

Wiltshire Council

LICENSING ACT 2003

GUIDANCE ON MAKING REPRESENTATIONS

This guidance describes the process for making representations to Wiltshire Council, as the Licensing Authority, concerning applications for:

- new premises licences or certificates;
- full variations to existing premises licences or certificates;
- minor variations to existing premises licences or certificates; or
- provisional statements.

This guidance also contains information about the application and hearing processes. Unless stated otherwise, references to 'licences' in this text also apply to club premises certificates.

Under the Licensing Act 2003, activities that require a licence include:

Alcohol

- any retail sale of alcohol;
- supply of alcohol by or on behalf of a club to, or to the order of, a member of a club.

Regulated Entertainment

- the performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- boxing or wrestling entertainment;
- a performance of live music;
- any playing of recorded music;
- a performance of dance;
- or entertainment of a similar description to live music, recorded music or dance.

Late Night Refreshment

- supply of hot food or drink between the hours of 23:00 and 05:00.

What to look out for:

New licence applications, full variations, provisional statements

When an application is made for a new licence, or vary an existing licence (for example, to put on additional activities or to extend their hours – other than when applying under the minor variation process), they must advertise the application by:

Placing a notice at or on the premises

- On A4 or larger pale blue paper (or on white paper, in the case of an application for a minor variation).
- Placed prominently at or on the premises where it can be conveniently read from the exterior of the premises.

Placing a notice in a newspaper

- Newspaper circulation must be in the vicinity of the premises
- Advertisement within 10 working days following the application is received by the Licensing Authority.

The notice must include details of the applicant, the premises address and description of what is being applied for. The notice must also include the consultation period in which a representation can be made (28 consecutive days) and details of who to contact (Wiltshire Council).

NB - There is a 10 working day consultation for Minor Variation applications.

Application details

The full application is available to be viewed at a Wiltshire Council office, please contact publicprotectionnorth@wiltshire.gov.uk or 01249 706555 to make an appointment.

The application will contain an Operating Schedule that will detail exactly what is being proposed in terms of licensable activities and when they are to take place. As part of the Operating Schedule the applicant will state any intended control measures considered necessary to promote the licensing objectives (**see below***). 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 be automatically approved, the Licence will still be subject to the conditions in the Operating Schedule section of the application.

***The four licensing objectives are:**

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

When considering the steps that an applicant has volunteered to promote the licensing objectives, it is important to remember that applicants should already be adhering to legislation in other areas, and they may feel there is nothing additional they need to do to promote the licensing objectives. Some applicants may therefore simply say something like 'nothing beyond existing Health and Safety/Fire Safety etc. requirements' or if they are applying to vary a licence 'nothing beyond the steps we are currently taking, which are already conditions of the licence'.

If any person believes that granting a licence in the terms it has been applied for is likely to have an effect (whether positive or negative) on the promotion of one or more of these objectives, they can make a written representation to the Licensing Authority within the 28 consecutive day consultation period.

Licensing Policy

Before making representations, interested parties may wish to look at the Council's 'statement of licensing policy' found on the website at

<https://www.wiltshire.gov.uk/licences-permits-licensing-act-overview>

Making a Representation

Representations must be made in writing to the Licensing Authority where the premises are situated. Wiltshire Council will also accept representations by email to publicprotectionnorth@wiltshire.gov.uk. A representation form is attached at the end of this guidance, however a representation can be made in any written format as long as it contains the required information, including name and address.

Relevant Representations

To be considered “relevant”, all representations must be concerning the likely effect of granting or varying the licence on the promotion of at least one of the four licensing objectives (mentioned previously*). 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. It will not be possible to provide specific premises evidence for a new premises, therefore the Review process may be a more suitable consideration should a licence be granted. Please see the Review process below.

Representations must be balanced and proportionate. 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.

The Licensing Authority will need to be satisfied that there is an evidential and causal link between the representations made, and the effect on the licensing objectives.

Responsible Authorities

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. 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.

Personal Information

If you do not want your personal details to be released then you can approach a local representative who may consider making the representation on your behalf. You should not delay in seeking a representative as any representations must be received within the 28 day notice period (10 working days for minor variations). You could ask a local Councillor (including Town & Parish Councillors), or any other locally recognised body or association. Councillors who are part of the Licensing Committee hearing the application will not be able to enter into discussions with you about the application, outside of the formal hearing. Wiltshire Councillor and Town/Parish Council information can be found on the Council’s website www.wiltshire.gov.uk. If you are unsure about who to approach in your area please contact us and we will be happy to advise.

