

CAMBRIDGE CITY COUNCIL

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TO: Licensing Committee 24/10/2011

WARDS: All

PUBLICATION OF INTERESTED PARTY REPRESENTATIONS MADE UNDER THE PROVISIONS OF THE LICENSING ACT 2003

1 INTRODUCTION

- 1.1 Cambridge City Council (the Licensing Authority) is responsible for administering authorisations under the Licensing Act 2003.
- 1.2 Representations may be made in respect of certain applications under the Licensing Act 2003 by responsible authorities or interested parties.
- 1.3 Representations from responsible authorities are currently published on the Cambridge City Council website unless they contain restricted information. Representations from interested parties are not currently published on the Cambridge City Council website.
- 1.4 In light of the Code of Recommended Practice For Local Authorities On Data Transparency published in September 2011 by the Secretary of State for Communities and Local Government and the Council's drive to publish as much information as possible on the Council website, the Licensing Committee are requested to consider whether it is necessary to publish representations from interested parties.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Members approve one of the following :
 - (i) the publication of representations from interested parties with the removal of any personal data; or

(ii) the publication of representations from interested parties with their express written permission or if they refuse to give permission, with the removal of any personal data; or

(iii) the continuation of the current situation such that representations from interested parties are not published to the Council website.

3. **BACKGROUND**

3.1 The Council, as the Licensing Authority, is responsible for administering Premises Licences, Club Premises Certificates and Temporary Event Notices under the Licensing Act 2003.

3.2 There is a statutory consultation period during which representations may be made by responsible authorities and interested parties in respect of applications for:

- the grant of a new Premises Licence under section 17
- the variation of a Premises Licence under section 34
- the minor variation of a Premises Licence under section 41A
- the grant of a new Club Premises Certificate under section 71
- the variation of a Club Premises Certificate under section 84
- the minor variation of a Club Premises Certificate under section 86A

3.3 Responsible authorities are defined in sections 13(4) and 69(4) of the Licensing Act 2003. For Cambridge City Council's administrative district the Council's Statement of Licensing policy provides that the responsible authorities are:

- The Chief Officer, Cambridgeshire Constabulary,
- The Chief Fire Officer, Cambridgeshire Fire & Rescue Service,
- The Food & Occupational Safety Team, Cambridge City Council
- Environment & Planning, Cambridge City Council,
- The Environmental Health Manager, Cambridge City Council
- Audit Manager, Child Protection and Review Unit, Cambridgeshire County Council
- Trading Standards Cambridgeshire County Council,

3.4 Interested parties are defined in section 13(3) and section 69(3) of the Licensing Act 2003 as:

- (a) a person living in the vicinity of the premises,
- (b) a body representing persons who live in that vicinity,
- (c) a person involved in a business in that vicinity,
- (d) a body representing persons involved in such businesses.
- (e) a member of the relevant licensing authority.

- 3.5 Representations set out how the responsible authority or interested party considers that the granting of a particular application will affect one or more of the statutory licensing objectives. For a person making a representation to be deemed an interested party, they must disclose their name and address to establish that they live or work within the 'vicinity' of the premises. The representation may also contain other personal information.
- 3.6 Where relevant representations are made in respect of any application (save for applications for a minor variation of a Premises Licence or Club Premises Certificate), Cambridge City Council (the Licensing Authority) must hold a hearing to consider the representations and to determine the application.
- 3.7 Regulation 6(1) of the Licensing Act 2003 (Hearings) Regulations 2005 requires the Council to send notice of the hearing to the applicant and those parties who have made a relevant representation. Regulation 7(2) requires that the notice of the hearing that is sent to the applicant is accompanied by the relevant representations which, in the case of a representation made by an interested party, will include their name and address. There is no statutory requirement under the Licensing Act 2003 to make the representations available to any other interested party or responsible authority. However, it is current practice that representations from the responsible authorities are made available publicly through publication on the Cambridge City Council website. If the representation from the responsible authority contains confidential or restricted access data, the representation will be published on the Council's website without the confidential/restricted data.
- 3.8 Representations from interested parties are only made available to the applicant and the Members hearing the application and their legal advisor. A summary of the representations received from interested parties appears in the report to the Sub Committee which is published on the Council's website.
- 3.9 Local Authorities are being urged to "open their doors" and make as much information available publicly as possible. The Code of Recommended Practice for Local Authorities on Data Transparency issued in September 2011 by the Secretary of State for Communities and Local Government sets out key principles for local authorities in creating greater transparency through the publication of public data. The code details the public data that should be released as a

minimum and this includes committee minutes, decision - making processes and records of decisions.

- 3.10 The code also defines public data as *“the objective, factual data, on which policy decisions are based and on which public services are assessed, or which is collected or generated in the course of public service delivery.”* However, the code provides that *“Public data can only include personal information if disclosure would not contravene the Data Protection Act, and disclosure of personal information should be necessary to meet a legitimate public interest.”*
- 3.11 Guidance has been obtained from the former LACORS, this indicates that it is good practice to publish representation from interested parties on the website. However, Local Authorities need to ensure that they comply with the Data Protection Act.
- 3.12 The Council’s drive to make as much information available on the Council’s website as possible has brought in to question whether representations from interested parties should be made available publicly . Additionally, in accordance with the provisions of the Data Protection Act 1998, personal data could only be published with the express permission of the interested party (and this would ideally be provided in writing), otherwise all representations would need to be redacted to remove any information that could identify the individual. There is also concern over whether the publication of representations with personal details enclosed would discourage interested parties from making representations which will be contrary to the Council’s visions statement of a City “whose citizens feel they can influence public decision making and are equally keen to pursue individual and community initiatives”.

4. **OPTIONS**

The Committee may require:

- (i) the publication of representations from interested parties with the removal of any personal data; or
- (ii) the publication of representations from interested parties with their express written permission or if they refuse to give permission, with the removal of any personal data; or
- (iii) the continuation of the current situation such that representations from interested parties are not published to the Council website.

5. **CONCLUSIONS**

- 5.1 The Committee are requested to make a decision on the publication of representations from interested parties having considered the implications of publishing personal data under the Data Protection Act 1998, and the likely affect of an interested party's willingness to make a representation which may be contrary to the Council's vision of a city "whose citizens feel they can influence public decision making and are equally keen to pursue individual and community initiatives".

6. **IMPLICATIONS**

(a) **Financial Implications**

The administration of applications under the Licensing Act 2003 is covered by the statutory fees set by Central Government. If the Committee require that representations are published there will be no additional funding to cover any additional work.

There is a potential financial and reputation risk associated with the publication of Interested Parties representations, should an error or omission be made whereby personal information is not redacted, in the case where permission has not been granted for publication.

(b) **Staffing Implications**

If the Committee require that representations are published (with or without the removal of personal data), the work will need to be carried out by the Licensing section for which there will be no additional staffing resources.

(c) **Equal Opportunities Implications**

The publication of interested party representations may affect an interested party's willingness to make a representation, meaning that there is not an equal opportunity for all those persons who are entitled to put forward comments on an application to do so.

(d) **Environmental Implications**

The climate change rating associated with the recommendation contained in this report is nil

(e) **Community Safety**

There are no specific community safety implications associated with this report.

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

- [The Code of Recommended Practice For Local Authorities On Data Transparency](#)
- [Data Protection Act 1998](#)

To inspect these documents contact Robin Grey on extension 7899

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