

Licensing Act 2003 – Making Representations

Making Representations to an application for the Provisional grant, grant, variation or review of a premises licence or club premises certificate.

Who can make representations to an application?

Under the Licensing Act 2003 only “Responsible Authorities” and “Other Persons” are able to make representations to an application.

Who are “Responsible Authorities”?

Responsible authorities are:

- The Metropolitan Police
- The London Fire and Emergency Planning Authority
- The Council’s Planning Service
- The Council’s Environmental Health Officer (responsible for noise & pollution control)
- The authority responsible for enforcing the Health & Safety at Work etc Act 1974
- The Council’s Trading Standards Department (responsible for weights & measures)
- The Council’s Trading Standards Department (responsible for the protection of children from harm)
- The Licensing Authority
- The Health Authority
- The Home Office

Who are “Other Persons”?

An “Other Person” is:

- An individual;
- The representative of a group of individuals, such as a residents association*
- A body or business;
- The representative of a group businesses, such as a trade association*; and
- A Local Councillor

A person involved in business includes partnerships etc and is not necessarily confined to those engaged in trade and commerce. It could, for example, include charities, churches and medical practices.

* If you are making representations on behalf of group of individuals or businesses, you should also submit evidence that the representations reflect the view of the members of the body. This may be achieved by having available a copy of the minutes of the meeting of the body where it's members decided to make representations to the application. Please be aware that should your representations be challenged, and you do not have this information available, there is a risk that your representations will not carry the maximum weight, or in certain circumstances not taken into account.

What can “Responsible Authorities” and “Other Persons” make representations about?

Only representations that relate to at least one of the four licensing objectives can be considered.

The licensing objectives are:

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

Representations should clearly set out the likely effects the grant of the licence would have on the promotion of at least one of the licensing objectives.

In the case of an application for the review of an existing licence, representations should clearly set out the likely effects the continued operation of the premises under the licence would have on the promotion of at least one of the licensing objectives.

The Council must disregard representations that are considered to be frivolous, vexatious or repetitious.

What are frivolous, vexatious or repetitious representations?

As a general rule frivolous representations will be categorised by a lack of seriousness. This does not mean that a trivial complaint would always be considered frivolous, but it would have to relate to one of the licensing objectives in order to be relevant.

Vexatious representations may, for example, arise because of disputes between rival businesses.

A repetitious representation is one that is identical or substantially similar to representations made at the time the licence was granted or reviewed and a reasonable interval has not elapsed since that earlier grant or review.

Can “Responsible Authorities” and “Other Persons” make representations to every application?

No, only to applications for the provisional grant or grant of a new licence, or, to an application to vary or review an existing licence or certificate.

The exception to this is the Police and Environmental Health Service, who can comment on all types of applications and notices.

Can “Responsible Authorities” and “Other Persons” be represented?

Yes, but they will need to specifically ask someone to act on their behalf. An Other Person could ask, for example, a legal representative, ward councillor or friend, to act on their behalf.

Who do “Responsible Authorities” and “Other Persons” make their representations to?

Send your representations, which must be made in writing and include your **name and full address**, to:

The Licensing Team
Civic Offices
2 Watling Street
Bexleyheath
Kent
DA6 7AT

Or

Licensing Partnership
PO Box 182
Sevenoaks
Kent
TN13 1GP

E-mail to: Licensing.office@bexley.gov.uk (Please remember to include your name and address if you submit your representation by e-mail).

The Licensing Team must receive representations no later than the last date specified in the application, as the Act does not allow the Council to consider late representations.

The Role of Ward Councillors

Ward Councillors can make representations in writing and at a hearing on behalf of an Other Person such as a resident or business if specifically requested to do so. Furthermore, if asked they can represent any party who has made relevant representations at a hearing. They can also make representations in their own right. Also, as an elected member of the Council they can make representations if they have relevant concerns about any licensed premises, regardless of whether the premises is in their ward. There may also be occasions where a ‘Responsible Authority’ such as the police may wish to ask a Ward Councillor to act as a witness at a hearing.

What happens after an “Other Person” has made representations?

Representations that are irrelevant, frivolous, vexatious or repetitive must be disregarded, so the first thing the Council will do is check that the representations can be considered. In border line cases the Council will give the benefit of the doubt to the Other Person.

What happens if representations are not accepted as “relevant”?

In the first instance the Licensing Team will write and tell you that your representations may not be relevant. Ordinarily, the reason for this will be that you have failed to address the licensing objectives. Other Persons may be able to challenge the Council’s decision by way of judicial review in the High Court.

What happens when representations are “relevant”?

A copy of the representations will be sent to the applicant and arrangements will be made for the Council’s Licensing Sub-Committee to hear the application and the representation made to it. Hearings will take place in public, although the Sub-Committee may in certain instances decide that it is in the best interest of the public to hold hearings in private.

The detail of all representations (including the “Other Persons” name & address) will be included in a report that the Licensing Team will prepare for the hearing. These reports are public documents.

“Other Persons” will be invited to attend the hearing, as will the applicant and any “Responsible Authorities” that have made representations. Any party may be assisted or represented by any person at the hearing regardless of whether that person is legally qualified.

The Licensing Team will notify everyone of the date and time of the hearing and provide details of the procedure to be followed at the hearing.

At the hearing the Sub-Committee will decide whether to grant the application if full or in part, and if granted what conditions should be imposed on the licence.

Is a hearing always required?

No, it is possible for all parties to agree that a hearing is unnecessary. In such instances, and subject to the Council also agreeing that a hearing is not required, the Licensing Sub-Committee will decide the application on the basis of a written report only.

Can representations be withdrawn?

Yes, by giving notice to the Licensing Team no later than 24 hours before the day of the hearing or in person at the hearing.

Who makes the decision?

The Licensing Committee is made up of no more than 15 elected Members of the Council and the Licensing Sub-Committee will comprise of any 3 of these Members.

What can “Responsible Authorities” and “Other Persons” do if they are unhappy with the decision of the Sub-Committee?

They can appeal direct to the Magistrates Court within 21 days of the decision of the Sub-Committee.