

Guidance on making representations about licensing applications

SECTION 1 -INTRODUCTION

1. The purpose of this guidance is to offer assistance to members of the public wishing to make representations about new applications for premises licences and applications to vary an existing licence, e.g. by extending the hours of opening or adding new activities which require a licence such as entertainment or alcohol which were not previously provided.

This guidance will explain:

- who can make these representations,
 - how these representations are to be made,
 - the format for making these representations.
 - what happens after representations have been received by the Council.
2. Further details about the new Licensing Act and the council's Licensing Policy can be found on the Council website www.solihull.gov.uk and more guidance/regulations etc on the website for the Department for Culture, Media and Sport www.dcms.gov.uk. The Licensing Act 2003 overhauls the way in which various licences are applied for and granted in England and Wales. The new Act brings a system of licensing into operation, covering the:
 - sale and supply of alcohol by retail
 - provision of regulated entertainment, (e.g. performance of a play, exhibition of a film, an indoor sporting event, performance of live music, any playing of recorded music, performance of a dance or entertainment of a similar description). Music which is incidental to other activities, use of televisions or radio receivers, garden fetes etc would not constitute regulated entertainment.
 - provision of late night refreshment (sale of hot food or drink) between 11pm and 5am.
 - supply of alcohol to club members and their guests

SECTION 2 -APPLICATIONS TO CONVERT TO NEW STYLE LICENCES

3. Existing holders of licences for cinema, theatre, stage play, public entertainment, indoor sport and late night refreshment, have the right to convert these licences into a new style licence called a **Premises Licence**.

Clubs with a club registration certificate can convert to a **Club Premises Certificate**. A Premises Licence allows a premise to be used for the sale of alcohol or the provision of specific entertainment and/or the sale of hot food/drink between 11pm and 5am.

4. **Premises Licences** once granted do not need to be renewed and will last for the life of the business, although an interested party or responsible authority may, (should the premises cause regular problems), apply to the Council at any time after 24.11.05 for a review of the **Premises Licence**, having regard to the Licensing Objectives.
5. Holders of existing liquor licences, also have the right to convert their licence into a new style **Personal Licence**. A **Personal Licence** is granted to an individual and allows that person to supply, or authorise the supply of alcohol in line with a Premises Licence.
6. Where an individual has not previously held a liquor licence, that individual will be required to successfully complete an approved training course, before a **Personal Licence** can be issued.
7. Where an application is made for a **Personal Licence** and the applicant's paperwork is in order, only the Police have a right to object to that application.
8. Where an application is made to convert an existing licence to a **Premises Licence**, only the Police have a right to object to that application.
9. Where there are no Police objections to the conversion of a licence and the applicant's paperwork is in order, the Council **must** grant the licence.
10. A licence issued, following a straightforward conversion, will be subject to the same conditions, restrictions and hours, as the previous licence.

SECTION 3 -WHERE THE LICENSEE WANTS TO CHANGE THE TERMS OF THE PREMISES LICENCE - APPLICATIONS TO VARY

11. The new Act will remove current permitted hours and many other restrictions. You may have heard about 24 hour opening for pubs and clubs under the new Act. However, there is not an automatic right to open 24 hours. Existing licence holders will need to vary the terms of their existing licences before they can enjoy longer hours. Where a licence holder(s) applies to vary the terms of their existing licence, they are required to advertise this application and publicise their intentions.

Advertising of Applications

12. Applications must be displayed in the form of a notice placed on or at the premises for 28 days. The 28 day period will start on the day on which the applicant sent their application to the Council. You will recognise this notice as it will be on pale blue paper, in a prominent place at or on the premises where it can conveniently be read from the exterior of the premises, i.e. in the window of a pub or on the wall of a club or on a lamp post near to the premises. In cases where the premises are over 50 square metres, similar notices must be placed every 50 metres along the external perimeter of the premises.
13. Applicants will also need to place a notice about their application in a local newspaper or circular that covers the area in which their club, or pub, is situated. This notice will appear within 10 days of the applicant making their application to the Council.
14. The notice and newspaper advert will summarise the basis of the application and the new hours, or activities, the applicant has applied for and state the last day on which you can make objections about the application to the council.
15. If you wish to see the full details of this application, then you can contact the Council's Licensing Section. This Section will hold details of the applicant's **Operating Schedule**. The Operating Schedule is a detailed breakdown of the applicant's intentions for the premises.
16. The Operating Schedule will show what entertainment will be held on the premises and when. It will also show at what time these activities will start and finish. It will also show when the applicant intends to supply alcohol, on which days and at which hours. The Operating Schedule will also set out what the Licensee proposes to do to promote the Licensing Objectives.

SECTION 4 -I'VE LOOKED AT THE PREMISES APPLICATION AND I WANT TO OBJECT - WHAT DO I DO?

17. The new Act allows individuals, certain groups, or responsible authorities to make **relevant representations** about an application to vary the terms of an existing licence. Interested parties may make representations regarding any application (except conversion of an existing licence). A representation is generally a reason why the application should not be granted in its current form, or should not be granted at all.

Interested Party:-

- A person living in the vicinity of the premises
- A body (includes MP, solicitor, Councillor etc) representing persons who live in the vicinity of the premises

- A person involved in a business in that vicinity
- A body representing persons involved in such business

Responsible Authority

- West Midlands Police
- West Midlands Fire Service
- Planning and Development Control Solihull MBC
- Environment Protection Solihull MBC
- Health & Safety Solihull MBC
- Trading Standards Solihull MBC
- Child Protection Solihull MBC
- other body, as specified in the legislation

18. The Licensing Authority has no power itself to object to any licence or variation or to call in a contentious application so that a licensing sub-committee can consider it. It cannot itself initiate a review of the Premises Licence. If any licence application is not objected to, then the council **must** grant the application and cannot attach any conditions of its own to the licence.

