

## **LICENSING ACT 2003**

### **MAKING REPRESENTATIONS**

An Interested Party is defined as:

- A person living in the vicinity of the premises in question
- A body representing persons living in that vicinity, for example, a residents' association
- A person involved in a business in the vicinity of the premises in question
- A body representing persons involved in such businesses, for example, a trade association.
- A member of the relevant Licensing Authority (ie, elected Councillor of the Licensing Authority in which the premises is situated)

**If you are not an Interested Party you cannot make a representation about an application.**

There are two ways in which you can make a representation if you are an Interested Party.

Firstly, if a premises wishes to open longer or vary its activities from those it provides currently, it must apply for a variation of its Licence. You can make objections (which are called representations) about the proposal to vary the Licence. You can also do so if it is a new premises that is planned, being built or converted and applying for a Licence for the first time.

Notices at the premises and in the local press will give brief details about the proposals for either a new Licence or the variation of an existing one. You can view the full application during normal working hours at the Wiltshire Council Office covering the area in which the premises to be licensed are situated. You do need to make an appointment so that we can make sure someone is available to speak to you when you view the application

The application will contain an Operating Schedule that will detail exactly what is being proposed in terms of activities and when they are to take place. As part of the Operating Schedule the applicant will have to state any intended control measures considered necessary to promote the Licensing Objectives. These control measures will, if the application is successful, automatically be placed as conditions on the Licence. It would then be an offence not to comply with those conditions. Although applications where there are no representations will automatically be approved, the Licence will still be subject to the conditions in the Operating Schedule part of the application.

Once a Premises Licence has been granted you can ask for a review of the Licence at any time if the premises starts to cause you problems in the way it is being run.

In either case, you may wish to contact the applicant or Premises Licence Holder direct and discuss your concerns. They may then modify their application or activities to address those concerns.

Licences can only have conditions on them that deal with the four Licensing Objectives that are contained within the Licensing Act 2003.

These objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

**The decision on whether to grant an application, refuse it or allow it is subject to conditions and will be based solely on these grounds.** Other matters such as moral objections, that there are too many similar premises or a simple dislike of the proposals cannot be considered.

The Licensing Authority will not be able to use the new licensing system to duplicate satisfactory controls that already exist in other legislation such as fire and health and safety.

A representation which is either frivolous (with no serious intent), vexatious (made simply for the purpose of causing annoyance) or repetitious (concerning a matter which has already been considered and about which there has been no material change) may not be considered relevant and will be rejected.

Representations can also be made by one or more of the Responsible Authorities. Before you make a representation you may wish to contact the relevant Responsible Authority to discuss your concerns. These include the Police and Fire Brigade as well as the Council's Environmental Health department. A complete list of Responsible Authorities is available on Wiltshire Council's Website - [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk). These Authorities will consider making their own representation if they think that one or more of the Licensing Objectives would be adversely affected by the proposals. You may wish to ask them to make a representation on your behalf.

**All representations must be in writing and received by the Licensing Authority by the last date specified on the Notice at the premises or placed in the local newspaper. The Licensing Authority can also advise on that date. This date is calculated as 28 consecutive days starting from the day after the date the application was received by the Licensing Authority.**

#### Note

If the Premises Licence or the Club Licence Certificate is granted and the activities subsequently cause a problem that relates to one of the four licensing objectives, there is the opportunity to review the Licence. Both interested parties and Responsible Authorities are entitled to request a review irrespective of whether they made a representation when the licence was applied for.

The review would look at how the Licensing Objectives are being adversely affected. The Committee hearing the review would have the power to restrict the activities at the premises, impose additional conditions, suspend the Licence for up to three months or even revoke it completely.

The Police also have the power to close premises temporarily in certain circumstances.

A representation form is attached. Although you may submit a representation in any form you may find it useful to use this format.

Representation should be sent to the Wiltshire Council Office covering the area in which the premises to be licensed are situated. These contact details are given on Wiltshire Council's website.

Your representation should:

- Include your name and address
- Include the name and address of the premises you are making a representation about
- Be relevant to the four Licensing Objectives and no other matters
- In relation to Licence variations it must only relate to the variation and not the existing Licence
- Explain in as much detail as necessary what problems you believe will arise from what the applicant is proposing

It is important that you provide as much evidence as possible when submitting your representation. Evidence is what you can demonstrate to be the case, not simply what you fear might happen.

Note that your name and address will be available for the applicant and others to see and that representations cannot be made anonymously.

If you make a representation then, unless all parties agree that no hearing is necessary, a hearing will be called, where a Committee of Councillors will hear both sides of the case. You will be invited to that hearing where you can be asked questions about your representation. The Committee will be looking to see whether there is a reasonable likelihood of one or more of the Licensing Objectives being significantly affected.

Although you will have the opportunity to speak about the evidence supporting your representation at the hearing you will not be allowed to raise any new matters. It is important, therefore, that you ensure that all matters you wish to be considered are included in your written representation.

Remember that where there are adequate controls in other legislation, such as health and safety and fire, the Council's Policy would be not to consider these as a licensing issue.