

Full Council

21 May 2020



Report of: Monitoring Officer

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

Ward: Citywide

Recommendation

That Full Council adopts the revised Code of Conduct for Licensing Committee and the new Code of Conduct PSP Committee.

Summary

This report proposes Codes of Conduct for adoption by Full Council

The significant issues in the report are:

The significant issues are set out in paragraphs 4 – 9 of the report and the detail of the revised Member Code of Conduct is set out in the Appendix to the report.



1. The Council has a duty to keep its constitution under review. This includes all relevant codes and protocols.

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.

The updated Code was considered by the Audit Committee on 16 March 2020 where it was endorsed and recommended to Full Council for adoption.

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 Codes of Conduct dealing with the conduct that is expected of members and co-opted members of the authority.
5. The Code of Conduct is part of the Council's Constitution, which is kept under review by the Council's Monitoring Officer.

Proposal

6. Full Council is asked to consider the revised Member 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, adopt the new Code to come into force following the Annual Council meeting on 21st May 2020.
7. 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.
8. 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.
 - The removal of reference to the "vicinity" test and "interested parties" since that terminology has long been repealed.
 - Additional guidance on the conduct of meetings, including site visits.

- Members should be trained before serving on the Licensing Committee.
- Avoidance of duplicating the rules that are recited in the General Member Code of Conduct.
- The addition of a new appendix 2 detailing the debate and decision process.

9. 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

10. No other options have been considered.

Risk Assessment

11. The Council has a duty to keep its constitution under review. This includes all relevant codes and protocols, of which the LA03 Code and the PSP Code are examples.

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

Council must promote and maintain high standards of conduct by its members and co-opted members and must adopt and keep under review Practice Protocols to deal with the conduct that is expected of members of the authority when they are sitting on the Licensing Sub-Committees and exercising quasi-judicial functions. Similar considerations apply to Regulatory committees. The updated protocols will enable Members to be clear of their duties in this context.

(Legal advice provided by Nancy Rollason, Head of 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