



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 4TH JUNE, 2013 AT 10.00 AM

MEMBERSHIP

Councillors

K Bruce - Rothwell;
N Buckley - Alwoodley;
R Charlwood (Chair) - Moortown;
R Downes - Otley and Yeadon;
J Dunn - Ardsley and Robin Hood;
B Gettings - Morley North;
T Hanley - Bramley and Stanningley;
M Harland - Kippax and Methley;
G Hussain - Roundhay;
G Hyde - Killingbeck and Seacroft;
A Khan - Burmantofts and Richmond Hill;
P Latty - Guiseley and Rawdon;
B Selby - Killingbeck and Seacroft;
C Townsley - Horsforth;
G Wilkinson - Wetherby;

Agenda compiled by:
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A G E N D A

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

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To approve the minutes of the following meetings:</p> <ul style="list-style-type: none"> a) Licensing Committee (Large Casino) meetings held 13th, 14th and 17th May 2013 (copies to follow) b) 14th May 2013 (ordinary Licensing Committee) (copy attached) 	1 - 6
7			<p>LICENSING COMMITTEE - ANNUAL GOVERNANCE ARRANGEMENTS</p> <p>To consider the report of the City Solicitor seeking to establish the governance arrangements for the Licensing Committee for the 2013/14 Municipal Year; specifically dealing with the Terms of Reference for the Committee and its sub-committees, the membership of the sub-committees and the officer delegation scheme</p> <p>(Report attached)</p>	7 - 26

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p>LICENSING PROCEDURE RULES, THE CODE OF PRACTICE FOR DETERMINING LICENSING MATTERS AND PRESCRIBED LICENSING TRAINING</p> <p>To consider the report of the City Solicitor seeking Members approval of the draft Licensing Procedure Rules intended to govern hearings and other meetings of the Licensing Committee and its' sub committees, along with the Code of Practice for the Determination of Licensing Matters as approved by the Standards Committee. The report also includes proposals for a prescribed training programme</p> <p>(Report attached)</p>	27 - 48
9			<p>LICENSING ROUNDUP</p> <p>To consider the report of the Head of Licensing and Registration providing an overview of the work undertaken on behalf of the authority by the Entertainment Licensing Section and the Taxi and Private Hire Licensing Section</p> <p>(Report attached)</p>	49 - 58
10			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note the date and time of the next meeting as Tuesday 25th June 2013 at 10.00 am</p>	

Licensing Committee

Tuesday, 14th May, 2013

PRESENT: Councillor G Hyde in the Chair

Councillors N Buckley, R Charlwood,
J Dunn, B Gettings, T Hanley, G Hussain,
A Khan, P Latty, B Selby, C Townsley,
G Wilkinson and M Harland

107 Election of a Chair for the meeting

RESOLVED – That Councillor G Hyde be elected Chair for the meeting.

108 Exempt Information - Exclusion of the Press and Public

RESOLVED – That the public be excluded from the meeting during consideration of Item 7 'Presentation – Policing and the Night Economy' (Minute 113 refers) 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 public were present there would be disclosure to them of exempt information, designated under 10.4 (1,3 and 7) and on the grounds that it is not in the public interest to disclose the contents as the information therein pertains may identify particular individuals, or their business affairs or information which may relate to any ongoing action or to be taken in connection with the prevention, investigation or prosecution of crime.

109 Declaration of Disclosable Pecuniary Interests

There were no disclosable pecuniary and other interests declared at the meeting.

110 Apologies for Absence

Apologies for absence were received on behalf of Councillors K Bruce and R Downes.

111 Minutes

RESOLVED – That the minutes of the meeting held on 12th March 2013 be confirmed as a correct record.

112 Closed Session - Presentation - Policing and the Night Time Economy (10.4 (1, 3 and 7))

Sergeant R Fullilove, West Yorkshire Police presented information and discussed the nature of problems experienced by licensed premises in the city centre and those premises featured in the Matrix system for the rolling six months period October 2012- March 2013.

RESOLVED –

- a) To note the contents of the document circulated and the comments made during the discussions with representatives of West Yorkshire Police.

- b) That a further dialogue be undertaken between the Head of Licensing and Registration and West Yorkshire Police regarding their representation and attendance at Licensing Sub Committee meetings.
- c) That Sergeant Fullilove be requested to provide a map of the City Centre identifying the areas of crime and disorder to the Head of Licensing and Registration for dissemination to Members of the Committee.
- d) That the Head of Licensing and Registration be requested to have discussions with relevant officers, including the West Yorkshire Police and legal, regarding evidence for reviews and to come back to the Committee with guidelines to be discussed in closed session.
- e) To enter into open session to consider the remaining business on the agenda.

113 Licensing Act 2003 - Statement of Licensing Policy

The Head of Licensing and Registration submitted a report on the outcome of a review undertaken by the Licensing Committee Working Group of the Leeds City Council Licensing Act 2003 Statement of Licensing Policy.

Appended to the report were copies of the following documents for the information/comment of the meeting:-

- Licensing Act 2003 Policy – LA03 Working Group (Appendix 1a refers)
- Local Licensing Guidance – South Leeds (Appendix 1b refers)
- Statement of Licensing Policy 2013-2015 Licensing Act 2003 – Draft Version 2 (Appendix 2 refers)
- Public Consultation – Licensing Act 2003 Statement of Licensing Policy (Appendix 3 refers)

In summary, Members discussed the following:-

- The high profile of the Leeds Arena and to encourage people to enjoy the city centre in conjunction with the Arena management
- The need to focus on Cumulative Impact Policies within suburbs
- The measures in place (if any) for shaping the city centre
- The need for the guidance to reflect a 'midnight' closure for clarity purposes
- The measures in place for managing street stalls in the vicinity of the Leeds Arena
- The need to encourage establishments to sell more healthy foods
- The increasing concerns from local communities regarding fast food outlets which had reached saturation point in certain parts of the city i.e. South Leeds and the need for a policy to engage with local communities
- Clarification of how the guidance would work with the Licensing Sub Committee
- The need to encourage Area Committees to engage with the local community through key messages and the 'Open Forum' route
- Clarification of what Member involvement was taking place between the Local Government Association and relevant Minister regarding the need to include health as licensing objective

RESOLVED-

- a) That the contents of the report and appendices be noted and welcomed.
- b) That the report of the Working Group be accepted and that this Committee notes the recommendations contained within it.
- c) That the draft policy be endorsed for public consultation.
- d) That approval be given to a 12 week public consultation on the draft policy.
- e) That a letter be sent by the Chair, on behalf of the Committee, to the Local Government Association and relevant Minister with a request that consideration be given to including health as a licensing objective.
- f) That the Head of Licensing and Registration and other relevant officers be congratulated on producing the draft policy document.

114 Information Report - An Update on the Introduction of three yearly Disclosure and Barring Service checks on Hackney Carriage & Private Hire Drivers and Private Hire Operators

The Head of Licensing and Registration submitted a report advising Members of the current position in respect of proposals to introduce three yearly disclosures undertaken by the Disclosure and Barring Service (DBS) on Hackney Carriage and Private Hire Drivers and Private Hire Operators.

