

Licensing Act 2003 – Guidance Fact sheet



Making Representations to applications and Triggering Reviews

BACKGROUND TO THE LICENSING ACT 2003

Purpose of the Act

The overall aim is to modernise the legislation governing the sale and supply of alcohol and public entertainment licensing so that:

- Various existing pieces of legislation are brought under a single act
- Licensing decisions are made according to *local* considerations
- Licensing hours are deregulated (i.e. the current restrictions on the hours when alcohol can be sold are to be removed)

Licensing objectives - The Act lays out 4 licensing objectives:

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

Whilst the introduction of the legislation will give businesses greater freedom and flexibility to meet the customers' expectations it will also give the necessary protection of local residents whose lives can be blighted by disturbance and antisocial behaviour associated with the behaviour of some people visiting places of entertainment.

Who can make representations or seek reviews?

The Licensing Act 2003 permits Interested Parties and Responsible Authorities to make relevant representations in respect of applications for the grant and variation of Premises Licences and Club Registration Certificates and may see a review of licences or certificates granted.

Responsible Authorities include public bodies such as the Chief Officer of Police, The local Fire Authority, the local enforcement agency for Health and Safety and the local authorities with responsibility for environmental health, planning and the protection of children.

'Interested Parties' are defined as: -

- a person living in the vicinity of the premises;
- a body representing persons living in that vicinity;
- a person involved in a business in that vicinity;
- a body representing persons involved in such businesses.

Any of these individuals or groups may specifically request a representative to make the representation on their behalf e.g. a legal representative, friend, Member of Parliament or Local Ward Councillor.

When can a Representation be made?

Representations may only be made by “Interested Parties” on applications for the grant or variation of a Premises Licence or Club Registration Certificate and must be made within 28 days of the applications being submitted to the Licensing Authority.

When can a Review be triggered?

Additionally, at any stage following the grant of a Premises Licence or Club Registration Certificate an “Interested Party” may make representation to the Licensing Authority as a result of a matter arising at the licensed premises in connection with and with relevance to any of the four licensing objectives.

What is a Relevant Representation?

“Relevant Representations” is the term used for comments received by the Licensing Authority that are about the likely effect of the grant of a Premises Licence or Club Registration Certificate or, in the case of a review, matters which have arisen following the grant, in relation to the promotion of the four licensing objectives.

It is for the Licensing Authority to determine if the representations made are relevant and are not, in their opinion, frivolous, vexatious or repetitious.

What is frivolous, vexatious and repetitious?

The terms frivolous and vexatious have their normal dictionary meanings.

In the case of a review of a premises licence or certificate, a representation will be repetitious if: -

- (a) it is identical or substantially similar to: -
 - grounds in an earlier application for review made in respect of the same premises and already determined, or
 - representations considered by the Licensing Authority in granting the premises licence or certificate, or
 - representations which would have been considered except they were excluded representations following a provisional statement, and
- (b) a reasonable interval has not elapsed since the earlier application for review or grant of the licence or certificate.

How can representations be made?

Representations to applications and for reviews of licences must be made in writing wither by letter or electronic means to the Licensing Authority and should contain details of the:

- a) Name and full address of the person making the representation
- b) Premises to which the representations refers
- c) Reasons for the representations and how they relate to the licensing objectives

What happens when a relevant representation is received?

If the representation relates to an application for the grant of variation of a licence the Licensing Authority may choose to liaise with the applicant and person(s) making the representation to mitigate the representation to the satisfaction of both parties. In this instance and if all parties are in agreement the need for a hearing may be dispensed with.

On all other occasions the application will be referred to the Licensing Authority's Licensing Committee to determine the matter.

In the case of a review the Licensing Authority must hold a hearing when relevant representations are made on one or more of the licensing objectives.

Hearings

The Licensing Authority must hold hearings within a prescribed period where relevant representations are made and notices are sent to each party informing them of the date so that they may attend if they wish to give evidence to support their representation.

Appeals Against Decisions

Any person aggrieved by the decision of the Licensing Committee can appeal to the Magistrates' Court.

More Information

Further information on the Licensing Act 2003 may be obtained from the following websites

- Braintree District Council at www.braintree.gov.uk and follow the links from Business
- Government Department for Culture, Media and Sport at www.culture.gov.uk

You can write to us at:
Braintree District Council
Licensing Section
Development Services
Causeway House
Bocking End
Braintree
Essex CM7 9HB

Email: planning@braintree.gov.uk Marked for the attention of Licensing
Phone: 01376 557790
Fax: 01376 557781
Internet: www.braintree.gov.uk