

**For General Release**

<b>REPORT TO:</b>	<b>LICENSING COMMITTEE 20 NOVEMBER 2012 ETHICS COMMITTEE 22 NOVEMBER 2012</b>
<b>AGENDA ITEM NO:</b>	<b>8</b>
<b>SUBJECT:</b>	<b>PROTOCOLS FOR LICENSING HEARINGS AND HEARINGS UNDER THE GAMBLING ACT</b>
<b>LEAD OFFICER:</b>	<b>Executive Director , Planning &amp; Environment Department</b>
<b>CABINET MEMBER:</b>	<b>Councillor Simon Hoar –Cabinet Member for Community Safety &amp; Public Protection</b>
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b> The Council has determined that the functions of the Licensing Committee include this role. In addition, Council determined that the Ethics Committee shall review all protocols within the Constitution to determine whether they accord with the new Code of Conduct for Members and associated procedures.	
<b>FINANCIAL IMPACT</b> The recommendation contained in this report has no financial implications	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.: N/A</b>	

**1. RECOMMENDATION**

The Committee is asked to:

- 1.1 Comment on the proposed amendments to the Protocol for Licensing Hearings under the Licensing Act 2003, Appendix 1 and the comparative amendments proposed to the Protocol for Licensing Hearings under the Gambling Act 2005, Appendix 2

**2. EXECUTIVE SUMMARY**

- 2.1 Following statutory amendments to the ethics regime, full Council adopted a new Code of Conduct in July 2012 and directed that the Council's protocols be updated to reflect the new statutory regime and the Code of Conduct adopted by the Council. Once the Licensing Committee has considered and commented on the proposed changes, Ethics Committee are required, as directed by full Council, to determine that the provisions within the revised protocols comply with the new statutory ethical regime and Council's Code of Conduct. A verbal update of any comments from this Committee following its consideration of the protocols will be provided to the Ethics Committee at its meeting of the 22<sup>nd</sup> of November.

- 2.2 There have been amendments to the Licensing Act 2003, introduced by the Police Reform and Social Responsibility Act 2011 which came into force in April 2012 and the Live Music Act 2012 which came into force on 1 October 2012. Where relevant, the protocols have been updated to reflect these changes.
- 2.3 Certain typographical amendments have been made to ensure that terminology and references within the protocols accord with those utilised within the Council's Constitution.
- 2.4 An amendment to the procedure for variation of the protocols is suggested.

### **3. DETAIL**

#### Changes due to the new Ethics Regime

- 3.1 The Localism Act 2011 introduced a new statutory ethical regime for local government, and following the full Council meeting in June 2012, the Council adopted a new regime for the Council and a new Code of Conduct. The Council also replaced the former Standards Committee with a new Ethics Committee. The new statutory regime requires certain revisions to be made to the Council's protocols as there are no longer personal and prejudicial interests for Members but Disclosable Pecuniary interests and other interests.
- 3.2 The new ethical regime also introduced different requirements in respect of Member participation where a Disclosable Pecuniary Interest is in existence. In order to take these changes into account, the Protocols have been updated to remove references to the Standards Committee.

#### Changes due to the new Access to Information Procedure Rules:

- 3.3 Reference has been added to reflect reference to the Access to Information Procedure Rules which have been recently revised by full Council in response to new statutory regulations.

#### Typographical changes:

- 3.4 As reported to full Council in September 2012, amendments have been made throughout the Constitution to harmonise terminology, references and capitalisation. Similar updates have been made within the Protocols attached.

#### Changes introduced by the amendment to the Licensing Act:

- 3.5 As indicated above, legislative amendments have been made to the Licensing Act 2003, by the Police Reform and Social Responsibility Act 2011 and the Live Music Act 2012. Where relevant, the protocols have been updated to reflect these changes, including the changes in definitions of "responsible authorities" to include Licensing Authorities and Health Bodies and an alteration to who is eligible to make representations on an application by removing the "vicinity" requirement for people making representations.

Changes to the method of variation of the protocols:

- 3.6 As for all other Protocols within the Constitution, the procedure for amendment has been updated to remove reference to the Standards Committee and provide that the Committee is responsible for amendments to the protocols. In addition, provision is made for the Director of Democratic and Legal Services to update protocols where this is necessary due to legislative changes. This is an amendment which has been carried through in respect of all protocols within the Constitution. Members will still receive reports detailing updates to legislative provisions, but will not be required to consider amendments to protocols required to put the legislative provisions into effect unless these are areas in respect of which the Council has discretion as to the manner of such implementation.

Update to paragraph 6 of the Protocol for Licensing Hearings

- 3.7 Paragraph 6.2 has been updated to make clear that the Members of the Sub-Committee, not just the Chair, may meet with the Clerk and/or Legal Advisor in advance of the hearing where there are any issues of clarification Members wish to raise.
- 3.8 Full Council has determined that the Ethics Committee will conduct a review all protocols and rules of procedure currently in place in respect of Members and their conduct at meetings and elsewhere including in relation to Licensing committee meetings to ensure that all such procedures are compliant with and subordinate to the new Code of Conduct such that in future the terms of any protocols or procedures relating to Members are not differentially applied and do not impose greater obligations on Members than the proposed Code requirements. A verbal update will be made to members of the Ethics Committee following consideration by the Licensing Committee.
- 3.9 Copies of the protocols for consideration by Members are attached at Appendix 1 and Appendix 2 showing all proposed changes and Members are invited to comment on these proposals.

**4. CONSULTATION**

None

**5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1 There are no direct financial implications arising from this report.

**6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

- 6.1 The Solicitor to the Council comments that there are no direct legal consequences arising from the contents of this report beyond those set out in the body of the report.
- 6.2 (Approved by: Jessica Stockton, Corporate Solicitor for and on behalf of the Council Solicitor & Director of Democratic & Legal Services)

**7. HUMAN RESOURCES, EQUALITIES, ENVIRONMENT AND CRIME AND DISORDER IMPACT**

7.1 None

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**CONTACT OFFICER:** Michael Goddard, Trading Standards and Licensing Manager (ext 61838)

**BACKGROUND DOCUMENTS:** None