



Coventry City Council

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# Council Meeting

11 December 2007

**Booklet 1**

Recommendations

# INDEX TO MINUTES

Page Nos.

Cabinet	
20 November 2007.....	1
Standards Committee	
28 November 2007.....	21

## **CABINET**

**20<sup>th</sup> November 2007**

Cabinet Members Present:-  
Councillor Ahmed  
Councillor Blundell  
Councillor Foster  
Councillor Mrs Johnson  
Councillor Matchet  
Councillor Noonan  
Councillor O'Neill  
Councillor Ridley  
Councillor Sawdon  
Councillor Taylor (Chair)

Non-Voting Opposition Representatives present:-  
Councillor Benefield  
Councillor Duggins  
Councillor Mutton  
Councillor Nellist

Employees Present:-  
A. Bennett (City Services Directorate)  
D. Blackburn (City Services Directorate)  
A. Brown (City Services Directorate)  
L. Bull (Community Services Directorate)  
D. Elliott (City Development Directorate)  
T. Errington (City Development Directorate)  
S. Giles (Children, Learning and Young People's Directorate)  
C. Green (Director of Children, Learning and Young People)  
L. Knight (Customer and Workforce Services Directorate)  
S. Manzie (Chief Executive)  
B. Marriott (Community Services Directorate)  
B. Messinger (Director of Customer and Workforce Services)  
C. Parker (Chief Executive's Directorate)  
C. Pullin (Children, Learning and Young People's Directorate)  
A. Vaughan (City Services Directorate)  
J. Venn (Chief Executive's Directorate)  
C. West (Director of Finance and Legal Services)  
M. Yardley (City Development Directorate)

### **Recommendation**

#### **134. Licensing Act 2003 – Revised Statement of Licensing Policy**

Further to Minute 44/07, the Cabinet considered a report of the Director of City Services, which detailed the results of the consultation on the draft revised Statement of Licensing Policy. The Cabinet noted that the report had also been considered and approved by the Licensing and Regulatory Committee at their meeting held on 6<sup>th</sup> November 2007.

Before determining policy for any three-year period, licensing authorities were required to carry out a wide consultation process. The Council had the authority to include in the process any individuals or organisations it deemed appropriate. The revised Statement of Licensing Policy, which had been produced in compliance with the revised Government guidance, was appended to the report submitted. The West Midlands Police, West Midlands Fire Service, Planning and Building Control, Coventry's Safeguarding Children Board, the Community Safety Team, Community Services Directorate and City Services Directorate had already been involved in the production of the revised policy.

In addition, a public consultation was carried out, which ended on the 23<sup>rd</sup> October 2007 and included mailshots to local businesses, key partners, residents groups and trade organisations; access to the consultation through the Council's website; and a member information event.

The Cabinet noted that the revised Statement of Licensing Policy must have been published by the 6<sup>th</sup> January 2008, before the Council could carry out any function in respect of individual applications made under the authority of the Licensing Act 2003.

**RESOLVED that the City Council be recommended to adopt the revised Statement of Licensing Policy attached as Appendix A to the report submitted, subject to the comments detailed in Appendix B of the report submitted, for the purposes of Section 5 of the Licensing Act 2003.**

**Report to**

Licensing and Regulatory Committee  
Cabinet  
Council

6<sup>th</sup> November, 2007  
20<sup>th</sup> November, 2007  
11<sup>th</sup> December 2007

**Report of**

Director of City Services

**Title**

Licensing Act 2003 – Revised Statement of Licensing Policy

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**1 Purpose of the Report**

- 1.1 The purpose of this report is to advise Members of the results of the consultation on the draft revised Statement of Licensing Policy.

**2 Recommendations**

- 2.1 That Licensing and Regulatory Committee considers the results of the revised Statement of Licensing Policy consultation (Appendix B) and the revised Statement of Licensing Policy (Appendix A) and notifies the Cabinet of its comments.
- 2.2 That Cabinet considers the revised Statement of Licensing Policy (Appendix A) and the results of the consultation (Appendix B) in light of any comments from the Licensing and Regulatory Committee and, following any amendments made:

Recommends to full Council on 11<sup>th</sup> December 2007 that it adopts the revised Statement of Licensing Policy attached as Appendix A for the purposes of Section 5 of the Licensing Act 2003.

**3 Information / Background**

- 3.1 On 17 July 2007, Cabinet considered a report on the draft revised Statement of Licensing Policy and authorised the Head of Public Protection to consult on its contents.
- 3.2 Before determining policy for any three-year period, licensing authorities are required to carry out a wide consultation process. The Council has authority to include in the process any individuals or organisations it deems appropriate. The revised Statement of Licensing Policy, which has been produced in compliance with revised government guidance, is attached to this report as Appendix A. West Midlands Police, West Midlands Fire Service, Planning and Building Control,

Coventry's Safeguarding Children Board, The Community Safety Team, Community Services Directorate and City Services Directorate, have already been involved in the production of the revised policy.

- 3.3 The public consultation exercise finished on 23<sup>rd</sup> October, and included the following elements:
- Mail shots to local businesses and key partners
  - Mail shots to residents groups and trade organisations
  - Access to the consultation through the City Council Web Site
  - Member Information Event
- 3.4 The results of the consultation process at the time of writing are attached as Appendix B. An updated appendix will be attached to this report when it is submitted for consideration to Cabinet before being presented to the full Council on 11<sup>th</sup> December.
- 3.5 The revised Statement of Licensing Policy must be published by the 6<sup>th</sup> January 2008, before the Council can carry out any function in respect of individual applications made under the authority of the Licensing Act 2003.

#### **4 Proposal and Other Option(s) to be Considered**

- 4.1 The revised statutory Guidance was released at the end of June 2007, giving local authorities limited time to draft a revised policy, carry out a wide consultation, obtain final full Council approval and publish the policy. Consequently, the timescale for obtaining final approval is tight, bearing in mind the length of time required to carry out the consultation process, review comments and the availability of Council meeting dates.
- 4.2 The Cabinet Office has issued guidance and a Code of Practice on the consultation process recommending a 12-week consultation period, and local authorities are encouraged to follow it. Since the last day of the consultation process is 23<sup>rd</sup> October it will be necessary for officers to inform members of the Licensing and Regulatory Committee at the meeting of any comments raised during the consultation process after the preparation of this report. A revised summary of consultation results (Appendix B) will be prepared and attached to this report before it goes to Cabinet on 20<sup>th</sup> November.

#### **5 Other specific implications**

	<b>Implications (See below)</b>	<b>No Implications</b>
Best Value		✓
Children and young people	✓	
Climate Change & Sustainable Development		✓
Comparable Benchmark Data		✓
Corporate Parenting		✓
Coventry Community Plan	✓	
Crime and Disorder	✓	
Equal Opportunities	✓	

	Implications (See below)	No Implications
Finance	✓	
Health and Safety		✓
Human Resources	✓	
Human Rights Act	✓	
Impact on partner organisations	✓	
Information and Communications Technology		✓
Legal Implications	✓	
Neighbourhood management		✓
Property Implications		✓
Race equality scheme	✓	
Risk Management		✓
Trades Union Consultation		✓
Voluntary Sector – The Coventry Compact		✓

	Yes	No
Key Decision		✓
Scrutiny Consideration (if yes, which Scrutiny meeting and date)		✓
Council Consideration (if yes, date of Council meeting)	11 <sup>th</sup> December 2007	

## 6 Children and young people

- 6.1 One of the licensing objectives is 'Protection of Children from Harm'. Applicants are required to show how they will address this objective in their operational schedule when making applications. The Coventry Safeguarding Children Board is the Responsible Authority consulted when applications are made. They have been made aware of the guidance review and have been consulted. .

