

Licensing Act 2003 – A Guide For Objectors.

Who can make “representations” about a licence application?

'Interested parties' or 'responsible authorities' can make representations.

Interested parties are any of the following:

- a person living in the vicinity of the premises;
- a body representing persons who live in that vicinity – for example a Town Council, Parish Council or residents association;
- a person involved in a business in the vicinity of the premises;
- a body representing persons involved in these businesses – for example a chamber of commerce.

Responsible authorities mean any of the following:

- the Chief Officer of Sussex Police;
- the East Sussex Fire and Rescue Service;
- the health and safety authority for the area in which the premises are situated;
- the local planning authority for the area in which the premises are situated;
- the environmental health authority for the area in which the premises are situated;
- East Sussex Area Child Protection Committee;
- with regard to a vessel - the relevant navigation authority, the Environment Agency, British Waterways Board or the Secretary of State; and
- East Sussex Trading Standards.

What are “relevant representations”?

In brief, "relevant representations" is the expression used in the Act for comments, etc. on applications, including objections.

For a representation to be relevant it must:

- be made by an interested party or responsible authority
- relate to the effect of the grant of the licence on the promotion of the licensing objectives (see below)
- not be 'frivolous or vexatious'; or
- if it concerns the premises supervisor, be made by a Chief Officer of Police and include a statement explaining the reasons for the objection.

What are the licensing objectives?

A licensing authority must carry out its functions with a view to promoting the four licensing objectives. They are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

The intention of the licensing objectives is to ensure that the pursuance of licensable activities (the sale of alcohol by retail, supply of alcohol in clubs, or the provision of regulated entertainment or late night refreshment) is done in the overall public interest.

Any representations made in relation to an application must be about the likely effect on the promotion of the licensing objectives of granting the application.

If a representation does not relate to one or more of the licensing objectives, it must be deemed not relevant.

Putting forward your views on premises licence applications.

When applying for, or seeking to vary, a premises licence, an applicant must give notice of their application to each responsible authority. They must also advertise the application in a local newspaper and on the premises themselves.

Although not obliged to do so under the legislation, on receipt of the application this licensing authority will also advise the relevant Town/Parish Council and the District Council ward members.

Any resident(s) or business(es) operating in the vicinity of the premises which are the subject of the application will be able to make representations to the licensing authority about the application. This includes the ability to raise objections.

All interested parties and responsible authorities will have a period in which they can make representations to the licensing authority about the application – usually 28 days. All representations must be made in writing and within the relevant time limit.

If no representations are received, the application must be approved and the licence issued

What happens if I make a representation?

If representations are made, and they are considered to be relevant, provision is made within the Licensing Act 2003 for attempts to be made to achieve a compromise solution acceptable to both the applicant and those making the representation(s).

If a compromise is not achievable (for whatever reason), a hearing must be held to determine the application whilst having regard to the representations. The hearing will take place before a sub-committee of the Licensing and Entertainments Committee, which will consist of three District Councillors. Ward members may not sit on a sub-committee deciding an application for a premises within their own ward. They may, however, be an “interested party”, either in support of or against the application.

The licensing authority representative will present a report to the sub-committee outlining the brief details of the application and the representations received. The applicant, “interested parties” and representatives of “responsible authorities” will then be given a brief time-frame in which to present their case. If there are a considerable number of very similar representations, the persons making those representations will be asked to nominate a spokesperson to speak on behalf of all.

Having heard all the parties, and dependent upon what it deems necessary for the promotion of the licensing objectives, the sub-committee may:

- decide to grant or vary the licence in the same terms as it was applied for;
- decide that it is necessary to refuse to issue or vary the licence;
- decide to grant or vary the licence, but to modify the conditions;
- exclude from the scope of the licence a licensable activity.

If no relevant representations are made the licence or variation must be granted, subject to any mandatory conditions.

to the licensing authority about the application – usually 28 days. All representations must be made in writing and within the relevant time limit. If the licensing authority considers that the representations are relevant it must hold a hearing to consider those representations (unless all agree that this is unnecessary). The licensing authority will then have choices as to how it

proceeds depending upon what is necessary for the promotion of the licensing objectives. It may:

- decide to grant or vary the licence in the same terms as it was applied for;
- decide that it is necessary to refuse to issue or vary the licence;
- decide to grant or vary the licence, but to modify the conditions;
- exclude from the scope of the licence a licensable activity.

Can I appeal against a decision made regarding the grant of a licence or variation to a licence?

Yes. An appeal against a decision of the sub-committee must be made to the Magistrates' Court within 21 days of notice being given of the sub-committee's decision.

How do I complain about a premises which has already been granted a licence?

Talk to other people who may also be affected in a similar manner – representations made by more than one person generally carry more weight than those made individually.

Talk to the owner, manager, Designated Premises Supervisor or other responsible person at the premises about your complaint first - they may not be aware of the difficulty that you are experiencing and it may be possible to resolve your complaint without recourse to the licensing authority. If possible, do this at a time when the premises is not busy – the person responsible will have more time to devote to addressing your concerns. If necessary, register your complaint and arrange to discuss it at a more appropriate or convenient time.

Responsible authorities and interested parties may apply for a review of a licence at any time. The grounds for review must be related to one or more of the licensing objectives (see above). Where an application for review is made by an "interested party", the licensing authority must first consider whether or not the complaint made is vexatious, frivolous, repetitious or not relevant. A reasonable time must have elapsed since the grant of the licence or a previous review.

If the grounds for review are considered to be relevant, a hearing will be held before a sub-committee of the Licensing and Entertainment Committee will be in the same format and follow the same procedure as described above. (see **What happens if I make representation?**)

A decision made by the sub-committee in relation to a review hearing may be appealed via the Magistrates' Court within 21 days of the decision.

