

## **Appendix B Revised Code**

### **Chapter XXX – Licensing and Gambling Code of Conduct**

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

##### **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 not less 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.
- 1.3 Sub Committee meetings in relation to the Licensing Act 2003 matters will comply at all times with The Licensing Act 2003 (Hearings) Regulations 2005. Sub-Committee meetings in relation to Gambling Act 2005 matters will comply with The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (“the Proceedings Regulations”).

##### **2. INTRODUCTION**

- 2.1 This 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 proceedings of the Licensing Committee are quasi judicial and the rules of natural justice apply. This imposes a higher set of standards on those Councillors who are involved in the decision making process. Failure to abide by these standards may render the Council or individual Councillors open to challenge through the Monitoring Officer and may be referred to the Councillor Conduct Committee.
- 2.3 This code provides a set of guidelines for Councillors on the standards which apply to the Licensing Committee. It is part of the [Council's Member Code of Conduct](#) and must be read in conjunction with this document.

### **3. BEFORE THE HEARING**

#### **3.1 TRAINING OF COUNCILLORS**

The Council will arrange training on the work of the Licensing Committee for all Councillors who sit on the Committee; (i) before participating in a meeting of the Committee and (ii) annually while they remain a member of the Committee. For a Member who has previously undertaken the full training and is re-appointed to the Committee for a further year without a break, only a refresher session is required, Other Councillors are free to attend the training in order to gain an understanding of the licensing issues.

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

4.1 The role of Members in opposing applications differs depending on whether the application was made under the Licensing Act 2003 (LA) or the Gambling Act 2005 (GA).

4.1.1 When asked to do so Members may represent persons who:

- live in the vicinity (LA);
- live sufficiently close to premises (GA);
- persons involved in a business in the vicinity (LA) or
- persons who have a business interest (GA)

Where interested parties present at the hearing ask Members to sum up on their behalf, they must confine themselves to matters which arose during the hearing and/or were contained within the letters of representation;

4.2 For both licences Members may make representations in personal capacity, subject to the following restrictions;

4.2.1 Members may make an oral representation to the Licensing Sub-Committee without being asked by a resident specifically to do so (i.e. a general ward representation);

4.2.2 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;

4.2.3 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;

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

- 5.1 Members with any disclosable pecuniary, other pecuniary or non-pecuniary interests 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.
- 5.2 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, outlining the nature of any interest. 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 and the Member lives in the vicinity (Licensing Act 2003) / sufficiently close (Gambling Act 2005).
- 5.3 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.

### **Lobbying - Of Licensing Committee Members**

- 5.4 If a Sub-Committee Member is approached by persons wishing to lobby him/her they must explain that they cannot discuss the matter and refer the lobbyist to the Licensing Unit or to his/her Ward Member. Councillors must not give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. Members can explain the process of decision making in general terms
- 5.5 Any written/email presentations received by a Sub-Committee Member should be passed to the Licensing Unit and where received in time should also be reported at the hearing at which the application is being determined.
- 5.6 Requests for procedural advice with regards to licensing applications should be referred to the Licensing Unit for advice and information.

### **Lobbying - Of or by all other Members**

- 5.7 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.

## **6. GUIDING PRINCIPLES FOR SUB-COMMITTEE MEMBERS**

- 6.1 For applications heard under the Licensing Act 2003 and Gambling Act 2005, the Sub-Committee must make their decisions based on the respective documents; Licensing Objectives, relevant Licensing/Gambling Guidance; Licensing/Gambling Policy.
- 6.2 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:
  - 6.2.1 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;
  - 6.2.2 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.

## **7. CONDUCT AT COMMITTEE HEARINGS**

- 7.1 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.
- 7.2 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.
- 7.3 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.

- 7.4 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.

## **8. RECORDING OF REASONS**

- 8.1 The Sub-Committee must give reasons for its decisions which will be published in the minutes.
- 8.2 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.

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

- 9.1 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.
- 9.2 A dispensation to hear such applications will not usually be necessary, as a Member will not have an interest solely through being a Councillor.
- 9.3 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.

## **10. SITE VISITS**

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