

Licensing Act 2003 – A Guide to Representations



SECTION ONE - INTRODUCTION

On 24 November 2005 the Licensing Act 2003 (the Act) came into force bringing with it a new licensing regime dealing with the following licensable activities

- The sale and supply of alcohol;
- The provision of regulated entertainment (covering music, music and dancing, film, theatre and indoor sports); and
- The provision of late night refreshment (hot food and drink after 23.00).

Within Southwark Council the licensing regime is administered by the Licensing Unit. The licensing regime involves the licensing of premises used for the licensable activities set out above; under premises licences, club premises certificates or temporary event notices; and the licensing of individuals who are in a position to authorise alcohol sales under personal licences.

The Act sets out four licensing objectives

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

As one of the protections for local residents the process for applying for both premises licences and club premises certificates provides for public consultation to be carried out and for local residents and businesses to voice their opinions on local applications through the making of representations. The Act also allows for issued premises licences or club premises certificates to be reviewed and for representations to be submitted in respect of such reviews.

This guidance note sets out to introduce representations and explain the representations process.

SECTION TWO – FREQUENTLY ASKED QUESTIONS

Who can make a representation?

A representation concerning a premises licence application or a club premises certificate can be made by a “responsible body” or an “other person”, “other person” is not defined under the Licensing Act 2003.

“Responsible bodies” are those expert authorities such as the police, fire brigade, environmental health, social services, trading standards and planning.

The need to live in the vicinity of the premises has been removed from the Act, however a representation must be relevant, and this is described later.

How do I make a representation?

You can submit a relevant representation by writing to the Council’s Licensing Service before the last date for representations given as part of the consultation. The Service’s details are provided at the end of this guidance note.

Your representation must address the effect or potential effect of the proposed operation of the premises concerned on one or more of the four licensing objectives set out on page 1 of this guidance note. No other matters can be taken into account.

The representation must be signed and dated and must provide your name and full address.

If you are submitting a representation on behalf of a representative body you should also provide information on the section of the local community that the body represents and provide an authorised copy of the minutes of the meeting at which the decision to make a representation was made.

Letters of support may also be submitted for any application.

How do I find out about licence applications that affect me?

The Licensing Act 2003 requires applicants for premises licences and variations of premises licences and for club premises certificates and variations of club premises certificates to place a public notice at the premises concerned in a position where it can be readily seen by passersby for a period of 4 weeks. A similar notice is placed in a local newspaper available in the area. The notices provides detail of the application, the last date for making representations and the address where the full application may be viewed and to which representations should be sent.

In order to help ensure that the local community is aware of applications under consideration within their area this Council informs local ward councillors of relevant applications and publishes information on applications under consideration on its [website](#).

We also provide a licensing applications alert email notification scheme. Under this scheme any person, business or representative body may register with the Licensing Service to receive a standard email notification each time that details of a new application within the local area specified is placed upon our web site. You can register to receive these notifications by writing to the Licensing Service providing your name, address, telephone number and email address together with the ward or wards that you are interested in receiving notifications.

What happens to my representation once I have made it?

When your representation is received by the Service your representation will be acknowledged so that you know if we have received it in time. The Service then needs to make sure that the representation submitted is relevant and is either “repetitious, frivolous or vexatious”. If the Service should reach such a conclusion you will be notified. Otherwise, and (if you are making representations on your own behalf) initially the content only of the representation will be provided to the applicant so that he or she understands fully the issues that are being raised.

At the end of the period for submission of representations, in cases where representations have been received, the Licensing Service will normally arrange to meet with the applicant to discuss the issues raised under representations further. This “conciliation” meeting will aim to address the concerns raised. Invitations to this meeting may be given. Following the meeting further information will be circulated to all concerned on the outcomes of the meeting. Those who have submitted representations will be asked to confirm whether they wish to proceed with the representations or withdraw them on the basis of the outcomes of the meeting.

If all representations are withdrawn or if no representations are received the application is granted on the terms sought by the applicant with conditions added to the licence granted which reflect the management proposals that the applicant is required to detail in the application.

If representations are pursued beyond conciliation then the matter is put to the Council's Licensing Sub-Committee for determination. The Licensing Sub-Committee comprises of three elected members of the Council drawn from the pool of fifteen members who sit on the full Licensing Committee.

