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**Report of the City Solicitor**

**Report to Licensing Committee**

**Date: 14 August 2012**

**Subject: Revisions to the Code of Practice for Determining Licensing Matters**

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**Electoral Wards Affected:**

NO

**Specific Implications For:**

Ethnic minorities

Women

Disabled people

Eligible for Call In

NO

Does the Report contain Exempt or Confidential Information

NO

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**Executive Summary**

**1.0 Purpose Of This Report**

- 1.1 The report informs Members of changes made to the Code of Practice for the Determination of Licensing Matters made by the Standards and Conduct Committee following the introduction of the new standards regime on 1 July 2012. The revised code, updated to reflect the legislative changes, is appended for members' information.
- 1.2 In approving the necessary updates, the standards and conduct committee also resolved to ask the licensing committee to review the code of practice for the determination of licensing matters to ensure it is fit for purpose and report back to the next available meeting of the standards and conduct committee.

**2.0 Background Information**

- 2.1 The previous code of practice for the determination of licensing matters was approved by the then standards committee of the Council following consultation with the licensing committee. It substantially followed guidance previously introduced by LACORs (Local Authority Coordinators of Regulatory Services).

- 2.2 The code applied to all licensing decisions made including decisions of the licensing committee, decisions of the licensing subcommittee and any officer delegated decisions within the terms of reference of the committee. The code also applied when members were involved in the licensing process such as in meetings with the public.
- 2.3 The aim of the code of practice was to ensure that there were no grounds for suggesting that a licensing decision had been taken improperly.
- 2.4 The code dealt with members interests under the previous definitions of personal and prejudicial interests as well as dealing with issues of bias and predetermination under the law applicable at that time.

### 3.0 **Main Issues**

- 3.1 On 1 July 2012 the new standards regime under the Localism Act 2011 came into force. That changed the law in relation to a number of matters and required all the codes and protocols within the Council's constitution, including the code of practice for the determination of licensing matters, to be reviewed urgently. The review was carried out with the sole purpose of bringing the code of practice up to date in terms of the current legislation and a revised code was approved by the new standards and conduct committee on 20 July 2012. A copy of the new code is provided for members information at Appendix 1.
- 3.2 The code has been revised to remove any reference to personal prejudice or interest and instead reference was to disclosable pecuniary interest. The new definition of predetermination from the Localism Act 2011 has also been included in the revised code.
- 3.3 The section relating to the monitoring of the code has been revised so it is not necessary for the standards and conduct committee to receive annual reports on compliance with the codes. Instead reports will be brought to the standards and conduct committee as and when amendments are required.
- 3.4 The code of practice for the determination of licensing matters sits alongside the code of practice for the determination of planning matters, the monitoring officer protocol for member/officer relations. These documents were introduced as part of the Council's ethical framework under the previous regime. The new members code of conduct provides an opportunity to review the value of all the codes and protocols within the ethical framework and their contribution the governance and conduct arrangements of the Council. The Standards and Conduct Committee have asked the Licensing Committee to further review the code in this manner
- 3.5 In their review of the code, members may consider whether this code should be retained as part of the Council's conduct framework and in particular whether the code has value in regulating the committees decision

making process, the extent to which it duplicates rather than being an addition to the members code of conduct, the extent to which the code applies to officers as well as members and how any breaches should be enforced.

## **4.0 Corporate Considerations**

### **4.1 Consultation and Engagement**

This report seeks the views of licensing committee in relation to further proposed changes to the code of practice. No further consultation is required with the trade or the public.

### **4.2 Quality and Diversity**

There are no issues for equality and diversity or cohesion and integration.

### **4.3 Council Policies**

Reviewing the code supports principal 3 of the Council's code of corporate governance in relating to good conduct and behaviour.

4.4 There are no Resource implications relating to this report.

4.5 As the standards of conduct committee have already approved a revised code to reflect the legislative changes there are no legal implications to this report.

### **4.6 Risk Management**

There are no risk management issues in relation to this report.

## **5.0 Conclusions**

5.1 That members should note and familiarise themselves with the revised code which now reflects the current legislation relating to governance and conduct.

5.2 That members should review the existing code of practice and should indicate whether further amendments are considered necessary and desirable to ensure that the documents meets its objective of a system with the decision making process.

## **6.0 Recommendations**

6.1 The Licensing Committee is asked to note the revised code of practice for the determination of licensing matters which is now in force.

6.2 The Licensing Committee are asked to consider whether further amendments are required and if so, to direct officers to draft further

amendments for the consideration by Licensing Committee at the September meeting. Any amendments proposed then be considered by the standards and conduct committee at their meeting in October.

