

Licensing Committee – 6 October 2009

5. Local Code of Best Practice For The Licensing Process

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Purpose of the Report

To advise Members of the Licensing Committee that a report on a draft Local Code of Best Practice for the licensing process (the 'Code') has been prepared at the request of the Standards Board.

Recommendation

That Members of the Licensing Committee consider the Code of Local Best Practice and refer it to full council with a recommendation for adoption.

Background

Members of the Standards Committee first considered quasi-judicial issues relating to the licensing process at their meeting in August 2008. They approved a draft code in May 2009 and requested that it be further considered for adoption by full Council.

The Proposed Local Code of Best Practice For Licensing Process

The Council through the Licensing Committee makes decisions on licence applications and matters that relate to the enforcement and application of a variety of statutory licensing requirements. These cover issues such as the licensing of drinking, gambling and entertainment venues, the licensing of sex shops, and the licensing of taxi drivers and vehicles. Many decisions of the Licensing Committee are quasi-judicial and subject to a legal right of appeal to the Courts. In order to ensure that the council discharges its Licensing responsibilities with adequate probity, the Standards Board have recommended that the council adopts the Local Code of Best Practice see appendix 1. This Code addresses the issues and procedures that are integral elements for ensuring that the public has confidence in the licensing making process. It ensures that decisions are made in an open and fair manner taking account of all relevant information.

All references in the 'Code' to The Licensing Committee should be taken as including any meetings of its sub-committees unless otherwise specifically stated.

The basis for making Licensing decisions is laid down in statute and subordinate legislation, including guidance issued by the Government and local bylaws as well as policy and licensing conditions previously set by the Council. It is essential that all licensing decisions are made solely on proper licensing grounds, taking into account the Council's legal constraints and the constitutional scope of the Licensing Committee.

Decisions must be made impartially, in a clear and open manner, which can be easily understood by all, and which do not give rise to public suspicion or mistrust. It is necessary when making decisions to exercise clear judgement, often balancing conflicting elements and taking into account all legally valid representations received.

Implications of the Decision

The Council has already approved a model code of conduct and the 'Code' if adopted will offer further protection to Councillors and Officers.

If a Councillor or Officer does not follow this new 'Code' (to be read in conjunction with The Model Code of Conduct (see below) and the Council's own Code of Conduct policies), it may put the Council at risk of legal proceedings, allegations of mal-administration, or an application for costs at the conclusion of a legal appeal about a licensing decision of the Council. For a Councillor, this could result in action under the Council's internal procedures relating to Member Conduct and/or a complaint to the Standards Committee for England. For an Officer, this could result in action under the Council's disciplinary procedures.

Financial Implications

None.

Implications for Corporate Priorities

Deliver well-managed, cost effective services valued by our customers.

The draft Local Code of Best Practice For Licensing Services provides confidence to members of the public that their application/registration/notice/consent will be dealt with in a professional manner.

Other Implications

None

Background Papers: The Model Code of Conduct applies to all Councils and provides guidance for elected members about the high ethical standards expected of all those in public service. "The Model Code of Conduct", is made under "The Local Authorities Model Code of Conduct) Order 2007 (SI No 1159)" and can be viewed at:
<http://www.opsi.gov.uk/si/si2007/20071159.htm>

South Somerset District Council Code of Conduct Issue 1
version 2

South Somerset District Council Members' Code of Conduct
