

Cheltenham Borough Council
Standards Committee – 13 February 2004
Licensing Committee - Probity in Licensing

Report of the Assistant Director Public Protection

1. Summary and recommendation

1.1 The development of a licensing probity guide for councillors and officers that is based upon existing good practice in development control planning offers an opportunity to build on current strengths and introduce improved transparency and public understanding of the ways in which the Licensing Committee strives to provide a 'fair hearing' and to uphold human rights and the principles of natural justice.

1.2 I therefore recommend that:

- **Standards Committee approves the attached draft probity guide for consultation with Licensing Committee and Social and Community Overview and Scrutiny Committee, and subject to no major changes being proposed by either committee that:-**
- **Standards Committee recommends the guide for adoption by Council, subject to the requirements of the regulations and guidance issued under the Licensing Act 2003 and any comments of the Licensing Committee and/or Social and Community Overview and Scrutiny Committee.**

2. Background

2.1 The Licensing Committee operates as a quasi judicial body. It's responsibilities as well as it's delegated powers are significant as is it's experience of dealing with contentious applications. On the relatively few occasions that the Committee's decisions have been subject to an appeal challenge through the courts there has never been an adverse finding in relation to: member or officer probity; the fairness and propriety of committee hearings; and, the reasoned, rational and balanced way in which decisions have been reached. Similarly investigations amongst users of the Council's licensing services have revealed high levels of satisfaction all of which have helped to contribute to Environmental Health and Licensing receiving Charter Mark recognition for the excellence of it's services to the public.

2.2 The Licensing Act 2003 will involve significant changes to the Council / committee's responsibilities. It provides for a single integrated regime for the licensing of pubs, late-night cafes and takeaways, music and dancing, theatres, cinemas and registered members' clubs, to be administered by local authorities. In undertaking these significant new responsibilities the Council will be required to uphold four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

2.3 The Act requires the Council to establish a Licensing Committee of ten to fifteen members which will have extensive delegated powers including the ability to establish sub committees and to determine officer delegations. Council has resolved that the Social and Community Overview and Scrutiny Committee should oversee the production of the Licensing Policy Statement prior to its consideration by full Council.

The Council has also started to consider changes to the size and terms of reference of the Licensing Committee and will need to act further once the Government has progressed its reform agenda by issuing regulations and statutory guidance.

2.4 The Licensing Act 2003 (section 9) provides that regulations may make provision about:

- a) the conduct and proceedings of licensing committees and sub committees
- b) public access to meetings
- c) the publicity to be given to meetings
- d) agendas and records of meetings
- e) public access to such records

2.5 Informal consultation with members of the licensed trade in Gloucestershire has revealed a considerable lack of understanding about the range and complexity of licensing responsibilities that are currently undertaken by local authorities. This in turn has led to expressions of concern about how well councils and committees with limited knowledge of 'our trade' will function.

- 2.6** This organisation has clear values that are expressed in its business plan and is well placed to take forward the challenges of licensing reform on a partnership basis with stakeholders in exactly the way that is advocated by the government. Of particular relevance are the values relating to clarity and openness, aspiring to excellence and being innovative. Your officers have looked at practice elsewhere in the organisation and concluded that the existing probity in planning guide could be adapted for the licensing committee and service to assist in the post Licensing Act 2003 arena. A draft guide to procedures and protocol for members and officers has been prepared and is appended to this report.

3. Discussion

- 3.1** If members are happy to accept my recommendations the guide would be taken forward as a consultation draft. When the council is in a position to progress its statutory duty to publish and consult upon a draft licensing policy statement under the Licensing Act 2003 the draft probity guide would be appended. In this way a very wide audience of interested persons from all sectors would be given an opportunity to comment. Even if no comments were made on the draft probity guide everyone would be able to see how seriously the Council takes its responsibilities and how effectively its values are translated into actions.
- 3.2** The Council has adopted the Enforcement Concordat and its corporate enforcement policy shows how the principles of good enforcement: clear standards; openness; helpfulness; consistency; and, proportionality are upheld in Cheltenham. The application of these principles to the operation of the licensing service through the probity guide would represent a further significant commitment to upholding the principles of good enforcement.

4. Implications

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| 4.1 Financial | None at this stage |
| 4.2 Legal | There are no additional implications to those detailed in the report |
| 4.3 Personnel | None |
| 4.4 Equal opportunities, social justice and anti-poverty | None |
| 4.5 Environmental | None |

Background Papers	The Enforcement Concordat
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Accountability

Councillor Lloyd Surgenor

Cabinet Deputy Public and Environmental Protection

Scrutiny Function

Social and Community Overview and Scrutiny