



## **LICENSING ACT 2003**

### **REPRESENTATIONS INFORMATION FOR RESIDENTS**

The Licensing Act 2003 allows the views of persons who live, or are involved in a business in the City of York Council area to be taken into account, in the form of a representation (objection) in the following circumstances:

- Where an application is made for a premises licence, club premises certificate, or provisional statement
- Where an application is made for the variation of an existing premises licence or club premises certificate
- Where an application is made to review an existing premises licence or club premises certificate

#### **Awareness of new applications**

Applications must be advertised as follows:

- By placing a notice at or on the premises. This notice should be A4 or larger and on pale blue paper. It should be placed prominently at or on the premises where it can be conveniently read from the exterior of the premises. This notice must be displayed for a 28 day period starting on the day after the application is submitted.
- By placing a notice once in a local newspaper within 10 working days of the application being submitted. (NB this only applies to applications for the grant or variation of a premises licence or club premises certificate, it does not apply to applications for review.)

Details of current applications are also advertised on our website at [www.york.gov.uk/business/licensing](http://www.york.gov.uk/business/licensing).

The notices will provide a final date for representations as well as brief details of the application.

You can view full details of any applications made by prior appointment during office hours at our receptions at West Offices, Station Rise, York or Hazel Court EcoDepot, James Street, York. Appointments can be made by contacting 01904 551512.

#### **Making a Representation**

A representation must be made to the licensing section in writing and signed, explaining why you are making a representation. A representation can be made by email to

[licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk) within the relevant representation period, however if you make an email representation you must as soon as practicable forward a signed copy of your representation to the licensing section. A representation cannot be taken into consideration if it is not signed.

Representations must include your home/premises address.

Your representation must be relevant to one or more of the licensing objectives; therefore it is important you link any representation specifically to these objectives. The licensing objectives are:

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

Representations must clearly set out the likely effects the grant or variation of the licence would have on the promotion of at least one of the licensing objectives listed above, and should clearly relate to the premises for which the application is being made.

It would be wise, therefore, to explicitly link any representation to one or more of the objectives and also ensure that the representation is specific to the premises and evidence based. For example, representations on the basis of general noise and disturbance, without evidence of a causal link to specific premises are unlikely to be persuasive. If a premises is causing a noise disturbance, it is advisable to talk to the Environmental Protection Unit beforehand, or document any incidents at the premises yourself by, for example, keeping a diary or photographic evidence of any incidents. 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.

If you are unsure as to who to contact about issues at a premises, contact the Licensing Section for advice.

Representations do not have to be objections and may express a view that the licence will have a positive impact on one or more of the licensing objectives.

If your representation is not relevant to one or more of the objectives, or if it is considered to be frivolous or vexatious, your representation will not be considered valid and will be rejected.

Whether representations are frivolous or vexatious will be for the licensing authority to determine. For example, the licensing authority might find the representations were vexatious if they arise because of disputes between rival businesses, or they might be considered frivolous representations if they plainly lacked seriousness.

Your representations must reach us within 28 days of the licensing authority receiving the application. This is an absolute limit and late representations will not be considered. If you are unsure when the application was made, you can check with the licensing authority, or look at the advertising of the application.

If no relevant representations are made the licence or variation must be granted (subject to any mandatory conditions that may apply).

## **Who views your representation?**

Your representation will be sent to the premises licence applicant and / or their solicitors as part of the process.

Please note that all representations will also be included in the report that is written for the Licensing Sub-Committee Hearing. The report will be publicly available on the Council's website and your representation will become a public document. This means that your name and address will be disclosed. We will remove signatures, email addresses and contact telephone numbers.

You should be aware that local newspapers have occasionally quoted sections from the Licensing Committee Report in articles, and extracts from representations have been published. It is, therefore, advisable that you only provide details that you are happy to be published and viewed by other parties.

## **Anonymous representations**

It is not usually possible to make representations anonymously except in exceptional circumstances. This is because we need to be certain that it is a serious representation.

However, if you fear there may be repercussions by submitting a representation to an application (for example a genuine and well-founded fear of intimidation or violence), you would need to contact the licensing section to discuss the situation.

In such exceptional situations we could look at alternative approaches to you submitting your comments. For example, you could consider asking your ward councillor or parish councillors to make a representation on your behalf.

We could also withhold some of your address details.

## **What happens when relevant representations have been made?**

If the licensing authority considers that your representation is relevant, a hearing of the Licensing Sub-Committee will be arranged to consider any representations and determine the application, unless all parties can come to an agreement beforehand, and agree that a hearing is unnecessary. For example the licensing authority may offer to try and resolve matters via a negotiated agreement outside a formal hearing.

On occasion the applicant may wish to contact you to negotiate a compromise or explain further details of their application. This is normal practice. If no agreements are reached the application will be determined at a hearing.

The licensing authority will write to you to inform you of the date and time of the hearing and explain the format of the hearing. All persons who have made a relevant representation will be entitled to address the Sub-Committee. Even if you (or your representative) are unable to attend the hearing the Sub-Committee will still consider your written representation. Hearings will usually take place during the day.

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

## **Licensing Sub-Committee Hearings**

Hearings will generally be held in public, unless the licensing authority decides it is in the public interest to hold part or all of the hearing in private. The licensing authority shall ensure that a record is taken of the hearing.

Hearings will be listed before a panel of 3 elected councillors. They form the Licensing Sub-Committee which is drawn from a full licensing committee of 15 councillors. The hearing report and details of the hearing procedure will be circulated to all the parties prior to the hearing being held.

As a result of the hearing, the licensing authority must then decide how to proceed in order to promote the licensing objectives. It 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 a licensable activity from the scope of the licence;
- In the case of a premises licence, refuse to specify a person as the premises supervisor.

The Sub-Committee will usually announce their decision at the hearing and written confirmation will be distributed to all parties following the hearing.

If any party is aggrieved by the decision, then there is a right of appeal to the Magistrates Court.

## **Legal**

The content of this guidance is provided as an informative guide only. It is not a full and authoritative statement of the law and does not constitute professional or legal advice. Any statements contained within this guide do not replace, extend, amend or alter in any way the Council's Statement of Licensing Policy or any guidance issued in relation to it.

You are strongly advised to seek professional advice regarding your own particular circumstances.

## Further information

Further information relating to regulated entertainment can be found on the Department of Culture Media and Sport website at:

<https://www.gov.uk/government/organisations/department-for-culture-media-sport>

Further information relating to alcohol can be found on the Home Office website at:

<https://www.gov.uk/government/organisations/home-office>

## Licensing Authority Contact Details

City of York Council, Licensing Section, Hazel Court EcoDepot, James Street, York, YO10 3DS

Tel No: 01904 552512

Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)

Website: [www.york/business/licensing](http://www.york/business/licensing)

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 613161

**Also available in larger print**