

WARRINGTON
Borough Council



LICENSING ACT 2003

GUIDANCE ON MAKING
REPRESENTATIONS

**PREMISES LICENCE APPLICATIONS
REVIEW OF PREMISES LICENCE**

Licensing Section
New Town House
Buttermarket Street
Warrington
WA1 2NH

Tel: 01925 442119

E-mail: cexlicensing@warrington.gov.uk
www.warrington.gov.uk

In offering this guidance Warrington Borough Council wishes to make it clear that:

Legislation may change over time and the advice given is based on the information available at the time the guidance was produced. Only the courts can interpret statutory legislation with any authority. This advice is not intended to be a definitive guide to, or substitute for, the relevant law. Independent legal advice should be sought where appropriate.

Licensing Act 2003 Advice on Making Representations

The Licensing Act 2003 (the Act) enables thorough scrutiny of applications both by experts and by local residents and businesses.

Responsible authorities, including the police, fire authority, trading standards, health, and safety, planning, environmental health, public health, safeguarding board and the licensing authority are notified of every application for a new premises licence, or variation of existing licences, and have the opportunity to make representations to the Licensing Authority (the Council) about the effect of the application on the promotion of the four licensing objectives.

For the purpose of the Licensing Act 2003 the four licensing objectives are namely:

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

Any person can make relevant representations about any application for a new licence or variations to a licence.

This includes the right to raise objections and gives the local community a greater say than ever before in licensing decisions.

Please be advised that any representation, along with your details will normally be released to the applicant and/or their agents as part of the process, unless you indicate that there are exceptional circumstances where you believe that your details should not be released. Please contact the Licensing Team directly where you believe this to be the case.

Before you submit a representation to the Council please contact the Licensing Team on 01925 442119 or e-mail: cexlicensing@warrington.gov.uk to raise your concerns and to obtain further guidance. It may be that issues at the premises can be resolved without the need for a representation if appropriate Responsible Authorities are engaged in addressing your concerns.

What are Relevant Representations?

For a representation to be relevant it must be one that is about the likely effect of the application on the promotion of the licensing objectives listed above, or if a review, the impact of the premises licence on the objectives.

Any representation will not be relevant if the Council considers it to be vexatious or frivolous.

Representations must be received within 28 days from the day after the date the licence was applied for, as specified in the newspaper and site notice advertisements placed by the licence applicant (or in the case of a review of an existing licence, the notices placed by the council).

In the case of Minor Variations to existing licences that will not impact adversely on the Licensing Objectives, representations must be received within ten working days from the day after the council received the application. For more details on licence applications received by the Council's Licensing Section please go to the Council website and search for the online public register which can be found on our website <https://www.warrington.gov.uk/> via the web link below:

<https://licensing.warrington.gov.uk/PAforLalpacLive/1/WcaHome>

Representations received after the deadline for making representations cannot be considered.

In the case of a review of a premises licence following a closure order by a Magistrates Court, an interested party or a responsible authority has a period of seven days from when the licensing authority receives the order, in which to make representations about the review

How Do You Know When a Licence Application is Made?

Applicants are obliged to advertise new premises applications and major variations of existing licences by:

- displaying a site notice on pale blue paper outside the premises for 28 consecutive days from the day after the application is given to the council
- placing a public notice once in a local newspaper during 10 days from the day after the application is given to the council

For minor variations, there is no newspaper notice, and a site notice is displayed outside the premises for ten working days from the day after the application is given to the council.

You can also view copies of all application forms at our Council Offices at the address below. Please telephone in advance to make an appointment or you can view our online public register on the Council's website via the web link below:

<https://licensing.warrington.gov.uk/PAforLalpacLive/1/WcaHome> or contact us:

Licensing Section
New Town House
Buttermarket Street
Warrington
WA1 2NH

Telephone: 01925 442119 or e-mail: cexlicensing@warrington.gov.uk.

Reviews of Premises Licence or Club Premises Certificate

A formal review of an existing licence or Club Premises Certificate can be made in writing at any time where a premises is undermining one or more of the licensing objectives.

It is important to note the process for a review should be considered as a last resort. All existing powers to try and resolve problems at the premises should be exhausted before considering a review of a premises licence. The guidance issued under Section 182 of the Licensing Act 2003 provides

- Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to

judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

The council will advertise the review application for 28 days by displaying notice at, on or near the site of the licensed premises where it can be conveniently read outside. It will also be advertised at council offices and on this website.

Representations can be made about the review in the same way as those about licence applications.