Appended to the report were copies of the following documents for the information/comment of the meeting:-

- Disclosure and Barring Service Newsletter March 2013 (Appendix 1 refers)
- Cost of processing DBS applications in-house under existing system (Appendix 2 refers)
- Suspensions in 2012 – Profile by Length of Service (Appendix 3 refers)
- Points Criteria Tables (Appendix 4 refers)

In summary, Members discussed the following:-

- The importance of public safety and to address the economy issues
- Clarification if any other authorities were undertaking three year checks

RESOLVED –

- a) That the contents of the report and appendices be noted.
- b) That a decision to implement more regular Disclosure and Barring checks be deferred until more information on the new online process was available and that a further report be submitted on this issue to the Licensing Committee in July 2013 or later (in conjunction with the Chair) should no further progress have been made by the Disclosure and Barring Service.
- c) That in the interim period, the Head of Licensing and Registration be requested to explore the economy related issues.

115 Initial background report on an application for inclusion on the Approved List of Vehicles licensed as "Novelty" Private Hire vehicles

The Head of Licensing and Registration submitted a report on an application for the inclusion of a vehicle on the Approved List of Vehicles licensed as "Novelty" Private Hire vehicles.

In summary, Members discussed the following:-

- Clarification of what the vehicle would be used for and whether it would be noisy
- The need for Members to view the conditions laid down in view of its sole purpose as a people's carrier
- Clarification if the vehicle was powerful and the importance of adhering to the safety features
- The need for the Committee to recognise that it was a high performance bike and that this issue required further investigation

RESOLVED-

- a) That the contents of the report be noted.
- b) That approval be given to officers compiling a draft policy and conditions and undertaking wider trade and public consultation on the proposals over a four week period.
- c) That this Committee notes that a further report would be presented to the Licensing Committee for a final decision following consultation.

116 Length of issue of Hackney Carriage and Private Hire Driver Licences

The Head of Licensing and Registration submitted a report providing a response to previous requests from the licensed trade to issue Hackney Carriage and Private Hire Driver Licences for a three year continuous period and setting out options for Members to consider to progress the matter.

Appended to the report were copies of the following documents for the information/comment of the meeting:-

- Leeds Licensed Drivers – Breakdown by Residence – Local Authority Consultation – 3 yearly licences (Appendix 1 refers)
- Leeds Licensed Drivers – Breakdown of Residence (Appendix 2 refers)
- Suspensions in 2012 – Profile by Length of Service (Appendix 3 refers)
- Prosecutions in 2012 – Profile by Length of Service (Appendix 4 refers)
- Number of Private Hire Driver Licences revoked by year and the number of years they were in force (Appendix 5 refers)
- Options for the Committee to consider (Appendix 6 refers)
- Length of time current Private Hire/Hackney Carriage drivers had been in force (Appendix 7 refers)

In summary, Members discussed the following:-

- Clarification of the links with London Metropolitan Police in relation those who had a licence outside London and if the Council had a protocol in place with West Yorkshire Police
- A requirement to have an input from the trade in view of the complexity of the issue
- The fundamental differences between the three options referred to in the report
- Clarification of the justification in increasing the fees in view of footfall

- Clarification of the protocol for an operator renewing his licence who was out of the country for long periods
- Clarification of the legal implications under the Local Government (Miscellaneous Provisions) Act 1976

RESOLVED –

- a) That the contents of the report and appendices be noted.
- b) That prior to engaging in wider consultation with the public and the trade, a working party be established comprising of the following Members to consider the options in more detail:-
 - Councillor G Hyde
 - Councillor G Hussain
 - Councillor A Khan
 - Councillor T Hanley
 - Councillor G Wilkinson
- c) That the Head of Licensing and Registration be requested to invite trade representatives to the working group.
- d) That this issue be revisited at a future Licensing Committee meeting.

117 Licensing Work Programme

RESOLVED – To note the contents of the Licensing Work Programme.

118 Date and Time of Next Meeting

RESOLVED - To note the following proposals for the date and time of the next meetings:-

- Tuesday 4th June 2013 at 10.00am – meeting required to deal with governance issues and establishment of the Sub Committees
- Tuesday 25th June 2013 at 10.00am – ordinary business

(The meeting concluded at 12.30pm)

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Report of the City Solicitor

Report to Licensing Committee

Date: 4 June 2013

Subject: Licensing Committee – Annual Governance Arrangements

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

Summary of main issues

1. Under the Licensing Act 2003 and the Gambling Act 2005 the Licensing Committee is authorised to discharge the licensing functions of the Licensing Authority. This report deals with the annual governance arrangements for Licensing Committee.
2. The Licensing Act 2003 specifically dis-applies Section 101 of the Local Government Act 1972 in respect of the Licensing Committee. The 2003 Act specifically provides that the Licensing Committee may establish one or more sub-committees, and that the Licensing Committee may arrange for the discharge of any functions exercised by it by a sub-committee established by it, or by an officer of the Licensing Authority. This report therefore deals with the appointment and terms of reference of Licensing sub-committees, and the delegation of functions to officers.

Recommendations

3. Members of the Licensing Committee are requested to note the terms of reference of the Licensing Committee as approved by full Council on 20 May 2013 as shown at Appendix 1.
4. Members of the Licensing Committee are asked to establish five licensing sub-committees.

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

1. Purpose of this report

- 1.1 This report is presented to Members to establish the governance arrangements for the Licensing Committee for the 2013/2014 municipal year, namely:
 - Noting the terms of reference of the Licensing Committee as agreed at the annual Council meeting on 20 May 2013.
 - To appoint licensing sub-committees for the 2013/2014 municipal year.
 - To approve terms of reference for the licensing sub-committees.
 - To approve the delegation of functions to Officers as appropriate.

2. Background information

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

Legislation

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

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

3 Main issues

Licensing Committee Terms of Reference

- 3.1 The terms of reference for the Licensing Committee were agreed at the annual Council meeting held on 20 May 2013. The terms of reference are attached at **Appendix 1** of this report for members' information.
- 3.2 Members should note that under Section 7(3) of the 2003 Act, full Council may arrange for the Licensing Committee to discharge any function of the Authority which "relates to" a matter referred to the committee but which is not a licensing function.
- 3.3 Members should note that the power to make a Designated Public Places Order in respect of alcohol consumption under the Criminal Justice and Police Act 2001 was delegated by full Council to the Licensing Committee on 11 January 2006.
- 3.4 Members should also note that the following functions were also delegated by full Council to the Licensing Committee on 14 July 2010

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

Appointment of Sub-Committees

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

3.6

Membership

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

Substitutes

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

Appointment of Chairs

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

Quorum

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

Sub-Committee Terms of Reference

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

Acts, but which may not be specified in the terms of reference. This is to ensure that as legislation comes into force the sub-committee is able to continue to deal with all hearings relating to the council's licensing functions without having to necessarily amend the licensing sub-committees terms of reference each time. It is intended that the licensing sub-committees terms of reference will be regularly updated with any new legislation, this proposal is a measure designed to prevent potential difficulties with the timely disposal of licensing hearings.