## 7 Coventry Community Plan and Crime and Disorder

- 7.1 Another of the four licensing objectives is 'prevention of crime and disorder'. The Licensing policy acknowledges the Crime and Disorder Reduction Strategy and also gives information about proposed enforcement protocols with the police and other enforcement authorities. As a Responsible Authority the Police have been consulted.

## 8 Financial Implications

- 8.1 Prior to the implementation of legislation Central Government made a Commitment to Local Authorities that fees would cover the costs of undertaking the implementation of the Act.
- 8.2 An independent fee review (Elton Review) has recently been completed and

has provided various recommendations to the Secretary of State. The Review identified that there has been an excess of cost over income during the implementation of the Act. They concluded that the total which should be refunded by Central Government to Local Government is £43m for the three year implementation period, 2004/05 to 2006/07.

- 8.3 The Review also recommends an increase in fees by 7% for a three year period up to 2009/10. Fees will continue to be set nationally and applied locally with the fee levels continuing to be based on the non-domestic rateable value.
- 8.4 Through the Council's PPR process £125k was allocated to cover the costs of setting up the new licensing functions. The first year of premises licences being in force resulted in a net underrecovery of £15k. In future years, it is expected that income from the licences will match the costs of administration and enforcement.
- 8.5 The Government has not yet responded to the Elton Review and we await any decisions as to how Local Authorities may receive any monies due. The Review recommends allocating this as a specific grant.

## **9 Human Resources**

- 9.1 Licensing duties are carried out by the Licensing Team located in Environmental Health. At present there is an additional officer in the team to meet the demands of new licensing functions. The long-term size of the team will depend upon workload and set fee levels for the various licensing functions.

## **10 Human Rights**

- 10.1 The Statement of Licensing Policy will inform decisions taken by the licensing authority that will have an impact on the interests of private individuals and businesses. The policy reflects the need to respect the relevant rights given by the Human Rights Act.

## **11 Impact on Partner Organisations**

- 11.1 All Responsible Authorities and members of the Licensing Forum have been given the opportunity to comment on the guidance review.

## **12 Legal Implications**

- 12.1 The Council will not be able to undertake its role as a licensing authority after the 7<sup>th</sup> January 2008 unless it has approved and published its revised Statement of Licensing Policy. The policy must be reviewed every three years. However, it can be reviewed more often if appropriate.
- 12.2 The licensing function is to be carried out by the Council's Licensing and Regulatory Committee with the exception of the approval of the policy statement, which must be approved by full Council.
- 12.3 The Council will be required to have regard to any revised DCMS guidance when carrying out any licensing functions under the 2003 Act.
- 12.4 The Council will be required to have regard to the published joint enforcement policy.



### **13 Race Equality Scheme**

13.1 The Licensing Policy refers to the Council's Equality and Diversity Policies.

### **14 Monitoring**

14.1 The licensing policy mentions a number of mechanisms for the licensing function to receive and give reports to other committees and authorities. We will monitor the outcome of the consultation and incorporate into the revised guidance.

### **15 Timescale and expected outcomes**

15.1 The Statement of Licensing Policy must be published by the 6<sup>th</sup> January 2008, allowing the Council to continue to carry out any function in respect of individual applications made under the authority of the Licensing Act 2003, on or after 7<sup>th</sup> January 2008.

#### **List of background papers**

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#### **Papers open to Public Inspection**

<b>Description of paper</b>	<b>Location</b>
Licensing Act, 2003	Public Protection, Broadgate House
Revised Guidance issued under S.182 of the Licensing Act, 2003	
Cabinet Office - Code of Practice on Consultation	

Licensing Act 2003

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# Statement of Licensing Policy





# Map of the area covered by Coventry City Council





# Statement of Licensing Policy

## 1. Introduction

1.1 Coventry City Council has a duty under the terms of the Licensing Act, 2003 ('the Act') to carry out its functions as the Licensing Authority with a view to promoting the following licensing objectives:

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

1.2 Coventry is a city situated in the West Midlands with a population of 304,000. It is mainly urban but includes significant areas that are semi-rural. A map of the city is shown on the previous page.

1.3 This Statement of Licensing Policy relates to all those licensing activities identified as falling within the provisions of the Act, namely: -

- Retail sale of alcohol
- Supply of alcohol to club members
- The supply of hot food and/or drink from any premises between 11pm and 5am
- Provision of 'regulated entertainment' - to the public, to club members or with a view to profit:
  - A performance of a play
  - An exhibition of a film
  - An indoor sporting event
  - Boxing or wrestling entertainment
  - A performance of live music
  - Any playing of recorded music
  - A performance of dance
  - Provision of facilities for making music
  - Provision of facilities for dancing

1.4 The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work in partnership with neighbouring authorities, the West Midlands Police, the Coventry Community Safety Partnership, local businesses, performers, local people and those involved in child protection to promote the common objectives as outlined. In addition, the Council recognises its duty under S.17 of the Crime and Disorder Act, 1998, with regard to the prevention of crime and disorder.

1.5 This policy statement has been prepared in accordance with the provisions of the Act ~~and~~ the Guidance ~~and Supplementary Guidance issued under~~ ~~issued under~~ Section 182 of the Act and is valid for a period of three years from 7 January, 2008. This policy statement will be subject to review and further consultation prior to 1 January 2011.

## 2 Consultation

- 2.1 Before publishing this policy statement the Council has consulted with and given proper consideration to the views of the following in line with the statutory guidance:
- The Chief Officer of Police
  - The Fire Authority
  - Representatives of current licence and certificate holders
  - Representatives of local businesses
  - Representatives of local residents
  - Local licensing forum
  - Departments within the Council with an interest in licensing
- 2.2 The Council will also consult with the British Transport Police, local Accident & Emergency Department and local bodies representing consumers, the disabled, tourism, local performers and neighbouring authorities.

## 3 Fundamental Rights

- 3.1 Under the terms of the Act any individual may apply for a variety of permissions and have their applications considered on their individual merits. Equally, any person has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 3.2 Applicants and those making relevant representations in respect of applications to the Council have a right of appeal to Coventry Magistrates' Court against the decisions of the Council.

## 4 Licensing Conditions

- 4.1 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises. If there is an incident or other dispute, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activities in the area concerned.
- 4.2 The Council will not impose conditions on or refuse to grant or vary a premises licence or club premises certificate unless it has received a relevant representation from a responsible authority (police, fire authority, ~~child protection~~ Coventry's Safeguarding Children Board, health and safety, environmental health, planning, etc.) or an interested party (residents or their representatives, local businesses or their representatives) in the vicinity of the premises.
- 4.3 When considering any conditions, the Council acknowledges that licensing law should not be seen as the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of general control that licensing law will always be part of a holistic approach to the management of the evening and night-time economy of the city. For example, applicants should note that stricter conditions to control noise are likely to be imposed in the case of premises situated in largely residential areas.

