

## **Guidance on making a representation under the Licensing Act 2003**

### **What is a representation**

The term used in the Act is not 'objections' but rather, 'relevant representations'. Relevant representations are 'objections' about the likely effect of the grant of the licence on the promotion of the licensing objectives.

If an application for a premises licence or club premises certificate has lawfully been made and there have been no representations from responsible authorities or other persons, the Licensing Authority **must** grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions.

If an application has been lawfully made and relevant representations have been received, the Licensing Authority will hold a hearing to consider the representations.

### **The Licensing Objectives**

The licensing objectives are:

- The prevention of crime and disorder;
- The prevention of public nuisance;
- Public Safety; and
- The Protection of Children from harm

### **Assessing the application**

In the case of an application for the grant of a premises licence, Section P of the application form details the steps that the applicant intends to take to promote the licensing objectives. Not all of these steps can be imposed upon the licence as conditions but will be sufficient enough to allow you to determine whether the steps proposed will alleviate any concerns you may have about the granting of the application.

A similar section will be detailed in other applications which you can submit representations on, for example, Section M in a variation application. You should contact the Licensing department if you require any clarification in these instances.

### **Who can submit a representation**

Persons who live and/or work in the Rossendale district (the Act refers to these people as 'other persons') may submit a representation. Representations cannot be submitted anonymously and all persons are required to demonstrate this entitlement by providing your name and address.

If your representation is deemed to be relevant or partly relevant, a copy of the representation will be given to the applicant. This includes the name and address of the person making the representation. The Licensing Authority is obliged to do so by virtue of the requirements of the Licensing Act 2003 (Hearings) Regulations 2005. This is so that the applicant is provided with an opportunity to address the representation made and verify that it meets the requirements of the Act.

## **Submitting a representation**

Relevant representations can only be considered if they are received within the statutory 28 day period. Representations received outside of this period cannot lawfully be considered. The representation expiry date can be verified on the Council's website where current applications are listed ([click here](#)) or by checking the public notice on display at the premises.

Representations must be made in writing by completing the attached form and emailing it to: [licensing@rossendalebc.gov.uk](mailto:licensing@rossendalebc.gov.uk). Alternatively, it can be posted to the Licensing department or handed in at the Council's reception.

All representations must be about the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. It would be wise, therefore, to explicitly link any representation to one or more of the licensing objectives. It will also assist if the representations are specific to the premises and evidence based. Interested parties may, therefore wish to talk to local police beforehand, or document problems themselves by, for example, keeping a diary or photographic evidence of any incidents.

It is accepted that it would not always be possible to obtain evidence for a new premises, however, it can be based on your experience of the premises and there should be a causal link between the representation made and the effect on the licensing objectives. Representations cannot be based on fear or speculation. Licensing authorities will need to be satisfied that there is an evidential and causal link between the representations made, and the effect on the licensing objectives. In addition, the Licensing Authority will not consider representations that are "vexatious" or "frivolous".

There are matters which cannot be lawfully considered under the Licensing regime, such as, parking, behaviour of customers once beyond the control of the licensee and representations about commercial need. This list is not exhaustive.

The applicant may offer to change their application to try to satisfy your concerns and if this overcomes your concerns, you may choose to withdraw your representation on the basis of any agreement reached with the applicant. If your concerns cannot be overcome and you choose not to withdraw your representation, the application will be determined by at a meeting of the Licensing sub-committee.

## **Petitions**

The Licensing Authority will accept petitions but you should note the following important factors as non-compliance with these may render the representation to be invalid.

- The Licensing Authority must be able to establish whether the signatories on a petition fall within the definition of an 'other person'.
- Petitions should therefore be arranged in such a manner that they contain a header outlining the name and address of the premises and the reasons for the representation at the top of every page. These reasons must be based around the four licensing objectives.
- Petitions must ensure that they give the name and address of each signatory and they should include only the names and addresses of persons who live, and the business addresses of those who trade in Rossendale.
- Petitions must ensure that they include the details of a nominated spokesperson who will receive details about the hearings etc, from the Licensing Authority and who may be willing to speak on behalf of the petitioners at the hearing.

We will not contact individual petition signatories. It will be responsibility of the nominated spokesperson to liaise with individual signatories.

When making a decision, the Licensing Authority will give appropriate weight to a petition and those wishing to make representations should appreciate that the quality of the representation received is an important consideration when making a decision.

A well thought out and reasoned representation can carry more weight than a petition with several signatories. Any decision made will reflect the issues raised and will not be reflective of the number of representations.

### **The determination hearing**

If relevant representations are made, the application will be determined by the Licensing sub-committee for determination, unless:

- The Council, the applicant and all persons or authorities who have made relevant representation agree that a hearing is not necessary; or
- All relevant representations have been withdrawn; or
- The application is withdrawn

Hearings take place on weekdays during normal office hours. Persons who have submitted relevant representations will receive a notice of hearing detailing the time and date of the hearing. This will be accompanied by a Reg 8 notice which you should complete and return to the Licensing department. This notice tells the Licensing Authority whether you intend to attend the hearing and whether you wish to be represented by someone else. Other matters are also dealt with on this notice. Crucially, this tells the Licensing Authority whether you will be at the hearing and if not, the reasons you cannot attend. This assists the Licensing Authority to decide whether to hear the matter in your absence.

You will have the opportunity at the hearing to set out your representation. You can amplify your representation at the hearing but you cannot raise new issues that you have not previously referred to in the initial representation.

If you cannot attend the hearing and the sub-committee decide to hear the matter in your absence, they **will** consider all relevant parts of your written representation.

### **Appeals**

The sub-committee will take into account and have regard to all written and verbal information given, the licensing objectives, the Council's statement of licensing policy and guidance issued under Section 182 of the Act. The sub-committee will normally announce the decision at the end of the hearing and written confirmation is distributed to all parties to the hearing at the Council's earliest opportunity. If any party to the hearing is unhappy with the decision, there is a right of appeal to the Magistrates' Court within 21 days of receipt of the decision.