

OFFICERS LICENSING CODE OF GOOD PRACTICE

Introduction

The principal purpose of the licensing system is to protect public safety and in performing this role licensing necessarily affects personal, land and property interests and may affect the financial value of holdings.

It is essential therefore that the process is underpinned by open and transparent decision making and that those officers involved in making decisions on licensing matters, or making recommendations, do so openly, impartially and by exercising sound judgement and with reasons that can be justified. The licensing process must leave no grounds for suggestion that a decision has been partial, biased or ill founded in any way.

This code applies to licensing and other officers at all times when they are involved with the licensing process including pre-application, writing of reports, giving of advice, the determination of applications and the enforcement of breaches of conditions. Failure to act in accordance with this code, without good reason, could be taken into account in investigations by the Ombudsman into possible maladministration or in the course of more serious allegations in respect of officer conduct.

Officers involved in the licensing process will be required to confirm, in writing, that they have read and understood the code of practice and to indicate that they are willing to implement its provisions in the course of their duties.

The Role of Officers

Officers are paid employees of the Council and have the principal responsibility of ensuring the discharge of the Council's policy. Officers will provide impartial and professional advice to all members to assist them in reaching their decisions and to the public and to other stakeholders to enable them to engage with the licensing process. All advice given will endeavour to take account of national legislation and guidance and regional and local policies and practice.

All applications for registration, licences, permits etc will be dealt with according to the scheme of delegation which is set out in the Council's Constitution. Delegation of decision-making power to an officer does not, however, preclude difficult or controversial applications or enforcement issues, or issues which may influence future policy or practice being taken before the Licensing and Environmental Committee for its consideration.

Pre-application Discussions

The Council recognises that pre-application discussions can be of significant benefit to both the applicant and the Council. Officers will therefore engage in pre-application discussions advising of the Council's relevant policies and of legislative requirements and any other local or national policy or guidance issues.

In offering such pre-application advice, officers will make it clear that any views expressed are made in their professional capacity and will not be binding on the Council in making its final decision.

Officers may assist applicants in making applications but must not effectively 'make the application for them' i.e. they must not complete application forms on their behalf.

Declaration and Registration of Interests

It is a fundamental principle that those having a **significant** interest in the outcome of any licence application, representation or enforcement matter should not make decisions in relation to that application or matter.

Any officer involved in the licensing process, who has a private or personal interest in any licensing matter, must declare their interest in the Register of Declarations which is maintained by the Head of Planning, Health and Environment.

A personal or private interest could include knowledge of the applicant or objectors and would be an interest such that a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the officer's decision or recommendation.

For avoidance of doubt it should be noted that this would not normally include normal day to day contact with an applicant, for example where a licensing officer has used a particular licensed premises or visited a licensed establishment such as a zoo as a paying customer.

Licensing Proposal Submitted by Councillors and Officers and Council Applications

An application submitted by an existing officer of the Council, or a serving Member of the Council, or their immediate family, must be reported to the Head of Planning, Health and Environment and he shall make a decision as to whether or not the application needs to be put before the Licensing and Environmental Committee.

NB: Legislation decrees that some applicants having met minimum statutory requirement **must** be granted a licence.

Officers must not seek to influence, or take part in the decision-making process for applications or other licensing matters involving themselves or other immediate members of their family.

Proposals arising from the Council's own divisions can be made, for example, for a Premises Licence under the Licensing Act 2003. It is important to ensure the transparency of the process and that any such applications, or proposals, are dealt with in the same way as those by members of the public.

Dealing with Applications Submitted by Ex-members and Retired Officers

Concerns may also be raised regarding the handling of licensing applications or other licensing issues submitted by ex-members and retired officers. All such applications will be treated no differently than any other application and will be dealt with impartially and objectively under the Council's scheme of delegation or reported to the Licensing and Environmental Committee.

Gift and Hospitality

During the course of carrying out their duties officers may be offered hospitality or other gifts. In all cases such offers should be politely declined and an explanation given accordingly. If receipt of a gift or hospitality is unavoidable, for example if it is unwittingly received and cannot be returned, it shall be declared to the Head of Planning, Health and Environment who will determine what action is required.

Complaints and Record Keeping

The Council operates a formal complaints procedure which applies to all Council functions including licensing related complaints. Any complaints submitted regarding the conduct of an officer will, in the first instance, be considered under the formal complaints procedure. Depending on the nature of the complaints the Council may also need to consider proceeding under its disciplinary route.

In order that complaints may be fully investigated and as a matter of good practice record keeping will be complete and accurate.

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