All representations in their entirety, including your name and address, will be disclosed to the Premises Licence applicant. The applicant may wish to contact you to discuss your representation further. A copy of representations will be annexed to the Licensing Officer's report, which is a public document* published on the council's website and circulated to the Licensing Sub-Committee, the applicant and to all those who have made relevant representations. Representations that are made anonymously cannot be considered.

*Personal telephone numbers, email addresses and signatures will be redacted from any public document.

In Summary, to be considered a relevant and complete, your representation must:

- 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, and include any evidence/records if referring to existing concerns.
- Not be frivolous or vexatious in nature.
- Be received by the Council within the consultation period.

Supporting Representations

A representation does not have to be an objection: you can make representations in support of an application if you believe that it will have a positive impact on one or more of the licensing objectives – this must be explained in the representation. For example, an application to add live music or late night refreshment to a licence might help the premises attract a more diverse clientele and lower the risk of crime and disorder.

Petitions

The Licensing Authority will accept petitions, but there are some important factors to consider before organising a petition.

- We ask that the instigator of the petition identifies themselves as a central point of contact. We may need to make contact in order to verify certain matters and if we are unable to do this it 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 must be supplied.
- All signatories must be made aware that a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers, so their personal details will become public knowledge.

We will not write to each signatory separately, but instead assume that the instigator will advise each signatory of the hearing date and the final outcome of the application. It is expected that the instigator will represent the signatories at the

hearing and to speak for them.

Further considerations

- Consider how you believe the issues could be addressed to resolve the concern.
- If no relevant representations are made (for applications other than a Minor Variation), the licence or variation must be granted, subject to the operating schedule and mandatory conditions.
- Local Authorities must grant a Minor Variation unless there could be an adverse effect on the licensing objectives. They must take representations into account, but there will not be a hearing. A decision must be made within 15 working days.

Town and Parish Councils

Town and Parish Councils can make a representation for or against a licence application without necessarily having to represent an individual living in, or business located in, the vicinity.

A Town or Parish Council may wish to consider any cause for concern to local residents or businesses, but any representation must be specific to the impact on the licensing objectives, as previously mentioned.

The Licensing Authority will expect a representation to include evidence if, for example the Town or Parish Council is concerned with the further increase of crime and disorder/anti-social behaviour at/nearby a premises. In this circumstance the Town or Parish Council may wish to make contact with the police in order to gain further information and evidence.

A representation cannot include concerns covered by other authorities i.e. planning or highway matters. However, you may wish to consult with these departments to discuss your concerns under separate legislation.

The 28 day consultation period cannot be extended to coincide with monthly/periodical committee meetings. All representations must be received in writing within the consultation period as prescribed under the Act. The consultation period is noted on the advertised notices on the premises, in the newspaper on the Council's website and should also be included in correspondence with the Licensing Authority.

The information in the rest of this document is also relevant to Town and Parish Councils.

What happens after a representation has been made?

Hearings

For applications other than Minor Variations, the Council must hold a hearing to consider representations, unless:

- The representations are irrelevant frivolous; or vexatious; or
- All parties can come to an agreement beforehand, and agree that a hearing is unnecessary. For example, the Council may offer to try and resolve matters via a negotiated agreement outside a formal hearing. You will need to decide if this is appropriate for you, but you can insist upon the hearing.

If there is to be a hearing for an application to which you have submitted a representation, the Council will write to you to inform you of the date and time and will explain the format.

If an applicant withdraws their application after a hearing date has been arranged, the Council will let all parties know that the hearing has been cancelled. You should be aware that if you make representations about an application that is later withdrawn, and the applicant makes a new, amended application, your representations will not automatically be taken forward. Any amended application would need to be re-advertised as set out above. You will then have the opportunity to decide whether to make representations about the new application.

Anyone that has made a representation is required to give notice to the council at least 5 working days before the start of the hearing, stating:

- Whether they will attend the hearing in person
- Whether they will be represented by someone else (e.g. councillor/solicitor)
- Whether they think that a hearing is unnecessary (if, for example they have come to an agreement before the formal hearing)

People making representations must let the Council know as soon as possible if they wish to withdraw their representation (by a notice no later than 24 hours before the start of a hearing, or orally at the hearing).

Hearings will be held in public, unless the Council decides there is a necessity to hold all or part of the hearing in private. The Council will ensure that a record is taken of the hearing.

