



Meeting: **SPECIAL AUDIT COMMITTEE**  
Date: **29 JULY 2014**  
Time: **2.00PM**  
Venue: **COMMITTEE ROOM**  
To: **Councillors C Pearson (Chair), J Cattanach, J Crawford,  
M Dyson, Mrs C Mackman (Vice Chair), J McCartney,  
I Nutt, R Price and Mrs S Ryder**

## Agenda

### 1. Apologies for absence

### 2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at [www.selby.gov.uk](http://www.selby.gov.uk).

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

### 3. Chair's Address to the Audit Committee

### 4. A/14/9 – Constitutional Changes

To receive the report of the Solicitor to the Council, pages 3 to 28 attached

### 5. Sharing Good Practice – Councillor Consultative Charter

To receive a verbal report from the Solicitor to Council

**Jonathan Lund**  
**Deputy Chief Executive**

<b>Date of Next Meetings</b>
24 September 2014
14 January 2015
15 April 2015

Enquiries relating to this agenda, please contact Richard Besley on:  
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**Report Reference Number: A/14/9**

**Agenda Item No: 4.**

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**To: Audit Committee**  
**Date: 29 July 2014**  
**Author: Gillian Marshall, Solicitor to the Council**  
**Lead Officer: Mary Weastell, Chief Executive**  
**Executive Member: Councillor Mark Crane**

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**Title: Review of the Constitution**

**Summary:** This Report parts 1 and 2 and 5 to 7 of the Constitution, identifying areas for consideration and review

**Recommendations:**

**To consider parts 1 and 2 and parts 5 to 7 of the Constitution and propose any amendments**

**Reasons for recommendation**

To progress the review of the Constitution

**1. Introduction and background**

- 1.1 Audit Committee have been requested to undertake a review of the Constitution of the Council and report back to the Executive and to Council (minute 94 of Council on 29 April 2014 refers)
- 1.2 Audit Committee resolved to look first at Part 4 of the Constitution – the Rules of Procedure and this work was undertaken on 12 June 2014. The second meeting on 4 July 2014 considered Part 3 - Responsibility for Functions. Officers are now working on a revised draft Part 3.
- 1.3 Audit Committee now wish to move on to look at the remaining parts of the Constitution.

**2. The Report**

- 2.1 Part 1 of the constitution is the Summary and Explanation. Officers consider that the reference to the deleted article 9 on the Standards Committee in the list of Articles should be replaced with reference to a new Article 9 on Standards Arrangements. Further detail is provided in

paragraph 2.5 below. Part 1 also includes a reference to the 41 Councillors who currently make up Council. Clearly after the 2015 election this section will need to be updated. Other than those amendments officers do not put forward any changes for consideration.

- 2.2 Part 2 of the Constitution contains the Articles which form the backbone of the document. Some minor amendments are required as a result of the changes proposed in the two previous meetings. These can be summarised as follows: –
  - 2.2.1 at article 3.1 under the rights of the public reference will need to be made to the right to record a meeting
  - 2.2.2 at article 3.1 under additional matter (d) if the Leader agrees that state of the area address is no longer necessary this section can be removed
- 2.3 In addition, the following substantive amendments are proposed:-
- 2.4 Article 4 contains a list of documents which form the Policy Framework. The final bullet point refers to plans and strategies which together constitute the Housing Investment Programme. Due to changes in housing finance rules there is no specific Housing Investment Programme. It is therefore recommended that this bullet point be removed.
- 2.5 Article 9 previously dealt with the Standards Committee. Council resolved to abolish the Standards Committee which ceased to operate on 30th of June 2012. The Council adopted a new Code of Conduct as referred to in the Article. At the same time the Council approved new standards arrangements. It is therefore proposed that this article be reworded by retitling it Standards Arrangements and referring to the adopted Code of Conduct (as currently) and approved Standards Arrangements which would then be inserted into Part 5 under the Codes and Protocols section. This would comply with the legal requirement to have the standards arrangements set out in the constitution. No changes are proposed to the approved Standards Arrangements.
- 2.6 In Article 12 the list of Joint Committees needs to be expanded to include the Police and Crime Panel and the Leeds City Region Leaders Board.
- 2.7 Part 5 of the Constitution covers Codes and Protocols. No amendments are proposed to the Code of Conduct for Councillors as this was reviewed in 2012. No amendments are proposed to the Protocol on Councillor/Officer Relations.
- 2.8 Significant changes are proposed to the Planning Code of Conduct by replacing existing pages 187 to 223 with the attached Appendix A. This

document has been drafted taking into account the latest advice a model wording. It is being provided to the Chair of Planning and to the Lead Officer – Planning for their comments on these will be reported verbally at the meeting.

