

# Public Document Pack



## LICENSING COMMITTEE

Wednesday, 14 November 2007 at 10.00 am  
Council Chamber, Civic Centre, Silver Street,  
Enfield, EN1 3XA

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Councillors : John Boast (Chairman), Chris Bond, Yasemin Brett,  
Bambos Charalambous, Andreas Constantinides, Annette Dreblow (Vice-Chairman),  
Christiana During, Peter Fallart, Norman Ford, Ahmet Hasan, Elaine Hayward, Henry  
Lamprecht, Anne-Marie Pearce, Toby Simon and Terence Smith

## AGENDA – PART 1

1. **WELCOME AND INTRODUCTIONS**
2. **APOLOGIES FOR ABSENCE**
3. **DECLARATION OF INTERESTS** (Pages 1 - 2)

Members are invited to identify any personal or prejudicial interests relevant to items on the agenda.

Please refer to the attached guidance note.

4. **REPORT OF THE DIRECTOR OF ENVIRONMENT STREET SCENE AND PARKS (REPORT NO. 148) LICENSING & GAMBLING CODE OF CONDUCT** (Pages 3 - 4)

To receive the report (No.148) of the Director of Environment Street Scene and Parks.

5. **LICENSING & GAMBLING CODE OF CONDUCT** (Pages 5 - 12)

To amend/agree the draft Licensing & Gambling Code of Conduct.

6. **MINUTES OF MEETING HELD ON 24 OCTOBER 2007** (Pages 13 - 16)

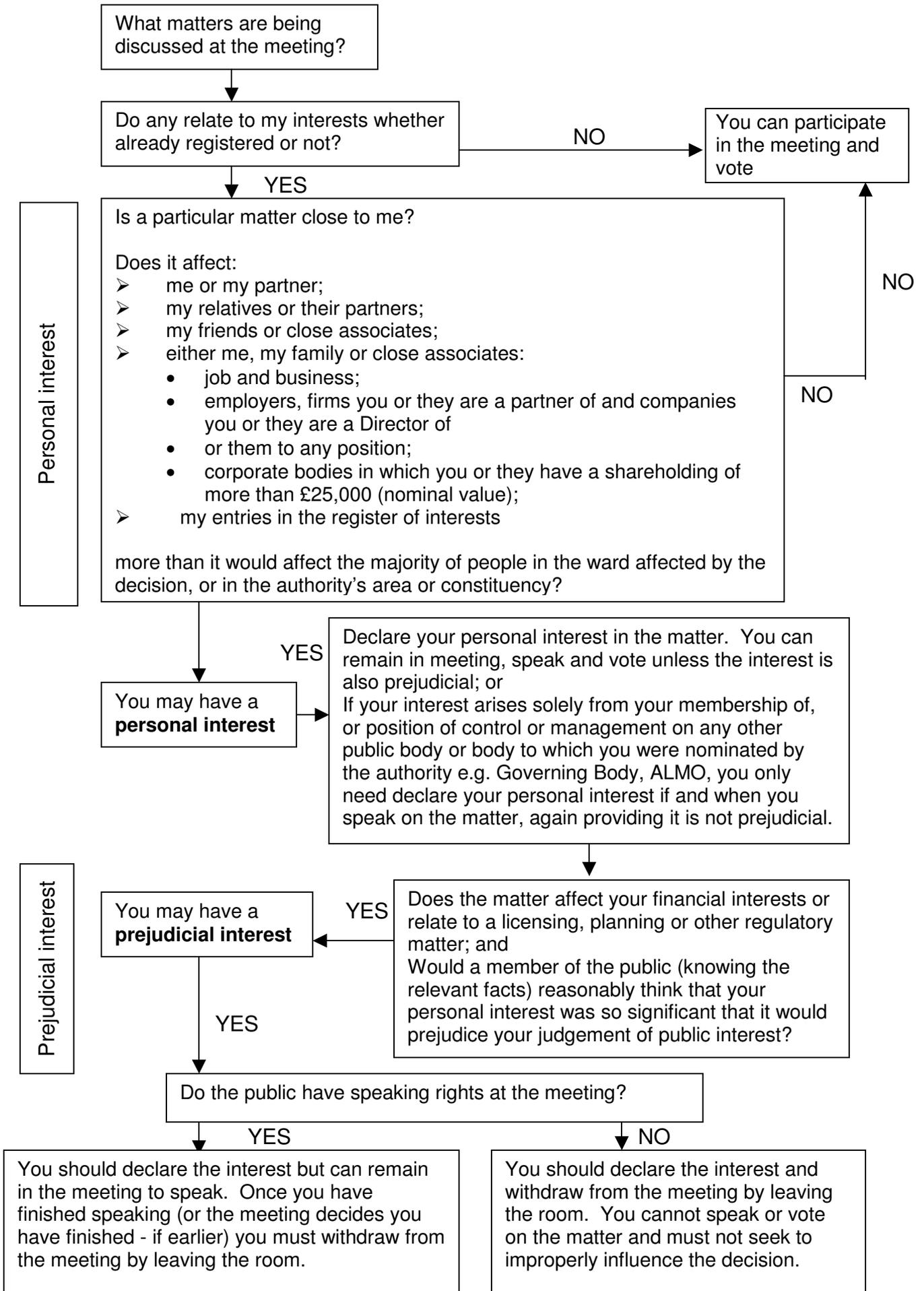
To agree the minutes of the meeting held on Wednesday 24 October 2007.

