used for the purpose of the delivery;

NO FURTHER SALE/SUPPLY of ANY alcohol product (including any form of payment), shall take place from any vehicles, either stationary or in transit, once they have commenced any journey for the sole purpose, of delivering ONLY those alcohol products previously ordered and dispatched from the licensed premises, properly invoiced and recorded at the licensed premises and on the delivery vehicles;

The driver or any person involved in the delivery, shall telephone or alert the purchaser by some other means when he arrives outside the address entered on the invoice copies;

If the address is NOT the same as the one given at the time of ordering, then the delivery will be REFUSED and the complete alcohol order, will be RETURNED to the licensed premises from where it was dispatched;

If the same person who made the order CANNOT be identified by the driver or any other person delivering, then the delivery will be REFUSED and the complete alcohol order will be RETURNED to the licensed premises where it was dispatched;

Where the address and purchaser CAN be identified, then the driver or any other person will make sure that the delivery of alcohol is made to that person ONLY, who will then sign for the delivery on the invoice copies;

ONLY the person identified as the purchaser who made the alcohol order will print and sign his name on the invoice copies, to accept delivery of the goods he has ordered - NOBODY ELSE.

The driver or any person involved in the delivery of an alcohol order will then complete the invoice copies, by signing and printing his name and the date and time that the delivery was made and signed for by the purchaser;

Drivers or any person involved in the delivery will then give a copy of the signed completed invoice to the customer as proof of purchase;

Aside from the ordering, if the driver or any other person is still in ANY DOUBT as to the age of that person, then he will ask for proof of age, accepting only valid & accredited cards/documents recognised by West Yorkshire Police and West Yorkshire Trading Standards, to avoid any sales/supply to minors.

Aside from the ordering, if the driver or ANY other person involved in the delivery, is STILL IN DOUBT after recognised proof of age has been produced, or in particular if recognised proof of age cannot be produced

when it is asked for, then the delivery will be REFUSED and the complete alcohol order will be RETURNED to the licensed premises from where it was dispatched.

As with sales assistants previously, ALL drivers or ANY other person involved in the delivery, will AT ALL TIMES adopt the `Check 21` or a similar proof of age scheme, but only one which is recognised by West Yorkshire Police and West Yorkshire Trading Standards, to avoid any sales/supply to minors;

If a delivery is refused due to a customer being under age, or being unable to prove their age, then the driver or any other person, will ALSO keep a refusal book, containing the name, full postal address and date of birth of the individual/s;

Any driver or any other person involved in the delivery of alcohol products by this operation will also REFUSE to deliver to anybody who in their opinion appears to be DRUNK, at the time of delivery;

IF a delivery is REFUSED for the reason of DRUNKENNESS, then any details of such an occurrence will also be entered in the refusal book, in a similar manner as described above for any under age persons, and the complete alcohol order will be RETURNED to the licensed premises where it was dispatched;

The complete invoice copy will then be returned to the licensed premises by the driver, where it shall be filed alongside the original invoice order, both of which shall be retained for possible inspection at any time by a police constable or an authorised officer of the licensing authority.

Both the invoice copies and the refusal book for under age persons and drunkenness will be updated by drivers or any person involved in the delivery of alcohol products, to be KEPT on the delivery vans for possible inspection at any time by a police constable or an authorised officer of the licensing authority.

## Briefing Note - Beacon Award Scheme Round 10

The Beacon Award scheme is run by the Improvement and Development Agency (IDeA) and sponsored by the Department of Communities and Local Government (CLG). It is a national award scheme that recognises innovation and excellence. The Beacon scheme is unique in that it is not just an accolade for good practice but it is also about sharing knowledge and new ways of working. Each year the scheme focuses on a number of different themes and invites applications for beacon status in these specific areas. The scheme is now in its tenth year and the themes for this year are:

- After dark: managing the night time economy
- Digital inclusion: tackling exclusion and promoting life chances
- Cohesive and resilient communities
- Homes for the future
- Cutting red tape: delivering real economic and social benefit through better local regulation
- Olympic Games and Paralympics Games Legacy: using the opportunity of hosting the Games to encourage communities to be more active
- Positive engagement of older people to support and promote greater independence and wellbeing in later life
- Preventing and tackling child poverty
- Strategic commissioning
- Supporting adults with a disability to live independently
- Better outcomes for people and places
- Raising economic prosperity through partnership

Authorities awarded Beacon status participate in a range of programmes to share their experience and to help others to raise their performance. Applications can be made by not only by local authorities but also by other best value authorities ie Police, Passenger Transport and Fire and Civil Defence Authorities and joint applications can be made. Non best value authorities can also be listed (eg PCTs) and included on the application but cannot receive the Beacon award but they can be given Beacon Partner status. We are limited to a maximum of 3 applications.

### Beacon In Leeds

Leeds has been successful in receiving Beacon status in every single round of the scheme so far and in total we have received 10 Beacon awards in the following areas:

Round 9	Local Area Agreements/Local Strategic Partnerships
Round 8	Healthy Schools and Promoting Financial Inclusion and Tackling Over-Indebtedness
Round 7	Delivery of Quality Services Through Procurement
Round 6	Asset Management
Round 5	Early Years + Childcare
Round 4	Removing Barriers to Work
Round 3	Libraries as a Community Resource
Round 2	Independent Living for Older People
Round 1	Modern Service Delivery: Improving Housing

### The Beacon Application Process

There are three distinct and intense periods of work throughout the application year and these do require significant staff time (especially senior officers), planning and resourcing. Member involvement at the visit and presentation stage is also really important.

**Stage 1 Written Application** – the first stage is the submission of an on-line application form. You must also register your intention to apply before the deadline to get access to the application form. The form is then short-listed against the criteria for the particular theme. Deadline for this year is

**Friday 11<sup>th</sup> July.** Overall this needs to address all the criteria in the theme and you need to involve all key people but beware of writing the bid by committee. Ideally you should understand your key strengths or unique selling points before putting together the bid.

**Stage 2 On-site Visit** – those short-listed from stage 1 then organise a 3 hour on-site visit to bring the bid to life and demonstrate that you are a Beacon authority. The visit provides the opportunity for the assessors to meet key partners, service users and frontline staff. In addition you will need to demonstrate your commitment to sharing learning and some ideas about how you intend to do this. The timetable from the shortlist being released to the first visits can be very tight. This year the shortlist will be announced early October with the visits 3<sup>rd</sup> Nov – 1<sup>st</sup> Dec.

**Stage 3 Panel Presentation** – short-listed authorities give a final 15 min presentation to an assessment panel in London followed by 45 min of questioning. You can take a team of 5 people. This occurs shortly after Christmas (6<sup>th</sup> – 14<sup>th</sup> January) which does mean you will be putting together your presentation and DVD etc over the Christmas holidays.

**Stage 4 Award Ceremony** – Beacon awards are give out to all those who have reached the required standard in ceremony in London on 3<sup>rd</sup> March. Successful Beacon are given a share of money for learning activities during their Beacon year.

NB All authorities short-listed after stage 1 continue through all the other assessment stages.

Heather Pinches  
Policy, Performance and Improvement Team