- 2.9 A new Licensing Code of Conduct is proposed. Both Planning and Licensing are regulatory functions involving the determination of an application and the balancing of competing rights. Accordingly, it is considered appropriate to have a similar code. The attached document at Appendix B is in use at Leeds City Council and is provided for comment. The views of the Chair of Licensing will be sought on any Code to be adopted.
- 2.10 Part 6 of the Constitution is the Councillors Allowance Scheme. Amendments to the scheme require a report from an Independent Remuneration Panel. No amendments are proposed at this time.
- 2.11 Part 7 contains a description of the approved management structure. This will be checked against the latest information from HR and brought up to date.

### **3. Legal/Financial Controls and other Policy matters**

#### **3.1 Legal Issues**

- 3.1.1 Under Article 15 of the Constitution changes will only be approved by Council after consideration of the proposals by the Executive taking into account the advice of the Chief Executive or Monitoring Officer.

#### **3.2 Financial Issues**

- 3.2.1 There are no financial issues arising from this report.

### **4. Conclusion**

- 4.1 That Audit Committee should consider the draft Planning Code of Conduct at appendix A and any comments provided by the Chair of Planning and the Lead Officer – Planning and determine whether to recommend to Council (subject to consideration by the Executive) that this be approved.
- 4.2 That Audit Committee consider the Licensing Code of Conduct attached at appendix B and determine whether to recommend to Council (subject to consideration by the Executive) that a similar document be inserted into the Constitution.
- 4.3 That Audit Committee consider whether to include the approved Standards Arrangements within the revised Part 5.

**5. Background Documents**

None

***Contact Officer:***

Gill Marshall Solicitor to the Council x42095

**Appendices:**

Appendix A – Draft Planning Code of Conduct  
Appendix B – Sample Licensing Code of Conduct.

## **CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS**

This Code of Practice supplements the Council's Code of Conduct for Councillors and where appropriate Councillors should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

### **1. INTRODUCTION**

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of Councillors of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The general principles that underlie the Council's Code of Conduct for Councillors and apply to this Code of Practice are:
  - 1.3.1 Councillors should serve the public interest and should never improperly confer an advantage or disadvantage on any person.
  - 1.3.2 Councillors should not place themselves in situations where their honesty or integrity may be questioned.
  - 1.3.3 Councillors should make decisions on merit.
  - 1.3.4 Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
  - 1.3.5 Councillors may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
  - 1.3.6 Councillors should respect the impartiality and integrity of Officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that Councillors and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6 Failure to follow this Code without good reason could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Councillors and officers. Breaches of this Code may

also amount to breaches of the Council's Code of Conduct for Councillors. If in doubt about what course of action to take, a Councillor or officer should seek the advice of the Council's Monitoring Officer.

- 1.7 This Code of Practice sets out principles to guide Councillors and officers in determining planning applications and making other decisions within the terms of reference of Planning Committee. Although of particular relevance to members of Planning Committee it applies to all members of the Council who may become involved in planning and development matters.

## **2. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 2.1 Councillors and Officers have different, but complementary roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Councillors involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Councillors' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 2.5 Whilst Councillors should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Councillors shall provide:
  - 2.7.1 Impartial and professional advice;
  - 2.7.2 Complete written reports covering all necessary information for a decision to be made.
- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its Councillors or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is.



- 2.10 If the Planning Committee is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Councillors to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 2.11 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.
- 2.12 Councillors shall follow the advice in the Councillor's Code of Conduct about accepting gifts and hospitality. Councillors should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality register as soon as possible.