- 4.4 The Council does not propose to implement standard licensing conditions of licences across the board. Therefore, the Council will attach conditions to licences and certificates, which are tailored to the individual style and characteristics of the premises and events concerned and that are necessary to promote the licensing objectives. In some circumstances, the Council will draw upon a pool of model conditions from suggested conditions issued by the Department of Culture, Media and Sport (DCMS) ~~Local Government Licensing Forum model conditions for Entertainment Licences, and the Council's current Public Entertainment, Cinema and Theatre Licence conditions~~. The Act requires that certain mandatory conditions be included in all premises licences and club premises certificates in particular circumstances.

## 5 Cumulative Impact

- 5.1 For the purposes of this document 'cumulative impact' means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Cumulative impact is a proper matter for the Council to consider in developing its licensing policy. This should not be confused with 'need', which concerns the commercial demand for another particular type of premises. 'Need' is an issue of market forces and is a matter for consideration by the Council's Planning Committee.
- 5.2 Applicants, responsible authorities and interested parties should know that at the present time the Council has not adopted a special policy identifying a particular concentration of licensed premises within the city which is considered to be causing a cumulative impact on one or more of the licensing objectives. Should the Council adopt a special policy within this Statement of Licensing Policy in the future, it will be necessary for there to be an evidential basis for the decision in accordance with the following steps:
- identification of concern about crime and disorder or public nuisance;
  - consideration of whether it can be demonstrated that
    - crime and disorder or nuisance are arising and
    - are caused by the customers of licensed premises, and
    - if so, identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
  - consultation with those listed above in paragraph 2.1 as part of the general consultation required in respect of the whole Statement of Licensing Policy;
  - subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of the S.182 Guidance and this Statement of Licensing Policy; and
  - publication of the special policy as part of the Statement of Licensing Policy required by the Act.
- 5.3 Special policies relating to cumulative impact will not include provisions for a terminal hour in a particular area or impose quotas, based on either the number of premises or the capacity of those premises.
- 5.4 If a special policy is adopted, it will be reviewed regularly to assess whether it is needed still or needs expanding. The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Act allows for such consideration but the individual merits of each application must always be considered.

5.5 Once away from licensed premises a minority of consumers may behave badly and unlawfully. There are other mechanisms both within and outside the licensing regime that are available for addressing such issues. These include -

- planning controls
- positive measures to create a safe and clean city environment in partnership with local businesses, transport operators and other departments within the Council;
- the provision of CCTV surveillance, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of the Council to designate parts of the City as places where alcohol may not be consumed publicly;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- **the Designated Public Places Order which now covers the whole city of Coventry. This enables the police to confiscate ~~the confiscation of~~ alcohol from adults and children Failure to comply with such a request would be an offence. ~~in designated areas;~~**
- police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance; and
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- **the Violent Crime Reduction Act 2006 empowers local authorities to designate Alcohol Disorder Zones to tackle alcohol related crime and disorder.**
- **council initiatives such as Best Bar None and taxi marshals**

5.6 The Council will address a number of these issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction and drug and alcohol misuse within the city.

## 6 Licensing Hours

6.1 The Council recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce friction at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance. The Council wants to ensure that licensing hours should not inhibit the development of a thriving and safe evening and night-time economy which is important for investment and employment and attractive to citizens of and visitors to Coventry. Providing consumers with a greater choice and flexibility is an important consideration.

6.2 **However, there is no presumption in favour of longer hours and the Council will take into account any evidence, which shows that longer opening hours in any particular case undermines the licensing objectives.**

6.3 As far as the Council's overall approach to licensing hours is concerned, it is not intended that any form of zoning (setting of fixed trading hours within a designated area) will be introduced. This can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on the city centre than is necessary.

6.4 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

- 6.5 In general, the Council will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises, which are situated in predominately residential areas if relevant representations have been made and the operating schedule content has not sufficiently addressed the licensing objective of prevention of public nuisance.
- 6.6 ~~Only in exceptional circumstances will the Council issue a licence for opening hours which are outside the planning permission for the property or the authorised use under the planning legislation~~ There are circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

## 7 Children in Licensed Premises

- 7.1 The Council recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, social clubs, nightclubs, cafes, takeaways, other retail premises, community halls and schools. Subject only to the provisions of the Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. It is important to be aware that the Act has made a number of significant changes in licensing law with regard to the admission of children under 16 to certain premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.
- 7.2 The Coventry ~~Area Child Protection Committee~~ **Safeguarding Children Board** is considered by the Council to be the responsible authority to consult with regard to applications and advice.
- 7.3 When deciding whether to limit access to children or not, the Council will consider the individual merits of each application and only limit access because it is necessary for the prevention of physical, moral or psychological harm to them. Areas that will give rise to particular concern in respect of children would include premises: -
- where entertainment or services of an adult or sexual nature are provided. This would generally include topless bar staff, striptease, lap, table or pole-dancing, performance involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism or entertainment involving strong and offensive language;
  - where there have been convictions of members of the current employees at the premises for serving alcohol to minors or with a reputation for underage drinking;
  - with a known association with drug taking or dealing;
  - where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 7.4 There are a range of alternatives, which may be considered for limiting the access of children where that is necessary for the prevention of harm to children. These, which can be adopted in combination, include -
- limitations on the hours when children may be present;
  - limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
  - limitations on the parts of premises to which children might be given access;
  - age limitations (below 18 years);
  - requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
  - full exclusion of those people under 18 years from the premises when any licensable activities are taking place.



- 7.5 The Council will not impose any condition to licences or certificates, which requires access for children to be provided at any premises. Where no licensing restriction is necessary, it should remain a matter for the discretion of the individual licensee or club or person who has been given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Council, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such. The Council, in these circumstances, will not impose other conditions concerning the presence of children on the premises.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

- 7.6 The Council would like to commend the Portman Group, which operates a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks on behalf of the alcohol industry. This Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. The Code has a means to deal with complaints, taking action in circumstances relating to product packaging and point-of-sale advertising. This Code is an important aspect in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

### **Children and cinemas**

- 7.7 In premises which are used for film exhibitions, the Council will expect licensees to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification (BBFC) or the Council itself.
- 7.8 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, the Council will require that there is an adequate number of adult staff at places of entertainment to control access and egress of children and to protect them from harm. Children present at events as entertainers will be expected to have a nominated adult responsible for each child performer.