## **7. EXCLUSION OF THE PRESS AND PUBLIC**

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972, excluding the press and public from the meeting for any items of business listed on Part 2 of the agenda on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs of Part 1 of Schedule 12A to the Act, (as amended by the Local Government (Access to Information) (Variation) Order 2006).

Members are asked to note that no items have currently been identified for consideration in Part 2 of the Agenda.

**DECLARING INTERESTS FLOWCHART - QUESTIONS TO ASK YOURSELF**



**Note:** If in any doubt about a potential interest, members are asked to seek advice from Democratic Services in advance of the meeting.

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**MUNICIPAL YEAR 2007/2008 REPORT NO. 148**

**MEETING TITLE AND DATE:**

Licensing Committee  
- 14 November 2007

**REPORT OF:**

Director of Environment, Street  
Scene and Parks

**CONTACT OFFICER:**

Mark Galvayne  
Tel: ext. 4743  
[mark.galvayne@enfield.gov.uk](mailto:mark.galvayne@enfield.gov.uk)

<b>Agenda – Part:</b>	<b>Item:</b>
<b>Subject:</b> <b>Licensing &amp; Gambling Code of Conduct</b>	
<b>Wards: All</b>	
<b>Cabinet Member consulted: not applicable</b>	

**1. EXECUTIVE SUMMARY**

- 1.1 The Licensing Committee is invited to consider a draft Licensing & Gambling Code of Conduct ('the Licensing Code'), which has been requested by the Standards Committee.
- 1.2 The Licensing Code is supplementary to the Members' Code of Conduct, which was adopted by Council on 27 June 2007.

**2. RECOMMENDATION**

- 2.1 To amend and/or agree the draft Licensing & Gambling Code of Conduct prior to it being submitted to the Standards Committee on 11 December 2007.

**3. BACKGROUND**

- 3.1 In November 2006, the Standards Committee requested that a Licensing & Gambling Code of Conduct ('the Licensing Code') be drawn up for inclusion in the Council's Constitution.
- 3.2 The Committee agreed that the draft Licensing Code should be approved in principle by the Licensing Committee prior to its submission to the Standards Committee.
- 3.3 Following the Standards Committee, the Licensing Code will be recommended for approval by Council. If approved, the Licensing Code will be included within the Council's Constitution.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Not applicable.

#### **5. REASONS FOR RECOMMENDATIONS**

- 5.1 To enable the Members of the Licensing Committee an opportunity to amend and/or agree the draft Licensing & Gambling Code of Conduct prior to it being submitted to the Standards Committee on 11 December 2007.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS**

##### **Financial, Legal & Property Implications**

- 6.1 Not applicable.

#### **7. PERFORMANCE MANAGEMENT IMPLICATIONS**

- 7.1 Not applicable.

#### **8. PUTTING ENFIELD FIRST**

- 8.1 Not applicable.