### 3. **COUNCILLORS INTERESTS AND ALLEGATION OF BIAS**

- 3.1 Where Councillors have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the Councillor will not be able to approach matters with an open mind and consider the application on its planning merits, Councillors should consider withdrawing from the Committee.
- 3.3 These principles apply equally to Councillors who are not members of Planning Committee Councillors who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 3.4 The Code of Conduct for Councillors provides guidance as to disclosable interests which may (depending on their nature) affect a Councillor's ability to take part in the decision-making process. However, Councillors may have other interests which may influence their decision which will not amount to disclosable interests for the purposes of the Code. In order to maintain the integrity of the planning system, Councillors should be careful to ensure that such interests do not unduly influence their decisions or give rise to a perception of bias in decision making. Examples of such interests are:-
  - 3.4.1 from being closely aligned with ward campaigns or issues;
  - 3.4.2 from membership of other Committees of the Council;
  - 3.4.3 from membership of other public or community bodies;
  - 3.4.4 from membership of voluntary associations and trusts (including where appointed by the Council);
  - 3.4.5 from a connection with a particular policy initiative of the Council;
  - 3.4.6 from membership of clubs, societies and groups; and

3.4.7 from hobbies and other leisure interests.

Such interests may mean that a Councillor is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a Councillor from participating in making the planning decision when the matter is considered by Planning Committee providing that the Councillor has not already decided how they will vote on the matter before the Committee. Councillors should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.

3.5 As a minimum, the integrity of the planning system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.

#### 4. **DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.

4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.

4.3 Members of the Planning Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare an interest and take no part in the discussion and determination of that proposal, except where they are the local Councillor when they may speak on matters of local concern but shall not vote.

4.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

#### 5. **STATUTORY DUTIES**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

##### 5.1 **Equality Act 2010**

Section 149 provides that:

5.1.1 A council must, in the exercise of its functions, have due regard to the need to:-

- (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a protected characteristic and persons who do not share it.

5.1.2 The above powers relate to the following protected characteristics:-

- (a) Ages;
- (b) Disability;
- (c) Gender reassignment;
- (d) Marriage and civil partnership;
- (e) Pregnancy and maternity;
- (f) Race (including colour, nationality and ethnic or national origins);
- (g) Religion or belief;
- (h) Sex; or
- (i) Sexual orientation.

## 5.2 **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

## 5.3 **Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

## 5.4 **Crime and Disorder**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

## 6. **LOBBYING OF AND BY COUNCILLORS**

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Councillor or members of the Planning Committee. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be considered before a Councillor is in a position to make a balanced judgement on the merits of the case. Councillors should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.

- 6.3 The time for individual members of the Planning Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A Planning Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Planning Committee Councillors should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Councillors do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Councillors who are lobbied should:
- 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting:
  - 6.4.2 only give procedural advice;
  - 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
  - 6.4.4 not seek to meet an applicant or potential applicant alone.
- 6.5 Members of the Planning Committee shall not, in general, organise support or opposition for a proposal, or lobby other Councillors (other than when addressing the Planning Committee). Councillors shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local Councillor who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting (representing the views of their ward) but not vote. The Councillor for an adjacent ward substantially affected by the proposal shall, at the discretion of the chair of the Planning Committee, also be allowed to attend and speak but not vote. A local Councillor who has an interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 6.7 If a member of the Planning Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare an interest and not vote or decide on the matter. However, that Councillor shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.
- 6.8 Councillors of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Councillor cannot be instructed how to exercise their vote on a planning matter.
- 6.9 Councillors should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

## **7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS**

- 7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is

a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.

- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Councillors need to preserve their role as impartial decision makers and members of Planning Committee should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when other Councillors are involved, it should be part of a structured arrangement with Officers. Councillors must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6 Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the officers dealing with the application. Councillors who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

## 8. **OFFICER REPORTS TO COMMITTEE**

- 8.1 The Lead Officer - Planning will submit written reports to the appropriate Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Lead Officer - Planning shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Lead Officer - Planning in his/her report will give a reasoned assessment of the proposals and a justified recommendation.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Lead Officer - Planning will have available for inspection by Councillors the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

## 9. **PLANNING CONSIDERATIONS**

- 9.1 Planning decisions should be made on material planning considerations and should not be based on immaterial considerations.

