



---

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

**Standards Committee**

**Date: 15<sup>th</sup> October 2009**

**Subject: Code Of Practice For The Determination Of Licensing Matters**

---

**Electoral wards affected:**

**Specific implications for:**

Ethnic minorities

Women

Disabled people

Narrowing the gap

---

**Executive Summary**

This is the report of the Assistant Chief Executive (Corporate Governance) to the Standards Committee in relation to the Code of Practice for the Determination of Licensing Matters.

The report proposes that there be a formal amendment to the Code of Practice to include a Protocol For Licensing Site Visits. The need for the Protocol is summarised prior to a recommendation being made that the Standards Committee approve the Protocol as part of the Code.

## **1.0 Purpose of this Report**

- 1.1 This report advises Standards Committee of the need amend to the Code Of Practice For The Determination Of Licensing Matters ("the Code") to include the Protocol For Licensing Site Visits ("the Protocol").
- 1.2 The proposed revised Code is attached to this report at **Appendix 1**.

## **2.0 Background Information**

- 2.1 A Code of Practice for determining licensing matters was approved by the Standards Committee on 31 March 2005. The Code was developed following the expansion of licensing activity within Leeds as the Council took responsibility for the licensing of alcohol previously undertaken by the Magistrates Court and the licensing of hot food served between 11.00pm and 5.00am. Since the Standards Committee approved the Code of Practice the Council's remit in relation to licensing matters has expanded yet further as the Council has taken over responsibility for the licensing of various forms of gambling under the Gambling Act 2005.
- 2.2 Paragraph 18 of the Code deals with monitoring and review. It provides for an Annual Report to the Standards Committee regarding the arrangements set out in the Code, whether these have been complied with, the number of complaints about breaches and so forth.
- 2.3 In April 2009 the Standards Committee received an Annual Report regarding the Code of Practice for the determination of licensing matters for the municipal year 2008 - 2009. The Standards Committee will recall that at paragraph 3.6 of this report it was drawn to the attention of Members that the Licensing Procedure Rules, which govern hearings conducted under the Licensing Act 2003 had been amended to include a Site Visit Protocol. This Protocol was approved by the Licensing Committee on 3 June 2008.
- 2.4 The need for the Protocol was identified following the implementation of the Gambling Act 2005 where the location of the premises is more of a pertinent issue. This had not been the experience of officers under the Licensing Act 2003 despite the volume of premises being far greater. The Protocol was needed to clarify a number of issues identified between Members and officers and by inserting it into the Licensing Procedure Rules, represented the swiftest manner in which to implement the new procedures.
- 2.5 At paragraph 7.1 of this Report, Members of the Standards Committee were asked to:
- "consider the assurances contained within the Report and advise as to whether further amendments are required to the Code of Practice for the determination of licensing matters".*
- 2.6 Members of the Standard Committee on 21 April 2009 resolved that no amendments were required to the Code.
- 2.7 On reflection officers have concluded that the Protocol for Licensing Site Visits should form part of the Code and not the Licensing Procedure Rules and have recommended that the Protocol be approved as part of the Code in the interests of good governance.

### **3.0 Main Issues**

- 3.1 The draft Protocol was proposed to Members of the Licensing Committee on 3 June 2008 by way of a report. Members had previously expressed a desire to have a facility to undertake visits with regards to applications under the Licensing Act 2003 as well as those proposed by the Principal Gambling Officer for applications submitted under the Gambling Act 2005.
- 3.2 To this end a draft Protocol for licensing site visits was placed before Members. A final version of the Protocol was approved by Members.
- 3.3 Members of the Licensing Committee in exercising their discretion to make site visits will therefore have regard to this Site Visit Protocol. However, without the correct and formal adoption of this Protocol as a revision to the Code, site visits carried out under the Protocol may be subject to legal challenge.

### **4.0 Implications for Council Policy & Governance**

- 4.1 It is in the interests of good governance that Members determining licensing matters have a robust Code. Not only must the Code be fit for purpose but it should be adopted in the correct way to avoid legal challenge.

### **5.0 Legal & Resource implications**

- 5.1 Ensuring the Code is up to date will assist the Council in ensuring that determinations are sound and able to withstand challenges made on a procedural basis.
- 5.2 There are no resource implications to this report.

### **6.0 Conclusions**

- 6.1 The proposal to adopt the revised Code will ensure Members retain the ability make robust yet lawful decisions.

### **7.0 Recommendations**

- 7.1 Members are asked to:
- Note the contents of this Report; and
  - Approve the revised Code of Practice for the Determination of Licensing Matters, as attached at Appendix 1.

### Background Documents

None.