This meeting is a formal public hearing usually held at the Council Offices, 160 Tooley Street SE1 2TZ. All parties involved are invited to attend and put their views forward. The Committee may ask relevant questions and will make a decision based on all relevant information put to it.

If I make a representation, can I keep my personal details private?

If representations are pursued to a public hearing then it is the right of an applicant (or a licensee in the case of a premises licence review application) to know the personal details of any person making representations. The applicant / licensee is entitled to know where in relation to the premises the "other persons" live or work to help understand the degree of impact the proposed operation may have on that individual. Personal email addresses and telephone numbers will not normally be disclosed.

The details of any person who has submitted a representation are not automatically provided to an applicant or licensee. The anonymity of any person who has submitted a representation is preserved at the hearing and in any report written in relation to the hearing. An applicant or licensee must specifically request the details of any person who has submitted a representation if the applicant wishes to know such details.

Any person submitting a representation can request in their representation that their details are not revealed at any time and provide reasons / evidence for such a request (such as a genuine fears of reprisals). Any decision to withhold the personal details of any person who has submitted a representation will be made by the Council. A request for personal details to be withheld does not automatically result in such details being withheld.

It is possible to authorise an individual, for instance a local ward councillor, a friend or a legal representative, to represent your views but this must be done formally. An authorisation form can be provided by the Licensing Service and is available on our web site. This does not prevent an individual's personal details from being made known but may be of assistance if you require help with presenting your concerns at the hearing.

In some cases it may be that the matter may be raised with an umbrella organisation such as a tenants or residents association who may have other local residents in a similar position and the association may submit a representation, please note that the minutes of the meeting of the association where the decision was made to make a representation may be require as verification.

Please note that if your local ward councillor is a member of the Council's Licensing Committee then he or she may not be able to discuss the case with you as they may be called upon to ultimately determine the application. In such cases, arrangements will normally be made for another local ward councillor to discuss your concerns with you.

What decisions can the Licensing Sub-Committee make?

The Sub-Committee can decide to grant the application in full subject to relevant conditions, or part grant the application for instance with one or more licensable activities denied or with operating hours reduced, or refuse the application in its entirety.

In regards to reviews the Sub-Committee can decide to:

- Take no action
- Modify the conditions of the licence
- Exclude a licensable activity from the scope of the licence
- Remove the “Designated Premises Supervisor” (DPS) from the licence where one exists. (The DPS is the named individual who normally has day to day responsibility for the running of the premises where alcohol is sold).
- To suspend the licence for a period of up to three months
- To revoke the licence

What happens if I do not agree with the decision of the Sub-Committee?

The Act provides a right of appeal to all parties concerned to the magistrates’ court for the area. Applications for an appeal must be submitted to the court within 21 days of the decision of the Sub-Committee.

What happens to the premises after a licence may be granted?

Once a decision to grant the licence has been made then, subject to any other necessary consents, the operation of the premises is normally free to commence. The licence will normally exist for the life of the business concerned. The Licensing Service and other relevant responsible authorities monitor the operation of premises from time to time and will respond to any specific complaints. If premises management are found to be wilfully operating in contravention of the licence then a range of enforcement powers are available to the authorities. Applications for variation of the licence are required to go through public consultation. Responsible authorities AND “Other Persons” may request a review of a licence at any time that a premises operation is giving rise to concerns. A separate guidance note is provided by the Licensing Service is provided on licence reviews.

If you require further clarification please contact the Licensing Service.

SECTION THREE – CONTACT DETAILS

The Licensing Service

You can contact us in a number of ways

1. Via our Customer Contact Service (which is available 24 hours a day, 7 days a week) on 020 7525 2000;
2. By writing to us directly at;
Southwark Council Licensing Service, Floor 3, Hub 1
PO BOX 64529
London SE1P 5LX
3. By e-mail at licensing@southwark.gov.uk;
4. By fax transmission on 020 7525 5705;
5. By visiting our web site at <https://www.southwark.gov.uk/business/licences/business-premises-licensing>

or

6. By visiting us at the above office address during office hours (Monday to Friday 09.00 to 16.45) **but by appointment only please.**

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