

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 a representation to be considered relevant, it must address the likely effect the granting of the application will have on the promotion of one or more of the following licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Representations must relate to the impact of licensable activities carried on from the premises on those objectives listed above. By way of an illustrative example: *“...a representation from a local business person about the commercial damage caused by competition from a new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant.”*

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

Any person who is aggrieved by a rejection of their representation on either of the above grounds may lodge a complaint via the Council's complaints procedure.

Making a representation

Relevant representations must be in writing and submitted to the Licensing Authority within the statutory notice period (28 days for new applications and full variations and 10 days for minor variations). Late representations will not be considered and will be returned.

If you are unsure when the application was made, you can view a list of current applications on the Council's website www.torridge.gov.uk/publicregisters. Alternatively, you can look at the site notice posted at the premises which advertises the application.

Alternatives to making a 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 or any other recognised body or association. If you are unsure about whom you can approach in your area, please contact the Licensing Team – we will be happy to offer advice.

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 written representation to the Licensing Authority replicating the grounds upon which your representation is made.

Please note that all future dialogue and correspondence will be held with your representative, and the Licensing Authority will not be in a position to make direct contact with you. Consequently, the Notice of Hearing and any decision notice will also be sent to your representative.

Petitions

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

- We ask that the instigator of the petition identifies 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 could 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 names 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

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 that 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.

We would refer you to Government Guidance on this matter, which states:

“In exceptional circumstances, persons making representation to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.

Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.

For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.

The licensing authority may also decide to withhold some or all of the person’s personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hearings

If the Licensing Authority decides that representations are relevant, it must hold a hearing to consider them. In the meantime, the Licensing Authority, the applicant and any person or body who has made representation can negotiate an agreeable way forward, and where written agreement is reached between all parties, the hearing may be cancelled.

The Licensing Authority strongly encourages all parties to mediate, and will assist, where possible, in the facilitation of mediation discussions.

Where agreement can not be reached, the hearing will take place before a Licensing Sub-Committee, which is made up of three Elected Members from the Council's Licensing Committee.

The applicant, persons making representation, and any responsible authority will receive a Notice of Hearing. The Notice will set out the date, time and location and explains the procedure to be followed at the hearing. The Notice will be sent out within the prescribed statutory timescales. Please note that you are required to respond to this Notice.

All parties who have submitted a representation will be able to address the Sub-Committee. No new grounds of objection may be raised at this stage and parties are limited to speaking to matters outlined in their original representation and response to Notice of Hearing, although detail provided may be expanded upon.

Where you have chosen to use a representative, only they may speak on your behalf. However, Members may still wish to direct questions to applicants, even in cases where they are represented.

Please note that parties will all be given an equal amount of time in which to address the Sub-Committee, but that time period may be limited by the Chairman of the Sub-Committee – for example, where there are numerous objections, speaking time may be limited to 5 minutes, or the Chairman may request, where lots of similar representations have been made, that a spokesperson is nominated.

The Sub-Committee will not permit cross examination between parties.

Please be assured that if for any reason you are unable to attend the hearing, the Sub-Committee will still consider your written representation.

The Sub-Committee will normally announce their decision at the hearing, and written confirmation will be distributed to all parties following the hearing.

If any party is aggrieved by the decision, an appeal may be made to the Magistrates' Court. An appeal has to be commenced by the appellant giving notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.