## **8 Integrating strategies and the avoidance of duplication**

- 8.1 By consulting widely prior to this policy statement being published, the Council will take full account of local policies covering crime prevention, anti-social behaviour, culture, transport, planning and tourism as part of an integrated strategy for the Council, police and other agencies. Many of these strategies may not be directly related to the promotion of the four licensing objectives, but indirectly impact upon them.
- 8.2 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council's Licensing and Regulatory Committee will therefore establish a reporting system on the -
- needs of the local tourist economy to ensure that these are reflected in their considerations;
  - employment situation and the need for new investment and employment where appropriate; and
  - general impact of alcohol related crime and disorder, by providing regular reports to the planning committee. This will enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

### **Crime Prevention strategies**

- 8.3 Crime prevention and drug and alcohol misuse strategies and the input of the Coventry Community Safety Partnership (CCSP) will be reflected in licence conditions, so far as possible.
- 8.4 The CCSP, with membership including the Council, police and the fire service, is committed to making Coventry a safe place in which to live, work and visit. It is the role of the CCSP to strategically plan, commission and oversee services that tackle crime and disorder and address drug and alcohol misuse.

### **Cultural strategies**

- 8.5 The Strategic Arts Policy sits within the framework of the Local Cultural Strategy and has been developed within the context of Coventry's existing arts infrastructure, initiatives and activities. The Council will monitor the licensing of regulated entertainment, and particularly live music and dancing, to ensure that potential event organisers have not been deterred from making applications because of licensing requirements.

### **Transport**

- 8.6 As part of an agreed enforcement protocol where the police have identified a particular need to disperse people from the city centre swiftly and safely so as to avoid situations which could lead to disorder and disturbance, the Council will inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.

### **Planning and building control**

- 8.7 Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the Council's Planning Committee poor following appeals against decisions taken by that Committee. Similarly, the granting by the Licensing and Regulatory Committee of any variation of a licence which involves a material alteration to a building will not relieve the applicant of the need to apply for planning permission or building regulations approval where appropriate.

### **Duplication**

- 8.8 When considering any application, the Council will avoid duplication with other regulatory regimes so far as possible. Therefore, the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives in the context of licensing law.

### **Promotion of Racial Equality**

- 8.9 The Council recognises its responsibilities under the Race Relations Act, 1976 and the Race Relations (Amendment) Act, 2000 when discharging its functions under the Licensing Act 2003. The impact of this policy on race relations will be monitored through the Council's race equality scheme.
- 8.10 The Guidance supporting the Act advises that conditions relating to disabled access should not be attached to licences, as this would duplicate existing statutory requirements. The Council therefore takes this opportunity to remind operators of premises of their duties under the Disability Discrimination Act 1995. This includes a duty that any person who provides a service to the public must make reasonable adjustments to any physical feature that makes it impossible or increasing difficult for a disabled person to access a service, or to provide the services by a reasonable alternative means.

## 9 Enforcement

- 9.1 The Council intends to establish protocols with the Police and other enforcing authorities on enforcement issues. These protocols will include agreements relating to joint inspections and joint strategies. This will provide a more efficient deployment of the Council's officers and police officers that are commonly engaged in enforcing licensing law and inspection of licensed premises. For example, these protocols should also provide for the targeting of resources towards high-risk premises and activities that require greater attention. A lighter touch will apply in respect of low risk ~~premises which premises, which~~ are well run.
- 9.2 In general, action will only be taken in accordance with the principles of the Enforcement Concordat and the Licensing Enforcement Policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

## 10 Live music, dance and theatre

- 10.1 The Council recognises that, when implementing cultural strategies referred to previously in this policy, proper account will be taken of the need to encourage and promote all forms of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of communities. When determining applications, the Council will have regard to guidance issued by the DCMS with regard to attaching conditions and imposing indirect costs of a disproportionate nature. Applicants are reminded that applications will be open to scrutiny by all the responsible authorities when the application is made. For example, if relevant representations are made concerning the potential for noise nuisance, the Council will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits to the community.
- 10.2 Applicants and members of the public can obtain advice about whether or not activities are required to be licensed from the Licensing Team. Contact details are given at 12.1.

## 11 Administration, exercise and delegation of functions

### Licensing and Regulatory Committee

- 11.1 The powers of the Council under the Act may be carried out by the Licensing and Regulatory Committee, by a Sub-Committee or, instead, by one or more Council officers acting under delegated authority.
- 11.2 It is considered that many of the decisions and functions will be purely administrative in nature. In the interests of speed, efficiency and cost effectiveness the Licensing and Regulatory Committee may delegate these functions to Sub-Committees, or in appropriate cases, to officers supporting the licensing function. ~~All matters approved in this way will be listed for information only at the next available committee meeting.~~

11.3 Where under the provisions of the Act there are no relevant representations on an application for the grant of a premises licence or club premises certificate or no police objection to an application for a personal licence or to an activity taking place under a temporary event notice, these matters will be dealt with by officers. Should there be relevant representations, a Sub-Committee of the Licensing and Regulatory Committee will deal with applications. An oral hearing will take place, except where all parties agree to proceed in writing. The same procedure will apply to any application for review of a licence. The following table sets out the delegation

<b>Matters to be dealt with</b>	<b>Full Council</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application to transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

## Application forms and process

- 11.4 The application form will be in the DCMS format. The operating schedule will form part of the completed application form for a premises licence and a club premises certificate. The form will need to contain information that describes the style of the venue, the licensable activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the four licensing objectives. Applicants should carry out a risk assessment before they apply for a licence.
- 11.5 Applicants are encouraged to fully consult the police and other statutory services well in advance of carrying out their risk assessments and submitting their applications. Application forms and guidance leaflets will be available from the City Services Directorate, including contact names for each of the responsible authorities that will be receiving applications. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.
- ~~11.6 Applications for premises licences should normally be from an individual or businesses with planning consent for the property concerned.~~
- 11.7 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime, alcohol, drug and disorder strategies in order to take these into account, where appropriate, when formulating their operating schedule. Guidance notes containing contact and website information about these policies will be available from the Licensing Team, City Services Directorate. Contact details are below.

## 12 Comments on this policy

- 12.1 The Statement of Licensing Policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

**City Services Directorate  
Licensing Team**

Broadgate House  
Broadgate  
Coventry CV1 1NH

Telephone Number: 024 7683 1888

Fax Number: 024 7683 2154

e-mail: [licensing@coventry.gov.uk](mailto:licensing@coventry.gov.uk)

website: [www.coventry.gov.uk](http://www.coventry.gov.uk)

If you need this information in another format or language please contact:

**Telephone: 024 7683 1888**

**Fax: 024 7683 2154**

**Minicom: 0500 431143**

**e-mail: [licensing@coventry.gov.uk](mailto:licensing@coventry.gov.uk)**



## **STANDARDS COMMITTEE**

**28th November, 2007**

Members Present:- City Council Members

Councillor N. Lee  
Councillor K. Mulhall  
Councillor A. Williams

Independent Members

M. Farrell  
B. Farrer (Chair)  
D. Jackson  
B. Ray  
J. Willetts (Deputy Chair)

Parish Councillor Representative

B. Shakespeare

Employees Present:- S. Bennett (Customer and Workforce Services Directorate)  
C. Campbell (Customer and Workforce Services Directorate)  
K. Rice (Head of Legal Services)  
D. Taylor (Interim Head of Democratic Services)

Apology:- A. Casey

## **RECOMMENDATION**

### **21. Whistleblowing Policy**

The Committee considered a report of the Director of Customer and Workforce Services, that had also been considered by the Scrutiny Co-ordination Committee (their Minute 89 /07 refers), which sought approval for the Whistleblowing Policy, a copy of which was appended to the report.

