

<i>COMMITTEE</i>	STANDARDS COMMITTEE
<i>DATE</i>	WEDNESDAY, 8 JUNE 2005
<i>TITLE OF REPORT</i>	LICENSING CODE OF CONDUCT
<i>RESPONSIBLE OFFICER</i>	Mark Bowen, assistant director, legal and contract services

1 PURPOSE OF THE REPORT

- 1.1 To seek member's comments on the proposed draft Licensing Code of Conduct and to authorise the monitoring officer to consult on the Code and seek approval from Council for its adoption.

2 RECOMMENDATION

- 2.1 That members approve the Licensing Code of Conduct for consultation.
- 2.2 That the monitoring officer, in consultation with the Chair be authorised to make any revisions to the Code of Conduct arising from the consultation exercise and to submit the Code to Council for approval on 14 July.

3 DECISION ISSUES

- 3.1 Under the Constitution it is the role of the Standards Committee to advise on good practice. It is a council function to adopt the Licensing Code of Conduct.

4 BACKGROUND

- 4.1 In 2004 following work undertaken by this committee, the council adopted a Planning Code of Conduct to give further advice and guidance to members in determining planning applications.
- 4.2 The Licensing Act 2003 came into force in February of this year. Under that Act licensing of premises which sell alcohol and late night food takeaways have been transferred to local authorities. This means that there will be a significant increase in the work of Medway's Licensing and Safety Committee.
- 4.3 As with planning issues, licensing matters will sometimes be contentious matters within the community. Applicants may wish to maximise the use of and income from their premises. Residents and other groups may wish to resist this in order to maintain quality of life. Under the regime both applicants and objectors have the right of appeal to the Magistrates Court and it is felt that if Medway's processes are as fair and robust as possible, this will minimise such appeals which will in turn preserve scarce resources for the council.

4.4 The Licensing Code builds on and adapts the Planning Code of Conduct as it is felt that a consistency of approach is important. However, in some areas the Licensing Code is more restrictive than the Planning Code. A key reason for this is that the majority of member planning decisions are made at a 15 person Development Control Committee where the influence of a single member with for example a personal interest is limited. The majority of licensing decisions will be made by a 3 member sub-committee where the influence of a member who has some form of interest in an application will be far greater. In these circumstances it is considered appropriate to limit participation by members in Licensing Panel Hearings in the following circumstances.

- Ward councillors should not sit on Licensing Panels for applications in their own ward
- Members who are also parish councillors should not sit as Licensing Hearing Panel members where their parish has either objected to or supported an application
- Members with personal interests should not sit as Licensing Hearing Panel members

4.5 However, unless a member has a prejudicial interest when, following the Richardson case they will be unable to make representations at a Licensing Hearing, a member who has a personal interest or is a ward councillor will of course be able to make representations to the Hearing Panel.

4.6 It is also worth flagging a further matter which impacts on members who may have professional qualifications, such as solicitors, barristers or noise consultants. Following some recent adjudication panel findings then those members would have a prejudicial interest if they acted in a professional capacity for an applicant or objector at a Licensing Panel Hearing. This does not prevent the member attending as a ward councillor or in his or her own right.

4.7 It is proposed that a copy of the draft Licensing code is sent to the Licensing committee and Group Leaders for comment.

4.8 It is proposed that if Council does adopt the code it is dealt with as a local protocol rather than being incorporated in the code of conduct, which would bring enforcement under the control of the Standards Board for England.

5 LEGAL AND FINANCIAL IMPLICATIONS

5.1 The legal implications are set out in the body of the report and the Licensing Code.

5.2 There are no direct financial implications. However, adherence to the Code will hopefully minimise the costs of dealing with appeals and challenges to licensing decisions.

BACKGROUND DOCUMENTS

None.

Contact for further details:

Mark Bowen – Assistant Director for legal and Contract Services
Telephone 01634 332133
Email: mark.bowen@medway.gov.uk