19. If you are a person living in the vicinity of the premises for which an application is made, then you are entitled to make a relevant representation. Alternatively, a group that represents people who live in the vicinity of the premises may also make relevant representations.

20. A person who is involved in a business close to the premises can also make relevant representations in question. Alternatively, an organisation that represents a group of persons involved in business close to the premises, may also make relevant representations.

21. Premises selling hot food and drink (including takeaways), between 11pm and 5am will need to be licensed. New applications for these licences will need to be made. You will have the same right to make relevant representations about these and other new applications, as you do for applications to vary.

SECTION 5 -ON WHAT GROUNDS CAN I MAKE A RELEVANT REPRESENTATION?

22. If '**relevant representations**' have been made relating to the application, the council must hold a hearing to consider them, unless the cause of concern can be resolved to everyone's satisfaction and all agree that a hearing is no longer necessary. Any representation **must** be about the likely effect of the grant of the licence on the promotion of the **licensing objectives**.

23. However, the Council is only bound to consider representations on specific grounds. The Council will only consider representations that are about the likely effect of the Premises Licence on the promotion of the **licensing objectives**.
24. When making your representations, they **must** be based on the likely effect the granting of the application will have on the promotion of the following objectives:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
25. For example, if you are concerned and have good reasons to believe that the granting of a variation will lead to an increase in crime and disorder in the area of the premises, this is a relevant representation.
26. You should present some evidence/support, to back up statements that you intend to make.
27. A representation concerning the granting of longer hours at the premises will lower house prices in the area, **is not** a relevant representation and cannot be considered by the Council.
28. The Council will not consider representations, which in the opinion of the Council are **frivolous or vexatious**.
29. E.g., a frivolous representation is one that does not have a serious purpose, whilst a vexatious representation is one that is made purely to cause annoyance and worry. A complaint relating to a general (crime and disorder) situation in an area, would generally not be regarded as relevant, if it cannot be positively tied or linked by some connection, to a particular premises.
30. The Licensing Authority **must** disregard any information given by any party, or any person appearing at the hearing, which is not relevant, to the application, the representation(s) or the Licensing Objectives.

SECTION 6 -HOW TO MAKE A REPRESENTATION

31. You should include your name and address when making a representation. This will help the Council decide whether or not you are living in the vicinity of the premises, for which the application is made.

32. Please note your name and address will be disclosed to the applicant and / or his legal advisor, unless you tell the Council otherwise.

33. Your representations must reach the Council within 28 days of the application being made. Late representations will not normally be considered. If you are unsure when the application was made, you can check with the Council, or look at the advertising of the application.

SECTION 7 -WHAT HAPPENS NEXT?

34. If relevant representations are made about an application, the Council will hold a hearing to consider them unless the Council, the applicant, and everyone else who has made representations agree that a hearing is not necessary. All relevant parties will normally be notified of the place and time at least 10 working days before the hearing.

35. The Council has established a Licensing Committee of 15 Councillors. This Committee has created Licensing Sub Committees of 3 Councillors. One of the Sub Committees will be responsible for considering representations at a hearing. In making decisions about applications, and relevant representations, the Sub Committee will take into account the licensing objectives set out in the new Act, the Council's Licensing Policy and also 'The Guidance', given by the Secretary of State.

36. As mentioned earlier, each party e.g. Applicant or Objectors may be assisted or represented by another person, whether or not that person is legally qualified.

37. Each party may ask questions (subject to permission of the committee) and each party may address the committee.

38. Should any party fail to attend the hearing, the hearing will normally proceed in their absence. All relevant objections will be considered, whether or not those who made them, are in attendance.

39. Upon receipt of a notice of hearing each party must inform the Licensing Authority not later than 5 working days before the hearing whether he/she intends to attend and the name of person who will be representing them with details on how that person will be representing them (if appropriate).

SECTION 8 - WHAT HAPPENS AT A HEARING?

40. The hearing will be open to the public and take the form of a discussion led by the council.

41. The committee may take the following steps, which they consider to be necessary for the promotion of the licensing objectives:

- Grant the application on the terms proposed in the operating schedule

- Modify (includes adding to, amending or removing) the conditions proposed in the operating schedule.
- Exclude a proposed licensing activity
- Refuse to specify the nominated designated supervisor.
- Reject the application.

42. The procedure to be followed at the hearing is shown at the end of this document. Guidance on speaking at the public meeting is also shown at the end of this document.

SECTION 9 - APPEALS

43. Any party to a hearing, who is aggrieved by the decision of the committee, may challenge it by way of appeal to the Magistrates' Court.
44. Appeals must be commenced within 21 days of any decision made by the committee.
45. An application for judicial review, may be made by a person with a sufficient interest to challenge the council on a decision. The application needs to be made within 3 months.
46. The person challenging the council is advised to seek independent legal advice before making any appeal.

This document should be used as a guidance tool. Only the courts can give an authoritative opinion on statute law. Every effort has been made to ensure it is both comprehensive and accurate but in an attempt to simplify the law omissions have been made. Please refer to the Licensing Act (2003) and associated regulations for full details of the law.

You should seek your own legal advice on the matters raised in this guidance.

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