

Representations Regarding Licensing Applications and Data Protection.

1. Data Protection and Personal Information.

Representations regarding licensing applications are likely to contain "personal information". Personal information may include names, addresses, expressions of personal opinions and identification of personal circumstances which have led to a representation being made; e.g. ill-health.

The Council is under an obligation to handle personal information in accordance with the requirements of the Data Protection Act. The Information Commissioner is responsible for enforcing Data Protection rules.

2. Expressions of opinion

Not all expressions of opinion will amount to personal data. The Information Commissioner has suggested these tests to decide:

- does the opinion tell you anything significant about the person holding the opinion – for example biographical details, characteristics or their personal beliefs?
- just how 'personal' is the opinion? Is it a subjective, personal view rather than a professional, objective appraisal of a person or issue
- is the opinion being used, or could it be used, to find out something about the person holding the opinion, to treat him or her in a certain way or to inform a decision in respect of him or her?

3. Guidance from the Information Commissioner on Web Publishing

There is no explicit guidance from the Information Commissioner regarding publication on the Internet of information relating to licence applications. There is, however, guidance on publication of information relating to planning and building control applications. This guidance is of clear relevance to licensing applications.

The Information Commissioner makes the following points:

1. Extreme care should be taken to avoid any unnecessary disclosure of telephone numbers, email addresses and signatures. The need for the local authority to hold such information is obviously of benefit to all parties. However, *there is no requirement to make it publicly available on the Internet*. It also has to be remembered that unsolicited telephone calls and emails can be upsetting and intrusive. **The recommendation from the Information Commissioner is that the applicant's telephone number, email address and signature should not be visible via a website or other online system.** [Whilst the text refers to information regarding the applicant, the points made are relevant to those making representations.]

2. The Information Commissioner recommends that local authorities exercise extreme care when considering publishing documents which contain sensitive personal data. This may, for example, relate to personal, medical and financial details of individuals that are contained in the planning application or supporting document. It is not deemed necessary to disclose sensitive personal data in the

planning applications unless there is a legitimate reason (as defined in Schedule 3 of the Act) and this must always be of the basis of proportionality (only disclosing information which is required as an end product). However, it may still be necessary to indicate that the information has been withheld from the Register.

4. It is considered good practice to inform both applicants and objectors that the information they provide may be published on the Internet. Local authorities should also consider inserting advisory guidance detailing the steps applicants and objectors might wish to take to avoid unnecessary publication of their personal details. This could include, for example, advising objectors to send objections as attachments (thus avoiding publication of their email address) when corresponding by email or not requiring signatures on letters (removing fears of signatures being copied and identity theft).

3.13 When local authorities are making planning application documents available on the Internet (e.g. via a document management system) they should ensure that only those documents relevant to the public interest are shown at a given point in time. This can be done by categorising documents into different types and using the system rules to define access rights by document type and/or status of the application. Where personal data is involved, this will help ensure that the local authority complies with the fifth data protection principle - namely where personal data shall not be kept longer than necessary.

Conclusion

If members decide that representations should be published on the Council's website, the following points need to be addressed:

1. Telephone numbers, e-mail addresses and signatures must be removed and care taken with regard to publication of other personal data on a case by case basis.
2. Exceptional care needs to be taken to avoid publication of sensitive personal data.
3. The council needs to inform those making representations that the information they provide may be published on the Internet.
4. Those making representations should be given an opportunity to object to publication of personal data.
5. There is a statutory right to make representations regarding licensing applications and care needs to be taken to ensure that website publication does not act as a deterrent. Consideration should be given to allowing an opt out from publication on the website.

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