As part of the Corporate Performance Assessment, the external auditors had identified that the Council did not have a Whistleblowing Policy document. The Council had in place a Whistleblowing Procedure document that provided a framework within which employees can raise concerns easily, internally or externally, regarding concerns about bad practice however, this document had not been reviewed for a number of years. Good practice models had been used to prepare the policy document, including documents from CIPFA, Public Concern at Work best practice guidance, Committee on Standards in Public Life and established policy documents from other local authorities. The Whistleblowing Policy was an employment policy document for which Human

Resources were responsible for the maintenance, communication and dissemination. However, it needed to identify links with services supporting children and services supporting vulnerable adults, as well as having clear links with the Council's Fraud and Corruption Policy. The document had been prepared in consultation with the Council's internal Audit Team, representatives from Adult Protection and Child Protection.

The primary legislation forming the backdrop to the procedure was the Public Interest Disclosure Act 1998. The Policy provided protection to employees from being dismissed, or other forms of victimisation, should they choose to "blow the whistle" on bad practice within their employment. The Council could not protect non-employees from victimisation for "blowing the whistle" on bad practice identified within the Council, however the policy document enabled contractors working for the Council to use the provisions of the document to make the Council aware of any concerns that the contractors' employees may have with regard to contractual or other arrangements within the City Council.

Revising the document provided an opportunity to relaunch/publicise the Policy to employees and it would be available to all employees through a range of sources including the Intranet, managers, Human Resources and trade union representatives. The Policy would also appear on the Council website to demonstrate openness and probity and would form part of the City Council's Constitution. The role of the Standards Committee was to monitor and review the Council's Whistleblowing Procedure in accordance with the City Council's Constitution.

The Committee noted that Scrutiny Co-ordination Committee had welcomed the introduction of a revised Whistleblowing Policy and had extensively discussed its future operation. However, the Committee were particularly interested in Section 6 of the Policy relating to "safeguards" and had raised concerns about Section 6.2 in relation to ensuring that individuals were not victimised in any way. The Committee had therefore asked the Standards Committee to incorporate revised wording into this Section that would provide the maximum safeguarding for staff who legitimately took advantage of the Whistleblowing Policy and to ensure that every protection was afforded them. The Committee had also indicated that individuals could be discriminated in a number of different ways after they have expressed concerns about different actions of practice and the Whistleblowing Policy should, wherever possible, ensure that people were not passed over for promotion or their careers affected in less obvious ways, which could only be achieved by careful monitoring over time. The Committee had also strongly emphasised the need for a publicity plan and for officers to make every effort to ensure that all staff were fully made aware of the new Policy.

The Standards Committee agreed with the comments made by the Scrutiny Co-ordination Committee and requested that Section 6.2 be amended accordingly. They also noted that they would be receiving an annual monitoring report on the use and application of the Policy.

**RESOLVED that the City Council be recommended to approve the implementation of the Whistleblowing Policy as appended to these minutes (and which incorporates the amendment as outlined above).**





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# Whistleblowing Policy

October 2007

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## 1. Introduction

- 1.1 The Council takes malpractice seriously and encourages people to speak out if they are aware of any actual or potential malpractice within the organisation. The Council is committed to creating an open culture, where concerns can be raised without fear of reprisals.
- 1.2 The whistleblowing policy exists to help individuals raise concerns over any wrongdoing within Coventry City Council relating to unlawful conduct, financial malpractice, or dangers to the public or the environment. It does not apply where employees are aggrieved about their own personal position – in such instances the Council's grievance procedure applies. (Details of this are available from the intranet or from Human Resources.) The Whistleblowing Policy is primarily for concerns where the interests of others or of the organisation itself are at risk.
- 1.3 The policy is intended to encourage and enable individuals to raise serious concerns within the Council rather than overlook a problem. The policy also outlines how individuals may properly raise concerns outside the Council.
- 1.4 The policy supports the Council's Fraud and Corruption policy and complements other specific investigation procedures developed to support vulnerable groups i.e. Safeguarding Children and Vulnerable Adult<sup>1</sup> Protection.
- 1.5 **If you have a concern, you should contact:**
  - **For fraud and financial irregularity - the Internal Audit Manager (Stephen Mangan ext 3747)**
  - **For all other matters - the Head of Legal Services as Monitoring Officer (Kathy Rice ext 3020)**

<sup>1</sup> A Vulnerable adult is 'a person aged 18 years or over, who is in receipt of or may be in need of community care services by reason of 'mental or other disability, age or illness and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation'

- 1.6 All employees of the Council may use this Code. This includes permanent and temporary employees. It also covers agency workers and employees seconded to a third party. Any concerns relating to the third party, if relevant to the employee's secondment, can also be raised under this Code.

Contractors working for the Council may also use the provisions of this Code to make the Council aware of any concerns that the contractor's employees may have with regard to contractual or other arrangements with the City Council. The private concerns of the contractor relating to non-council business should be raised with the relevant contractor and/or other suitable agency/regulator - including the police, if appropriate.

- 1.7 This Policy also applies to Teachers and School employees, subject to its adoption by Governing Bodies. In Voluntary Aided schools, the Governors are the employers of the staff and not the City Council. Employees based within such establishments may wish to report concerns to the Diocesan authorities, or the external sources, referred to at paragraph 9 below.

- 1.8 Matters reported directly to the Council by a school based Council employee will be referred to the Director of Children Learning and Young People before further action is taken. Matters reported directly to the Council by an employee of a Voluntary Aided School will be referred to the Diocesan authority by the Director of Children Learning and Young People.

- 1.9 Details of how to raise a whistleblowing concern are given in section 4 of this document.

## **2. Policy statement**

- 2.1 The Council is committed to the highest possible standards of openness, probity, and accountability and will take action to address improper practices. As part of this commitment, the Council is determined to follow best practice on whistleblowing and:

- provide opportunities for individuals to raise concerns outside of their line management structure;
- not allow any individuals who come forward with concerns raised in good faith to be discriminated against or victimised;
- ensure concerns are treated in confidence and make every effort not to reveal the identity of the whistleblower. (The Council cannot give a complete assurance that an individual's identity would not be revealed – see section 6.);
- investigate all concerns, ensure individuals get a response to their concerns, and take all possible action against wrongdoers;
- take action against anyone found to have made a false allegation maliciously.

## **3. When does the whistleblowing policy apply?**

- 3.1 The Public Interest Disclosure Act 1998 sets out the categories where the statutory whistleblowing protection applies. These are:

- a criminal offence;
- a failure to comply with a statutory or legal duty (e.g. Race Relations (Amendment) Act, Data Protection Act etc.);
- improper unauthorised use of public funds or other funds;

- a miscarriage of justice;
- sexual or physical abuse of any employee or service recipient;
- discrimination of an employee or service recipient on the grounds of sex, age, race, disability, religion, belief or sexual orientation.
- endangering of an individual's health and safety;
- damage to the environment;
- deliberate concealment of any of the above.

