



LICENSING SUB-COMMITTEE AGENDA

WEDNESDAY 8 NOVEMBER 2006

**COUNCIL CHAMBER, CIVIC OFFICES,
CENTRAL MILTON KEYNES**

6.00 PM

Please note that a pre-meeting for Members only will be held from 5.30 pm
in the Private Dining Room.

Councillors **Brock, Burke, Eastman and Latham**

If you have any queries regarding this agenda, please contact James Sloan
(Committee Manager) - Tel: (01908) 252226 or e-mail: [james.sloan@milton-
keynes.gov.uk](mailto:james.sloan@milton-keynes.gov.uk)

A copy of the Agenda can be accessed via the Internet at:
http://www.mkweb.co.uk/your_council/

1. Chair’s Announcement

The Chair to welcome Members, officers and the public to the meeting and introduce Members and officers who are present.

The Chair will detail the procedure to be followed at the hearing and the process for all parties giving evidence and the rights of persons attending the hearing.

2. Apologies

3. Application for a Premise Licence

To consider an application for a new premise licence at Frosts Garden Centre, Newport Road, Woburn Sands (Item 3) (**Pages 7 to 20**)

Annex A - Copy of application (**Pages 21 to 34**)

Annex B - Representations from the Local Safeguarding Children Board and Trading Standards (**Pages 35 to 36**)

4. Applications Resolved Through Mediation

The Sub-Committee may consider application where representations submitted within the statutory time have been resolved through the mediation process (an oral report regarding each individual application may be received at the hearing).

PROCEDURE FOR THE DETERMINATION OF LICENSING APPLICATIONS BY THE LICENSING SUB-COMMITTEE

1. At the start of the hearing the Chair will introduce the Committee Members and Officers and explain their roles for the purpose of the hearing.
2. The Chair will explain the procedure to be followed by the Sub-Committee, which will normally take the form of:
 - (a) The Licensing Officer(s) will present the relevant details, but make no recommendations regarding a decision on the application to the Sub-Committee, together with information regarding any details relevant to the application, which may have come to light since the report was written.
 - (b) The applicant (licensee) or his/her representative can present his/her case, including calling any witnesses. Questions may then be put to the applicant, through and with the consent of the Chair, by the other parties and the Sub-Committee.
 - (c) The other parties will present their case, but only where representations are unresolved. Responsible authorities (within the meaning of the legislation) will present their cases before interested parties. Questions may then be put to those persons, through and with the consent of the Chair, by the other parties and the Sub-Committee.
 - (d) The other parties will be invited to sum up their case.
 - (e) The Applicant or his/her representative will be invited to sum up his/her case.
 - (f) The Sub-Committee will be invited to adjourn to come to its decision. Upon adjournment, all parties will withdraw, directly or through retirement of the Sub-Committee. The only officers who may remain with the Sub-Committee during its adjournment shall be the Committee Manager and the Sub-Committee's legal advisor.
 - (g) Where the Sub-Committee has to make a decision at the end of the hearing, all parties will be called back and informed orally of the decision of the Sub-Committee and any conditions made, with the reasons for those conditions.
3. The Sub-Committee will be permitted to retire to deliberate in private on any matter it chooses. The Sub-Committee may seek legal advice on a point of law at any point but the substance of any advice given in private must be repeated in open session.



ELECTED MEMBER GUIDANCE ON THE LICENSING ACT 2003

This Guidance applies to all Members of the Council who may become involved with licence applications under the Licensing Act 2003

1. **Do you have a Personal Interest?**

The Members Code of Conduct provides a definition of a ***personal interest*** which includes: where the matter in question relates to an interest which is in the statutory register, or if the decision upon the matter might reasonably be regarded as affecting the Member to a greater extent than other inhabitants of the area (the 'affect' could be in terms of well-being, the financial position of the individual, a relative, friend, or a number of other items in the code).

You can still take part in the Licensing Sub-Committee as long as you do not also have a prejudicial interest (see below).

2. **Do you have a Prejudicial Interest?**

The Members Code of Conduct provides a definition of a ***prejudicial interest*** which includes: where 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 you have a prejudicial interest you cannot attend the Sub-Committee hearing in any capacity.

