

Licensing Act 2003

Guidance note – making a representation



Purpose

The purpose of this guidance is to offer assistance to members of the public wishing to make representations about licensing applications, e.g. applications for new premises licences or applications to vary existing premises licences and club premises certificates made under the Licensing Act 2003.

This guidance explains who is entitled to make representations and how such representations should be made. It also explains the process which follows once representations have been received by the Council.

Further details about the Licensing Act can be found on the Council website <https://www.bedford.gov.uk/licencing/beer-and-entertainment-licensing/> or the website for the Home Office: <https://www.gov.uk/guidance/beer-licensing>.

Licensing Act 2003

Under the 2003 Licensing Act (the Act) Bedford Borough Council is the Licensing Authority for the Borough of Bedford. The Licensing Authority issues premises licences which allow businesses to carry out the following licensable activities:

- sale by retail of alcohol
- the provision of regulated entertainment
- The provision of late night refreshment between 11pm and 5am.

This affects pubs, bars, restaurants, supermarkets, off licences, cinemas, theatres, community premises and late night takeaways to name just a few.

Under the Act the Licensing Authority must publish a Statement of Licensing Policy showing how it will promote the licensing objectives of:

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

This document is available on the Bedford Borough Council website at <https://www.bedford.gov.uk/licencing/beer-and-entertainment-licensing/>

The licensing objectives have equal weight and form the entire basis of how the Act works.

Application made under the Licensing Act 2003

A premises licence can authorise one or more licensable activities. Some premises, such as takeaways, will just have late night refreshment while other venues such as hotels and night clubs may have a combination of all licensable activities.

Personal licences are granted to people allowing them to supply, or authorise the supply of alcohol in line with a premises licence. Personal licence applications are not subject to any public consultation.

At any time the holder of a premises licence or club premises certificate can make an application to the Licensing Authority to vary their licence. These variation applications as well as brand new premises licence applications must be advertised and can be subject to public representations.

Advertising of applications

A blue notice will advertise an application for a new licence or a variation to an existing licence. This will be blue for a full variation, or white for a minor variation. The notice must be prominently displayed on the premises, in a place that is accessible by the public.

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

For full variations and new premises licence applications applicants must also place a notice about their application in a local newspaper that covers the area in which their premises is situated. This notice will appear within 10 days of the applicant making their application to the Licensing Authority.

The council also publishes detailed information about each application on the council website: <https://www.bedford.gov.uk/licencing/beer-and-entertainment-licensing/applications/>

A copy of the application can be viewed during office hours by contacting the Licensing Team in 01234 276943

Cumulative Impact Policies

The Licensing Authority has adopted Cumulative Impact Policies for certain areas of Bedford Borough. These areas have been identified because the Licensing Authority believes that the impact of the number and concentration of licensed premises in these areas are adversely affecting the promotion of the licensing objectives.

You can obtain details of the areas from our Statement of Licensing Policy or by e-mailing the Licensing Team on licensing@bedford.gov.uk

In the absence of relevant representations the Licensing Authority is obliged to grant the application despite the fact that the premise is located within a cumulative impact area.

Criteria for making a representation

Your representation must be relevant and based on the likely effect the granting of the application will have on the promotion of the following licensing objectives:

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

For example, if you are concerned the granting of an application will lead to an increase in crime and disorder in the area of the premises, this is a relevant representation and you will need to detail in your representation how the applicant has not addressed this issue.

If you are concerned the granting of longer hours at the premises will lower house prices in the area; this is not a relevant representation and cannot be considered by the Licensing Authority. Similarly, the question of “need” cannot be considered a relevant representation.

The Licensing Authority will also not consider representations that are **frivolous or vexatious**, e.g. a frivolous representation is one that does not have a serious purpose or is not serious in its nature, whilst a vexatious representation is one that is made purely to cause annoyance to the applicant.

Making a representation

Relevant representations must be in writing and submitted to the Licensing Authority. To assist objectors the Licensing Authority has created a form for making representations which is attached to this guidance note. Alternatively you can access the form on the council’s website or you can contact the Licensing Team to have a form sent to you. We would recommend that you use this form to submit your representation. The form is designed to help extract the type of information which is required to ensure the representation can be accepted.

Your representations must reach us within the 28 day notice period. Late representations will not be considered. If you are unsure when the application was made, you can check with the council or look at the advertising of the application.

The licensing staff will initially check your representation to ensure that your comments relate to one or more of the four licensing objectives. Assuming that your representation fulfills the criteria, it will be copied and 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. In addition a copy of your letter will be included in the committee papers and your personal details may form part of the recorded decision, all of which are public documents.

If you do not want your personal details to be released then you will be unable to make a personal representation.