- 3.13 The terms of reference also include some matters that were previously delegated to the Licensing and Regulatory Panel which was disbanded during the 2010/11 municipal year. Licensing Committee has previously delegated contract driver permit appeals, hypnotism and street collection licensing and appeals against an officer refusal to allow a trade representation to join the hackney carriage forum. It is proposed that those matters be re-delegated in the municipal year 2013/14.
- 3.14 Members should also note that under the proposed terms of reference all applications for the grant, renewal or transfer of sex establishment licences (including sexual entertainment venues) will be heard by a sub-committee irrespective of whether there is an objection, as agreed by the Licensing Committee on 12 March 2013. Officers will only deal with minor changes to existing licences such as approval of advertising, changes to layout etc. Officers will still retain the ability to refer these matters to a sub-committee where they consider that exercising their delegated authority is not appropriate based upon the nature of the request and the approved policy framework.
- 3.15 The committee is asked to approve the licensing sub-committee terms of reference as shown at **Appendix 3**.

Officer Delegation Scheme

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

Only at the level of Section Head, Head of Service or above will the functions be delegated to the same officers thus ensuring proper separation between those officers with day to day responsibility for the functions.

4 Corporate Considerations

4.1 Consultation and Engagement

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

4.2 Equality and Diversity / Cohesion and Integration

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

4.3 Council policies and City Priorities

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

4.4 Resources and value for money

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

4.5 Legal Implications, Access to Information and Call In

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

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

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

4.6 Risk Management

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

5 Conclusions

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

6 Recommendations

6.1 Members of the Licensing Committee are requested to note the terms of reference of the Licensing Committee as approved by full Council on 20 May 2013 as shown at Appendix 1.

- 6.2 Members of the Licensing Committee are asked to establish five licensing sub-committees hearings required under the 2003 and 2005 Acts
- 6.3 Members of the Licensing Committee are asked to approve the membership of each sub-committee as set out in Appendix 2 of this report.
- 6.4 Members of the Licensing Committee are asked to approve the terms of reference for the licensing sub-committees as set out in Appendix 3 of this report.
- 6.1 **Members of the Licensing Committee are asked to approve the delegation of licensing functions to the** Assistant Chief Executive (Customers and Communities) as shown in Appendix 4 to this report.

7 Background documents¹

- 7.1 None

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

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The Licensing Committee

With the exception¹ of

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

the Licensing Committee is authorised to discharge⁴ the following functions⁵:

1. to discharge the licensing functions of the licensing authority;⁶
- 2.1 to discharge any other function of the authority referred to it by full Council;⁷
- 2.2 pursuant to the provision in section 2.1 above full Council has delegated to the Licensing Committee the following functions:
 - 2.2.1 the power to make a designated public places order in respect of alcohol consumption under the Criminal Justice and Police Act 2001⁸
 - 2.2.2 the power to designate an area as an Alcohol Disorder Zone⁹
 - 2.2.3 hackney carriages and private hire vehicles¹⁰
 - 2.2.4 sexual entertainment venues, sex shops and sex cinemas¹¹
 - 2.2.5 performances of hypnotism¹²
 - 2.2.6 charitable collections¹³

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

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

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

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

⁵ 'Functions' for these purposes shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.

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

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

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

⁹ Item 50 Para I of Schedule 1 to the 2000 Regulations

¹⁰ Item 3 – 5 of Para. B of Schedule 1 to the 2000 Regulations

¹¹ Item 15 of Para. B of Schedule 1 to the 2000 Regulations and Section 27 Policing and Crime Act 2009 and Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

¹² Item 16 of Para. B of Schedule 1 to the 2000 Regulations

Council Committees' Terms of Reference

- 3 in respect of any approval, consent, licence, permission, or registration which they may grant,
 - (a) To impose conditions limitations or restrictions;
 - (b) To determine any terms;
 - (c) To determine whether and how to enforce any failure to comply;
 - (d) To amend, modify, vary or revoke;
 - (e) To determine whether a charge should be made or the amount of such a charge.
4. to make recommendations to full Council in connection with the discharge of its functions as licensing authority;¹⁴ and
5. to receive reports from, and to make recommendations and representations to other committees or bodies as appropriate.¹⁵

¹³ Item 39 of Para. B of Schedule 1 to the 2000 Regulations

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

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

LICENSING COMMITTEE 2013/14

DRAFT SUB COMMITTEE MEMBERSHIP

A	KAREN BRUCE	LAB	Rothwell
	RYK DOWNES	LIB DEM	Otley & Yeadon
	BOB GETTINGS	MBI	Morley North
B	JACK DUNN	LAB	Ardsley & Robin Hood
	NEIL BUCKLEY	CONS	Alwoodley
	BRIAN SELBY	LAB	Killingbeck & Seacroft
C	CHRIS TOWNSLEY	LIB DEM	Horsforth
	MARY HARLAND	LAB	Kippax & Methley
	GRAHAM HYDE	LAB	Killingbeck & Seacroft
D	TED HANLEY	LAB	Bramley & Stanningley
	PAT LATTY	CONS	Guiseley & Rawdon
	GHULAM HUSSAIN	LAB	Roundhay
E	ASGHAR KHAN	LAB	Burmantofts & Richmond hill
	GERALD WILKINSON	CONS	Wetherby
	REBECCA CHARLWOOD	LAB	Moortown

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Licensing Sub-Committees

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

1. functions⁴ under:

- (a) section 18(3) of the 2003 Act (determination of application for premises licences where representations have been made);
- (b) section 31(3) of the 2003 Act (determination of application for provisional statements where representations have been made);
- (c) section 35(3) of the 2003 Act (determination of application for variation of premises licence where representations have been made);
- (d) section 39(3) of the 2003 Act (determination of application to vary designated premises supervisors following police objection);
- (e) section 44(5) of the 2003 Act (determination of application for transfer of premises licences following police objection);
- (f) section 48(3) of the 2003 Act (consideration of police objection made to an interim authority notice);
- (g) section 52(3) of the 2003 Act (determination of an application for review of a premises licence);
- (h) section 53A-C of the 2003 Act (summary expedited review hearings);
- (i) section 72(3) of the 2003 Act (determination of application for club premises certificates where relevant representations have been made);
- (j) section 85(3) of the 2003 Act (determination of application to vary club premises certificates where representations have been made);
- (k) section 88(3) of the 2003 Act (determination of application for review of a club premises certificate);
- (l) section 105(2)(decision to give counter notice following an objection to a temporary event notice);
- (m) section 120(7) of the 2003 Act (determination of application for grant of personal licence following police objection);
- (n) section 121(6) of the 2003 Act (determination of application for renewal of personal licences following police objection);
- (o) section 124(4) of the 2003 Act (revocation of licence where convictions come to light after grant or renewal of personal licences);
- (p) section 20(3) of the 2003 Act (making recommendations for restricting the admission of children to the exhibition of any film)
- (q) section 159 of the 2005 Act (determination of application for premises licences where representations have been made)⁵

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

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

³ Section 10(3) of the 2003 Act.

⁴ Including agreeing whether a hearing is necessary.

- (r) section 187 of the 2005 Act (determination of application for variation of premises licence where representations have been made);⁵
 - (s) section 188 of the 2005 Act (determination of application for transfer of premises licences following objection);⁶
 - (t) section 195 of the 2005 Act (consideration of objection made to an application for reinstatement);⁶
 - (u) section 203 of the 2005 Act (determination of review of a premises licence);
 - (v) section 204 of the 2005 Act (determination of application for provisional statements where representations have been made);⁶
 - (w) section 224 of the 2005 Act (decision to give counter notice following an objection to a temporary use notice);
 - (x) schedule 10 of the 2005 Act (consideration of representations in relation to the proposed rejection of a family entertainment centre permit);
 - (y) schedule 14 of the 2005 Act (consideration of representations in relation to the proposed rejection of a prize gaming permit);
 - (z) schedule 13 of the 2005 Act (consideration of representations in relation to the proposed rejection of an alcohol licensed premises gaming machine permit);
 - (aa) schedule 12 of the 2005 Act (consideration of representations in relation to the proposed rejection of a club gaming permit or club machine permit);
2. Functions relating to any other hearings required under the 2003 Act or the 2005 Act that have not been reserved to the Licensing Committee.
 3. The function of hearing appeals against the refusal to grant a contract driver permit.
 4. The function of licensing performances of hypnotism⁷ where an officer has considered they should not exercise their delegated authority and has referred the matter to the sub-committee for determination.
 5. The function of licensing sex establishments⁸ (sex shops, sex cinemas or sexual entertainment venues) where either the application is for the grant, renewal or transfer of a licence irrespective of whether objections have been received, or in any other case where an officer has decided not to exercise their delegated authority and has referred the matter to the sub-committee for determination.

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

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

⁷ The Hypnotism Act 1952

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

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Council Committees' Terms of Reference

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

Exceptions

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

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

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Assistant Chief Executive (Customers and Communities)

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

Regulatory Functions

(a)	*To license scrap yards	Section 1 of the Scrap Metal Dealers Act 1964
(b)	*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)
(c)	To register motor salvage operators	Part I of the Vehicles (Crime) Act 2001

Exceptions²

The Assistant Chief Executive 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 (Customers and Communities) is authorised to discharge the licensing functions ³ of the licensing authority. <u>Exceptions:</u> <ul style="list-style-type: none">any licensing function⁴ reserved to full Council⁵; andany licensing function where full Council has referred a matter to a committee other than the Licensing Committee⁶; andany licensing function within the terms of reference of the Licensing	Licensing Act 2003 and the Gambling Act 2005.
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¹ The fact that a function has been delegated to the Assistant Chief Executive does not require the Assistant Chief Executive to give the matter his/her personal attention and the Assistant Chief Executive may arrange for such delegation to be exercised by an officer of suitable experience and seniority. However, the Director remains responsible for any decision taken pursuant to such arrangements.

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

³ "Licensing functions" means functions under the 2003 Act and the 2005 Act.

⁴ "Licensing functions" means functions under the 2003 Act and the 2005 Act.

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

authority under the 2003 Act.

⁶ Under the provisions of Section 7(5)(a) of the 2003 Act.

<p>Sub-committees⁷; and</p> <ul style="list-style-type: none"> to object when the Authority is consultee and not the relevant authority considering an application under the 2003 Act 	
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Functions related to the Licensing Functions delegated by Licensing Committee⁸

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

(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 licence sex shops and sex cinemas and sexual entertainment venues.	The Local Government (Miscellaneous Provisions) Act 1982, Section 2, Schedule 3, the Policing and Crime Act 2009, Section 27.
(e)	To license performances of hypnotism.	The Hypnotism Act 1952
(f)	** To license persons to collect for charitable and other causes	Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939

⁷ Except where a Licensing sub-committee has arranged for the discharge of any of their functions by an Officer.

⁸ These functions were delegated to the Licensing Committee by full Council on 14 July 2010.

Exceptions

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

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

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Report of the City Solicitor

Report to Licensing Committee

Date: 4 June 2013

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

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

Summary of main issues

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

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

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

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

Recommendations

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

1. Purpose of this report

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

2. Background information

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

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

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

3. Main issues

Licensing Committee Procedure Rules

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

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

Licensing Code of Practice

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

Licensing Training

- 3.9 Members will note from paragraph 10 of the Code of Practice at Appendix 2 that Members on Licensing Committee are required to attend two sessions of licensing training in each municipal year. These are
- a Licensing Update session, to receive guidance in relation to regulations and procedures; and
 - a Governance and Conduct session, for training on disclosable pecuniary interests and the Members' Code of Conduct.

3.10 In addition Article 8A of the constitution provides that Members of the Licensing Committee must complete all compulsory training and shall not sit as a member of the committee or it's sub-committee's unless such training has been undertaken in accordance with the Council's prescribed training programme.

3.11 Members are asked to note that the prescribed training programme consists of two sessions for newly appointed committee Members: namely an introduction to licensing and a session on committee procedures and for returning Members the two sessions referred to in 3.10 above.

3.12 In addition to the prescribed training programme officers will continue to offer briefings and training on relevant developments as appropriate and that these will be added to the work programme when they are scheduled.

4. Corporate Considerations

4.1 Consultation and Engagement

4.1.1 No implications

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 No implications

4.3 Council policies and City Priorities

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

4.4 Resources and value for money

4.4.1 There are no resource implications in adopting the rules.

4.5 Legal Implications, Access to Information and Call In

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

4.5.2 There are no potentially exempt matters referred to in this report.

4.5.3 This decision is not eligible for call in as it relates to a council function.

4.6 Risk Management

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

5. Conclusions

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

6. Recommendations

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

7. Background documents³

- 7.1 None

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

LICENSING COMMITTEE AND SUB COMMITTEE PROCEDURE RULES

1. INTERPRETATION

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

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

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

'The 2003 Act' means the Licensing Act 2003

'The 2005 Act' means the Gambling Act 2005

2. SCOPE

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

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

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

4. APPLICATION OF THE RELEVANT REGULATIONS

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

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

5. APPOINTMENT OF CHAIR

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

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

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

6. QUORUM

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

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

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

7. SUBSTITUTE MEMBERS

Allocation

No substitute Members are appointed for the Licensing Committee.

In relation to each 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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CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS

1.0 INTRODUCTION

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

- Decisions of the Licensing Committee.
- Decisions of any Licensing Sub Committee.
- Delegated decisions within the terms of reference of the above bodies.

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

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

1.3 This code of practice applies as follows:

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

1.4 **The aim of this code** of good practice is to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

1.5 **If you have any doubts** about the application of this Code, you should seek early advice, preferably well before any meeting takes place from the Monitoring Officer.

1.6 If you do not abide by this Code you may put the Council at risk of proceedings on the legality or maladministration of the related decision.