3.2 In addition, the Council will provide similar protection to any employee "blowing the whistle" on any issue deemed to be a breach of the Council's code of conduct.

3.3 The overriding concern should be that it would be in the public interest for malpractice to be corrected and, if appropriate, sanctions applied.

3.4 The policy is subject to any relevant legislation and specifically will operate within the requirements of the Data Protection Act.

#### **4. How to raise a concern**

4.1 The Public Interest Disclosure Act encourages individuals to raise their concern with their employer. Within the Council, the key contacts to raise whistleblowing concerns with are:

##### Potential fraud or financial irregularity

- Internal Audit Manager (Stephen Mangan ext 3747).

##### Other concerns

- The Council's Monitoring Officer (the Head of Legal Services)

In addition, employees can make initial contact with any of the following:

- Supervisor, manager, or Head of Service
- Head of Establishment or Headteacher
- Trade Union representative

Any of the above will provide advice on how to take the issue forward and will ensure that the relevant key contact is notified that a whistleblowing concern exists.

If the concern is connected with a direct line manager/supervisor then, if appropriate, the Directorate's HR Manager will provide confidential advice as to whom the concern should be directed. Alternatively, the Internal Audit Manager or the Head of Legal Services as the Council's Monitoring Officer should be contacted directly.

4.2 Whilst individuals can raise concerns verbally, it is often better to put them in writing<sup>2</sup>, but any method of communication is acceptable. The information needed is the background and history of the concern giving names, dates and places where possible, and the reason for the particular concern. To allow any points raised to be clarified, individuals will need to provide details of how they can be contacted.

4.3 The earlier concerns are raised; the easier it will be to take action.

4.4 Advice and guidance on how matters of concern may be pursued can be obtained from the following:

- Line manager, headteacher
- Human Resources

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<sup>2</sup> This can be hand written or by e-mail. If using e-mail you must consider the security and confidentiality aspects of this method.

- Internal Audit Services
- Trade union/professional association
- Public Concern at Work. This is an independent charity that operates a confidential helpline to provide free impartial advice for persons who wish to express concern about fraud and other serious malpractice. The telephone number is **020 7404 6609**. Further details are available from their website – [www.pcaw.co.uk](http://www.pcaw.co.uk).

4.5 Trade Union representatives may support an employee raising an issue of concern throughout the process.

## **5. How the Council will respond.**

5.1 Any concern raised either in writing or verbally under the whistleblowing policy, will be acknowledged in writing within 3 days. This will:

- Acknowledge that the concern has been received;
- Summarise the details of the concern;
- Identify who is dealing with the matter.

5.2 The action taken by the Council will depend on the nature of the concern. The matters raised may be:

- investigated internally by an appropriately skilled and experienced employee, knowledgeable in the area concerned e.g. Manager, Internal Audit, Social Care Manager, Benefits Investigation Team, Human Resources, Chief Executive, the Council's Monitoring Officer, Vulnerable Adults Protection Coordinator, the Safeguarding Children Officer etc;
- referred to the Police;
- referred to the Health and Safety Executive
- referred to the External Auditor or Ombudsman;
- referred to the National Standards Board;
- the subject of an independent enquiry.

5.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, safeguarding children, vulnerable adults' protection, or discrimination issues) will normally be referred for consideration under those procedures.

5.4 Some concerns may be resolved by agreed action without the need for further investigation.

5.5 The amount of contact between the officer(s) considering the issues and the employee reporting the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be obtained from the individual reporting the concern in a discreet manner.

5.6 When any meeting is arranged, individuals will have the right, if desired, to be accompanied by a trade union or other representative. The meeting can be arranged away from the normal place of work, if requested.

5.7 The Council will take steps to minimise any difficulties which individuals may experience as a result of raising a concern and provide any appropriate support. For instance, if the individual is required to give evidence in disciplinary or criminal proceedings, the Council will provide advice about the procedure.

5.8 The Council accepts that individuals raising a concern need to be assured that the matter has been properly addressed and will notify them when the whistleblowing policy process has been completed. This will normally be within 20 working days of a concern being raised. In addition, details will be given on what action has been taken to correct working practices, which have been found to be at fault by the investigation.

5.9 If an allegation is received anonymously, it may restrict what the Council is able to do.

There is an expectation that the person reporting a matter will disclose their identity to the Audit Manager, as this will facilitate the investigation. The Council will endeavour to maintain the person's anonymity wherever possible.

5.10 The following factors will be considered when establishing the scope and depth of any investigation:

- The seriousness of the issues raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from recognised sources and information available.

## **6. Safeguards**

6.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice.

The Council will not tolerate harassment or victimisation and will take action to protect individuals wherever possible provided that:

- The concerns are raised in good faith;
- The information provided is believed to be true, even if the allegation is not subsequently confirmed by the investigation;
- Allegations are not made for personal gain.

The Internal Audit Manager or the monitoring officer will carry out a risk assessment to determine safeguards as necessary.

6.2 Every effort will be made to ensure confidentiality as far as is reasonably practical. Individuals should be aware that actions taken as a result of their report may lead to their identity being revealed, either by inference or as a result of disciplinary or legal proceedings. If this should happen, the Council will not tolerate any individual being victimised in any way.

6.3 Support will be provided to help overcome any difficulties experienced as a result of raising a concern. During the investigation, any meetings with the individual raising the concern can be arranged away from their place of work and they will have the opportunity to be accompanied by a representative of their choice, if they wish. If the individual is required to present evidence as a witness, arrangements will be made to provide them with support through the process. Access to counselling and support is available to all employees.

6.4 Every effort will be made to keep the individual reporting the matter of concern informed. However, the information provided will be determined by the nature of the investigation and whilst safeguarding the rights of other individuals involved in the process.

## **7. Malicious Allegations**

7.1 The Council will take action against any individual found to have made a malicious or vexatious allegation. For an employee, this could result in disciplinary proceedings.

## **8. Raising concerns outside of the Council.**

8.1 This policy is intended to provide employees with an avenue to raise concerns **within** the Council. If an employee instead takes the matter outside the Council, they should ensure that they do not disclose confidential information. Employees should also check that they do not contravene the Public Interest Disclosure Act as this does not provide blanket protection and only allows individuals to disclose matters to their employer or specified bodies. Any breach of the Act could lead to disciplinary action.

8.2 If an individual wishes to raise a concern outside the council or feels that the Council has not handled their concern appropriately, the following possible contact points may be relevant –

- The Ombudsman – 0845 602 1983 ([www.lgo.org.uk](http://www.lgo.org.uk))
- The Audit Commission. 0844 7981212 [www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)
- Relevant professional bodies or regulatory organisations
- Trade Union/Professional Association – details are available from Human Resources
- Your solicitor
- The Police
- The Health and Safety Executive

## **9 Monitoring**

9.1 Monitoring of the Whistleblowing Procedure will be undertaken by the Council's Standards Committee in accordance with the Constitution.