Guidance on Making a Representation

Under the Licensing Act 2003 objections can be raised against an application for a new premises licence or a variation of an existing licence. It is also possible to trigger a review of an existing licence. The term used in the 2003 Act, regulations, and associated guidance is not 'objections' but 'representations'. All representations must be relevant to one or more of the four licensing objectives:

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

The key documents upon which Local Authorities rely, in their role as the Licensing Authority, is the *Guidance issued under section 182 of the Licensing Act 2003* published by the Home Office and the Council's own Statement of Licensing Policy. These documents can be found on the Home Office website or the GOV.UK on this web link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60723/7/182Guidance_05_04_17.pdf

Making a representation

Relevant representations must be in writing and submitted by post to the Licensing Section at New Town House, Buttermarket Street, Warrington, WA1 2NH or e-mail: cexlicensing@warrington.gov.uk. Your representations must reach us within the 28 day statutory consultation period. **Late representations will not be considered.** If you are unsure when the end date for consultation is, you can check on the Warrington Borough Council website listing current applications for Premises Licence and Variation to a Premises Licence, which can be found on our website www.warrington.gov.uk via the web link below:

https://www.warrington.gov.uk/directory_record/8526/licensing_act_applications_received.

The Licensing Team will initially check your representation to ensure that your comments relate to the premises which is the subject of the application and the Licensing Objectives. If your representation does not relate to one or more of the Objectives and does not relate to the premises or application in question, it will be invalid and rejected. Your representation must also be based on evidence or your experience and not on fear or speculation. Representations which are considered to be frivolous or vexatious will not be considered. Representations relating to competition from other businesses will not be considered.

If your representation is deemed to be relevant or partly relevant, a copy will be sent to the applicant, along with any other representations received. It is important that the applicant is provided with the opportunity to address the comments raised in your representation. The applicant may offer to change their application to try to satisfy your concerns and the Licensing Authority will facilitate this discussion. This may result in times being reduced or extra conditions being added.

If your concerns cannot be overcome and you choose not to withdraw your representation, the application will be determined at a meeting of the Council's Licensing Act Sub-Committee (known as a Hearing) and your representation and personal details may form part of the report and recorded decision, which are all public documents. If you do not want your personal details to be released then you will need to provide good reason for this information to be withheld, for example the fear of intimidation or violence. Anonymous representations may not be considered relevant, this is because we would be unable to verify whether they are frivolous or vexatious and we are likely to give them less weight. Additionally, the applicant would not be able to address the concerns raised.

You may also want to approach a representative who may consider attending the Hearing on your behalf. You should not delay in seeking a representative as any representations must be received within the 28 day consultation period. You could ask a local Councillor, a friend or neighbour, any other locally recognised body or association, or legal representative. If you want to be represented, you must notify the Council's Licensing Section of this at least 5 working days before the Hearing. The Licensing Authority is required to determine the application within 20 working days starting from the day after the deadline for making representations.

Petitions

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

- We ask that the organiser of the petition identifies them self 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 organiser will advise each signatory of the hearing date and the final outcome of the application. It is expected that the organiser will represent the signatories at the hearing and to speak for them. When making a decision, the Licensing Authority will give appropriate weight to a petition. Those wishing to make representations should appreciate that the quality of the representations we received is an important consideration when making a decision.

Hearings

If relevant representations are made the application will be referred to a Hearing for determination, unless:

- The Council, the applicant, and those who have made representations agree that a Hearing is not necessary
- Any representations have been withdrawn
- The application is withdrawn

The Hearing will take place before a Licensing Sub-Committee which is made up of three Councillors selected from the full Licensing Committee. All parties (the applicant, objectors/representatives of objectors, and any responsible authority), will receive a Notice of Hearing. The Notice will set out the date, time and location and explains the procedure to be followed at the Hearing. This Notice is usually sent out at least ten days before the Hearing. All parties or a representative will be able to address the Sub-Committee. If there are a number of objectors/supporters present, the Sub-Committee may request that a spokesperson is nominated or apply a time limit to any speakers. The decision-makers will have had the benefit of reading all the documents, including any representations, before the Hearing commences.

Please note that whilst this is a Public Hearing only those who have made valid representation may address the Committee in person. If you have chosen to be represented by someone, they may speak on your behalf. Even if you or your representative is unable to attend the Hearing, the Sub-Committee may still consider your written representation in your absence.

You also have the opportunity at the Hearing to set out your representation and to ask questions of the applicant or their representative. You can also be asked questions by the application or the Members determining the application. You can amplify your representation, but you cannot raise any new issues at the Hearing that you have not previously referred to in your written representation.

Members of the Public and other Councillors must not contact a Member of the Hearing before the date of the Hearing and there should be no lobbying of any decision-maker or any suggestion that you have tried to influence the decision outside of the formal Hearing.

In making decisions the Sub-Committee will take into account all of the written and oral evidence before them. They also have a duty to take into account the Licensing Objectives set out in the Licensing Act 2003, the Council's Statement of Licensing Policy and Guidance issued by the Secretary of State. The Committee will normally announce their decision at the Hearing, and written confirmation will be distributed to all parties. If any party is unhappy about the decision, there is a right of Appeal to the Magistrates Court within 21 days of receipt of the decision. The Hearing will be conducted in accordance with the Council's Procedure for Hearings. However, the Chairman does have discretion to vary this procedure where necessary.

Disclaimer

Nothing in this guidance document can be considered as legal advice. Independent legal advice should be sought in the event of queries, advice and information can also be obtained from the Home Website: www.gov.uk/homeoffice