

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 Trading Standards & Licensing website www.tradingstandards.gov.uk/stockton or the website for the Department for Culture, Media and Sport (www.dcms.gov.uk).

Licensing Act 2003

Under the 2003 Licensing Act (the Act) Stockton on Tees Borough Council is the Licensing Authority for Stockton Borough. 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 Trading Standards & Licensing website at www.tradingstandards.gov.uk/stockton

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, a white notice will be used 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. See www.tradingstandards.gov.uk/stockton

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 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 a variation will lead to an increase in crime and disorder in the area of the premises, this is a relevant representation.

However, 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 can not be considered by the Licensing Authority.

The Licensing Authority will not consider representations that are **frivolous or vexatious**, e.g. a frivolous representation may be one that does not have a serious purpose or is not serious in its nature, whilst a vexatious representation may be 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. You can access the form at www.tradingstandards.gov.uk/stockton/licensing.htm or you can contact the Trading Standards & Licensing Office to have a form sent to you via the post or e-mail. 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.

A copy of your representation will be included in the committee papers and your personal details may form part of the recorded decision, all of which are public documents. It is important that the applicant is provided with the opportunity to address the comments raised in your representation.

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.

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 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 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 interested parties (the applicant, objectors/representatives of objectors, and any responsible authority i.e. the police, trading standards, 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 seven days before the hearing.

All parties will be able to address the Sub-Committee. Where there are a lot of objectors/supporters present, the Sub-Committee may request that a spokesperson is nominated.

Note: 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 and address to send representation to:

Stockton on Tees Borough Council
Trading Standards & Licensing
PO Box 232
16 Church Road
Stockton on Tees
TS18 1XD

Telephone: 01642 526558

Website: www.tradingstandards.gov.uk/stockton

Email: licensing.administration@stockton.gov.uk

This document is for guidance only. 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 may have been made. Please refer to the Licensing Act 2003 and associated regulations for full details of the law.

You may wish to should seek your own legal advice on the matters raised in this guidance note.