

MAIDSTONE BOROUGH COUNCIL

LICENSING COMMITTEE

MONDAY 7 OCTOBER 2013

REPORT OF HEAD OF HOUSING AND COMMUNITY SERVICES

Report prepared by Lorraine Neale

1. LOCAL CODE OF GOOD CONDUCT FOR COUNCILLORS AND OFFICERS DEALING WITH LICENSING MATTERS

1.1 Issue for Decision

1.1.1 The report informs Members of changes necessary to the Code of Conduct for dealing with Licensing Matters following the introduction of the new standards regime on 5 July 2012 (and amendments to the Licensing Act 2003. The draft revised code, updated to reflect the legislative changes is attached as Appendix B for members' information.

1.2 Recommendation of Head of Housing and Community Services

1.2.1 The draft revised Licensing Code be agreed and inserted into the Council's Constitution.

1.3 Reasons for Recommendation

1.3.1 Chapter 5 of the Constitution contains the Code of Conduct for Councillors and Officers Dealing With Licensing Matters, which gives officers, members of this Committee, the Licensing Act 2003 Committee,(change round for the report to the other committee) and its sub-committees advice on probity issues, insofar as they relate to licensing. The Code does not form a part of the adopted Members' Code of Conduct but is a separate document, which is both supportive of the Members' Code of Conduct and the source of expanded guidance in the particular area of licensing. The Licensing Code is intended to provide advice to Members so as to minimise the prospect of legal or other challenge to decisions. A copy of the current Licensing Code is attached as Appendix A to this report.

1.2.2 Following the provisions in the Localism Act 2011 relating to member standards coming in to force, Maidstone Council adopted a new Member Code of Conduct on 5 July 2012. There have also been

changes to the Licensing Act 2003, which change the position on who may make representation. As a result, the existing Licensing Code requires updating.

- 1.2 .3 The Localism Act 2011 brought to an end the previous standards regime and enabled local authorities to adopt a locally determined code. Maidstone Council adopted a new Code on 5 July 2012. The Localism Act, together with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, introduced the new concept of "Disclosable Pecuniary Interests" (DPIs). Members are required to notify the Monitoring Officer of their DPIs and may not take part in a discussion or vote on any matter in which they have a DPI. Failure to do this, with reasonable excuse, is now a criminal offence. Maidstone's Code of Conduct also requires Members with DPIs to withdraw from the room during a discussion on a matter in which they have a DPI.
- 1.2.4 Guidance from the Department for Communities and Local Government states that a member may not participate in any discussion or vote at any committee or sub-committee where they have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting. The guidance goes on to state that this prohibition applies to any form of participation, including speaking as a member of the public at such a meeting. There are provisions in the Localism Act 2011 which permit a Member with a DPI to apply for a dispensation from the Council to allow the Member to take part in a discussion or vote.
- 1.2.5 DPIs include ownership of land (including the Member's home), employment or sponsorship. The full list of DPIs is set out in the Members Code of Conduct.
- 1.2.6 As a result of the above changes it will be necessary to amend the Licensing Code to replace advice on prejudicial and personal interests with advice on DPIs in relation to licensing matters.
- 1.2.7 In addition, the Licensing Act 2003 was recently amended to remove the vicinity test for interested parties. This now means that any person may make a relevant representation in respect of an application under the Licensing Act 2003. Also The Police Reform and Social Responsibility Act 2011 added licensing authorities to the list of responsible authorities under the Licensing Act 2003. The aim of this policy is to ensure that licensing authorities are better able to respond quickly to the concerns of local residents and businesses by taking actions they consider appropriate to tackle irresponsible premises without having to wait for representations from other responsible authorities. The Licensing Code therefore requires

amendment in relation to the advice given to members of Licensing Sub Committees and Councillors wishing to make representations those.

1.4 Alternative Action and why not Recommended

1.4.1 The changes proposed arise from changes in legislation and therefore no alternative action is recommended.

1.5 Impact on Corporate Objectives

1.5.1 Revising the Code supports the Council's objective of corporate and customer excellence.

1.6 Risk Management

1.6.1 Failure to amend the Licensing code of conduct could lead to the challenge that the Council do not conduct their business in a fair and transparent way.

1.7 Other Implications

1.7.1

1. Financial	
2. Staffing	
3. Legal	X
4. Equality Impact Needs Assessment	
5. Environmental/Sustainable Development	
6. Community Safety	
7. Human Rights Act	
8. Procurement	
9. Asset Management	

1.7.3 The legal implications have been dealt with in the body of the report

1.8 Relevant Documents

1.8.3 Appendices

- A. Existing Code of conduct
- B. Amended Code of Conduct

1.8.4 Background Documents

Localism Act 2011

Licensing Act 2003

Police Reform and Social Responsibility Act 2011

<u>IS THIS A KEY DECISION REPORT?</u>		<u>THIS BOX MUST BE COMPLETED</u>	
Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If yes, this is a Key Decision because:			
.....			
Wards/Parishes affected:			
.....			