- 9.2 Members of Planning Committee should attend training sessions which may be organised from time to time. All other Councillors are encouraged to attend.
- 9.3 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.
- 9.4 Briefly, at the date of the preparation of this Protocol, material planning considerations include:-
- 9.4.1 the Development Plan;
  - 9.4.2 Government Guidance;
  - 9.4.3 Supplementary Planning Documents adopted by the Council;
  - 9.4.4 non-statutory planning policies adopted by the Council;
  - 9.4.5 the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;
  - 9.4.6 the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
  - 9.4.7 representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;
  - 9.4.8 planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990.
- 9.5 it should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.
- 9.6 It is the responsibility of officers in preparing reports and recommendations to Councillors to identify the material planning considerations and warn Councillors about those matters which are immaterial planning decisions.
- 9.7 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.
- 9.8 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.
- 9.9 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.

- 9.10 It will be inevitable that all the considerations will not point solely to either grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

## **10. THE DECISION MAKING PROCESS**

- 10.1 Councillors shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 10.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 10.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 10.4 Where the Planning Committee decide to adopt the recommendation of the Lead Officer - Planning, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 10.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Lead Officer - Planning, or the Development Plan, if agreement can be reached at the meeting rather than deferring the item, the planning reasons for that decision shall be fully minuted.
- 10.6 The reasons for Committee's decision to defer any proposal should also be recorded.

## **11. SITE VISITS BY THE COMMITTEE**

- 11.1 A site visit may be held if the Lead Officer - Planning in consultation with Chair of the relevant committee considers it will assist Councillors in reaching their decision or where a site visit has been requested or an application deferred for such a visit. Site visits should only be undertaken where there is a reason to do so. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material.
- 11.2 When a site visit is held prior to the meeting of the Planning Committee it is desirable that all Councillors attending the Planning Committee should also attend the site visit. Councillors voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to committee so that all Councillors have the same information.
- 11.3 Site visits should be conducted in a formal manner in compliance with the Human Rights Act 1998 and any subsequent legislative criteria.
- 11.4 The organisation of the site visit will fall to the planning officer, who will inform Democratic Services of the need to send out site visit invites to the following:
- All Members of the Planning Committee including nominated substitutes
  - Relevant Ward Members
  - Relevant Parish Councillors

- 11.5 The Applicant/Agent will be informed that a site visit will take place in order to ensure that site access can be arranged. This is arranged by the planning officer due to their ongoing contact with relevant applicants/agents.
- 11.6 Objectors/supporters of the applicant will be invited to attend the site visit at the discretion of the Chairman of the Planning Committee.
- 11.7 No opportunity for speaking, debate or giving opinions will be afforded to the Agent/Applicant or other parties e.g. Parish Councillors, Ward Councillors, neighbours or objectors who attend the site. The only exception to this is if the Chair of the Planning Committee permits a response to questions of fact asked by the members of the Committee.
- 11.8 The site visit will be attended by the relevant planning officer(s) who will answer any questions raised. The planning officer(s) will describe the development and point out the relevant issue(s) that the Committee has come to view.
- 11.9 On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The planning officer will explain the application as it relates to the site and relevant viewpoints. Following any questions to the planning officer, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.
- 11.10 Members of the Committee should address any request for clarification through the Chair of the Planning Committee. Questions should not be directed to the applicant/agent, parish councillors, local Ward Councillors or other third parties present. Should the Chair deem it appropriate, those present may be requested to respond to questions of fact only.
- 11.11 Councillors should not engage in open discussion either individually or in groups with the applicant or any other people present. Any request for Councillors to express a view or accept an offer of hospitality should be politely declined.
- 11.12 Unofficial site visits are not encouraged as they do not have the appropriate procedural safeguards. Any Councillor attending an unofficial site visits must ensure that they avoid giving the impression that he/she represents the views of the Planning Committee or the Council. If a Councillor feels compelled to give a personal view, he/she should emphasise that the final decision is one for the Planning Committee.

