

Licensing Act 2003 – A Guide to Representations



SECTION ONE - INTRODUCTION

On 24 November 2005 the Licensing Act 2003 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).

This new licensing system was introduced by the Government with several aims and objectives:-

- To simplify what was considered to be an unnecessarily bureaucratic licensing process;
- To provide better and more proportionate regulation to give business greater freedom and flexibility to meet customer expectations;
- To provide greater choice for customers, including tourists, about where, when and how they spend their leisure time;
- To encourage more family friendly premises where younger children can be free to go with the family;
- To further the development within our communities of our rich culture of live music, dancing and theatre both in rural areas and town centres;
- To regenerate areas that need increased investment and employment opportunities that a thriving and safe late night economy can bring; and
- To provide necessary protections for local residents whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

The new licensing regime is administered by the local licensing authority - within Southwark, this Council. The new 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.

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 any “interested party” or “responsible body” as defined under the Licensing Act 2003.

“Interested party” means any of the following

- a) A person living in the vicinity of the premises;
- b) A body representing persons who live in that vicinity;
- c) A person involved in a business in that vicinity; and
- d) A body representing persons involved in such businesses.

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

The phrase “vicinity” is not defined in the Act, as this will vary from application to application depending on the size and type of operation being proposed.

How do I make a representation?

If you fall into the definition of an “interested party” you can submit a 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 passers by 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 web site at www.southwark.gov.uk/businesscentre/licensing/currentapplication

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, the Service firstly needs to make sure that the representation submitted is relevant and is neither “repetitious, frivolous or vexatious”. If the Service should reach such a conclusion you will be notified. Otherwise, your representation will be acknowledged 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 held at the Southwark Town Hall. 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 the personal details of those making representations are made known at that point. This is because the applicant is entitled to be assured that those making representations do indeed qualify as “interested parties” and to help understand the degree of impact the proposed operation may have on that individual.

It is possible to authorise an individual, for instance a local ward councillor, 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.

At this time the Government is giving further consideration to the question of anonymity under a review of guidance given to local authorities by the Department of Culture Media and Sport. However, we await further detail. In the meantime, 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.

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.

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. Interested parties and responsible authorities 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.

This document provides only an introduction to representations. We advise that you contact the Licensing Service if you are unclear over any matter.

SECTION THREE – CONTACT DETAILS

The Licensing Service

You can contact us in a number of ways

- a) Via our Customer Contact Service (which is available 24 hours a day, 7 days a week) on 020 7525 2000;
- b) By writing to us directly at

The Licensing Service
C/O Southwark Environmental Health and Trading Standards
The Chaplin Centre
Thurlow Street
London, SE17 2DG

- c) By visiting us at the above office address during office hours (Monday to Friday 09.00 to 16.45) but by appointment only please;
- d) By e-mail at licensing@southwark.gov.uk;
- e) By fax transmission on 020 7525 5705; or
- f) By visiting our web site at www.southwark.gov.uk/businesscentre/licensing

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