

Guidance on Making Representations under the Licensing Act 2003

These notes are intended for guidance only and are not authoritative. No responsibility is accepted for errors or omissions.

Please note that a 'Representation' can be made either for or against an application.

This guidance describes:

1. How you can make a representation to the Council, as the Licensing Authority, in respect of:

- An application for new premises licences or club premises certificate
- A major variation to an existing premises licences or club premises certificate

2. It also contains information about the hearings process.

Applications

What to look out for

When applicants want to apply for a new licence, or vary their existing licence (for example to put on additional activities or extend their hours), they must advertise the application by doing all the following:

1. Placing a notice at or on the premises

- On A4 pale blue paper for a New Premises and A4 white paper for a Premises Variation.
- Printed legibly in black ink.
- It must be placed prominently at or on the premises where it can be conveniently read from the exterior of the premises.

2. Placing a public notice in a newspaper

- The newspaper circulation must be in the vicinity of the premises.

- The advertisement must be in the newspaper at least once in the 10 days following the application being given to the licensing authority.

Licensing Public Notices

Applications for licences are listed on the Council's website.

Appointments can be made with a licensing officer to view the application together with the premises plan.

The application will include the proposed opening hours, licensable activities and any steps included in the "operating schedule" which the applicant has volunteered to take to promote the four licensing objectives (described below).

Licensing Objectives

If you wish to make a representation, then the issue must relate to one of the following licensing objectives, or it will not be valid:

Prevention of Crime and disorder - This relates to any crime, disorder or anti-social behaviour related to the management of the premises. The licence-holder cannot be responsible for the conduct of individuals once they leave the vicinity of the premises.

Public safety - This relates to the safety of the public on the premises, such as fire safety, lighting and fire exits.

Prevention of public nuisance - This can relate to hours of operation, noise and vibration, noxious smells, light pollution, and litter.

Protection of children from harm - This relates to protecting children from the activities carried out on the premises whilst they are on the premises. The law does provide Specific protection for children, such as making it illegal for children under 18 to buy alcohol.

If you are concerned that granting a licence in the terms it has been applied for is likely to have an adverse effect on the promotion of one or more of these objectives, or, conversely, that it may support the objectives, you have 28 consecutive days, starting on the day **after** the day on which the application was given to us, to make a representation. Details of how to do this are set out below.

Operating Schedule

When considering the steps that an applicant has volunteered, to promote the licensing objectives, it is important to remember that applicants should already be adhering to legislation in other areas, and they may feel there is nothing additional they need to do to promote the licensing objectives. Some applicants may therefore simply say in their schedule, example: “nothing beyond existing Health and Safety/Fire Safety etc. requirements” or if they are applying to vary a licence: “nothing beyond the steps we are currently taking, which are already conditions of the licence”.

Who can make a Representation?

Any Person or Responsible Authority (see below) can lodge a representation.

Local Members of Parliament or Councillors cannot make a representation **on behalf of** constituents, although they can make a representation in their own right. They may be able to represent someone at a hearing who is an interested party and who have themselves lodged a representation.

“Responsible Authority”

As required by the Licensing Act 2003, one copy of each application must be sent to each of the following responsible authorities:

- Cambridgeshire Constabulary
- Cambridge Fire and Rescue service
- Cambridgeshire Social Services
- Health & Environmental Services
- Directorate of Planning
- Trading Standards
- The Public Health Director
- Home Office

Making a Representation

Representations must be made in writing to the licensing authority where the premises are situated.

A Representation Form is available on our website or can be requested by emailing licensing@scambs.gov.uk

The form must be completed and returned with any additional sheets by email to: licensing@scambs.gov.uk or by post to:

Licensing
South Cambridgeshire District Council
South Cambridgeshire Hall
Cambourne Business Park
Cambourne, Cambridge
CB23 6EA

Reasons for Representations

A representation must be about the likely effect of granting the licence, or certificate, on the promotion of at least one of the four licensing objectives. If a representation or request does not relate to one of these objectives it will be deemed invalid.

It will also assist if the representations are specific to the premises and evidence based. Interested parties may therefore wish to document problems themselves by, for example, keeping a diary detailing specific problems together with dates and times. If the matter goes to a hearing, the Councillors at the hearing will need to be satisfied that there is an evidential and causal link between the representations made and the effect on the licensing objectives.

Please remember that lodging a representation is a serious matter. Any representation must be factually correct. It is an offence to knowingly or recklessly make a false statement in connection with an application. The maximum fine for which a person is liable on summary conviction for such an offence is £5,000.

