

Licensing Act 2003: Guidance notes - How to make a Licensing Representation.

Background

The Licensing Act 2003 (the Act) was introduced to provide a streamlined and more effective licensing system. Licensable activities regulated by the Act include:

- the retail sale of alcohol
- the supply of alcohol by clubs
- regulated entertainment
- the provision of late night refreshment

Premises Licences

Businesses or individuals wanting to carry out any licensable activities (except for temporary events) must hold a Premises Licence.

Applicants must send their application for a Premises Licence to the Licensing Authority for the area in which their premises is located.

In Wyre the Licensing Authority is Wyre Borough Council. Copies of licence applications are circulated to what are known as other responsible authorities, these are:

- Lancashire Police
- Lancashire Fire and Rescue
- Wyre Borough Council's Health and Safety Enforcing Authority
- Lancashire Trading Standards Service
- Lancashire Safeguarding Children's Board at Lancashire County Council
- Wyre Borough Council's Planning Department
- Wyre Borough Council's Environmental Health Department
- Director of Public Health at Lancashire County Council
- Home Office 9 (Immigration Enforcement).

The responsible authorities contact details are available on the licensing section of our website at - <https://www.wyre.gov.uk/licensing/wyre-responsible-authorities/1>.

Any of the responsible authorities may object to any application for a new licence or variation to a licence or initiate a review of the Premises Licence or Club Premises Certificate.

How will you know an application has been made?

Applicants must advertise their applications at the premises and in a local newspaper. For Wyre this can be Blackpool Gazette, Fleetwood Weekly News or Garstang Courier. Applications are also displayed on our website at - <https://www.wyre.gov.uk/downloads/download/204/premises-licence-applications>.

Criteria for making a representation

Under the Licensing Act 2003, any person is able to make a written representation in relation to certain types of applications. However, for a representation to be considered relevant, it must address the likely effect the granting of the application will have on the promotion of one or more of the following licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Representations must relate to the impact of licensable activities carried on from the premises on those objectives listed above. By way of an illustrative example: "...a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by the new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant."

It is important that you set out any personal experiences as these will be considered as relevant. You need to give as much detail as possible so that the Licensing Authority can assess the relevance of your representation. Please attach any supporting documents/further pages as necessary, numbering all additional pages. Try to be specific and give examples, where possible. If you wish to gain a better understanding of the licensing objectives and the determination of applications please see the [Government guidance issued under section 182 of the Licensing Act 2003](#)

Please also be aware that the Licensing Authority will not consider representations that are frivolous (ones that display a lack of seriousness in purpose or nature) or vexatious (ones that are intended to cause aggravation or annoyance whether to a competitor or other person, without reasonable cause). Additionally in the case of a premises licence review the Licensing Authority may not consider any repetitive representations.

Making a representation

You can submit your representation online using the Council's website. Letters or emails are also acceptable but must contain all the relevant information.

Your representation must be returned within the statutory period which is generally 28 consecutive days from the date the application was submitted.

Relevant representations must be in writing (this includes e mail) and submitted to the Licensing Authority within the 28-day notice period. Late representations cannot not be considered and will be returned.

If you are unsure when the application was made, you can view the current applications on the Councils website. Alternatively, you can look at the site notice posted at the premises which advertises the application. If you would like information about licences already in force you can request to view a copy of licences issued by this authority.

Alternatives to making an individual representation

If you do not want to make your own representation, then you may wish to ask someone else to make the representation on your behalf. For example, you may wish to ask a local Councillor or any other recognised body or association.

If your chosen representative is willing to act on your behalf, you must submit a letter of authorisation to the Licensing Department as part of your representation. You must provide your chosen representative with your name, address and details of the grounds upon which your representation is made.

They should then submit written representation to the Licensing Authority replicating the grounds upon which your representation is made. 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 and any decision notice will also be sent to your representative

Disclosure of personal details of persons making representation

Once a representation has been accepted by the Licensing Department it will ultimately become part of a hearing report, which is a public document. Unless there are genuine and well-founded fears of intimidation representations will be published with names and addresses attached (your email address will not be disclosed).

Where a Notice of Hearing is given to an applicant, the Licensing Authority is required to provide that applicant with copies of the relevant representations that have been made. It is only in exceptional circumstances that personal details will be removed from representation correspondence.

We would refer you to Government Guidance on this matter, which states:

‘In exceptional circumstances, persons making representation to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as

name and address, are divulged to the applicant. Where licensing authorities consider that the person has a genuine and well - founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches. For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified'.

The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hearings

If the Licensing Authority decides that representations are relevant, it must hold a hearing to consider them. In the meantime, the Licensing Authority, the applicant and any person or body who has made representation can negotiate an agreeable way forward, and where written agreement is reached between all parties, the hearing may be cancelled.

The Licensing Authority strongly encourages all parties to mediate, and will assist, where possible, in the facilitation of mediation discussions.

Where agreement cannot be reached a hearing of the Licensing Committee will be held to consider and decide on the matter. The applicant, persons making a representation, and any responsible authority 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. The Notice will be sent out within the prescribed statutory timescales. Please note that you are required to respond to this Notice.

All parties who have submitted a representation will be able to address the Committee. No new grounds of objection may be raised at this stage and parties are limited to speaking to matters outlined in their original representation and response to Notice of Hearing, although detail provided may be expanded upon. Where you have chosen to use a representative, only they may speak on your behalf. However, Members may still wish to direct questions to applicants, even in cases where they are represented.

Please note that parties will all be given an equal amount of time in which to address the Committee, but that time period may be limited by the Chairman of the Committee – for example, where there are numerous objections, speaking time may be limited to 5 minutes, or the Chairman may request, where lots of similar representations have been made, that a spokesperson is nominated.

Please be assured that if for any reason you are unable to attend the hearing, the Committee will still consider your written representation.

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 by the decision, an appeal may be made to the Magistrates' Court. An appeal has to be commenced by the appellant giving notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.