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**Report to**  
Standards Committee

**28 November 2007**

**Report of**  
Director of Customer and Workforce Services

**Title**  
Whistleblowing Policy

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### **1 Purpose of the Report**

1.1 To present and seek approval for the Whistleblowing Policy (see Appendix 1).

### **2 Recommendations**

2.1 That the Whistleblowing Policy is approved for implementation

2.2 That the Standards Committee receive an annual monitoring report on the use and application of the Whistleblowing Policy in April each year.

### **3 Information/Background**

3.1 As part of the Corporate Performance Assessment the external auditors identified that the Council does not have a Whistleblowing Policy document.

3.2 The Council has in place a Whistleblowing Procedure document that provides a framework within which employees can raise concerns either internally or externally regarding concerns about bad practice. The document has not been reviewed for a number of years.

3.3 Good practice models have been used to prepare the policy document including documents from CIPFA, Public Concern at Work best practice guidance, Committee on Standards in Public Life and established policy documents from other local authorities.

3.4 The Whistleblowing Policy is an employment policy document for which Human Resources is responsible for the maintenance, communication and dissemination. However, it needs to identify links with services supporting children and services supporting vulnerable adults as well as having clear links with the Council's Fraud and Corruption Policy.

3.5 The document has been prepared in consultation with the Council's Internal Audit team, representatives from Adult Protection and Child Protection.

3.6 The primary legislation forming the backdrop to the procedure is the Public Interest Disclosure Act 1998. The Policy provides protection to employees from being dismissed,

or other forms of victimisation, should they choose to "blow the whistle" on bad practice within their employment.

- 3.7 The Council cannot protect non-employees from victimisation for "blowing the whistle" on bad practice identified within the Council. However, the policy document enables Contractors working for the Council to use the provisions of this document to make the Council aware of any concerns that the contractor's employees may have with regard to contractual or other arrangements with the City Council.
- 3.8 Revising the document provides an opportunity to relaunch/publicise the policy to employees. The policy will be available to all employees through a range of sources including the intranet, managers, Human Resources and trade union representatives. The policy will appear on the Council website to demonstrate openness and probity.
- 3.9 The role of the Standards Committee is to monitor and review the Council's Whistleblowing Procedure. With the implementation of a revised procedure it will be appropriate to review the monitoring arrangements.

**4 Proposal and Other Option(s) to be considered**

- 4.1 It is proposed that the attached document (Appendix 1) replaces all previous Whistleblowing documents and the changes are fully communicated to the Council's workforce.

**5 Other specific implications**

5.1

	Implications (See below)	No Implications
Best Value		
Children and Young People		
Climate Change & Sustainable Development		
Comparable Benchmark Data		
Corporate Parenting		
Coventry Community Plan	✓	
Crime and Disorder		
Equal Opportunities	✓	
Finance	✓	
Health and Safety		
Human Resources	✓	
Human Rights Act		
Impact on Partner Organisations		
Information and Communications Technology		
Legal Implications	✓	
Neighbourhood Management		



	Implications (See below)	No Implications
Property Implications		
Race Equality Scheme		
Risk Management		
Trade Union Consultation	✓	
Voluntary Sector – The Coventry Compact		

## 5.2 Coventry Community Plan

This policy contributes to the Coventry Community Plan vision "that each person in Coventry can experience: being healthy, keeping safe, achieving and enjoying, making a positive contribution, realising economic well-being and having supportive friends and community".

## 5.3 Equal Opportunities

The policy supports the Council's Equalities Strategy. In particular supporting the objectives:

- To create a city where people feel safe and confident and no-one is disadvantaged by the neighbourhood in which they live
- To actively promote equality so that people from different backgrounds have similar life opportunities

## 5.4 Finance

The Whistleblowing Policy has clear links with the Council's Fraud and Corruption Policy to ensure protection of the Council's financial assets.

## 5.5 Human Resources

The policy will ensure compliance with best practice Human Resource Policies and Procedures. The policy has been developed as part of the Council's People Management Framework.

## 5.6 Legal Implications

The document reflects the provisions of the Public Interest Disclosure Act 1998.

## 5.7 Trade Union Consultation

The recognised trade unions have been fully consulted and participated in the preparation of the document.

## 6 Monitoring

- 6.1 A report on the use and review of the Whistleblowing Policy will be provided to the Standards Committee as appropriate.

**7 Timescale and expected outcomes**

7.1 The document will be implemented as soon as possible by Human Resources in consultation with the Audit Team, the services supporting children and the services supporting vulnerable adults.

	Yes	No
<b>Key Decision</b>		<b>x</b>
<b>Scrutiny Consideration (if yes, which Scrutiny meeting and date)</b>	<b>Scrutiny Co-ordination – 21<sup>st</sup> November 2007</b>	
<b>Council Consideration (if yes, date of Council meeting)</b>		<b>x</b>

List of background papers

Proper officer: Bev Messinger, Director of Customer and Workforce Services

Author: Telephone 02476833277  
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 (Any enquiries should be directed to the above)

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 Paul Jennings, Finance and Legal Services Tel (024) 76 83 3753  
 Joanne Holding, HR Adviser, Customer and Workforce Services Tel: (024) 7683 3249

Papers open to Public Inspection

Description of paper	Location
None	



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# Whistleblowing Policy

October 2007

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## 1. Introduction

- 1.1 The Council takes malpractice seriously and encourages people to speak out if they are aware of any actual or potential malpractice within the organisation. The Council is committed to creating an open culture, where concerns can be raised without fear of reprisals.
- 1.2 The whistleblowing policy exists to help individuals raise concerns over any wrongdoing within Coventry City Council relating to unlawful conduct, financial malpractice, or dangers to the public or the environment. It does not apply where employees are aggrieved about their own personal position – in such instances the Council's grievance procedure applies. (Details of this are available from the intranet or from Human Resources.) The Whistleblowing Policy is primarily for concerns where the interests of others or of the organisation itself are at risk.
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<sup>1</sup> A Vulnerable adult is 'a person aged 18 years or over, who is in receipt of or may be in need of community care services by reason of 'mental or other disability, age or illness and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation'

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- 1.9 Details of how to raise a whistleblowing concern are given in section 4 of this document.

## **2. Policy statement**

- 2.1 The Council is committed to the highest possible standards of openness, probity, and accountability and will take action to address improper practices. As part of this commitment, the Council is determined to follow best practice on whistleblowing and:
- provide opportunities for individuals to raise concerns outside of their line management structure;
  - not allow any individuals who come forward with concerns raised in good faith to be discriminated against or victimised;
  - ensure concerns are treated in confidence and make every effort not to reveal the identity of the whistleblower. (The Council cannot give a complete assurance that an individual's identity would not be revealed – see section 6.);
  - investigate all concerns, ensure individuals get a response to their concerns, and take all possible action against wrongdoers;
  - take action against anyone found to have made a false allegation maliciously.

## **3. When does the whistleblowing policy apply?**

- 3.1 The Public Interest Disclosure Act 1998 sets out the categories where the statutory whistleblowing protection applies. These are:
- a criminal offence;
  - a failure to comply with a statutory or legal duty (e.g. Race Relations (Amendment) Act, Data Protection Act etc.);

- improper unauthorised use of public funds or other funds;
- a miscarriage of justice;
- sexual or physical abuse of any employee or service recipient;
- discrimination of an employee or service recipient on the grounds of sex, age, race, disability, religion, belief or sexual orientation.
- endangering of an individual's health and safety;
- damage to the environment;
- deliberate concealment of any of the above.