1.7 If you make or are involved in a licensing application, you should:

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

2.0 BIAS AND PREDETERMINATION IN THE LICENSING PROCESS

- 2.1 Section 25(2) of the Localism Act 2011 sets out that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –
- (a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and
 - (b) the matter was relevant to the decision.
- 2.2 The above section was enacted to clarify that predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision. The section makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue, so that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.
- 2.3 Having said this, the words ‘just because’ in Section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination so care still needs to be taken.
- 2.4 Given the requirement that Members of the Licensing Committee or Sub Committee should exercise an independent mind and decide proposals in accordance with the relevant licensing considerations, Members must not favour any person, company, group or locality or commit themselves to a particular point of view on a licensing decision prior to its full consideration at the Licensing Committee or Sub Committee.
- 2.5 **Do not** make up your mind or give the impression of making up your mind (particularly in relation to an external interest or lobby group) prior to the decision making meeting and of your hearing the officer’s presentation and the evidence and arguments on both sides.
- 2.6 **Do** be aware that you are likely to be biased or pre-determined where the Council is the landowner or applicant **if** you have been or are perceived as being, a chief advocate for the proposal. This will not necessarily arise from being a member of the proposing board or the Executive but through a significant personal involvement in preparing or advocating the proposal by which you may be perceived as being unable to act impartially or determine the proposal purely on its licensing merits and in the public interest.
- 2.7 **Do remember** that you are, of course, free to listen to a point of view about a licensing proposal, give procedural advice and agree to forward any comments, but should then refer the person to the appropriate licensing officer.
- 2.8 **Do not** use any political group meetings prior to the Licensing Committee or Sub Committee meeting to determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of

predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available, but decisions can only be taken after full consideration of the Licensing Officer's report and documents and information considered at the Hearing.

3.0 MEMBERSHIP OF PARISH COUNCILS, AREA COMMITTEES AND OUTSIDE BODIES

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

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

- You make it clear that that you are keeping an open mind and may vote differently at the licensing hearing when full details are available.
- You do not commit yourself so far to a particular point of view that you cannot be considered as open to persuasion at a licensing hearing when the proposal is decided.

4.0 SPOUSE/PARTNER COUNCILLORS

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

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

5.0 CONTACT WITH APPLICANTS AND OBJECTORS

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

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

- **Do** follow the rules on lobbying.
- **Do** report any significant contact with the applicant or other parties to the Monitoring Officer explaining the nature and purpose of the contacts and your involvement and ensure that this is recorded on the licensing file.
- **Do not** attend a presentation by an applicant unless an officer is present and/or it has been arranged by an officer.
- **Do** ask relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other members might vote.
- **Do** make it clear that the presentation is not part of the formal decision making process and any view is both personal and provisional since not all relevant information will be to hand and the views of interested parties will not have been obtained.

6.0 MEMBERSHIP OF A LOBBY GROUP

- 6.1 Lobbying by Councillors is a legitimate activity but in the case of Members of the Licensing Committee or Sub Committee significant care needs to be taken to avoid any challenge of bias or predetermination or an allegation of bringing the Council into disrepute.
- 6.2 **You may** take part in a matter than involves issues upon which your lobby group has simply campaigned as long as your involvement has not resulted in you being biased and/or predetermining the matter.
- 6.3 **Do** weigh up the following factors where your lobby group has expressed a public view on a matter and consider whether a reasonable member of the public, knowing the relevant facts, would think that you are biased or have pre-determined a matter. The factors are:
- the nature of the matter to be discussed
 - the nature of your involvement with the lobby group
 - the publicly expressed views of the lobby group
 - what you have said or done in relation to the particular issue
- 6.4 **Do not** lead, be part of the management of, or represent an organisation whose primary purpose is to promote or oppose licensing proposals. If you do, you may have fettered your discretion (be biased/pre-determined) and have to withdraw.
- 6.5 **Do not** become a member of an organisation whose primary purpose is to promote or oppose specific licensing proposals or those within a limited geographical area as you may be perceived as having fettered your discretion (be biased/pre-determined).

Code of Practice for Determining Licensing Matters

- 6.6 **Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular licensing proposals such as a local Civic Society but where that organisation has made representations on a particular proposal, you should make it clear to both the organisation and the Committee that you have not made up your mind on each separate proposal
- 6.7 **Do** remember that if the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the management or decision making process of that organisation such as being the Chairperson or a member of the Board or Committee, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may consider that you are biased and/or pre-determined and should withdraw from the meeting.
- 6.8 **Do not** excessively lobby fellow members regarding your concerns or views or attempt to persuade them that they should decide how to vote in advance of the hearing at which the decision is to be made. It is difficult to define 'excessively' but you need to consider whether a member of the public, knowing the facts would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest but had predetermined it.
- 6.9 **Do not** publicly support a particular outcome on a proposal or actively campaign for it if you wish to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge. Again it is a question of maintaining the fine balance between a predisposition where your mind is not totally made up and a predetermination. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining the application in accordance with the law.

7.0 SITE VISITS

- 7.1 Site Visits can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact finding exercise. They are not to be used to determine a proposal prior to a hearing. Due to the tight timescales involved in licensing decisions, site visits must be viewed as an exception rather than the rule.
- 7.2 When undertaking a site visit Members should also have regard to the following paragraphs of the Code of Practice for Determining Licensing Matters:
- ✓ Paragraph 2 - Bias and Predetermination in the Licensing Process.
 - ✓ Paragraph 5 - Contact with Applicants and Objectors.

7.3 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT

- 7.3.1 If a Member feels, on receipt of the report on an application, that a site visit would be beneficial, s/he should first discuss their concerns with a Principal Licensing

Code of Practice for Determining Licensing Matters

Officer. Officers have powers to request additional information from parties, which can then be discussed at the hearing. This information may resolve the issues without the need for a site visit. If a Member still feels that a site visit is necessary then, in the interest of fairness, it is preferable that concerns should be expressed at the scheduled hearing since Members may find that the applicant, interested parties or responsible authorities can provide verbal information to the satisfaction of the Members present.

- 7.3.2 Views of the parties present must be canvassed and considered before a site visit is agreed since that is likely to result in a delay to the decision making.
- 7.3.3 In the case of a Sub Committee hearing, three Members or a 2:1 majority must be in favour of a site visit for arrangements to be made. The same three Members will be expected to undertake the requested site visit and attend the hearing for the application, which will be re-convened at a later date
- 7.3.4 In the case of a meeting of the Licensing Committee, a majority of the Members present must be in favour of a site visit
- 7.3.5 The same Members will be expected to undertake the requested site visit and be able to attend the re-convened meeting which will consider the application subsequent to the site visit
- 7.3.6 **DO** raise the need for a site visit at a hearing and be prepared to give reasons why it is of real benefit. The reason will be recorded in the Minutes.
- 7.3.7 **DO NOT** request a site visit unless there is a real benefit from viewing the site. This might arise where:-
- Particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection.
 - There are significant policy or precedent implications and specific site factors need to be carefully addressed.
 - Relevant factors cannot be fully ascertained from any supporting information or the plans submitted to the Licensing Officer and available at the hearing, to Members satisfaction.

7.4 THIS SECTION APPLIES TO SITE VISITS AS PROPOSED BY OFFICERS

- 7.4.1 The Principal Licensing Officer may suggest the Committee or a Sub Committee undertake a Site Visit without prior discussion at a hearing, where in the professional opinion of the Officer there is a real benefit from viewing the site.
- 7.4.2 In such cases, officers will approach Members seeking a date for the site visit and hearing – usually in the form of an e-mail in the first instance.