#### **Background Papers**

Members' Code of Conduct  
Minutes of the Standards Committee



## **THE LONDON BOROUGH OF ENFIELD LICENSING & GAMBLING CODE OF CONDUCT**

### **1. DEFINITIONS**

- 1.1 “Licensing Committee” (‘the Committee’) refers to the Committee established in accordance with Section 6 of the Licensing Act 2003 and consists of at least ten, but not more than fifteen, Members of the London Borough of Enfield (‘the Council’) as Licensing Authority.
- 1.2 “Licensing Sub-Committee” (‘the Sub-Committee’) refers to no more than three Members of the Committee meeting as its Sub-Committee. The Sub-Committee is responsible for hearing applications made under the Licensing Act 2003 and the Gambling Act 2005.

### **2. INTRODUCTION**

- 2.1 This Licensing & Gambling Code of Conduct (‘the Licensing Code’) relates to the conduct of all Members in respect of both licensing and gambling, including Members of the Committee and any Sub-Committees appointed.
- 2.2 The Code is supplementary to the Members’ Code of Conduct (‘the Members’ Code’) adopted by Council on 27 June 2007.

### **3. MEMBERS’ ROLE IN OPPOSING APPLICATIONS UNDER THE LICENSING ACT 2003 AND THE GAMBLING ACT 2005**

- 3.1 The role of Members in opposing applications differs depending on whether the application was made under the Licensing Act 2003 or the Gambling Act 2005.
- 3.2 The role of Members in opposing applications for premises licence or club premises certificate under the Licensing Act 2003 is as follows:
- 3.2.1 Members may represent persons who live in the vicinity or persons involved in a business in the vicinity, but only when asked to do so. Members may also sum up on behalf of the person/s they are representing. Where interested parties present at the hearing ask Members to sum up on their behalf, Members may choose to do so, but then must confine themselves to matters which arose during the hearing and/or were contained within the letters of representation;
- 3.2.2 Members may make representations in a personal capacity, subject to the restrictions as set out in paragraph 5.6 below.

- 3.3 The role of Members in opposing applications for premises licence under the Gambling Act 2005 is as follows:
- 3.3.1 Members may represent persons who live sufficiently close to the premises to be likely to be affected, or persons who have business interests that might be affected by the authorised activities but only when asked to do so. Members may also sum up on behalf of the person/s they are representing. Where interested parties present at the hearing ask Members to sum up on their behalf, Members may choose to do so, but must then confine themselves to matters which arose during the hearing and/or were contained within the letters of representations;
  - 3.3.2 Members may make representations in personal capacity, subject to the restrictions as set out in paragraph 5.6 below;
  - 3.3.3 Members may send a letter of representation to the Licensing Unit and then may orally address the Sub-Committee without being asked by a resident specifically to do so (i.e. a general ward representation);
  - 3.3.4 In order to make oral representations before the Licensing Sub-Committee, members must first send a letter of representation to the Licensing Unit within the specified timeframe. Where Members have a personal and prejudicial interest, the letter of representation must also outline the existence and nature of the interest;
  - 3.3.5 If a Member decides not to attend the Sub-Committee hearing to make oral representations, their letter of representation will still be taken into account if it relates to one of the grounds for determination (see paragraph 7.7);
  - 3.3.6 If Members making a general ward representation have no interest, or a personal interest only, they may remain for the duration of the hearing;
  - 3.3.7 If Members making a general ward representation have a personal and prejudicial interest, they may attend the Sub-Committee hearing to make oral representations, answer questions or give evidence about the matter (provided that the public are also allowed to attend the meeting for the same purpose). The Member may be present for the announcement of the decision. (In addition, whilst this is a matter for the Member, it is suggested that a Member with a personal and prejudicial interest may wish to consider whether or not their involvement could be such as to make it unwise for them to participate because of an adverse potential impact on the reputation of themselves or of the Council).

#### **4. GIFTS AND HOSPITALITY**

- 4.1 Members should have particular regard to public perception when accepting any gift of hospitality from licensed premises (being premises licensed under the Licensing Act 2003 or Gambling Act 2005) and should act with extreme caution when accepting any gift whatsoever, regardless of the monetary value.
- 4.2 It is generally acceptable for Members to accept light non-alcoholic refreshments (such as tea, coffee, soft drink, juice, biscuits, light snacks) whilst attending a meeting in an official capacity.