## **12. PUBLIC SPEAKING AT PLANNING COMMITTEE**

- 12.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee Councillors have the opportunity to inspect all letters received before the decision on the application is made.
- 12.2 The council operates a scheme of public speaking at planning committee meetings. Normally the following people can speak at Planning Committee in relation to any specific application.
- One speaker representing the applicant – usually the applicant themselves or their agent.
  - One speaker representing the objectors.



- The relevant Parish Council representative.
- A Ward Member.

In exceptional circumstances the Chairman has discretion to allow any other person to speak if it is considered necessary to do so.

*Order of Speakers*

1. The objector has five minutes to put their case.
  2. A representative of the relevant parish council then has five minutes to put their case.
  3. A ward member who wishes to speak on the application will be allocated five minutes to put their case
  4. At the appropriate time, any other person allowed to speak at the discretion of the Chairman will be allowed five minutes to put their case.
  5. Finally the applicant, or their representative, will be allowed five minutes to put their case.
- 12.3 The speaker representing the applicant must have the permission of the applicant to represent him/her.
- 12.4 The speaker representing the objector(s) can be a neighbour, an interested individual or a representative of a residents group.
- 12.5 The first objector to register to speak will normally be appointed as the spokesperson. Where there is more than one person wishing to speak, objectors are encouraged to agree on a spokesperson who is prepared to cover all the points of concern, so as to make best use of the time available.
- 12.6 Persons wishing to speak on an application, which is to be considered at a Planning Committee and who have previously made representations on the application should contact the Public Speaking Officer on 01757 292037 before 3.00pm on the Monday prior to the Committee meeting.
- No late notification will be accepted and speakers cannot “turn up” to speak at Committee without the due notice being given.**
- 12.7 The purpose of the scheme is to enable speakers to put forward any points they wish to make directly to the Committee. There will be no need to read any submission already made in writing, as this will already be summarised in the report Councillors have before them.
- 12.8 Speakers should confine their comments to matters relevant to planning applications.
- 12.9 People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting.

- 12.10 The Chair of the Committee retains the right to decline to hear someone if they behave improperly, offensively or if they, in the Chair's view, intentionally obstruct the business in hand.
- 12.11 Officers may comment on the representations and the merits of the application in the light of those representations
- 12.12 The Committee will proceed to debate the application and make a decision.

### **13 REVIEW OF DECISIONS**

- 13.1 The Audit Commission's Report, 'Building in Quality', recommended that elected Councillors should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 13.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 13.3 Attendance at the review site visits shall be restricted to members of the committee and the local Councillor(s).

### **14. TRAINING**

- 14.1 Councillors should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 14.2 Councillors should endeavour to attend any other specialised training sessions provided since these will be designed to extend Councillors' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out your role properly and effectively.

**CODE OF PRACTICE FOR THE DETERMINATION OF LICENSING MATTERS****1. 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. 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. 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. 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. 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. MEMBERSHIP OF A LOBBY GROUP

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

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

### **7.3 THIS SECTION APPLIES TO MEMBERS REQUESTS FOR A SITE VISIT**

- 7.3.1 If a Member feels, on receipt of the report on an application, that a site visit would be beneficial, s/he should first discuss their concerns with a Principal Licensing Officer. Officers have powers to request additional information from parties, which can then be discussed at the hearing. This information may resolve the issues without the need for a site visit. If a Member still feels that a site visit is necessary then, in the interest of fairness, it is preferable that concerns should be expressed at the scheduled hearing since Members may find that the applicant, interested parties or responsible authorities can provide verbal information to the satisfaction of the Members present.

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

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

- 7.4.1 The Principal Licensing Officer may suggest the Committee or a Sub Committee undertake a Site Visit without prior discussion at a hearing, where in the professional opinion of the Officer there is a real benefit from viewing the site.
- 7.4.2 In such cases, officers will approach Members seeking a date for the site visit and hearing – usually in the form of an e-mail in the first instance.
- 7.4.3 The e-mail should set out the proposal for a site visit, the reasons behind the request; the projected benefit for Members; the address of the premise; the type of application and set out the arrangements for the visit.
- 7.4.4 Some site visits can only be conducted at night in order to gauge an accurate impression of the proposal being discussed. On occasion the site visits will also include a viewing of the site ‘in performance’.
- 7.4.5 In other cases it is usual for the site visit on an application to commence at 9.30 am (departing from the Civic Hall) and for the formal meeting to commence at



11.00 am in the Civic Hall to determine the application. As such it is anticipated that hearings will not conclude until the afternoon.