Code of Practice for Determining Licensing Matters

- 7.4.3 The e-mail should set out the proposal for a site visit, the reasons behind the request; the projected benefit for Members; the address of the premise; the type of application and set out the arrangements for the visit.
- 7.4.4 Some site visits can only be conducted at night in order to gauge an accurate impression of the proposal being discussed. On occasion the site visits will also include a viewing of the sire 'in performance'.
- 7.4.5 In other cases it is usual for the site visit on an application to commence at 9.30 am (departing from the Civic Hall) and for the formal meeting to commence at 11.00 am in the Civic Hall to determine the application. As such it is anticipated that hearings will not conclude until the afternoon.
- 7.4.6 Having made proposals for a site visit, officers will seek confirmation from the Members able to attend that they are happy to undertake the proposed site visit.

7.5 ON THE SITE VISIT

- 7.5.1 **DO** ensure that any information gained from the site visit is reported back at the subsequent hearing.
- 7.5.2 **DO** ensure that you treat the site visit as an opportunity to seek information and to observe the site. It is not to be used to determine a matter prior to the hearing.
- 7.5.3 **DO** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- 7.5.4 **DO** be prepared to listen to and ask questions of fact from the Applicant or other parties.
- 7.5.5 **DO** be aware that Officers will make all parties aware of the site visit. All parties may attend subject to being granted access by the owner (see below). If only one party is present be particularly careful only to obtain information and ensure that that information is repeated at the public meeting where the other parties have a right to comment on it.
- 7.5.6 **DO** be aware that access to the site is at the discretion of the owner. The owner can legitimately refuse access to objectors and even Members. If access is to be refused consider whether it is still appropriate to undertake the visit.
- 7.5.7 **DO NOT** be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind.
- Note that** the decision can only be made at the Licensing Hearing and you should make this clear to any applicant or other party.
- 7.5.8 **DO** note comments of the applicant or other parties which are made solely for the purpose of making members aware of any specific local circumstances and issues relevant to the application site.

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- 7.5.9 **DO NOT** express opinions or views to anyone which can suggest bias or predetermination. As indicated above, you should make it clear that formal consideration of the proposal will take place in public at the subsequent hearing/meeting.
- 7.5.10 **DO NOT** enter a site which is subject to an application otherwise than on a formal site visit although this does not prevent you from viewing the site from the highway or other publicly accessible area.

8.0 TRAINING

- 8.1 Members making licensing decisions must attend two training sessions each and every year:
- a Licensing Update session, to receive guidance in relation to regulations and procedures; and
 - a Governance and Conduct session, for training on disclosable pecuniary interests and the Members' Code of Conduct.
- 8.2 Failure to undertake either or both sessions will result in the Elected Member being unable to sit on the Licensing Committee or Sub Committee. Therefore, **do not** participate in decision making on licensing matters if you have not undertaken mandatory training.
- 8.3 **Do** try to attend any other specialised training session provided, since these will be designed to extend your knowledge of licensing law, regulations, procedures and Policies beyond the minimum required and assist you in carrying out your role properly and effectively.
- 8.4 **Do** revisit a sample of implemented licensing decisions to assess the quality of the decisions. Such a review should improve the quality and consistency of decision-making, thereby strengthening public, confidence in the licensing system, and can help with reviews of planning policies.

9.0 OFFICERS

- 9.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers are employed by the Council and not by individual Councillors and instructions can only be given through a decision of the Council, the Executive or a Panel or Committee. A successful relationship can only be based on mutual respect, trust, courtesy and understanding of each others positions.
- 9.2 The role of the Legal officer is to assist the committee in gathering evidence and understanding all relevant issues in order for Members to make a decision, and to advise on the sub committees' legal duties under the relevant legislation and on the admissibility of evidence.
- 9.3 All legal advice should be given or repeated in open session for all parties to be made aware of.

- 9.4 The role of the Governance Officer is to facilitate the smooth running of the hearing; advise on the Rules of Procedure and Regulations relating to hearings; make notes of the proceedings and reasons for granting or refusing applications; and ensure that decision letters are sent to all parties as soon as possible after the hearing.
- 9.5 The role of the Licensing Officer attending the hearing is neutral. They will make no recommendations to the Committee and attend hearings only to provide a summary report of the application, giving details of the representations received and any relevant legislative or policy considerations. However there is a separate but distinct officer role which is exercised by Liaison and Enforcement Officers from Entertainment Licensing who may make representations on applications or seek reviews. The roles of these officers and the Licensing Officer processing applications and hearing reports are (and must remain) separate.
- 9.6 **Do not** put pressure on Licensing officers to put forward a particular recommendation.
- 9.7 **Do** recognise that officers are part of a management structure and only discuss an application, outside of any arranged meeting with those officers who are authorised to deal with the application at Member level.
- 9.8 **Do** recognise and respect that officers involved in the processing and determination of licensing application must act in accordance with the Council's Employee Code of Conduct. As a result, officers reports will be presented on the basis of their overriding obligation of professional independence.

10.0 RELATIONSHIP WITH THE EMPLOYEE CODE OF CONDUCT

- 10.1 The Council has an approved Employee Code of Conduct. That Code applies at all times when officers are involved in the licensing process. This includes decision making by officers under delegated powers and attendance at meetings whether those are formal decision making meetings or informal meetings with members or the public.
- 10.2 Officers must apply the rules in the Employee Code of Conduct at all times. If they do not they may put the Council at risk of proceedings on the legality of any related decision, and may put themselves at risk of disciplinary action.
- 10.3 Generally licensing officers have little discretion in making licensing decisions. 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.
- 10.4 In all cases officers must avoid any improper conduct or occasion for suspicion of the appearance of improper conduct and should:-

Code of Practice for Determining Licensing Matters

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

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

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

11.0 PROCEDURES AT LICENSING HEARINGS

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

12.0 MONITORING AND REVIEW

12.1 The Monitoring Officer shall monitor the following, and will report annually to the Corporate Governance and Audit Committee in relation to these matters:-

- the number of appeals upheld;
- any external inspection reports in respect of relevant issues; and
- any ombudsman complaints or reports in respect of relevant issues.

13.0 BREACHES OF THE CODE OF PRACTICE

13.1 Failure to comply with this code of practice may lead to a finding of maladministration by the Ombudsman or could lead to a decision being challenged in the courts.

Code of Practice for Determining Licensing Matters

- 13.2 Allegations of a breach of this code of practice by Officers will be referred to the relevant Director for consideration under the Council's Disciplinary Procedure.

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Report author: John Mulcahy

Tel: 78301

Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 4th June 2013

Subject: Licensing Roundup

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

Summary of main issues

1. In the last 12 months the Council has managed a number of significant changes to the legislation that governs licensing. This report looks back over those challenges and looks forward to the year ahead, specifically in relation to alcohol, entertainment, gambling, sex establishments, scrap metal dealers and taxi and private hire licensing.

Recommendations

2. That Licensing Committee notes the contents of this report.

1 Purpose of this report

- 1.1 This report informs Licensing Committee of the challenges and changes that the licensing authority have dealt with in the last twelve months and looks forward to the next 12 months.

