

PROTOCOL F: MEMBERS' LICENSING CODE OF GOOD PRACTICE

F1	Introduction
F1.1	This protocol is intended to apply the principles contained in the Members' Code of Conduct, together with the statutory provisions relating to members' conduct contained in the Human Rights Act 1998, the Licensing Act 2003 and the Gambling Act 2005, to Members' licensing responsibilities and to support and maintain the observance of high standards of ethical conduct. This protocol applies to the actions of the licensing authority and, for the purposes of this protocol; the term "licensing authority" means the Licensing and Appeals Committee or a panel of the committee, as appropriate.
F1.2	The aim of this protocol is to ensure that in the licensing process there are no grounds for suggesting that a decision has been biased, partial or is not well founded in any way. Members must make decisions openly and impartially, with sound judgment and clear and justifiable reasons, and in compliance with any legal provisions.
F1.3	The key purpose of licensing is to regulate certain activities in the public interest and to promote the licensing objectives defined in the legislation. In addition, the licensing authority must have regard to any statutory guidance issued by the Secretaries of State for Transport and for Culture, Media and Sport and the Gambling Commission.
F1.4	This protocol also applies to other Members at times when involving themselves in the licensing process, both in formal meetings of the licensing authority and in less formal occasions, such as meetings with officers or the public and consultative meetings.
F2	Relationship with the Members' Code of Conduct
F2.1	The Members' Code of Conduct must always be complied with and the rules in that code must be applied before considering this protocol.
F2.2	This protocol is not intended to form a part of the adopted Members' Code of Conduct, but is a separate document, which is both supportive of the Members' code and a source of expanded guidance in the particular area of licensing.
F3	Licensing proposals and interests under the Members' Code of Conduct
F3.1	As a Member, your interest in a licensing matter may take a variety of forms: <ul style="list-style-type: none"> - as a Member of the Executive having responsibility for licensed premises in the Council's ownership or for licensable activities promoted by the Council;

	- as a member of another organisation or body that is applying to the licensing authority for a licence or is conducting a licensable activity;	
	- as an employee of a responsible authority, as defined in the legislation;	
	- as a person who lives, or who has business premises, in the vicinity of licensed premises or an application site;	
	- as a member of a lobby group or campaigner;	
	- as the applicant for, or holder of, a licence or the provider of a licensable activity;	
	- as a member or officer of a registered club;	
	- as a supplier of goods or services to an applicant, a licence holder or a club.	
F3.2	The Members' Code of Conduct places requirements on councillors as to the notification and declaration of their interests and participation in the business of the Council in light of those interests. These requirements must be followed scrupulously and councillors should review their situation regularly. Advice can always be sought from the Monitoring Officer or one of the Council's solicitors as to whether an interest may exist; however ultimate responsibility for compliance rests with individual councillors.	
F3.3	You can have an interest in a licensing application in a number of different ways. It may, for example, be an application which relates to property in which you or your partner have a direct interest e.g. as owner. Alternatively, it may be an application which may reasonably be regarded as affecting the financial position of yourself and/ or an Associated Person e.g. a member of your family and where a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice the public interest. These interests are defined in the code of conduct as Disclosable Pecuniary Interests (DPIs) and Other Significant Interests (OSIs).	
F3.4	If you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Council, then you:	
	(a)	must notify the Monitoring Officer of the existence and nature of the interest (if not already notified) as soon as you become aware of this;
	(b)	not participate in any discussion of, or vote taken on, the matter at a meeting (unless you have obtained a dispensation from the Monitoring Officer or General Purposes Committee as appropriate);

	(c)	withdraw from the meeting room whenever it becomes apparent that the matter is being considered;
	(d)	not seek to improperly influence a decision about that business.
F3.5	If you have an Other Significant Interest in any business of the Council then you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose. Having made your representations, given evidence or answered questions you must:	
	(a)	not participate in any discussion of, or vote taken on, the matter at the meeting; and
	(b)	withdraw from the meeting room in accordance with the Council's Procedure Rules.
F3.6	You should also make known any DPI or OSI at informal meetings or discussions including those held with officers or other councillors and third parties.	
F4	"Pre-determination" (fettering discretion) and "apparent bias"	
F4.1	You should not fetter your discretion, and therefore your ability to participate in licensing decision making, by making up your mind (or clearly appearing to have made up your mind) as to how you will vote on any application prior to its formal consideration at a hearing and before hearing the evidence and representations on all sides. You should particularly think how what you do or say might be viewed by an external interest or lobby group.	
F4.2	Fettering your discretion in this way, and then taking part in the decision, will put the licensing authority at risk of a finding of maladministration and of legal challenge on the basis of a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.	
F5	Contact with Applicants and Interested Parties	
F5.1	You should refer those who approach you for assistance on licensing, procedural or technical matters to the relevant officers.	
F5.2	You should not be involved in formal meetings with applicants or groups of objectors or become involved in any organisation one of whose primary purposes is to promote or oppose licensing proposals.	

F5.3	If you are, or are likely to be, a member of a hearing panel, you should explain to those who may be attempting to lobby you that you cannot listen to what they want to say as this will prejudice your impartiality and, therefore, your ability to participate in the decision-making process. It is good practice to advise them to contact a ward councillor, who may be able to speak on their behalf at the hearing.
F5.4	<p>It is good practice to:</p> <ul style="list-style-type: none"> - forward copies of lobbying correspondence to the Director of Central Services and Monitoring Officer, although correspondence received outside the relevant time period cannot be taken into account; - comply with guidance on lobbying or attending presentations or discussions set out in this protocol.
F5.5	If you are not a member of a hearing panel, you should not feel constrained in receiving an approach from an applicant or objector and, having considered the information that they have supplied, to agree to speak or make representations on their behalf at a hearing.
F6	Lobbying by other Councillors
F6.1	You must not lobby other councillors regarding their views on licensing applications. Nor should you, outside of the context of the hearing, try to persuade other councillors how to vote.
F6.2	You should not decide, or discuss, how to vote on licensing applications at political group meetings or other meetings, or lobby other members to do so. Political group meetings should never dictate how members should vote on licensing business.
F7	Training
F7.1	You should not participate in decision-making meetings dealing with licensing applications or reviews unless you have attended any prescribed training: this is a legal requirement and cannot be waived.