3.2 In addition, the Council will provide similar protection to any employee "blowing the whistle" on any issue deemed to be a breach of the Council's code of conduct.

3.3 The overriding concern should be that it would be in the public interest for malpractice to be corrected and, if appropriate, sanctions applied.

3.4 The policy is subject to any relevant legislation and specifically will operate within the requirements of the Data Protection Act.

#### **4. How to raise a concern**

4.1 The Public Interest Disclosure Act encourages individuals to raise their concern with their employer. Within the Council, the key contacts to raise whistleblowing concerns with are:

##### Potential fraud or financial irregularity

- Internal Audit Manager (Stephen Mangan ext 3747).

##### Other concerns

- The Council's Monitoring Officer (the Head of Legal Services)

In addition, employees can make initial contact with any of the following:

- Supervisor, manager, or Head of Service
- Head of Establishment or Headteacher
- Trade Union representative

Any of the above will provide advice on how to take the issue forward and will ensure that the relevant key contact is notified that a whistleblowing concern exists.

If the concern is connected with a direct line manager/supervisor then, if appropriate, the Directorate's HR Manager will provide confidential advice as to whom the concern should be directed. Alternatively, the Internal Audit Manager or the Head of Legal Services as the Council's Monitoring Officer should be contacted directly.

4.2 Whilst individuals can raise concerns verbally, it is often better to put them in writing<sup>2</sup>, but any method of communication is acceptable. The information needed is the background and history of the concern giving names, dates and places where possible, and the reason for the particular concern. To allow any points raised to be clarified, individuals will need to provide details of how they can be contacted.

4.3 The earlier concerns are raised; the easier it will be to take action.

4.4 Advice and guidance on how matters of concern may be pursued can be obtained from the following:

- Line manager, headteacher

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<sup>2</sup> This can be hand written or by e-mail. If using e-mail you must consider the security and confidentiality aspects of this method.

- Human Resources
- Internal Audit Services
- Trade union/professional association
- Public Concern at Work. This is an independent charity that operates a confidential helpline to provide free impartial advice for persons who wish to express concern about fraud and other serious malpractice. The telephone number is **020 7404 6609**. Further details are available from their website – [www.pcaw.co.uk](http://www.pcaw.co.uk).

4.5 Trade Union representatives may support an employee raising an issue of concern throughout the process.

## **5. How the Council will respond.**

5.1 Any concern raised either in writing or verbally under the whistleblowing policy, will be acknowledged in writing within 3 days. This will:

- Acknowledge that the concern has been received;
- Summarise the details of the concern;
- Identify who is dealing with the matter.

5.2 The action taken by the Council will depend on the nature of the concern. The matters raised may be:

- investigated internally by an appropriately skilled and experienced employee, knowledgeable in the area concerned e.g. Manager, Internal Audit, Social Care Manager, Benefits Investigation Team, Human Resources, Chief Executive, the Council's Monitoring Officer, Vulnerable Adults Protection Coordinator, the Safeguarding Children Officer etc;
- referred to the Police;
- referred to the External Auditor or Ombudsman;
- referred to the National Standards Board;
- the subject of an independent enquiry.

5.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations that fall within the scope of specific procedures (for example, safeguarding children, vulnerable adults' protection, or discrimination issues) will normally be referred for consideration under those procedures.

5.4 Some concerns may be resolved by agreed action without the need for further investigation.

5.5 The amount of contact between the officer(s) considering the issues and the employee reporting the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be obtained from the individual reporting the concern in a discreet manner.

5.6 When any meeting is arranged, individuals will have the right, if desired, to be accompanied by a trade union or other representative. The meeting can be arranged away from the normal place of work, if requested.

5.7 The Council will take steps to minimise any difficulties which individuals may experience as a result of raising a concern and provide any appropriate support. For instance, if the individual is required to give evidence in disciplinary or criminal proceedings, the Council will provide advice about the procedure.

5.8 The Council accepts that individuals raising a concern need to be assured that the matter has been properly addressed and will notify them when the whistleblowing policy process has been completed. This will normally be within 20 working days of a concern being raised. In addition, details will be given on what action has been taken to correct working practices, which have been found to be at fault by the investigation.

5.9 If an allegation is received anonymously, it may restrict what the Council is able to do.

There is an expectation that the person reporting a matter will disclose their identity to the Audit Manager, as this will facilitate the investigation. The Council will endeavour to maintain the person's anonymity wherever possible.

5.10 The following factors will be considered when establishing the scope and depth of any investigation:

- The seriousness of the issues raised;
- The credibility of the concern; and
- The likelihood of confirming the allegation from recognised sources and information available.

## **6. Safeguards**

6.1 The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice.

The Council will not tolerate harassment or victimisation and will take action to protect individuals wherever possible provided that:

- The concerns are raised in good faith;
- The information provided is believed to be true, even if the allegation is not subsequently confirmed by the investigation;
- Allegations are not made for personal gain.

The Internal Audit Manager or the monitoring officer will carry out a risk assessment to determine safeguards as necessary.

6.2 Every effort will be made to ensure confidentiality as far as is reasonably practical. Individuals should be aware that actions taken as a result of their report may lead to their identity being revealed, either by inference or as a result of disciplinary or legal proceedings. If this should happen, the Council would seek to ensure that the individual is not victimised in any way.

6.3 Support will be provided to help overcome any difficulties experienced as a result of raising a concern. During the investigation, any meetings with the individual raising the concern can be arranged away from their place of work and they will have the opportunity to be accompanied by a representative of their choice, if they wish. If the individual is required to present evidence as a witness, arrangements will be made to provide them with support through the process. Access to counselling and support is available to all employees.

6.4 Every effort will be made to keep the individual reporting the matter of concern informed. However, the information provided will be determined by the nature of the investigation and whilst safeguarding the rights of other individuals involved in the process.

## **7. Malicious Allegations**

7.1 The Council will take action against any individual found to have made a malicious or vexatious allegation. For an employee, this could result in disciplinary proceedings.

## **8. Raising concerns outside of the Council.**

8.1 This policy is intended to provide employees with an avenue to raise concerns **within** the Council. If an employee instead takes the matter outside the Council, they should ensure that they do not disclose confidential information. Employees should also check that they do not contravene the Public Interest Disclosure Act as this does not provide blanket protection



and only allows individuals to disclose matters to their employer or specified bodies. Any breach of the Act could lead to disciplinary action.

8.2 If an individual wishes to raise a concern outside the council or feels that the Council has not handled their concern appropriately, the following possible contact points may be relevant –

- The Ombudsman – 0845 602 1983 ([www.lgo.org.uk](http://www.lgo.org.uk))
- The Audit Commission. 0844 7981212 [www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)
- Relevant professional bodies or regulatory organisations
- Trade Union/Professional Association – details are available from Human Resources
- Your solicitor
- The Police

## **9 Monitoring**

9.1 Monitoring of the Whistleblowing Procedure will be undertaken by the Council's Standards Committee in accordance with the Constitution.