

# Cheltenham Borough Council

## Licensing Committee – 7<sup>th</sup> June 2023

### Draft Revision to Licensing Committee Code of Conduct and Probity Guidance

#### Report of the Licensing Team Leader

#### 1. Executive Summary and Recommendation

- 1.1 The authority is consulting internally on revision to Licensing Committee Code of Conduct and Probity Guidance.
- 1.2 The Licensing Committee is invited to consider the draft document and provide feedback and comment, as it considers necessary, to the constitution working group reporting to Council.
- 1.3 A copy of the draft revised document will be provided as a background paper to this report at the Committee.
- 1.4 **The Licensing Committee is recommended to:-**
  - 1.4.1 **Note the draft document; and**
  - 1.4.2 **Provide comment and feedback on the draft document to the constitution working group reporting to Council.**

#### 1.5 Implications

- 1.5.1 Legal **Contact officer: One Legal**  
**E-mail: [legalservices@onelegal.org.uk](mailto:legalservices@onelegal.org.uk)**

#### 2 Background

- 2.1 The Licensing Committee and its sub - committees consider various applications for new licences, variations and renewals, across a number of licensing schemes, but in particular under the Licensing Act 2003, with regard to the taxi and private hire licensing regimes and in relation to the sexual entertainment venue licensing scheme.
- 2.2 In addition, it hears complaints and reviews of existing licences, in particular in relation to taxi and private hire drivers.
- 2.3 The council adopted a code of conduct which included guidance on probity for the Licensing Committee and its sub - committees in order to carry out such business in a fair and open manner, with a clear focus on principles of sound decision making.
- 2.4 Recent experiences at the Licensing Committee and sub - committees have suggested that the council should revise certain elements of the procedures for such hearings and the Code of Conduct to improve the processes around the facilitation of hearings for licensing applications and the reviews of existing licences, and the related decision making following consideration of these cases.

#### 3 Improvements Proposed

- 3.1 The following improvements are put forward in summary:-
  - The addition of version control to the document. This is ensure that all parties can refer to the correct version.
  - In addition, it is proposed that Members retire to carry out their debate and make their decision, accompanied only by the council's legal adviser and committee officer. All other parties would be excluded from those discussions, and Members would only request further information/ clarification

from parties or officers if the need arose. This proposal is put forward to better support Members in having a full and open discussion about a case before them.

- A move away from the notion of the Committee or sub - committee voting on cases, and instead Members sitting on such hearings coming to a consensus in their decision making, and the committee itself making the decision. There is still scope for it to be made clear that a Member or Members dissented in respect of the decision, but the decision is confirmed as that of the group as a whole. This proposal is put forward to support Members in acting independently and being able to freely discuss cases.
  - The proposal that all hearings involving taxi drivers are held in closed session. This is because these matters tend to involve information of a highly confidential and/ or sensitive nature and the impact of such matters being discussed in public, potentially live streamed on the internet or directly reported in the media, could be disproportionately negative or damaging for a driver or even a complainant.
  - Additions and amendments in respect of receiving gifts and hospitality are put forward, along with the making of declarations of interest.
  - Further clarification in respect of lobbying of Members.
  - Important amendments to the procedure adopted for hearings determining licensing applications are put forward, with a much great emphasis on the rights of interested parties or other persons to speak. This added emphasis presents a level playing field between applicants for those licences and those persons or businesses that wish to support or object to those applications. It is felt these amendments remove the potential for interested parties and other persons to not be heard fully, particularly where certain issues may be discussed at the hearing itself.
  - Added clarity is proposed to better ensure that all parties to applications only amplify and clarify the points they have made in writing to the Licensing Authority, with limited exemptions where appropriate. Further, that those parties do not attempt to repeat points already made to the committee.
  - There is proposed to be a much greater emphasis on the detail and information that should be contained within decision notices in relations to committee business.
- 3.2 It is clear that some of the proposals could be considered as making such committees less open and less transparent to the parties to an application, and the wider public. However, it is considered that any such concerns will be mitigated fully by decision notices containing far more detail and clearly showing the deliberations and considerations of the committee concerned.
- 3.4 The decision notice will record fully the determination of the committee and importantly the considerations and reasons for coming to that conclusion. It will also record any requests for advice from the legal adviser and/ or any requests for clarification from parties or officers made by Members after they retire.

## 4 Action

4.1 The Licensing Committee is recommended to:-

**4.1.1 Note the draft document; and**

**4.1.2 Provide comment and feedback on the draft document to the constitution working group reporting to Council.**

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## Background Papers

### Report Author

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