

Research Briefing

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Alcohol licensing: how to object to a licence



Summary

- 1 Objecting to a licence application or variation
- 2 Reviewing an existing licence

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Summary

Under the [Licensing Act 2003](#), a [premises licences](#) is required for the sale and supply of alcohol. These are issued by the licensing authority in which a premises is situated. Objections can be raised against an application for a new licence or a variation of an existing licence. It is also possible to trigger a review of an existing licence.

The term used in the 2003 Act, regulations, and associated guidance is not “objections” but “[representations](#)”. All representations must be relevant to at least one of the licensing objectives:

- the prevention of crime and disorder.
- public safety.
- the prevention of public nuisance.
- the protection of children from harm.

This briefing gives an overview of the process for objecting to licences. It draws on Home Office [guidance for licensing authorities, issued under section 182 of the 2003 Act](#) (PDF) (August 2023).

The 2003 Act applies in England and Wales.

1 Objecting to a licence application or variation

Giving notice of a licence application

Applicants for a licence are required to publish a notice in a local newspaper or, if there is none, in a local newsletter, circular or similar document circulating in the area in which the premises are situated. A summary of the application must also be displayed on or outside the premises.¹

Licensing authorities must place a notice on their website outlining key details of the application including:

- the name of the applicant or club;
- the postal address of the premises or club premises;
- the postal address and, where applicable, the internet address where the relevant licensing authority's register is kept and where and when the record of the application may be inspected;
- the date by which representations from responsible authorities or other persons should be received and how these representations should be made; and
- that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.²

The summary of the application should set out matters such as the proposed licensable activities and the proposed hours of opening and should be clearly displayed for the period during which representations can be made, together with information about where the details of the application may be viewed.³

Representations

Once an application for a premises licence has been made with the licensing authority, authorised persons and responsible authorities have 28 days

¹ Home Office, [Guidance issued under section 182 of the Licensing Act 2003 \(PDF\)](#), August 2023, para 8.80 (accessed 26 October 2023)

² As above, para 8.81

³ As above, para 8.82

starting on the day after the application is lodged to make “representations”.⁴

Any other person can now make representations.⁵ It is also possible for a person to request that a representative makes a representation on their behalf – for example, a Member of Parliament, a Member of the National Assembly for Wales, or a local ward or parish councillor.

All representations must be relevant to one of the licensing objectives set out at the beginning of the 2003 Act:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.⁶

Authorised persons

“Authorised persons” are bodies empowered by the 2003 Act to carry out inspection and enforcement roles. In respect of all premises, authorised persons include:

- officers of the licensing authority.
- fire inspectors.
- inspectors with responsibility in the licensing authority’s area for the enforcement of the Health and Safety at Work etc Act 1974.
- officers of the local authority exercising environmental health functions.⁷

The police are not included because they are separately empowered by the Act to carry out their duties.

Responsible authorities

“Responsible authorities” are the bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. For all premises, responsible authorities include:

⁴ SI 2005/42, para 22

⁵ Home Office Guidance, August 2023, para 8.13. The Police Reform and Social Responsibility Act 2011 removed an earlier “vicinity test” from the 2003 Act - for background see section 3 of [Library Research Paper 10/81](#) (PDF) (9 December 2010)

⁶ [Section 4 of the Licensing Act 2003](#)

⁷ Home Office Guidance, August 2023, para 8.4

- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated.
- the chief officer of police.
- the local fire and rescue authority.
- the relevant enforcing authority under the Health and Safety at Work etc Act 1974.
- the local authority with responsibility for environmental health; • the local planning authority.
- a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm.
- each local authority's Director of Public Health (DPH) in England⁴ and Local Health Boards (in Wales).
- the local weights and measures authority (trading standards).
- Home Office Immigration Enforcement (on behalf of the Secretary of State).⁸

Vexatious or frivolous representations

In addition to being “relevant”, representations must not be “vexatious” or “frivolous”.⁹ The Home Office guidance explains:

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification...

9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

If a person's representation is rejected because of being either vexatious or frivolous, a complaint can be made to the local authority. An authority's decision can also be challenged by way of judicial review.¹⁰

⁸ As above, para 8.7

⁹ As above, para 8.13

¹⁰ As above, para 9.7

Disclosure of personal details

Where a notice of a hearing is given to an applicant, the licensing authority is required, under the [Licensing Act 2003 \(Hearings\) Regulations 2005](#) (SI 2005/44), to provide the applicant with copies of the relevant representations that have been made.¹¹ In certain circumstances, persons wishing to make representations may be reluctant to do so because of fears of intimidation if their personal details are divulged. In such circumstances, the Home Office guidance states:

9.28 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.

9.29 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.

9.30 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 a licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can be avoided only with the agreement of the licensing authority, the applicant and the people who made relevant representations.¹²

In determining an application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- [the Home Office] guidance;
- its own statement of licensing policy.¹³

The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the

¹¹ As above, para 9.26

¹² As above, para 9.31

¹³ As above, para 9.38

relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives.¹⁴

The Home Office guidance states that, in the interests of transparency, a licensing authority should publish hearings procedures in full on its website.¹⁵

Appeals

Following the decision of a licensing authority there is a right of appeal to the magistrates' court. This right is available to both the applicant and those who have made representations on an application. Appeals must be lodged with the court within 21 days from the day the appellant is notified of the licensing authority decision about the application.

On determining an appeal, the court can:

- dismiss the appeal;
- substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
- remit the case to the licensing authority to dispose of it in accordance with the direction of the court and make such order as to costs as it thinks fit.¹⁶

The court may also make such costs orders as it considers fit. This point is important because there have been allegations that certain breweries and pub chains have attempted to intimidate residents who might wish to appeal against a licence by warning them that, if they lose the appeal, they will be liable for costs.

The 2003 Act does not provide for a further appeal against the decision of the magistrates' court. The other routes open to the appellant are to seek judicial review or to make a complaint to the [Local Government & Social Care Ombudsman](#).

¹⁴ As above, para 9.39

¹⁵ As above, para 9.40

¹⁶ As above, para 13.7

2

Reviewing an existing licence

At any stage following the grant of a premises licence (or club premises licence), a responsible authority or any other person can ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.¹⁷

Representations

Representations must be made in writing and may be amplified at the subsequent hearing. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.¹⁸

If the application for a review has been made by a person other than a responsible authority (eg, a local resident, residents' association, local business or trade association), before taking action the licensing authority must consider whether the complaint is relevant, frivolous, vexatious or repetitious.¹⁹ A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to

¹⁷ As above, para 11.4

¹⁸ As above, para 11.9

¹⁹ As above, para 11.11

the above grounds, a reasonable interval has not elapsed since that earlier review or grant.²⁰

Licensing authorities are expected to be aware of the need to prevent attempts to review licences “merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion”.²¹

Possible actions

Following a review, the licensing authority may decide that it does not need to take any further action. It may issue an informal warning and/or recommend improvement within a particular period.²² Or it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.²³

Modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.²⁴

²⁰ As above, para 11.12

²¹ As above, para 11.13

²² As above, para 11.17

²³ As above, para 11.19

²⁴ As above, para 11.23

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