2.0 Background information

- 2.1 In the last year the licensing authority has faced a number of challenges. Entertainment Licensing has seen major changes to the Licensing Act 2003, the casino process was started and moved through stage 1 into stage 2, licensed seven lap dancing clubs and we saw an increase in scrap metal dealer applications. Taxi and Private Hire Licensing has implemented a new IT system, commenced a review of all the licensing policies and undertaken a recruitment process for new Enforcement Officers.
- 2.2 In the coming year we will see the finalisation of a new policy on sex establishments, a new Licensing Act 2003 licensing policy and with it the new cumulative impact policies. There is also the question of whether to implement a late night levy to help contribute to the costs of policing the night time environment. We will implement the new Scrap Metal Dealers Act and issue a provisional statement leading to a premises licence for the large casino. Taxi and Private Hire Licensing will improve IT systems, review licensing policies, refine processes and implement a new enforcement policy.

3.0 Main issues

Alcohol Licensing

- 3.1 The Government's Alcohol Strategy has brought a number of significant changes to the Licensing Act 2003. The majority of these were brought into effect at the end of April 2012. Apart from necessitating the need to retrain staff, rewrite guidance and review the licensing policy, the full impact of the changes hasn't been felt yet.
- 3.2 We have not noticed an increase in the number of people making representations to licensing applications now that the vicinity test has gone, but this may be because in most cases the only people interested enough to make an objection are those living within the vicinity for the subject premises.
- 3.3 With the ability to suspend licences on the non-payment of fees we have been more successful at collecting annual fees than ever before. This year has been busy with Enforcement Officers having to take action in a number of cases before the fee is paid, but in coming years this work should decrease as the premises licence holders realise that not paying their fee is no longer an option.

- 3.4 Applicants are now expected to take into consideration the local area when making their applications and the ability for licensing authorities to make representations has opened the door for officers to meet with applicants earlier in the process, arrange multi agency meetings and to more closely advise applicants in the content of their operating schedules. We believe that this will, in the long term, lead to better quality applications, leading to fewer representations and fewer subcommittee hearings. This will be a time and money saver for the council.
- 3.5 In the coming year we hope to be able to review and increase the fees for premises, personal and TEN applications. The Government is giving councils the ability to set their own fees. We are yet to see the regulations but we believe the system will be similar to the current one, based on non-domestic rateable value, but we will be able to charge a fee that covers our costs to a maximum level set by the regulations. This will be much welcome as the fees have not changed for seven years despite our own costs increasing.
- 3.6 Throughout 2012 we licensed 33 outdoor events with capacities up to 79,999 persons. For all of these events we engaged with partner agencies and the promoters and attended multi agency meetings both pre and post event. Officer attendance at licensed events is risk based and enforcement officers attended 22 events. Members of the multi-agency forum worked in partnership carrying out event inspections maintaining regular liaison with the licence holder.
- 3.7 A typical example is the Leeds Festival held at Bramham Park over the August Bank Holiday weekend. In 2012 a number of operations co-ordinated by the promoter and agencies ensured a safe and successful event and included an improved traffic management plan, an anti-touting operation and trader entry checks by Her Majesty's Revenue and Customs, Vehicle and Operator Services Agency, HM Court Services and Trading Standards.
- 3.8 Under the Licensing Act 2003, from 1st April 2012 to 31st March 2013 we processed:
- 183 new grants or variations
 - 69 minor variations
 - 760 transfers and designated premises supervisor changes
 - 523 personal licences
 - 1,164 standard Temporary Event Notices
 - 275 late Temporary Event Notices
 - 52 subcommittee hearings
 - 8 reviews
 - 10 appeals
 - 1 judicial review
- 3.9 We had:
- 84 premises licences surrendered
 - 4 lapsed premises licences
 - 92 premises licences suspended by the licensing authority due to non-payment of annual fee

- 3.10 The Enforcement Team dealt with:
- 507 individual premises inspected
 - 459 meet and greet visits (for new DPSs)
 - 22 outdoor events (licensing compliance checks)
 - 242 complaints
 - 2 prosecutions
 - 260 notice checks
- 3.11 We currently licence:
- 2,453 alcohol licensed premises
 - 215 registered clubs
 - 6,369 personal licences

Regulated Entertainment

- 3.12 Last year, the Live Music Act 2012 was enacted which saw an exemption being introduced for live music on licensed premises not requiring a licence between 8am and 11pm for audiences under 200 people.
- 3.13 In the next year we expect that regulated entertainment will be further deregulated, with certain forms of regulated entertainment being exempted from the Licensing Act providing they are offered between 8am and 11pm and for audiences of under 500 (1,000 for indoor sport). Mixed Martial Arts will fall under the boxing and wrestling category and will not receive an exemption.
- 3.14 Many of these forms of regulated entertainment are considered very low risk and so this deregulation will have very little impact on the public or on licensees. The concern is mainly with noise which is unlikely to be affected by this change.

Gambling

- 3.15 Last year saw the start of the large casino licensing process, although officers have been preparing the necessary processes and documents for a number of years. Stage 1 of the process was completed in June 2012 and Stage 2 completed in February this year. At the time of this Licensing Committee the winning applicants will have been announced. The next step will be to award a premises licence to the successful applicant.
- 3.16 There has been a gradual increase in the number of betting shops since we started processing applications under the Gambling Act in 2007. At that time there were 98 betting shops throughout the Leeds district and by 2010 this had increased to 106, but reducing to 104 by 2012. The application granted in 2012 was to a premises replacing one that had closed.

- 3.17 Under the Gambling Act 2005 in 2012 we processed:
- 8 new premises licence applications
 - 1 reinstatement (after late payment of fee)
 - 3 variation applications
 - 1 transfer application
 - 16 permits (including licensed premises gaming machine permits, club gaming permits, club machine permits and unlicensed family entertainment centres)
 - 62 Small society lotteries
- 3.18 We have 136 premises licensed to permit gambling in Leeds with:
- 104 betting shops
 - 19 amusement arcades (adult gaming centres)
 - 5 casinos
 - 6 bingo halls
 - 2 tracks
- 3.19 We have 736 permits, notices and registrations:
- 192 permits (including licensed premises gaming machine permits, club gaming permits, club machine permits and unlicensed family entertainment centres)
 - 285 notices of 2 or less gaming machines in alcohol licensed premises
 - 259 Small society lotteries

Scrap Metal

- 3.20 The current system of registering scrap metal dealers is a paper exercise with no ability for the authority to refuse a registration. This is set to change in October 2013 with a new Scrap Metal Dealers Act 2013 which combines the current Act with the Motor Salvage Operators Act. This new regime is a licensing scheme, rather than a simple registration and will require a police check. There will be two types of licence, one for scrap metal yards and one for itinerant collectors (who collect door to door). We will have the ability to set a reasonable fee.
- 3.21 This is much welcomed as the rising cost of metal has led to numerous metal thefts. The theft of metal, especially from power stations and railway tracks can be life threatening for the perpetrator as well as inconvenient for everyone else. This new regime brings measures which hope to curb the sale of stolen metal.
- 3.22 Under the current Scrap Metal Dealers Act 1964 we have 103 scrap metal dealer registrations and 13 motor salvage operators who will be incorporated into the new regime.