The licensing authority can only consider representations or requests that are not “vexatious” or “frivolous”. “Frivolous” or “vexatious” have their ordinary meaning. Whether representations are frivolous or vexatious will be for us to determine. For example, we might find that representation was vexatious if it was lodged because of a dispute between rival businesses, or it might be a frivolous representation if it plainly lacked seriousness.

Things to consider when making representations

If no valid representations are made against an application, the licence or variation must be granted.

You may wish to discuss your representation with other people living in the vicinity of the premises, or businesses operating in the vicinity of the premises.

If you want to ask another person, such as a friend or a local Councillor to represent you, or may wish to get their agreement before lodging your representation. If you approach a local Councillor to represent you then it is for them to decide whether they will agree to your request. Councillors who are part of the Licensing Committee will not be able to enter into discussions with you about the application, outside of the formal hearing, so it is suggested that you do not approach them to represent you.

Consider how you would like the situation to be rectified, so that you can make suggestions if the matter goes before a hearing.

It will not be possible to tell which Councillors from the Licensing Committee will be selected to hear the application until a week or two before the hearing. Ward Councillors do not hear applications in respect of premises within their own Ward.

You must not attempt to lobby Councillors who serve on the Licensing Committee and who might, therefore, hear the application. Lobbying might lead to the Councillor having to disbar themselves from hearing the matter.

Licensing Policy

Before making representations, you may wish to look at the South Cambridgeshire District Council Licensing Policy this is available on our website

What happens after a representation has been made?

The licensing authority must assess the representation to see that it is valid, and if so, a hearing will be arranged to consider those representations, unless all parties can come to an agreement beforehand and agree that a hearing is unnecessary. Details of representations including the name and address of the person/body making a representation will be made public in the committee report and will be provided to the applicant.

If the application is to go to a hearing, we will write to inform you of the date and time of the hearing and will explain the format of the hearing.

If an applicant withdraws their application after a hearing date has been arranged, we will write to you to let you know that the hearing has been cancelled, wherever possible. However, applications can be withdrawn at any time up to 24-hours before

the hearing, so this may not be possible.

You should be aware that if you make a representation about an application that is later withdrawn and the applicant makes a new, amended application, your representation will not automatically be taken forward. Any amended application would need to be re-advertised as set out above. You will then have the opportunity to decide whether to make representations about the new application.

Before the Hearing

Interested parties that made representations are required to give notice to the licensing authority at least 5 working days before the start of the hearing, stating:

- Whether they will attend the hearing in person.
- Whether they will be represented by someone else (e.g. friend/Councillor/lawyer).
- Whether they think that a hearing is unnecessary (if, for example, they have come to an agreement before the formal hearing).

When we write to you notifying you of the date of the hearing, we will include a form for you to return to us that gives these details. We will also include an information sheet that tells you what the detailed order of speaking at the hearing will be.

At the Hearing

Hearings will take place before a Sub-Committee which will consist of 3 councillors drawn from a full licensing committee. Hearings will generally be held in public, unless the Sub-Committee decides it is in the public interest to hold all, or part of the hearing in private.

Whilst you do not have to attend the hearing this is your opportunity to put forward your case.

At the start of the hearing, the procedure to be followed will be explained. The hearing will normally take the form of a discussion and will be led by the Sub-Committee members.

The Sub-Committee will determine any request for additional persons to appear at the hearing as witnesses. It will consider evidence produced before the hearing and can consider additional documentary evidence produced by a party at the hearing, but only if all parties agree.

Cross-examination of one party by another during a hearing is not usually allowed.

The parties are entitled to address the Sub-Committee and will be able to ask questions of any other party through the Chairman of the Sub-Committee.

Please note that if you or the applicant decides not to attend the hearing, it may go ahead without you or the applicant being present. Your written representation will still be considered.

Hearing Decisions

As a result of the hearing, the Sub-Committee must then decide how to proceed in order to promote the licensing objectives. It may:

- grant or vary the licence in the terms it was applied for
- refuse to issue or vary the licence
- grant or vary the licence but with changed or additional conditions
- exclude from the licence a licensable activity
- in the case of a premises licence, refuse to specify or remove a person as the premises supervisor

A decision will usually be given at the end of the hearing and confirmed in writing; we will include information on the right of a party to appeal against the decision.

Can I appeal against a decision?

Either the applicant for a licence or a representor or the holder of a Premises Licence can appeal against the decision of the Licensing Sub-Committee within 21 days of the written notification. Such an appeal has to be made to the Magistrates Court. An appeal triggers a complete re-hearing of the matter.

For further information about making representations, please contact the Licensing Team at licensing@scambs.gov.uk