Alternatives to making a representation

If you do not want your personal details to be released then you can approach a local representative who may consider making the representation on your behalf. You should not delay in seeking a representative as any representations must be received within the 28 day notice period. You could ask a local Councillor (including Town & Parish Councillors), or any other locally recognised body or association. If you are unsure about whom you can approach in your area please contact us and we will be happy to advise.

Firstly, if you have already made a written representation to the Licensing Authority you should contact us without delay and ask for this to be withdrawn.

It is advised that you write to the chosen representative as they will need to keep evidence of your request (in the instance of any further challenge, i.e. through an appeal hearing). You must provide them with your name, address and details of the grounds upon which your representation is made. They will need to use their local knowledge to satisfy themselves that your representation complies with the required criteria, and agree to take the matter on your behalf.

They should then submit written representation to the Licensing Authority replicating the grounds upon which your representation is made.

We will then process this representation as we would any others, i.e. send a copy to the applicant and include a copy in the Committee report.

Please note that all future dialogue and correspondence will be held with your representative, and the licensing authority will not be in a position to make direct contact with you. Consequently the Notice of Hearing and any decision letter will also be sent to your representative.

Petitions

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

- We ask that the instigator of the petition identifies themselves 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 and finally
- 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 instigator will advise each signatory of the hearing date and the final outcome of the application. It is expected that the instigator will represent the signatories at the hearing and to speak for them.

Hearings

If relevant representations are made the application shall be referred for a hearing, unless the council, the applicant, and everyone else who has made representations agree that a hearing is not necessary.

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, i.e. the police, environmental health, etc), 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 will be able to address the Sub-Committee. All parties are restricted to equal time in order to make their submissions, therefore where there are a lot of objectors/supporters present, the Sub-Committee may request that a spokesperson is nominated.

The Committee will not permit cross examination between parties.

Please note that whilst this is a public hearing only those who have made their identity known through their letter of representation may address the Committee in person. Therefore if you have chosen to use a local representative, only they may speak on your behalf.

Even if you (or your representative) are unable to attend the hearing the Sub-Committee will still consider your written representation.

In making decisions the Sub-Committee will take into account all of the written and verbal evidence before them. They also have a duty to take into account the licensing objectives set out in the Act, The Council's Statement of Licensing Policy and guidance given by the Secretary of State.

The Committee will normally announce their decision at the hearing, and written confirmation will be distributed to all parties following the hearing.

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

Contact details:

Licensing Team
Bedford Borough Council
Borough Hall
Cauldwell Street
Bedford
MK42 9AP

Website: www.bedford.gov.uk
Email: licensing@bedford.gov.uk

This document should be used as a guidance tool. Only the courts can give an authoritative opinion on statute law. Every effort has been made to ensure this document is both comprehensive and accurate but in an attempt to simplify the law omissions have been made. Please refer to the Licensing Act 2003 and associated regulations for full details of the law. You should seek your own legal advice on the matters raised in this guidance note.

Interested Party Representation Form



BEDFORD
BOROUGH COUNCIL

Licensing@bedford.gov.uk

Section 1 – Licence application details

Please indicate as appropriate :

- I wish to object to the following application:
 I wish to support the following application:

Applicant name (if known):

Applicant premises name and address:

Section 2 – Your personal details

NB : If you are acting as a representative, please go to Section 3.

Title Mr Mrs Miss Other _____

Full Name

e-mail address

Address (incl postcode):

Please note that a full copy of your representation (including your name and address) will be sent to the applicant and will be a public document at any hearing of this matter.

Please refer to our Guidance Note on making representations for further information and alternative options.

Section 3 – Representative details

If you are representing someone else please complete details below

Name of Representative/
Organisation

Full postal address
(incl postcode)

Please indicate capacity :

- Representative of Residents Association Ward Councillor Parish Council
 MP Trade Association
 Other (please specify) _____

Section 4 – Representation grounds

The representation is relevant to one or more of the following licensing objectives:

Please tick relevant box(es)

- Prevention of crime and disorder
- Prevention of public nuisance
- Protection of children from harm
- Public safety

Please select :

- I object to the application being granted at all
- I object to the application being granted in its current form*

*If you choose this option remember to tell us in the next section what changes you would prefer to see.

The grounds of the representation is based on the following:

You need to complete this box as fully as possible. If you do not the Licensing Authority may not be able to assess the relevance of your representation.

Please attach supporting documents/further pages as necessary – please number all additional pages and return to the address on the Guidance Notes.

Try to be as specific as possible and give examples, e.g. on 1 February I could hear loud music from the premises between 10pm and 1am. I am concerned that if the premises open until 2am this will cause a nuisance to me and other residents of the street.

Signed:

Date: