

# Licensing Act 2003: Guidance on Making a Representation

## Introduction

This guidance is to help members of the public, Councillors and anyone wishing to make a **representation** against an application for a premises licence in East Devon.

When an application is made for the grant or the variation of a premises licence, any person may make a representation about the application. The guidance only applies to applications for premises that want to supply alcohol, provide entertainment such as live music or provide late night refreshment (food after 11pm).

Representations must be made to the Licensing Authority in writing and during the 28 day consultation period, including by letter or e-mail. To be considered as relevant representation, it must relate to the likely effect of the grant of a licence on the promotion of one or more of the **four licensing objectives**:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

There is nothing in the Act to say that a representation must be of a negative nature and the Licensing Authority will consider both positive and negative representations provided they are relevant to these objective. To be a 'relevant' representation it should express whether **being in support** or **objecting** to an application.

Each licence application will set out the proposed activities, the operating hours and should also contain a section explaining what the applicant proposes to do to promote the **four licensing objectives**.

## What is relevant to the four licensing objectives?

Each of the four licensing objectives has equal importance and your concerns on one of the objectives may overlap with another. For example, anti-social behaviour at a venue may lead to public nuisance, crime & disorder and public safety.

You could think about the possible causes of harm to each of the licensing objectives that could arise by the venue operating as requested under the terms its application.

If you think a risk that relates to one of the licensing objectives, has not been properly addressed in the application, then this will be relevant.

You can refer to our Licensing Policy, which provides more detail on the risks and measures that the applicant could take to minimise or eliminate them under a Pool of Conditions.

### **What can you comment on?**

You can comment on anything in the application but it will only be regarded as being 'relevant' if your comments clearly relate to the potential impact the application may have on the **licensing objectives**. In simple terms, a relevant representation for it to be considered must:

- Be received within the 28 day application period
- Clearly outline whether in 'Support' or an 'Objection' to an application
- Comment clearly on how that licence (if granted in the form it was applied for) will impact or relate specifically to one or more of the licensing objectives
- Avoid general comments around uncertainty, fear, concern instead being specific around risk to each or any of the four licensing objectives
- Comments should not be 'frivolous' or 'vexatious'.

For example, the licensing authority might find the representation is vexatious if it arises because of disputes between rival businesses or it might be a frivolous representation if it clearly lacks seriousness. If a representation is not relevant, or is frivolous, vexatious or repetitive, it will not be possible to accept it and the Licensing Authority will confirm that.

### **Licensing and Planning Applications**

Licensing applications should not be seen as a repeat of a planning application process as planning permission, building control approval and licensing regimes will be properly separated.

Planning matters cannot be reconsidered at licensing hearings which will not be a rerun of contested planning decisions.

### **Advertising Applications**

The applicant must advertise the application by placing a blue notice at or on the premises and must also place a notice in a local newspaper circulating in the area of the venue. There are rules about the format of the advert and notice but the main aim is to inform the community that an application has been submitted and to provide a summary to give people the opportunity to comment. There may be reasons why an application merits written support too.

When an application is submitted, the licensing team will publish the application details on our website. You will have 28 days from the day after we receive the application to submit a supporting comment or objection. Under the Act, any response received after 28 days cannot be accepted or considered after this time.

You can view new applications on our licensing register. Using the register, you will be able to check what the applicant is proposing to do, for example the opening hours and activities such as selling alcohol and providing entertainment.

### **End of the 28 day consultation**

Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application may be considered by a Licensing Sub Committee at a hearing. Any party to a hearing may expand on their representation but may not introduce new or different representations.

Where a notice of a 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 which will include names and address of any person who has made a representation. Persons making representations should be aware that their personal details will be disclosed during the hearing process and anonymous representations will not be accepted.

Where relevant representations have been made, the Licensing Authority may consider mediation between the applicant and any objectors. Due to reasons of timeliness, this may occur through emailing or telephone contact with relevant parties as mediation can allow each party to express concerns in an attempt to reach an agreed position which can remove need for contested hearings.

You must give us notice at least 5 working days before the start of the hearing, stating:

- whether you will attend the hearing in person
- whether you will be represented by someone else such as your ward Councillor or a solicitor
- whether you think that a hearing is unnecessary, if for example you have come to an agreement before the formal hearing)
- if you want another person to appear at the hearing (not to represent you) and details of their name and how they may be able to assist us in relation to the application.

The timescales from the period the 28 day application closes through to arranging a hearing are short and specific, it is not possible to delay unnecessarily.

### **This guidance provides an outline**

It is not a complete statement of the law, therefore, it is important that you do not rely on this document alone and if you want to know more you should read the Licensing Act 2003 (the Act), Home Office Guidance issued under section 182 of the Act and our current Licensing Policy.