



**West Devon
Borough
Council**



**South Hams
District Council**

Licensing Act 2003 Guidance: How to Make a Licensing Representation

Criteria for making a representation

Under the Licensing Act 2003, any person is able to make 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 business person about the commercial damage caused by competition from a new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by 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.”¹

Please also be aware that the Licensing Authority will not consider representations that are frivolous or vexatious. The former category refers to representations that display a lack of seriousness in purpose or nature, whilst the latter relates to representations which appear to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause of justification.

Any person who is aggrieved by a rejection of their representation on either of the above grounds may lodge a complaint via the Council’s complaints procedure.

¹ Amended Guidance issued under Section 182 of the Licensing Act 2003 – October 2012

Making a representation

Relevant representations must be in writing and submitted to the Licensing Authority within the 28-day notice period. Late representations will not be considered and will be returned.

If you are unsure when the application was made, you can view the following website (depending on the area in which the premises concerned is located) www.westdevon.gov.uk or www.southhams.gov.uk and access the list of current applications. 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 please contact the Licensing Team at West Devon on 01822 813 600 or the Licensing Team at South Hams on 01803 861 234.

We have prepared a 'Representation Form' (attached at the end of this guidance note) which can be used to assist you when making representations. The form is designed to help extract the type of information which is required to ensure the representation is relevant and therefore, can be accepted.

Alternatives to making a representation

If you do not want to make your own representation, then you may wish to consider approaching a representative who may consent 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 you are unsure about whom you can approach in your area, please contact the Licensing Team – we will be happy to offer advice.

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.

Petitions

When organising/submitting a petition as part of your representation, there are some important factors to bear in mind:

- We ask that the instigator of the petition identifies themselves as a central point of contact, as we may need to make contact in order to verify certain matters and if we are unable to do so this 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 for each signatory must be provided.

- All signatories must be made aware that where representations are made and not withdrawn, a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers.

The Licensing Authority will not write to each signatory separately but instead expects that the instigator of the petition will advise each signatory of the hearing date and the final outcome of the application. It is also expected that the instigator will represent signatories at the hearing and will speak for them.

Disclosure of personal details of persons making representation

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.²

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 can not be reached, the hearing will take place before a Licensing SubCommittee, which is made up of three Elected Members from the Council’s Licensing Committee.

² Amended Guidance issued under Section 182 of the Licensing Act 2003 – October 2012

The applicant, persons making 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 Sub-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 SubCommittee, but that time period may be limited by the Chairman of the Sub-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.

The Sub-Committee will not permit cross examination between parties.

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

The Sub-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.

Contact Details:

Licensing Department
West Devon Borough Council
Kilworthy Park
Tavistock
Devon
PL19 0BZ

Tel: 01822 813 600
Email: licensing@westdevon.gov.uk

Licensing Department
South Hams District Council
Follaton House
Plymouth Road
Totnes
Devon
TQ9 5NE

Tel: 01803 861 234
Email: licensing@southhams.gov.uk

The advice in this document should not be regarded as a definitive statement of the law – it is our current interpretation only, and may be subject to change Only the courts can give an authoritative opinion on statute law.

LICENSING REPRESENTATION FORM

Section 1: Licence Application Details

I wish to **object** to the following application I wish to **support** the following application

NAME OF APPLICANT (if known):

PREMISES NAME AND ADDRESS:

_____ POSTCODE: _____

Section 2: Your Details

[If you are acting as a representative, please go to Section 3]

TITLE Mr Mrs Miss Ms Other (please state) _____

SURNAME _____ FORENAMES _____

ADDRESS

_____ POST CODE _____

[You must provide your full residential address (or business address if your objection relates to the impact of the licence upon your business premises)]

SECTION 3: Representative Details

[If you represent residents or businesses, please complete the details below]

NAME OF REPRESENTATIVE/ORGANISATION

ADDRESS OF REPRESENTATIVE/ORGANISATION

_____ POST CODE _____

I AM (tick as appropriate):

- Representative of residents association Representative of trade/business association
- Ward Councillor Other (please specify)

MP

Section 4: Reason(s) for Representation

Under the Licensing Act 2003, for a representation to be relevant it must set out the likely effect of granting the application on the promotion of the four licensing objectives. Any representations that are considered to be frivolous or vexatious will not be accepted.

It is important that you set out any personal experiences as these will be considered as relevant.

Please fill in the reason(s) for your representation in the space provided below under each of the Licensing Objectives (where 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 as specific as possible and give examples, where possible.

Licensing Objective	Reason for Representation
<p style="text-align: center;">Prevention of Crime & Disorder</p>	
<p style="text-align: center;">Prevention of Public Nuisance</p>	
<p style="text-align: center;">Protection of Children from Harm</p>	
<p style="text-align: center;">Public Safety</p>	

I _____, hereby declare that all information I have submitted is true and correct

SIGNED: _____ DATED: _____

Please send the completed form to the local authority area in which the premises concerned is situated:

Licensing Department
West Devon Borough Council
Kilworthy Park
Tavistock
Devon
PL19 0BZ

Tel: 01822 813 600

Fax: 01822 813 600

Email: licensing@westdevon.gov.uk

Licensing Department
South Hams District Council
Follaton House
Plymouth Road
Totnes
Devon
TQ9 5NE

Tel: 01803 861 234

Fax: 01803 861 294

Email: licensing@southhams.gov.uk

IMPORTANT NOTE: This form must be returned within the statutory period which is generally either 10 working days or 28 consecutive days from the date the Public Notice was displayed on the premises. Please contact your relevant Licensing Team for confirmation of this date.