

Report of the City Solicitor

Report to the Standards and Conduct Committee

Date: 11th January 2013

Subject: Review of the Codes of Practice for the Determination of Licensing and Planning Matters

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: n/a Appendix number: n/a	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The purpose of this report is to provide an update on the progress of the review of the Codes of Practice for the Determination of Licensing and Planning Matters.
2. At the meeting on 20th July 2012 the Standards and Conduct Committee considered how the local codes and protocols should be reviewed to bring them up to date with the new standards and conduct regime. Members particularly commented that the sections relating to bias and predetermination needed to be reviewed following the introduction of the Localism Act 2011, and that further advice needed to be sought from Legal Officers on this subject.
3. Members of the Standards and Conduct Committee also requested that the Joint Plans Panel and the Licensing Committee be asked to review their respective Codes of Practice to ensure they are fit for purpose, and to report back to the Standards and Conduct Committee in due course.

Recommendations

4. The Standards and Conduct Committee are asked to note the information in this report, and to consider whether to transfer responsibility for the Codes of Practice to the Joints Plans Panel and the Licensing Committee respectively.

1 Purpose of this report

- 1.1 The purpose of this report is to provide an update on the progress of the review of the Codes of Practice for the Determination of Licensing and Planning Matters.

2 Background information

- 2.1 At the meeting on 20th July 2012 the Standards and Conduct Committee considered how the local codes and protocols should be reviewed to bring them up to date with the new standards and conduct regime. Members particularly commented that the sections relating to bias and predetermination needed to be reviewed following the introduction of the Localism Act 2011, and that further advice needed to be sought from Legal Officers on this subject. At the meeting on 19th October 2012 Members were presented with a draft guidance note on the issue of bias and predetermination for comment.
- 2.2 Members of the Standards and Conduct Committee also requested that the Joint Plans Panel and the Licensing Committee be asked to review their respective Codes of Practice to ensure they are fit for purpose, and to report back to the Standards and Conduct Committee in due course.

3 Main issues

Code of Practice for the Determination of Licensing Matters

- 3.1 The Licensing Committee was asked to consider the current Code of Practice for the Determination of Licensing Matters at a meeting on 14th August 2012. The Licensing Committee considered that the Code should be retained as part of the Council's conduct framework as it had particular value in regulating the Committees' decision making process. They requested that officers should report their continued support of the Code to the Standards and Conduct Committee, and to confirm that no further amendments were required.

Code of Practice for the Determination of Planning Matters

- 3.2 The review of the Code of Practice for the Determination of Planning Matters is still underway and was initially considered by the Joint Plans Panel on 5th December 2012. The report to the Joint Plans Panel set out proposals to replace the Code with a new guidance document of planning good practice which would be owned by Joint Plans Panel with appropriate review and amendment arrangements, rather than feature in the Council's own Conduct Framework. Members broadly supported the proposed approach.
- 3.3 The Joint Plans Panel resolved to request that officers draft further amendments to the Code for consideration by the Planning Joint Member Officer Working Group in the first instance.

Future of the Codes of Practice

- 3.4 Members of the Standards and Conduct Committee are asked to consider to what extent the Codes of Practice should be considered to be an extension of the

Members' Code of Conduct, and whether Members of Plans Panels and Licensing Committee should be subject to more restrictions than other Members. If the Codes of Practice are not considered to be additional requirements on top of the Members' Code of Conduct, then it would assist in clarifying the situation if any repetition of the provisions of the Members' Code of Conduct is removed from the Codes of Practice.

3.5 It should also be clarified that the Codes of Practice are recommended practice and are not enforceable in their own right.

3.6 Finally, if Members of the Standards and Conduct Committee are minded that the Code of Conduct elements should be removed from the Codes of Practice, then they are asked to consider whether responsibility for the Codes of Practice should be transferred to the Joint Plans Panel and the Licensing Committee. As the Codes of Practice will no longer be about Member conduct, it will no longer be incidental to the functions of the Standards and Conduct Committee to monitor and approve them.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Both the Licensing Committee and the Joint Plans Panel have been consulted on possible amendments to the Codes of Practice. No other consultation has taken place.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no implications for equality and diversity or cohesion and integration arising from this report.

4.3 Council policies and City Priorities

4.3.1 It is a priority of the Council Business Plan that the Council has good rules and procedures to govern its business. It is therefore important that the rules and procedures are regularly reviewed to ensure they reflect current good practice and legislation.

4.4 Resources and value for money

4.4.1 There are no resource implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Localism Act 2011 has introduced a definition of bias and predetermination and has introduced rules around disclosable pecuniary interests which Members must comply with. These legislative changes have already been reflected in the Codes of Practice.

4.5.2 Members of the Standards and Conduct Committee may also wish to note that both Codes of Practice require amendment following the guidance issued by the Department for Communities and Local Government which set out that Members

must leave the room for the whole of the item and are not able to participate in a meeting at all where they have a disclosable pecuniary interest, even as a member of the public.

- 4.5.3 There are no implications for access to information or call in arising from this report.

4.6 Risk Management

- 4.6.1 Should a Member of the Licensing Committee or Plans Panel fail to comply with the good practice outlined in the Code of Practice, there is a risk that the decision on the particular application may be appealed or reviewed.
- 4.6.2 In order that these Members are aware of their responsibilities both under the Members' Code of Conduct and Codes of Practice, they must complete all compulsory training (including Governance and Conduct training) and shall not sit as members of the Committee, Sub-Committee or Panel unless such training has been undertaken in accordance with the Council's prescribed training programme. These requirements are set out in Articles 8 and 8A of the Council's Constitution.

5 Conclusions

- 5.1 As part of the implementation of the new standards regime, the Standards and Conduct Committee requested that the Codes of Practice for the Determination of Licensing and Planning Matters be reviewed by the Licensing Committee and the Joint Plans Panel respectively.
- 5.2 Having considered the current Code of Practice for the Determination of Licensing Matters, the Licensing Committee have expressed their continued support for the Code of Practice in its current form, and confirmed that no further amendments were required.
- 5.3 The Joint Plans Panel initially considered the revised Code of Practice for the Determination of Planning Matters on 5th December 2012, and Members broadly supported the proposal to replace the Code of Practice with a new guidance document of planning good practice which would not form part of the Council's conduct framework.

6 Recommendations

- 6.1 The Standards and Conduct Committee are asked to note the information in this report, and to consider whether to transfer responsibility for the Codes of Practice to the Joints Plans Panel and the Licensing Committee respectively.

7 Background documents¹

- 7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.