

Licensing Act 2003

Guidance note – making a representation



Purpose

The purpose of this guidance is to offer assistance to members of the public wishing to make representations about licensing applications, e.g. applications for new premises licences or applications to vary existing premises licences and club premises certificates made under the Licensing Act 2003.

This guidance explains who is entitled to make representations and how such representations should be made. It also explains the process which follows once representations have been received by the Council.

Further details about the Licensing Act can be found on the Council website (www.leeds.gov.uk/licensing) or the website for the Department for Culture, Media and Sport (www.dcms.gov.uk).

Licensing Act 2003

Under the 2003 Licensing Act (the Act) Leeds City Council is the Licensing Authority for Leeds district. The Licensing Authority issues premises licences which allow businesses to carry out the following licensable activities:

- sale by retail of alcohol
- the provision of regulated entertainment
- The provision of late night refreshment between 11pm and 5am.

This affects pubs, bars, restaurants, supermarkets, off licences, cinemas, theatres, community premises and late night takeaways to name just a few.

Under the Act the Licensing Authority must publish a Statement of Licensing Policy showing how it will promote the licensing objectives of:

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

This document is available on the Leeds City Council website at www.leeds.gov.uk/licensing or you can request a paper copy from the Entertainment Licensing section.

The licensing objectives have equal weight and form the entire basis of how the Act works.

Application made under the Licensing Act 2003

A premises licence can authorise one or more licensable activities. Some premises, such as takeaways, will just have late night refreshment while other venues such as hotels and night clubs may have a combination of all licensable activities.

Personal licences are granted to people allowing them to supply, or authorise the supply of alcohol in line with a premises licence. Personal licence applications are not subject to any public consultation.

At any time the holder of a premises licence or club premises certificate can make an application to the Licensing Authority to vary their licence. These variation applications as well as brand new premises licence applications must be advertised and can be subject to public representations.

Advertising of applications

A blue notice will advertise an application for a new licence or a variation to an existing licence. This will be blue for a full variation, or white for a minor variation. The notice must be prominently displayed on the premises, in a place that is accessible by the public.

The notice will provide a final date for representations as well as brief details of the application.

For full variations and new premises licence applications applicants must also place a notice about their application in a local newspaper that covers the area in which their premises is situated. This notice will appear within 10 days of the applicant making their application to the Licensing Authority.

The council also publishes detailed information about each application on the council website. See www.leeds.gov.uk/licensing

You can also inspect the complete application by visiting the offices of the Entertainment Licensing Section. (opening hours Monday – Friday 9am to 4pm).

Cumulative Impact Policies

The Licensing Authority has adopted Cumulative Impact Policies for certain areas of the Leeds district. These areas have been identified because the Licensing Authority believes that the impact of the number and concentration of licensed premises in these areas are adversely affecting the promotion of the licensing objectives.

You can obtain details of the areas by visiting our website or telephone the Licensing Section.

Even if you live in these areas you should still make a representation. In the absence of relevant representations the Licensing Authority is obliged to grant the application despite the fact that the premise is located within a cumulative impact area.

Criteria for making a representation

The criteria for making a representation is that you must be an **‘interested party’** and the representation must be **‘relevant’**.

You are an **‘interested party’** if you are a person living or have business in the ¹vicinity of the premises for which an application is made. Alternatively, a group which represents people who live or have business in the vicinity of the premises can also make representations.

Furthermore, your representation must be relevant and based on the likely effect the granting of the application will have on the promotion of the following licensing objectives:

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

¹ Vicinity is not defined in the Act however it will generally be a question of fact and will depend on the particular circumstances of the case. In principle if you live or have business interests close to a licensed premises or you are likely to be directly affected by the licensed premises or its customers then you may qualify as meeting the ‘vicinity’ requirements.

For example, if you are concerned the granting of a variation will lead to an increase in crime and disorder in the area of the premises, this is a relevant representation.

However, if you are concerned the granting of longer hours at the premises will lower house prices in the area; this is not a relevant representation and can not be considered by the Licensing Authority.

The Licensing Authority will also not consider representations that are **frivolous or vexatious**, e.g. a frivolous representation is one that does not have a serious purpose or is not serious in its nature, whilst a vexatious representation is one that is made purely to cause annoyance to the applicant.

Making a representation

Relevant representations must be in writing and submitted to the Licensing Authority. To assist objectors the Licensing Authority has created a form for making representations which is attached to this guidance note. Alternatively you can access the form on the council's website or you can contact Entertainment Licensing to have a form sent to you via the post or email. We would recommend that you use this form to submit your representation. The form is designed to help extract the type of information which is required to ensure the representation can be accepted.

Your representations must reach us within the 28 day notice period. Late representations will not be considered. If you are unsure when the application was made, you can check with the council or look at the advertising of the application.

The licensing staff will initially check your representation to ensure that it fulfils the criteria, insofar as where you live or have a business in the vicinity of the premises and your comments relate to one or more of the four licensing objectives.

Assuming that your representation fulfills the criteria, it will be copied and sent to the applicant, along with any other representations received.

It is important that the applicant is provided with the opportunity to address the comments raised in your representation. In addition a copy of your letter will be included in the committee papers and your personal details may form part of the recorded decision, all of which are public documents.

If you do not want your personal details to be released then you will be unable to make a personal representation.

Alternatives to making a representation

If you do not want your personal details to be released then you can approach a local representative who may consider making the representation on your behalf. You should not delay in seeking a representative as any representations must be received within the 28 day notice period. You could ask a local Councillor (including Town & Parish Councillors), or any other locally recognised body or association. If you are unsure about whom you can approach in your area please contact us and we will be happy to advise.