#### **5. MEMBERS' INTERESTS – LICENSING AND GAMBLING APPLICATIONS**

- 5.1 Members must comply with Part 2 of the Members' Code, which deals with Interests.
- 5.2 Members must always declare any personal interest, or personal and prejudicial interest, as defined by the Members' Code. The existence and nature of an interest must be declared regardless of whether Members are sitting on the Sub-Committee or appearing before the Sub-Committee. This should include interests where Members have some doubt whether or not it is declarable and such an interest should be notified in advance of the hearing to the Legal Advisor for that hearing.
- 5.3 Members with a personal and prejudicial interest must not sit on the Sub-Committee and determine the application. As a general rule, Members are not invited to sit on any Sub-Committee which will consider applications relating to the ward which they represent or live in.
- 5.4 Members with a personal and prejudicial interest may make an application under the Licensing Act 2003 or Gambling Act 2005, or act as a representative for the applicant, and may then attend the Sub-Committee hearing for the purpose of making the case, answering questions or giving evidence (provided that the public are also allowed to attend the meeting for the same purpose).
- 5.5 Members may be present for the announcement of the decision whether or not they are representing a party or have a personal and prejudicial interest.
- 5.6 Members who live in the vicinity of a premises subject to an application under the Licensing Act 2003, or who live sufficiently close to a premises subject to an application under the Gambling Act 2005 so as to be likely to be affected by gambling, would generally be regarded as having a

personal and prejudicial interest. In such circumstances Members with a personal and prejudicial interest may:

- 5.6.1 Send a letter of representation to the Licensing Unit within the specified timeframes for making representations. The letter of representation must also outline the existence and nature of the interest;
  - 5.6.2 Attend the Sub-Committee hearing to make oral representations, answer questions or give evidence about the matter (provided the public are also allowed to attend the meeting for the same purpose). In addition, whilst this is a matter for the Member, it is suggested that a Member with a personal and prejudicial interest may wish to consider whether or not their involvement could be such as to make it unwise for them to participate because of an adverse potential impact on the reputation of themselves or of the Council;
  - 5.6.3 In order to be able to make oral representations before the Sub-Committee, Members must first send a letter of representation to the Licensing Unit. If a Member decides not to attend the Licensing Sub-Committee hearing to make oral representations, the letter of representation will still be taken into account if it relates to one of the grounds for determination (see paragraphs 7.6/7.7) and the Member lives in the vicinity (Licensing Act 2003) / sufficiently close (Gambling Act 2005).
- 5.7 It is accepted that Members of the Sub-Committee may have visited the licensed premises in their personal lives. Members should declare if it amounts to a personal interest, or a personal and prejudicial interest.
- 5.8 Members involved in Council meetings which approved the Licensing Policy and the Gambling Policy, are not excluded from the Licensing Sub-Committee because of such involvement.

## **6. LOBBYING**

### *Of Licensing Committee Members*

- 6.1 If a Sub-Committee Member is approached by persons wishing to lobby him/her about a licence application under the Licensing Act 2003 or Gambling Act 2005 that they will be determining, then that Sub-Committee Member must politely explain that they cannot discuss the matter and refer the lobbyist to the Licensing Unit or to his/her Ward Member, who can explain the process of decision making.
- 6.2 Any written presentations received by a Sub-Committee Member should be passed to the Licensing Unit. Any such approach received in time should also be reported at the hearing at which the application is being determined.

- 6.3 Requests for procedural advice with regards to licensing applications should be referred to the Licensing Unit for advice and information.

*Of or by all other Members*

- 6.4 Other Members must not lobby Members who sit on the Sub-Committee, directly or indirectly, in writing or otherwise, in respect of items to be decided by the Sub-Committee with a view to influencing their decision. Any representation by other Members, on behalf of an interested party, should be sent to the Licensing Unit for inclusion in his report.

