

Guidance: Making Representations and What to Expect in a Licensing Act Sub Committee Hearing

1.0 Who can make a representation?

- 1.1 Representations to the following types of Licensing Act 2003 applications can be made by any of the Responsible Authorities or any other person:
 - New premises licence
 - New club premises certificate
 - Full variation of a premises licence or club premises certificate
 - Minor variation of a premises licence or club premises certificate
 - Review of a premises licence or club premises certificate
 - Provisional statement
- 1.2 Representations to the following types of Licensing Act 2003 applications can be made by the Police, the applicant/licence holder and in some cases, the Home Office:
 - Transfer of a premises licence
 - Variation of a licence to specify an individual as a designated premises supervisor
 - Application for a personal licence (where the applicant has been convicted of a relevant offence)
 - Hearings regarding personal licences where the licence holder has been convicted of a relevant offence
- 1.3 Representations or objections to Temporary Event Notices (TENs) may only be made by the Police or Shropshire Council's Environmental Protection Team with responsibility for Environmental Health.
- 1.4 The Responsible Authorities are:
 - The Licensing Authority and any other licensing authority whose area part of the premises is situated in
 - West Mercia Police
 - Shropshire Fire and Rescue Service
 - Shropshire Council Health Protection Team
 - Shropshire Council Environmental Protection Team
 - The Planning Authority
 - Shropshire's Safeguarding Children Board
 - Shropshire Council's Director of Public Health
 - Shropshire Council Trading Standards
 - Home Office Immigration Enforcement (on behalf of the Secretary of State)
 - The Canal and River Trust (if the application is for a vessel)
- 1.5 Any 'other person' means any individual, body or business.

2.0 How to make a representation

- 2.1 The Council provides a form for making representations which can be found on the Council's website at www.shropshire.gov.uk/licensing.
- 2.2 Representations must be 'relevant', this means that they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives and are not 'frivolous' or 'vexatious'.
- 2.3 The licensing objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 2.4 A representation would be considered vexatious if it appeared to the Council that it was intended to cause aggravation or annoyance to another person without reasonable cause or justification, for example a representation made because of a dispute between rival businesses.
- 2.5 A representation would be considered frivolous if it displayed a lack of seriousness, or no remedial steps would be considered necessary or proportionate to address the issues raised.
- 2.6 It is for the Council to determine if a representation is considered frivolous or vexatious.
- 2.7 Representations must be made in writing, either using the form provided on the Council's website, or following a similar format. Representations must be received either in the post or by email to the Licensing Team.
- 2.8 Representations can only be made during the relevant consultation period for the particular application. The end date of application consultation periods will be displayed on the site notice attached to the premises, on the Council's website and, where required, in the newspaper advert. Representations received after the end of the consultation period will not be considered.
- 2.9 Representations may be made in support of an application; these types of representation will not however result in the need for a Licensing Act Sub Committee hearing. They will be noted by the Council and recorded against the application. If a hearing is necessary due to objecting representations, supporting representations will be included in the information provided to the Committee, and those making supporting representations will be invited to attend the hearing.

3.0 What happens once you have made a representation?

- 3.1 Where a representation is accepted as relevant, the Council will share the representation with the applicant. This is to allow them an opportunity to consider the issues raised in the representation, and if possible consider ways in which they could mitigate the objector's concerns.

- 3.2 The applicant, or their representative, may contact the objector to discuss the issues with them and attempt to negotiate a solution. Further details of this process can be found in Part 3 of the Council's Statement of Licensing Policy 2019 – 2024.
- 3.3 People making representations should make it clear to the Licensing Team at the time of submission if they do not wish to be contacted directly by the applicant. A negotiation can still take place, but the Licensing Team will communicate with both parties, rather than them having direct contact.
- 3.4 In most circumstances, the name and address of those making representations will be provided to the applicant, and published if any hearing takes place. Only in exceptional circumstances, where the Council considers that there is a genuine risk of intimidation or violence to the person making the representation, will representations be provided to the applicant with limited or withheld personal details. In general, those making representations should be prepared for their personal details to be provided to the applicant and published if a hearing takes place.
- 3.5 At the end of the relevant consultation period, if any representations remain, a hearing of the Licensing Act Sub Committee will be required to determine the application. Anyone who has made a representation which has not been withdrawn will be notified of the hearing by way of a formal hearing notification. **It is important that this notification is returned to the Council by the date stated on the notification, failure to confirm intention to attend the hearing by the specified date will mean that the objector cannot speak at the hearing.**

4.0 What to expect in a hearing

- 4.1 Licensing Act Hearings are held by three members of the Strategic Licensing Committee who sit as the Licensing Act Sub Committee. Usually the room the hearing is held in will be set up and laid out similarly to the diagram in paragraph 5 below.
- 4.2 Hearings are not intended to be an overly formal process; however, the Council has developed a framework for the operation of hearings in order to ensure that all parties are given an opportunity to present their case and have a fair hearing, without the process being repetitive or overly long.
- 4.3 Any responsible authority, the applicant and anyone who has made a representation will be able to attend and speak at a hearing. Hearings are held in public and can be attended by members of the public, but they will not be able to speak or ask questions.
- 4.4 In certain circumstances the public may be excluded from hearings where the Licensing Authority consider that the public interest in doing so outweighs the public interest in the hearing taking place publicly. This may be for a whole hearing or for part of it, and also includes any reports and documents associated with the hearing.

- 4.5 The Council expects that written representations and applications should include the details of the points to be made, and these will be provided to Committee in good time prior to the hearing for them to review and consider their content. There is therefore no need for applicants and those making representations to read out, or explain in great detail, their representations at hearing.
- 4.6 Evidence to support applications or representations should be submitted with the application or representation, or before the hearing takes place. Any evidence submitted prior to the hearing will be provided to Committee before the hearing takes place so they have an opportunity to consider it. The Sub Committee will not usually permit the production of new evidence not previously submitted with a representation at a hearing.
- 4.7 If, in an extraordinary circumstance, Committee do decide to allow extra evidence to be submitted, parties will only be able to do this with the agreement of all other parties present. If new evidence is submitted, the hearing may need to be adjourned to allow Committee time to consider it and for the other parties to respond. In order to maintain an efficient hearing process, it is essential that all parties consider and submit any evidence they wish to be considered at the representation stage.
- 4.8 Following a hearing, the Committee may decide to deliberate and tell parties their decision on the same day. In this circumstance, the parties will be called back in to hear the decision. Parties are not required to stay and hear the decision if they do not wish to, it will be confirmed in writing within 5 days of the hearing.
- 4.9 In some circumstances, for example where a lot of information/evidence has been heard or the application is particularly complex, Committee may take longer to make their decision. They have 5 days from the last day of a hearing to notify all parties of their decision. When more time is needed for Committee to deliberate they will inform parties at the hearing that a decision will not be given that day, parties can leave, and they will be informed in writing of the decision within 5 days.
- 4.10 Either a video or audio recording of the hearing may be made in order to provide a record of the proceedings. Recordings of hearings will be kept for a maximum of six years.

5.0 How will the hearing be set up?

- 5.1 In general, the hearing room will be set up as shown in 5.2 below. When you arrive, you should wait outside the hearing room until an officer calls everyone in. The seating will be labelled for each party, and you should sit in the area for the party you represent. Unless it is a closed hearing, there will be chairs at the back for the public.