Firstly, if you have already made a written representation to the Licensing Authority you should contact us without delay and ask for this to be withdrawn.

It is advised that you write to the chosen representative as they will need to keep evidence of your request (in the instance of any further challenge, i.e. through an appeal hearing). You must provide them with your name, address and details of the grounds upon which your representation is made. They will need to use their local knowledge to satisfy themselves that

your representation complies with the required criteria, and agree to take the matter on your behalf.

They should then submit written representation to the Licensing Authority replicating the grounds upon which your representation is made and confirm that they are satisfied you live (or have business) in the vicinity of the premises concerned.

We will then process this representation as we would any others, i.e. send a copy to the applicant and include a copy in the Committee report.

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 (at Section 12 below), and any decision letter will also be sent to your representative.

Petitions

The Licensing Authority will accept petitions, but there are some important factors to consider before organizing a petition:

- We ask that the instigator of the petition identifies themselves as a central point of contact. We may need to make contact in order to verify certain matters and if we are unable to do this it 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 must be supplied (so we can check signatories live in the vicinity), and finally
- All signatories must be made aware that a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers, so their personal details will become public knowledge.

We will not write to each signatory separately, but instead assume that the instigator will advise each signatory of the hearing date and the final outcome of the application. It is expected that the instigator will represent the signatories at the hearing and to speak for them.

Hearings

If relevant representations are made the application shall be referred for a hearing, unless the council, the applicant, and everyone else who has made representations agree that a hearing is not necessary.

The hearing will take place before a Licensing Sub-Committee which is made up of three Councillors selected from the full Licensing Committee.

All interested parties (the applicant, objectors/representatives of objectors, and any responsible authority .i.e. the police, environmental health, etc), 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. This notice is usually sent out at least ten days before the hearing.

All parties will be able to address the Sub-Committee. All parties are restricted to equal time in order to make their submissions, therefore where there are a lot of objectors/supporters present, the Sub-Committee may request that a spokesperson is nominated.

The Committee will not permit cross examination between parties.

Note: whilst this is a public hearing only those who have made their identity known through their letter of representation may address the Committee in person.

Therefore if you have chosen to use a local representative, only they may speak on your behalf.

Even if you (or your representative) are unable to attend the hearing the Sub-Committee will still consider your written representation.

In making decisions the Sub-Committee will take into account all of the written and verbal evidence before them. They also have a duty to take into account the licensing objectives set out in the Act, The Council's Statement of Licensing Policy and guidance given by the Secretary of State.

The 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 of the decision, then there is a right of Appeal to the Magistrates Court.

Use of personal data

Leeds City Council is under a duty to protect the public funds it administers, and to this end may use the information you have provided on your application for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

Contact details and address to send application to:

Entertainment Licensing Section
Leeds City Council
Civic Hall
Leeds
LS1 1UR

Phone: 0113 247 4095
Fax: 0113 224 3885
Website: www.leeds.gov.uk/licensing
Email: entertainment.licensing@leeds.gov.uk

This document should be used as a guidance tool. Only the courts can give an authoritative opinion on statute law.

Every effort has been made to ensure this document is both comprehensive and accurate but in an attempt to simplify the law omissions have been made. Please refer to the Licensing Act 2003 and associated regulations for full details of the law.

You should seek your own legal advice on the matters raised in this guidance note.

Interested Party Representation (Form IPR1)



Section 1 – Licence application details

Please indicate as appropriate :

I wish to object to the following application:

I wish to support the following application:

Applicant name (if known):

Applicant premises name and address:

Application for a	Premises Licence	<input type="checkbox"/>
	Club Premises Certificate	<input type="checkbox"/>

Application to vary an existing	Premises Licence	<input type="checkbox"/>
	Club Premises Certificate	<input type="checkbox"/>

Section 2 – Your personal details

NB : If you are acting as a representative, please go to Section 3.

Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Other _____
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Surname	
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First name(s)	
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Address (incl postcode):

It is essential that you provide your full residential address (or business address if you are objecting from a business). The Licensing Authority needs to be satisfied that you live or have business on the vicinity of the premises. Without this information your representation will not be accepted.

Please note that a full copy of your representation (including your name and address) will be sent to the applicant and will be a public document at any hearing of this matter.

Please refer to our Guidance Note – GN-M Guidance on making representations for further information and alternative options.

Section 3 – Representative details

If you represent residents or businesses in the vicinity please complete details below

Name of Representative/
Organisation

Full postal address
(incl postcode)

Please indicate capacity :

E.g. Representative of Residents Association
Ward Councillor
Parish Council
MP
Trade Association

Other (please specify) _____

Section 4 – Representation grounds

**The representation is relevant to one or more
of the following licensing objectives:**

Please tick relevant box(es)

Prevention of crime and disorder
Prevention of public nuisance
Protection of children from harm
Public safety

Please select :

I object to the application being granted at all

I object to the application being granted in its current form*

*If you choose this option remember to tell us in the next section what changes you would prefer to see.

The grounds of the representation is based on the following:

You need to complete this box as fully as possible. If you do not the Licensing Authority may not be able to assess the relevance of your representation.

Please attach supporting documents/further pages as necessary – please number all additional pages.

Try to be as specific as possible and give examples, e.g. on 1 February I could hear loud music from the premises between 10pm and 1am. I am concerned that if the premises open until 2am this will cause a nuisance to me and other residents of the street.

Signed:

Date: