

TONBRIDGE & MALLING BOROUGH COUNCIL

STANDARDS COMMITTEE

22 November 2005

Report of the Monitoring Officer

Part 1- Public

Matters for Recommendation to Council

1 MEMBERS' PLANNING CODE OF GOOD PRACTICE

Executive summary

The purpose of this code is to bring together legal requirements, provisions in the members' code of conduct and examples of good practice into a single code to guide members when dealing with planning matters.

- 1.1.1 Although all members are bound by the Council's Code of Conduct for Members, the Code is not an exhaustive source of the rules which apply to members when dealing with planning matters, as there are also legal constraints, developing through, Court decisions which apply to what members can and cannot do.
- 1.1.2 This is particularly the case in relation to planning matters, as against other business of the Council, because dealing with planning matters is classed as "quasi-judicial" business, which means that, to an extent, the rules designed to ensure "fair play" in the courts also apply to this process.
- 1.1.3 In order to assist members through this minefield, there is a draft Planning Code of Good Practice at **[Annex 1]** which is designed to give more detailed guidance to members in this situation. It brings together provisions from the Code of Conduct, matters which are the subject of legal rulings and some "good practice".
- 1.1.4 A number of the issues contained in this draft are drawn from the Code of Conduct and enforcement of those issues will be by the Standards Board in accordance with the existing arrangements. However, it is understood that issues which fall outside the Code of Conduct would not be enforced by the Standards Board but referred back for investigation and determination through our Standards Committee.
- 1.1.5 Dealing with licensing matters is not quasi-judicial business, as it is classed as "judicial business discharged by a non-judicial body". This means that **all** the rules of court apply in determining applications, as they would apply to a court of law such as the magistrates' courts. For many years the Council has had guidance for members sitting on panels determining licensing matters and, as a next step, it is intended to revise this guidance into a similar document as the

planning code, incorporating the legal rules imposed under the Licensing Act 2003, which will be submitted for consideration by a future meeting of this Committee.

- 1.1.6 It is **recommended** that Council adopts the members' Planning Code of Good Conduct as annex to this report.

Background papers:

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Tonbridge and Malling Borough Council's Members
Code of Conduct

Decisions of the High Court in various cases

Duncan Robinson

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