



INFORMATION SHEET

Licensing Committee

Issue No: 2/2006

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ROLE OF MEMBERS IN RELATION TO LICENSING PANEL

Officer contact: Kiran Khanna DDI: HW 421264 Email: Kiran_khanna@wycombe.gov.uk

This note is for guidance only. Members must make their own decisions on what if any interest they have and if they are unsure, they should seek advice from the Monitoring Officer or the Legal Clerk to the Panel.

Members must comply with the obligations set out in the Members' Code of Conduct. The issues concerning personal and prejudicial interests and common law bias are discussed in more detail below.

Personal Interest

A member must regard him/herself as having a personal interest if the matter relates to an interest which the Member has given notice of in the statutory register OR if a decision upon the matter might reasonably be regarded as affecting his/her wellbeing or financial position (or that of relative or friend) to a greater extent than other inhabitants of the area.

If a Member has a personal interest, regardless of whether he/she sits on the Licensing Panel or is there in a representative capacity, he/she must declare it at the Panel hearing. So long as the interest is not prejudicial, the Member may still take part in the hearing (either as Panel member or in representative capacity).

Prejudicial Interest

A member must regard themselves as having a prejudicial interest if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.

If a Member has a prejudicial interest, they must declare it and must withdraw from the hearing. This rule applies equally to members of the Panel and to Members appearing in a representative capacity.

A Contact Name is shown above and Members are asked to contact that person if they have any queries etc.

The Press is reminded that the Council's procedure is for ALL Press enquiries to be routed via the External Relations Press Office on High Wycombe 421215/421207.

Examples of prejudicial interests might include the following:

- living very close to the application premises;
- being a “friend” of the applicant (please see the Appendix for guidance on this)
- being a frequent visitor to the application premises;
- belonging to a lobbying/campaign group which may have views on a particular application or which may be directly impacted by the outcome of a particular hearing;
- representing an applicant/interested party in a professional capacity for which the Member will receive some financial gain, examples may include where the Member appears in his/her capacity as a solicitor or surveyor.

The effect of this does mean that a Member who is an interested party will not be permitted to attend a Panel hearing in person. This does not however affect their ability to make written representations and to send a representative along to the meeting to put their case across.

There are exceptions to the rules on prejudicial interests in cases referred to in paragraph 10 (2) of the Code of Conduct, eg, where the interest relates to him/herself being a member of another local authority. In this situation, a Member must disclose the interest, but may participate. However, the Standards Board for England advise that Members should consider the specific facts in each individual case, as this is not an automatic exemption. Therefore, having regard to the quasi judicial nature of the Appeals Panel and to avoid a perception of bias, it may be advisable for a Member in this situation to excuse him/herself from taking part in the Panel hearing.

Common Law Bias

Bias has been defined as “an attitude of mind which prevents the [decision maker] from making an objective determination of the issues that he has to resolve”. The key issue is the public perception of a probability of unconscious bias.

Panel Members

Panel Members should excuse themselves from sitting on a Panel hearing if they believe there will be a perception of bias, examples include:-

- where they are representing an applicant or interested party;
- where they have been approached in advance by an applicant or interested party and have discussed the case in any detail. If a Panel Member is approached in advance, they are advised to refer the person to the Licensing Officer or a ward councillor who is not sitting on the Panel in question;
- where they are involved in a campaign/lobbying group with a view on an application or which may be directly impacted by the outcome of a particular hearing;

- where a Member has publicly expressed an opinion about an application in advance of a hearing [NB In this and the previous case the Council may be vulnerable to challenge on the ground that the matter has been pre-determined and it is for this reason that it is not advisable for Members to meet the Licensing Officer in advance to discuss an individual application;
- where they are a ward councillor, a Panel Member should consider carefully whether there is a perception of bias, in particular in cases where there is strong opposition from local residents.

Other Members

Members who do not sit on the Licensing Panel may appear as a representative of an interested party, so long as they do not have a prejudicial interest (eg. they cannot attend if they are also an interested party in their own right). However, they must consider carefully, whether their presence at the meeting will give rise to any perception of bias for Panel members. If the Member believes that the mere fact that they are a councillor may influence the decision of any Panel member, in that greater weight will be given to their representations, then they should decline to appear.

If a Member does act in a representative capacity, they are advised to approach the matter with caution, for example:

- Members should not submit written representations direct to a Panel member
- All papers should be sent to the Licensing Officer;
- Members should not speak directly to a Panel member about a particular case outside the remit of the Panel hearing;
- Members should not be overly familiar with Panel members during the course of a Panel hearing eg. it is inadvisable to start discussing other Council business with Panel members in the view of other parties.