Sex establishments

- 3.23 Last year we adopted the new provisions in the legislation which allowed us to licence lap dancing clubs as sex establishments. A policy was adopted which called for each case to be dealt with on its own merits, and we subsequently licensed seven establishments under the new regime. In the last 12 months our Enforcement Team has been working closely with the clubs to ensure they comply with the new extensive conditions.

- 3.24 We have also consulted with the people of Leeds through the Citizen's Panel, and the result is a draft revised policy which, amongst other things, sets a limit of four premises, bans the practice of fining and prohibits any touching between customer and dancer. The new policy will be presented to Licensing Committee at the end of June for referral to Executive Board for approval.
- 3.25 As a sex establishment licence expires after 12 months, the existing lap dancing clubs will be required to renew their licences in October when the new policy and standard conditions will apply (if approved).
- 3.26 Under the Local Government (Miscellaneous Provisions) Act 1982 we licence:
- | | |
|---|-------------------|
| 7 | lap dancing clubs |
| 5 | sex shops |
| 0 | sex cinemas |

Charitable Collections

- 3.27 Another part of our work is to register house to house collections and street collections. A house to house collection is where people go from door to door and collect money or goods for the benefit of charities. This can include the bag collections we get so many of. We also register people who wish to collect in the street. We have a successful voluntary local agreement with the Professional Fundraising Regulatory Association who control the direct debit charity collectors (also known as 'chuggers') in the city centre. Although there is no legislation to control these collectors the PFRA is very active in preventing them from becoming a nuisance.
- 3.28 Each year we process
- | | |
|-----|----------------------------|
| 31 | house to house collections |
| 214 | street collections. |

Taxi and Private Hire Licensing

- 3.29 In the last year, Taxi and Private Hire Licensing has seen the implementation of a new licensing system; introduced to create improved administrative efficiencies directly impacting on the amount of time licence holders need to spend at our front counter and decreasing the waiting time for others. We successfully managed the associated staff training as part of a change management programme.
- 3.30 The Section also commenced a review of all of our policies, including three month consultation periods and presentation of reports to Licensing Committee.
- 3.31 We have undertaken a recruitment process to ensure that our staffing levels are in line with the approved structure. The Licensing Officer vacancies have been successfully filled and whilst the progression the three Enforcement Officer vacancies proved difficult, three applicants were offered a position in late 2012. Unfortunately two of these applicants did not take up the post and interviews are currently underway to fill these.

- 3.32 In the coming year, Taxi and Private Hire Licensing will commence the implementation of phase 2 of the new licensing system to further improve our IT capability, reduce footfall and create opportunities for quality transactions and appropriate decision making.
- 3.33 We will also complete the review of our licensing policies, incorporating a full review of private hire operator conditions which were originally created in the 1990s. This is a significant piece of work to ensure that the conditions are brought up to date i.e. in line with technological advances and other updates.
- 3.34 We will also refine our processes and procedures in line with updates from the Disclosure and Barring Service (DBS).
- 3.35 The section is working on a new Enforcement Policy which will draw together key themes of best practice, legislation, service plan actions and the wider vision for Leeds. As part of this, the extent of our enforcement activity needs to be more aligned to our 24 hour city where the licensed trade operate over 7 days/ 7 nights. We are keen to bring in expert consultants to assist with the creation of a staff rota to cover a variety of shift patterns, sickness and annual leave. A working group has been formed to look into further options in respect of postal renewals, 3 year licences and the associated administration checks.
- 3.36 In 2012, the section issued in excess of 10,000 Hackney carriage and private hire licences. However, the volume of private hire licences issued has seen a decline in recent years and this has been attributed to the general economic downturn.

	Private Hire Drivers	Private Hire Vehicles
2005	4,003	3,332
2010	5,071	4,281
2012	4,855	3,758

- 3.37 Our section receives an average of 47 new applications per month, with each applicant attending the office for an hour long appointment with a Licensing Officer. This is in addition to the 700 - 800 renewals that the section process each month which must be submitted in person. However these events do not in total represent the volume of footfall into the office for a wide variety of other services ranging from replacing lost badges, changing operators to reporting convictions road traffic accidents and obtaining vehicle livery.
- 3.38 As of 31 March 2013, Leeds had the following numbers of licences in place: -
- 974 Hackney Carriage Drivers
 - 537 Hackney Carriage Vehicles
 - 4833 Private Hire Drivers
 - 3723 Private Hire Vehicles
 - 93 Private Hire Operators

- 3.39 Throughout 2012 the Section also took the following delegated decisions:
- 794 applications
 - 16 refusals
 - 74 suspensions
 - 37 revocations
- 3.40 In addition to the heavy footfall to the licensing office, the section receive an average of 1,800 telephone calls per month. We also receive an average of 280 emails per month.
- 3.41 The section carries out up to 450 vehicle inspections per month and further proactive enforcement activity is undertaken by means of on street inspections, investigations and operator base visits.
- 3.42 In 2012, the section carried out:
- 114 operator base visits
 - 1264 roadside checks
 - 286 investigations into complaints against the licensed trade

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 This report is for information. There are no implications for consultation and engagement relating to this report, however all licensing legislation is subject to varying levels of consultation relating to the licensing of premises and the setting of licensing policy.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 This advisory report does not have any impact for equality, diversity, cohesion and integration.

4.3 Council Policies and City Priorities

- 4.3.1 The licensing regime contributes to the following aims:

By 2030, Leeds will be fair, open and welcoming

- There is a culture of responsibility, respect for each other and the environment
- Everyone is proud to live and work

By 2030, all Leeds' communities will be successful

- Communities are safe and people feel safe

- 4.3.2 These arrangements would also directly contribute to the following city priority:

Best city... for communities:

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

4.4 Resources and Value for Money

4.4.1 This advisory report has no resource implication.

4.5 Legal Implications, Access to Information and Call In

4.5.1 This advisory report has no legal implications, other than those inherent in the licensing regime.

4.6 Risk Management

4.6.1 This advisory report has no risk implications.

5 Conclusions

5.1 2012/3 has been a year of changes. In the last year the licensing authority has seen major changes to the Licensing Act 2003, the casino process was started and moved through stage 1 into stage 2, seven lap dancing clubs were licensed and we saw an increase in scrap metal dealer applications. Taxi and Private Hire Licensing has implemented a new IT system, commenced a review of all the licensing policies and undertaken a recruitment process for new Enforcement Officers.

5.2 In the coming year we will implement the new Scrap Metal Dealers Act, issue a provisional statement and hopefully a premises licence for the large casino. We will see the finalisation of a new policy on sex establishments, a new licensing act 2003 licensing policy and with it the new CIPs. There is also the question of whether to implement a late night levy to help contribute to the costs of policing the night time environment. Taxi and Private Hire Licensing will improve IT systems, review licensing policies, refine processes and implement a new Enforcement Policy.

6 Recommendations

6.1 That Licensing Committee notes the content of this report.

Background documents¹

There are no unpublished background documents.

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

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