

Audit Committee

16 March 2020



Report of: Monitoring Officer

Title: Member Code of Conduct, Codes for Licensing Committee and PSP Committee

Ward: Citywide

Officer Presenting Report: Tim O’Gara, Director of Legal and Democratic Services

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Recommendation

1. That the Audit Committee endorses the revised Code of Conduct for Licensing Committee and the new Code of Conduct PSP Committee.
2. That the Audit Committee recommends to Full Council the adoption of the revised Code of Conduct for Licensing Committee and new Code of Conduct for PSP Committee to come into force following the May 2020 elections.

Summary

This report proposes a revised Code of Conduct for Licensing Committee and new Code of Conduct for PSP Committee to form part of the revised Member Code of Conduct for consideration by the Audit Committee and for adoption by Full Council to come into force following the May 2020 elections.

The significant issues in the report are:

The significant issues are set out in paragraphs 4-7 of the report and the detail of the revised and new codes for these committees are set out in the Appendices 2 and 3 to the report.



Policy

1. The Council has a duty to keep its constitution under review. This includes all relevant codes and protocols, in particular the Member Code of Conduct and the Codes for the particular committees.

Consultation

2. Internal

The Mayor and Party Group Leaders were advised that the Member Codes were under review at their meeting on 18 November 2019. A Workshop was held with Members of the Value and Ethics Sub-Committee on 24 February 2020.

3. External

Not applicable

Context

4. The Council has a duty to promote and maintain high standards of conduct by its members and co-opted members. To achieve that duty, the Council must adopt a Code of Conduct dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
5. The Codes of Conduct are part of the Council's Constitution, which is kept under review by the Council's Monitoring Officer.
6. In May 2020, there will be a Mayoral election and all-out Council elections at Bristol City Council. Carrying out a review of the Code of Conducts at this time, ensures that a revised Codes of Conduct can be adopted and can come into force following the May 2020 elections.
7. On taking up office following the May 2020 elections, all new and returning members of Bristol City Council will be required to sign a copy of the revised and new Codes of Conduct.

Proposal

8. The Audit Committee is asked to consider the revised Code of Conduct for Members in Relation to Hearings under the Licensing Act 2003 (LA03 Code) and a new Code of Conduct for Members in Relation to Public Safety and Protection Hearings (PSP Code) and, subject to any proposed amendments, endorse the revised and new Codes of Conduct and recommend to Full Council that the revised and the new Code are adopted to come into force following the May 2020 elections.
9. The Licensing Committee determines applications under the Licensing Act 2003 and applications under the Gambling Act 2005. The Licensing Committee will also consider applications for sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) but will not do so in its capacity as statutory licensing committee.
10. The principal changes to the LA03 Code are the removal of the detailed reference to the

Richardson decision on prejudicial interests. This is because the case law has been put on a statutory footing by the Localism Act 2011 so a simplified version of the codified test now appears in the new draft. Also the removal of reference to the “vicinity” test and “interested parties” since that terminology has long been repealed. The new code also contains additional guidance on the conduct of meetings, including site visits. Additionally Members should be trained before serving on the Licensing Committee and where possible avoid duplicating the rules that are recited in the General Member Code of Conduct.

11. The new Code of Conduct for PSP Committee has been drafted along similar lines to those set out in the revised LA03 Code.

Other Options Considered

12. No other options have been considered.

Risk Assessment

13. The Council has a duty to keep its constitution under review. This includes all relevant codes and protocols, of which the LA03 Code and PSP Code are examples. The LA03 Code needed to be updated and the PSP code needed to be drafted so that these are ready to come into force following the May 2020 elections.

Public Sector Equality Duties

Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.

Legal and Resource Implications

Legal

Under section 27 of the Localism Act 2011, the Council has a duty to promote and maintain high standards of conduct by its members and co-opted members. To discharge that duty, the Council must adopt an updated LA03 Code should adopt a PSP Code dealing with the conduct that is expected of members and co-opted members of the authority when they are sitting on these committees and exercising quasi-judicial functions.

(Legal advice provided by Anne Nugent, Legal Services)

Financial

(a) Revenue

Not applicable

(b) Capital

Not applicable

Land

Not applicable

Personnel

Not applicable

Appendices:

Appendix 1 – Code of Conduct for Members - Licensing Act 2003

Appendix 2 - Revised Code of Conduct for Members - Licensing Act 2003

Appendix 3 – New Code of Conduct for Public Safety Committee

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None