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

## **7.5 ON THE SITE VISIT**

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

## 8. 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. OFFICERS

- 9.1 Councillors and officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst officers are responsible to the Council as a whole. Officers are employed by the Council and not by individual Councillors and instructions can only be given through a decision of the Council, the Executive or a Panel or Committee. A successful relationship can only be based on mutual respect, trust, courtesy and understanding of each others positions.
- 9.2 The role of the Legal officer is to assist the committee in gathering evidence and understanding all relevant issues in order for Members to make a decision, and to advise on the sub committees' legal duties under the relevant legislation and on the admissibility of evidence.
- 9.3 As and when appropriate legal advice should be given or repeated in open session for all parties to be made aware of.
- 9.4 The role of the Governance Officer is to facilitate the smooth running of the hearing; advise on the Rules of Procedure and Regulations relating to hearings; make notes of the proceedings and reasons for granting or refusing applications; and ensure that decision letters are sent to all parties as soon as possible after the hearing.
- 9.5 The role of the Licensing Officer attending the hearing is neutral. They will make no recommendations to the Committee and attend hearings only to provide a summary report of the application, giving details of the representations received and any relevant legislative or policy considerations. However there is a separate but

distinct officer role which is exercised by Liaison and Enforcement Officers from Entertainment Licensing who may make representations on applications or seek reviews. The roles of these officers and the Licensing Officer processing applications and hearing reports are (and must remain) separate.

- 9.6 **Do not** put pressure on Licensing officers to put forward a particular recommendation.
- 9.7 **Do** recognise that officers are part of a management structure and only discuss an application, outside of any arranged meeting with those officers who are authorised to deal with the application at Member level.
- 9.8 **Do** recognise and respect that officers involved in the processing and determination of licensing application must act in accordance with the Council's Employee Code of Conduct. As a result, officers reports will be presented on the basis of their overriding obligation of professional independence.

## **10. RELATIONSHIP WITH THE EMPLOYEE CODE OF CONDUCT**

- 10.1 The Council has an approved Employee Code of Conduct. That Code applies at all times when officers are involved in the licensing process. This includes decision making by officers under delegated powers and attendance at meetings whether those are formal decision making meetings or informal meetings with members or the public.
- 10.2 Officers must apply the rules in the Employee Code of Conduct at all times. If they do not they may put the Council at risk of proceedings on the legality of any related decision, and may put themselves at risk of disciplinary action.
- 10.3 Generally licensing officers have little discretion in making licensing decisions. However there may be situations where they are called upon to exercise discretion such as deciding whether an objection is relevant. Other officers such as those employed by Environmental Health or Development have discretion on whether to object. Legal officers and committee clerks remain in the room with Members when decisions are made.
- 10.4 In all cases officers must avoid any improper conduct or occasion for suspicion of the appearance of improper conduct and should:-
- Ensure that they have given notice of any financial interest in any contract which has been or is proposed to be entered into by the Council.
  - Not accept gifts, entertainment, hospitality or any benefits in kind as set out in the Employee Code of Conduct.
  - Declare to their Director by completing the Register of Interests Form any personal interests which may conflict with licensing applications such as:
    - any involvement with an outside organisation which has an interest in any licensing application;
    - any financial interest in any licensing application; and
    - any other interest where others may think that a conflict of interest may arise. Examples of such situations include where the officer lives

adjacent to any licensed premises or visits the premises in a personal capacity on a regular basis.

- 10.5 Officers should also consider whether their spouse, partner or close relative has a financial or other interest in a licensing application which may give rise to the suspicion of the appearance of improper conduct and where the officer may therefore need to declare an interest.
- 10.6 Where an officer has declared an interest he or she should not participate in the processing of a licensing application but should instead refer the matter to his or her Manager who will arrange for another officer to discharge the duties.

## **11. 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. 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. BREACHES OF THE CODE OF PRACTICE**

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