3. **Could you be perceived as being 'biased'?**

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".

An *appearance* of bias is sufficient even where no *actual* bias is shown ("whether a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility of bias".)

- If you wish to openly support either the licence applicant or an interested party then you may do so as long as you do not have a prejudicial interest, and you must not sit on the Sub-Committee hearing the application.

- If there is a sufficient appearance of bias you must not sit on the Sub-Committee hearing the application.

Examples of personal and prejudicial interests, as well as bias may include:

Living near the premises / being a Ward member, being a frequent visitor to the premises or belonging to a lobby group which may be impacted by the licence application outcome.

Other items to consider are:

‘Advantages’ available to Members

Under the Members Code of Conduct, a Member with a *personal* and *prejudicial interest* shall not “improperly influence a decision about that matter”. This means that you must not use any advantage available to you as a Member such as access to Officers, other council Members, papers, records etc., which are not available to members of the public.

Gifts

The Members Code of Conduct states that any gift/hospitality greater than £25 needs to be notified in writing to the monitoring officer within 28 days of receipt. Members are advised that *any* gift/hospitality should generally not be accepted at all. Where, in particular circumstances, gifts are accepted then local authorities may wish to record these details on the register and also on the licence file. Members should check what their local procedure is.

Lobbying of / by Members

Members can represent interested parties such as local residents or businesses if they are specifically asked to do so, as long as the Member does not have a prejudicial interest in the matter. If a Member is unsure of his/her position and is approached by lobbyists then s/he is advised to direct the lobbyists to the licensing officer at the council who will explain the process for making representations. Should a Member decide to represent an *interested party* then s/he needs to be careful not to pressurise officers or Members of the licensing Sub-Committee hearing the licence application. To do so may open the Sub-Committee Members to accusations of bias. Local authorities may have specific guidance on this.

Predetermination

Members who are part of licensing Sub-Committees must avoid expressing personal opinions prior to the decision of the Sub-Committee being made. To do so would indicate that the Member has made up his/her mind before hearing all the evidence and that their decision may be therefore seen as not based upon the Licensing Objectives, statutory guidance or Policy. Political group meetings must

never be used to decide how Members on the Sub-Committee will vote and the Members must not be bound by any party whip.

Site Visits

Site visits are generally unnecessary. If a site visit is believed to be justified then a local authority would be advised to have guidance providing clear criteria for the visit being required and as to the conduct of the visit.

Applications submitted by the Local Authority

It is important that such applications are seen to be dealt with fairly. If a Member has been involved in agreeing a policy to apply for a Premises Licence for local authority space, or for example, is on the board of a school which is applying for a licence then the Member needs to consider carefully with his/her licensing/legal officer whether this may amount to bias and possibly withdraw from the Sub-Committee considering the application.

Health and Safety

Any persons attending meetings in the Council Offices are requested to take a few moments to familiarise themselves with the nearest available fire exit, indicated by the fire evacuation signs. In the event of a continuous alarm sounding during the meeting you must evacuate the building immediately and follow all instructions provided by the fire evacuation officer who will identify him/herself should the alarm sound. You will be assisted to the nearest designated assembly point until it is safe to return to the building.

Any persons unable to use the stairs will be assisted to the nearest safe refuge. The yellow call point alarm will be sounded to alert the fire service as to your presence.

Mobile Phones

Please ensure that your mobile phone is switched to silent or is switched off completely during the meeting.

Agenda

Agendas and reports for the majority of the Council's public meetings can be accessed via the Internet at: <http://cmis.milton-keynes.gov.uk/cmiswebpublic/>

Comments, Complaints and Compliments

Milton Keynes Council welcomes comments, complaints and compliments from members of the public in order to make its services as efficient and effective as possible. We would appreciate any suggestions regarding the usefulness of the paperwork for this meeting, or the conduct of the meeting you have attended.

A form is available online at <http://www.mkweb.co.uk/complaints/home.asp> or is obtainable from the Committee Manager at the meeting.