Hearings will be led by the Licensing Sub-Committee which will consist of 3 Local Authority elected Councillors drawn from the Licensing Committee. The Council will explain the procedure to be followed. It will determine any request for additional Council persons to appear at the hearing. It will consider evidence produced in support before the hearing and can consider evidence produced by a party at the hearing, but only if all parties agree. Further evidence can also be produced if this was sought for clarification of an issue by the Authority before the hearing. Cross-examination of one party by another during the hearing is not allowed, unless the Authority thinks it necessary. The parties are entitled to address the Sub-Committee and will be allowed equal time to address the Councillors and, if they have been given permission by the Authority to do so, they will be given equal time to ask any questions of any other party. The Authority will disregard any information it considered to be irrelevant.

NB – A hearing can still go ahead in the absence of any party (e.g. applicant or interested person).

Hearing Decisions

At the hearing the Licensing Sub-Committee must decide how to proceed in order to promote the licensing objectives. The Sub-Committee may:

- Decide to grant or vary the licence in the same terms as it was applied for;
- Decide that it is necessary to refuse to issue or vary the licence;
- Decide to grant or vary the licence, but to modify the Conditions;
- Exclude from the scope of the licence a licensable activity;
- In the case of a premises licence, refuse to specify person as premises supervisor.

The Council must give notice of its decision within 5 working days (if it does not give a decision at the hearing) and include information on the right of a party to appeal against the decision.

Review Process

At any stage, following the grant of a licence, a responsible authority, or any other person, may make an application to the Licensing Authority to review the licence because of matters arising at the premises in connection with any of the four licensing objectives.

The Review application will need to include evidence and be 'relevant' as per the 'Relevant Representations' section in this guidance.

A notice of the Review application will be displayed on the premises for a period of 28 days. During this time any further person or responsible authority may make a representation.

The Licensing Sub-Committee will determine the outcome of the licence at a hearing in which the applicant, licence holder and any other people making representations will be invited.

Please see further information on Review applications on www.wiltshire.gov.uk or contact publicprotectionnorth@wiltshire.gov.uk.

Wiltshire Council

REPRESENTATION FORM

This form must be returned within the statutory period, which is 28 days from the date the notice was displayed on the premises or the date specified in the public notice in the newspaper. Please contact the Licensing team to confirm this date.

Any individual, body or business can make a Representation to the Licensing Authority in relation to an application, regardless of their geographic proximity to the premises. Any Representation must be relevant, in that the Representation relates to one or more of the Licensing Objectives.

Premises about which representation is being made	
Your Name	
Postal Address	
Contact Telephone Number and Email address	
Are you (please tick): <ul style="list-style-type: none">• An individual?• A person who operates a business?• A person representing residents or businesses?• A member of the Relevant Licensing Authority (ie, elected Councillor of the Licensing Authority)?	
If you are representing residents or businesses who have asked you to represent them?	

Your Representation must relate to one of the four Licensing Objectives, which are detailed below. Please detail the evidence supporting your Representation and the reason for your Representation. If necessary, separate sheets may be used.

LICENSING OBJECTIVES	EVIDENCE
The protection of children from harm	

The prevention of public nuisance	
The prevention of crime and disorder	
Public safety	

Please list below any suggested actions that you feel the applicant could take to address your concerns:

If a hearing needs to be held to determine the Premises Licence Application, the Licensing Sub-committee will generally only be able to consider matters that have previously been disclosed. However, additional information in support of your Representation may be considered if all parties at the Hearing agree. We advise that you detail all matters that you wish to be considered on this initial Representation, attaching additional sheets if necessary.

If you do make a Representation you will be invited to attend the Licensing Sub-Committee Hearings and any subsequent appeal proceedings relevant to your Representation.

All Representations in their entirety, including your name and address, will be disclosed to the Premises Licence applicant. A copy of Representations will be annexed to the Licensing Officer's report, which is a public document published on the Council's website and circulated to the Licensing Sub-Committee and to all those who have made relevant Representations.

Signature.....

Date.....

Please return this form along with any additional sheets, by email to publicprotectionnorth@wiltshire.gov.uk

Alternatively, if sending by mail, please return to:

The Licensing Officer
Wiltshire Council
Public Protection Services and Licensing
County Hall
Bythesea Road
Trowbridge
BA14 8JN

Any representations received after the consultation period has ended will not be considered.