**7. GUIDING PRINCIPLES FOR SUB-COMMITTEE MEMBERS**

- 7.1 In respect of any application listed for consideration by a particular Sub-Committee, Members of that Sub-Committee must avoid expressing personal opinions prior to the hearing. To do so would indicate that the Member has made up his or her mind before hearing all the evidence.
- 7.2 Those Sub-Committee Members must not take nor declare a view on the merits of the application nor organise support or opposition in advance of the hearing, and must keep an open mind until after they have considered all the evidence and arguments presented.
- 7.3 Those Sub-Committee Members should not form or show bias against or in favour of any particular person, company or group or any particular site or locality nor give the impression that they have done so.
- 7.4 Those Sub-Committee Members cannot represent one of the interested parties or applicant.
- 7.5 Decisions of the Sub-Committee shall not be taken in accordance with a political party direction given at a previous party group meeting or otherwise.
- 7.6 For applications heard under the Licensing Act 2003, the Sub-Committee must make their decisions based on the Licensing Objectives, having regard to the Guidance and Licensing Policy.
- 7.7 For applications heard under the Gambling Act 2005, the Sub-Committee should aim to permit the use of premises for gambling in so far as they think it:
- 7.7.1 in accordance with any relevant Code of Practice;
  - 7.7.2 in accordance with any relevant Guidance;
  - 7.7.3 reasonably consistent with the Licensing Objectives (subject to 7.7.1 & 7.7.2 above); and

7.7.4 in accordance with the authority's statement of Gambling Policy (subject to 7.7.1 & 7.7.3 above).

## **8. NATURAL JUSTICE**

8.1 Members of the Sub-Committee must comply with the rules of natural justice, ensuring that parties have an opportunity to be heard, whilst acting fairly and impartially. When the Sub-Committee is making its determinations, the following principles must be considered:

8.1.1 Free from the appearance of bias – Sub-Committee Members must make an objective and impartial determination of the issues based on the evidence and should not make, or give the appearance of making, a biased decision. Members of the Licensing Committee should not make any public statements which may give the impressions to the public that they may not be objective when sitting on any Sub-Committee. Bias may include pre-judged ideas based on his/her own prejudices or party political influences;

8.1.2 Fair hearing – For a hearing to be fair a number of conditions must be satisfied, including the right for the individual to know the opposing case; generally the right to call witnesses; the ability to question witnesses; the right to legal representation; and generally the right to be given reasons for any decision made.

## **9. CONDUCT AT HEARINGS**

9.1 Members of the Sub-Committee should not communicate directly with the applicant, interested parties or responsible authorities (N.B. the Licensing Unit is *not* a responsible authority) either immediately prior to the hearing, during the hearing, or after the hearing, other than publicly through the Chair.

9.2 Licensing Sub-Committee Members' questioning of speakers is to clarify arguments and views, and care should be taken not to express or indicate a view at that stage, nor to intimidate speakers.

9.3 Any material considered by the Sub-Committee that does not comprise part of any material supplied by the Licensing Unit must originate only from the applicant, an interested party or responsible authority, and must be tabled through the Chair. The nature of any such material must be clear to all present at the hearing and available for inspection.

9.4 Members must comply with the 'Procedures to be followed at hearings of the Licensing Sub-Committee', as amended from time to time.

- 9.5 Members should not take part or vote on an item if they have not familiarised themselves with the report and letters of representation and been present throughout consideration of the item.

## **10. RECORDING OF REASONS**

- 10.1 The Sub-Committee must give reasons for its decisions. The reasons will be published in the minutes.
- 10.2 Members of the Sub-Committee should be aware of the dangers in publicly discussing the reasons with persons other than relevant Council officers prior to the formal publication of the minutes and subsequently.

## **11. APPLICATIONS SUBMITTED BY THE LOCAL AUTHORITY**

- 11.1 Where the Local Authority applies for a premises licence under the Licensing Act 2003 for open spaces or buildings which it owns, or where there is a variation application or review in respect of such open spaces or buildings, the Sub-Committee must hear and determine this application / review in exactly the same manner as other applications / reviews. The Sub-Committee must give no regard to the interests of the Council itself, aside from receiving relevant representations on this issue.
- 11.2 A dispensation to hear such applications will not usually be necessary, as a Member will not have a personal and prejudicial interest solely through being a Councillor.
- 11.3 Members who are part of the authority's decisions to apply for the licence, or who express a view in respect of such an application, should not also be part of the Sub-Committee.
- 11.4 Members of the Sub-Committee must be aware of any potential appearance of bias and must endeavour to avoid giving any potential appearance of bias even though none exists.

## **12. SITE VISITS**

- 12.1 Site visits are generally unnecessary and can risk putting the Members and the Licensing Unit at risk of accusations of potential bias.

