

# CODE OF CONDUCT FOR MEMBERS IN RELATION TO LICENSING MATTERS

## Introduction

This Code was originally drawn up in anticipation of the introduction of the new regime for dealing with licensing applications, pursuant to the Licensing Act 2003. The Government considers it best practice for members to receive training on the specialist fields in which they are required to operate. The use of codes of conduct for members was also recommended by the 3rd Report of the Nolan Committee on Standards in Public Life, published in 1997 and against the background of the increasing possibilities of liability for local authorities and councillors in the event that mistakes are made.

This Code has been drawn up to take account of the Government's stated views on the Nolan Report and ethical conduct in local government, the Ealing Code of Conduct for Members adopted with effect from 2012 and the Localism Act 2011. It is designed to minimise the possibilities for legal action against the Council and individual members. The Code contains important guidance for all members of the Council not just those serving on the Licensing Committee. References in this Code to Licensing Committee include Licensing Sub Committee Panel

## The Code

### **General**

1. Under the Localism Act 2011 a member is not to be taken to have had, or to have appear to have had, a closed mind when making a decision just because
  - the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took or would or might take, in relation to a matter, and
  - the matter was relevant to the decision
2. Although this provision recognises the role of members in matters of local interest and debate, if you are a member of the Licensing Committee taking part in a decision on a licensing matter, you should not make up your mind how to vote prior to consideration of the matter by the Licensing Committee and therefore you should not comment in advance commitment in advance of how you intend to vote which might indicate that you have a closed mind.
3. This does not prohibit your ability as a ward member to represent the views of your constituents throughout the planning process, provided that you make it clear that those views are not necessarily your own.
4. If you have any doubts about the interpretation of this Code, you should consult appropriate officers on the point.

## **Lobbying**

5. If you are approached about a licensing matter (even if you are not a member of the Licensing Committee) by any applicant, agent, objector or other interested party, you should :

- (a) Consider whether or not it would be prudent in the circumstances to make notes of the meeting and (if so) make such notes
- (b) Disclose any such contact if you make representations about a licensing matter (either at or outside the Licensing Committee meeting)
- (c) In the light of such contact, and of other relevant considerations (including, for members of the Licensing Committee, the importance of remaining impartial as a decision maker), carefully exercise your judgment as to the best means to play your representative role as a ward member with regard to the licensing matter in question
- (d) Avoid giving the impression that you, or anyone else, can exert any improper influence over the licensing process
- (e) If the contact is to seek professional, technical or legal advice with regard to a licensing matter, consider whether or not it is appropriate to refer the enquirer to the appropriate council officer or other appropriate independent person or organisation, and
- (f) Immediately report to the appropriate officer any improper contact, pressure or inducements to yourself or - if you become aware of them - to others involved in the licensing process

6. Whether or not you are a member of the Licensing Committee, if you are approached as set out in paragraph 3 above, you shall - if requested by an officer or by another councillor - disclose details of the approach at any relevant meeting of the Licensing Committee which you attend.

7. If you are approached about a licensing matter and you are a member of the Licensing Committee you should, in addition to the points at (3) and (4) above :

- (a) Consider whether or not your impartiality as a decision maker might be compromised or seen to be compromised by such contact, and
- (b) Avoid giving any commitment, or the impression of a commitment, to take any particular stance in relation to a forthcoming decision of the Licensing Committee

## **Members' Interests**

8. If you have business or other interests bringing you into frequent contact with the licensing system locally, you should avoid membership of the Licensing Committees. Such interests might include you working in the drinks or licensing industry or acting as a consultant in respect of licensing applications within the borough.

9. If you are a member of the Licensing Committee and are contemplating making an application which could come before the Licensing Committee, you should :

- (a) notify the Monitoring Officer and
- (b) not take any part in the licensing process relating to that application in any way that could be interpreted as improper lobbying of officers or other members.

10. If you are a member of the Licensing Committee and consistently feel unable to fulfil that role within the constraints of an approved licensing policy you should consider carefully whether you should continue to serve on the Committee. This will not prevent you from serving on the Licensing Committee if you disagree with a particular approved policy but are still able to recognise and uphold its legal significance in the licensing process.

11. If you think that you have a disclosable personal interest in a matter (as set out in paragraph 9 of the Ealing Code of Conduct for Members), you should take no part in the proceedings other than is permitted by paragraph 12 of the Ealing Code.

12. Where practicable, you should not accept hospitality or gifts from any person who you know or suspect to be an applicant, agent, or interested party (including an objector) in a licensing matter due to be considered by the Licensing Committee. Where refusal is impracticable you should report the receipt of such gifts or hospitality to the appropriate senior officer of the Council, as provided for in Ealing Code of Conduct for Members. Any gifts you receive should be donated to an appropriate body under any arrangements approved by the Standards Committee or to one of the Mayor's charitable appeals

### **Site Visits**

13. Where you know premises to be the subject of or affected by a licensing matter or you know it is likely to become subject to or be affected by a licensing matter, you should not enter those premises for any purpose in connection with such matter save in the course of an official site visit and in accordance with paragraph (14) of this code.

14. Site visits are not generally best practice within the licensing framework. A site visit will generally only be appropriate in exceptional circumstances where the expected benefit is substantial and where it is clear that the benefit relates to a licensing objective. The licensing objectives are :

- (i) The prevention of crime and disorder
- (ii) Public safety
- (iii) The prevention of public nuisance, and
- (iv) The protection of children from harm

This means that a site visit is only likely to be justified if the impact of the application proposal is very difficult to visualise from the plans and any supporting material, including photographs

15. Where a decision is deferred for the purposes of an official site visit, you should ensure that the detailed reasons for that decision are stated at the meeting at which this decision is taken, and minuted.

16. If you attend premises in the course of an official site visit you should avoid giving your impressions or any indication of your likely decision and avoid entering into any discussion about the merits of the application

### **The Licensing Committee Meeting**

17. If you are a member of the Licensing Committee you should not take part or vote on any licensing matter if you have not been present throughout consideration of the matter at that meeting.

### **Training**

18. If you are a member of Licensing Committee you must participate in a programme of training on the planning system agreed by Regulatory Committee and organised for you by officers. The programme will consist of compulsory and discretionary modules.

19. If you are a member of the Licensing Committee and you fail to participate in the programme of training agreed by Regulatory Committee this may result in you being asked to stand down as a member of Licensing Committee

20. You should be aware that :

- a. Training is particularly important for members who are new to Licensing Committee and for members who have not attended training in the recent past, and
- b. Where you have genuine difficulty in attending any particular training session, officers will try where practicable to accommodate a request for an individual or repeat session

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