



Licensing Act 2003 Guidance

How to Make a Licensing Representation

Criteria for making a representation

Under the Licensing Act 2003, any person is able to make written representation in relation to certain types of applications. However, for representations to be considered relevant they must address the likely effect the granting of the application will have on the promotion of one or more of the following licensing objectives.

1. The prevention of crime and disorder

This relates to any crime, disorder or anti-social behaviour at the premises or related to the management of the premises. A licence holder/applicant cannot generally be held responsible for the conduct of individuals once they leave the premises;

2. Public safety

This relates to the safety of the public on the premises, i.e. fire safety, electrical circuitry, lighting, building safety or capacity, and first aid.

3. Prevention of public nuisance

This can relate to issues such as hours of operation, noise emanating from the premises, vibrations, lighting and litter.

4. Protection of children from harm

This relates to protecting children from the activities carried out on the premises whilst they are there. The law already provides special protections for children under 18 to buy alcohol.

When applying for a new licence, applicants have to place a pale blue notice on their premises with details of the application where it can be easily seen from the outside for 28 consecutive days. They must also advertise their application in a local newspaper or similar publication.

If any person is concerned that granting a licence in the terms it has been applied for, is likely to have an adverse effect on the promotion of one or more of these objectives, they have 28 consecutive days to make a representation to the council. This starts on the day after the day on which the application was given to the council.

Please be aware that the Licensing Authority will not consider representations that are frivolous or vexatious. The former category refers to representation that display a lack of seriousness in purpose or nature, whilst the latter relates to representation which appear to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause of justification.

Making a representation

A relevant representation must be in writing and submitted to the Licensing Authority within the 28 day notice period.

Late representations will not be considered and will be returned.

We have prepared a Representation Form, which should be used when making a representation. The form is designed to ensure the representation is relevant and therefore can be accepted.

If you are unable to use the form emails/letters can be accepted but must include full name and address, contact details and details of which one or more of the four licensing objectives your representation is relevant to. If this information is not supplied the representation will be invalid and returned.

You can view the details of current applications on the Council website and the form can also be found at the link below.

<https://www.thanet.gov.uk/info-pages/applications-received-under-the-2003-licensing-act/>

Alternatives to making your own representation

If you do not want to make your own representation, then you may wish to consider approaching a representative who may consent to make the representation on your behalf. For example, you may wish to ask a local Councillor.

If your chosen representative is willing to act on your behalf, you must submit a letter of authorisation to the Licensing Authority as part of your representation. You must provide your chosen representative with your name, address and details of the grounds upon which your representation is made. They should then submit a written representation to the Licensing Department replicating the ground upon which your representation is made.

On behalf of a group

If an objection is being made on behalf of a group (e.g. a parish council or residents' association), then proof of the group's decision to make the objection must be sent to us along with the objection letter. This could be a document such as minutes of a meeting.

Petitions

When organising/submitting a petition as part of your representation, there are some important factors to bear in mind:

The instigator of the petition must identify themselves' as a central point of contact, as we may need to make contact in order to verify certain matters and if we are unable to do so this would invalidate the petition.

Each page of the petition should contain information as to the purpose of the petition so that all persons know what they are signing.

Full name and addresses for each signatory must be provided

All signatories must be made aware that where representations are made and not withdrawn, a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers.

The Licensing Authority will not write to each signatory separately but instead expects that the instigator of the petition will advise each signatory of the hearing date and the final outcome of the application. It is also expected that the instigator will represent signatories at the hearing and will speak for them.

Disclosure of personal details of persons making representation

Where a Notice of Hearing is given to an applicant, the Licensing Authority is required to provide the applicant with copies of the relevant representations that have been made. It is only in exceptional circumstances that personal details will be removed from representation correspondence.

If you have any concerns in respect of your personal details being disclosed to the applicant, you should detail this and the reasons within your representation.

The person applying may contact you to discuss your concerns and try to resolve the issues you have raised. Should your concerns be satisfactorily addressed, you may withdraw your representation at any time.

Hearings

If we consider that the representations are valid, we must hold a hearing to consider those representations or requests unless all parties can come to an agreement beforehand, and agree that a hearing is unnecessary.

For example, we may try to resolve matters via a negotiated agreement outside a formal hearing. You will need to decide if this is appropriate for you. You can decide that you do not agree with the proposed settlement and then your representation will go before a hearing.

If the application is to go to a hearing we will write to inform you of the date and time of the hearing and will explain the format of the hearing. This has to be at least 5 days before the date.

If the person applying withdraws their application after a hearing date has been arranged, we will write to you to let you know that the hearing has been cancelled, wherever possible.

Applications can be withdrawn at any time up to 24 hours before the hearing so this may not be possible. A person making a representation should be aware that if they make representations about an application that is later withdrawn, and the person applying makes a new, amended application, their representations will not automatically be taken forward.

Before the hearing

Any person making a representation is required to give notice to the licensing authority at least 5 working days before the start of the hearing, stating:

- whether they will attend the hearing in person
- whether they will be represented by someone else such as a friend, councillor or lawyer
- whether they think that a hearing is unnecessary (if, for example they have come to an agreement before the formal hearing)
- if they want another person to appear at the hearing (not to represent them)

a request for permission for the person to attend

details of their name

how they may be able to assist the authority in relation to the application

We will write/email you with a Notice of hearing. You must let the licensing authority know as soon as possible (by a letter no later than 24 hours before the start of a hearing, or orally at the hearing) if you wish to withdraw your representation.

At the hearing

Hearings take place before a panel of 3 councillors from the Licensing Committee.

Hearings are generally held in public, unless the panel decides it is in the public interest to hold all, or part of the hearing in private.

You can only speak at the hearing if you have completed and returned the Notice of Hearing form that will be sent if your representation is deemed valid.

You do not have to attend the hearing however this is your opportunity to put forward your case. Please note that if you do not attend the hearing it will still go ahead.

At the start of the hearing the procedure will be explained. The panel will consider evidence produced before the hearing. It can also consider other documentary evidence produced by a party at the hearing, but only if all parties agree. Cross-examination of one party by another during a hearing is not usually allowed. The parties are entitled to address the panel and will be able to ask questions of any other party through the chairman of the panel.

As a result of the hearing, the licensing authority must then decide how to proceed in order to promote the licensing objectives. It may:

- grant or vary the licence in the terms it was applied for
- refuse to issue or vary the licence
- grant or vary the licence but with changed or extra conditions
- exclude from the licence a licensable activity
- in the case of a premises licence, refuse to specify a person as the premises supervisor

A decision will usually be given at the end of the hearing and confirmed in writing. We will include information on the right of a party to appeal against the decision.

Appeals

Either the person applying or a representor can appeal against the decision of the licensing panel within 21 days of the written notification.

Such an appeal has to be made to the Magistrates' Court. An appeal triggers a total re-hearing of the matter.

Whilst costs are not awardable by the council against any party making a representation, or requesting a review, a Magistrates' Court can award costs either for or against any party which lodged the appeal.