***DRAFT – 5 NOVEMBER 2007***

**Licensing Unit, Environment, Street Scene & Parks.**

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## LICENSING COMMITTEE - 24.10.2007

**MINUTES OF THE MEETING OF THE LICENSING COMMITTEE  
HELD ON WEDNESDAY, 24 OCTOBER 2007**

**COUNCILLORS**

**PRESENT** John Boast, Chris Bond, Yasemin Brett, Bambos Charalambous, Annette Dreblow, Christiana During, Peter Fallart, Anne-Marie Pearce and Toby Simon

**ABSENT** Andreas Constantinides, Norman Ford, Ahmet Hasan, Elaine Hayward, Henry Lamprecht and Terence Smith

**CO-OPTED**

**OFFICERS:** Mark Galvayne (Licensing Officer), Bob Griffiths Environmental, Protection and Regulation, Ann Redondo (Democratic Services)

**459****WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting.

**460****APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Constantinides, E. Hayward and Hasan.

Apologies for lateness were received from Councillor Bond.

**461****DECLARATION OF INTERESTS**

There were no declarations of interest.

**462****MINUTES OF MEETING HELD ON 16 MAY 2007**

The Committee agreed that the minutes of the meeting held on 16 May 2007 were a correct record of the meeting.

**463****LICENSING POLICY : 3 YEAR REVIEW**

RECEIVED the report of the Director of Environment, Street Scene and Parks (Report No. 119) introduced by Mark Galvayne, Licensing Officer.

**LICENSING COMMITTEE - 24.10.2007**

NOTED

1. The Licensing Act 2003 obliges the Council to review its Policy every three years.
2. The details of the response to the public consultation process.
3. The contents of the updates in the draft Second Edition of the Licensing Policy Statement.
4. The Licensing Committee were invited to put forward suggested amendments / comments.
5. Councillor Simon's concerns regarding the minimum level of response, 8 comments 7 from officers and 1 from the police. He queried the level of the consultation process. Mark Galvayne advised that the consultation was broadly circulated and would conclude that the existing policy was satisfactory with relevant parties, including Enfield Trading Associations.
6. Councillor Bond queried the possible nuisance of smokers congregating outside Licensed Premises, now that the Smoking Ban was in force within public places, and asked whether this was incorporated within the policy. Mark Galvayne said that this would be accountable under 'prevention of nuisance' in the use of 'outside spaces'.
7. Responding to concerns from Councillors regarding the 'ambiguous' policy regarding the under 14 years of age being the upper limit within Licensed premises, including supermarkets that sold alcohol, the wording would be amended to reflect that the age of 14 is the upper limit for premises primarily selling alcohol, the wording of paragraph 7.5 to be amended:  
'NB. The age-limit of 14 years is intended as an upper limit and does not imply that this limit will be permitted for all relevant applications'.
8. With regard to 'Prevention of Nuisance' and the adequacy of lavatory provision within licensed premises, it was agreed that:
  - To add a further requirement to ensure that lavatories were not closed until the last customer had left the premises and,
  - in relation to urination in public places the means to prevent nuisances should include the adequacy of lavatories, financial contributions towards the provision and/or maintenance of public urinals and supervision in the vicinity of the premises

**LICENSING COMMITTEE - 24.10.2007**

9. With regard to 'Cumulative Impact', this did not include a 'saturation policy'. Mark Galvayne explained that the police would rather view any further licensed premises to a particular area on a 'case by case' judgement.
10. With regard to the 'Temporary Events Notice' (TEN), Mark Galvayne advised that the 10 days minimum notice was needed to ensure that in the case of any objections being made, there was enough time for the application to appear before the Licensing Sub Committee.
11. Mark Galvayne explained that applicants were made aware that 'Licensing would be granted subject to Planning permission'. Councillor Brett made a fervent plea that when papers were sent out to Turkish applicants, careful translation was used in any responses. She explained that the words 'permission' and 'licence' reflected the same meaning in the Turkish language. Councillor Boast agreed that this was an important issue and asked that the mechanisms were put in place to enable Turkish applicants accurate interpretation to avoid serious confusion.  
**Action: Mark Galvayne**
12. 'Proof of Age' schemes were used in licensed premises. Councillor Boast said that if an irresponsible Licensee was found selling alcohol to under age persons the scheme could be used as a 'weapon' to demonstrate that he had breached the rules.

**AGREED** to approve the updated Second Edition of the Licensing Policy Statement subject to the amendments detailed above.

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