

## **Guidance for Interested parties in making Representations**

**This guidance describes the process for making representations to Warwick District Council about applications for new premises licences or certificates or variations to existing premises licences or certificates**

**It also contains information about the hearings process. Unless stated otherwise, references to ‘licences’ in this text also apply to club premises certificates.**

### **What should I look out for?**

When applicants want to apply for a new licence, or vary their existing one (for example to put on additional activities or extend their hours), they must advertise the application by placing a notice at or on the premises; and also by placing a notice in a newspaper which circulates in the vicinity of the premises.

### **Is there as Licensing Register?**

Full application details can also be viewed in Warwick District Council’s (WDC) licensing register on the council’s website under “Licensing” at [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk) Using the Register, it is possible to check all opening hours; licensable activities and any steps the applicant has volunteered to take to promote the four licensing objectives. These are set out in the applicant’s “operating schedule”.

The four licensing objectives are:

- \_\_The prevention of crime and disorder;
- \_\_Public safety;
- \_\_The prevention of public nuisance; and
- \_\_The protection of children from harm.

If you are concerned that granting a licence in the terms it has been applied for is likely to have an effect on the promotion of one or more of these objectives, you have 28 consecutive days starting on the day after the day on which the application was given to the council, to make a representation to the council.

Details of how to do this are set out below.

### **Do WDC have a Licensing Policy**

Before making representations, you may wish to look at the Council’s “licensing policy statement”, found on the Council’s website, which sets out WDC’s policies about licensing.

### **How do I make a representation?**

Apart from representations by statutory bodies such as the Police, Fire Authority, Environmental Health Officers and Health and Safety Officers, representations can only be made by “interested parties”. Interested parties include

- A person living in the vicinity of the premises in question

- A body representing people living in that vicinity (e.g. a residents association, or a parish or town council)
- A person involved in a business in the vicinity of the premises in question
- A body representing persons involved in such business (e.g. a trade association)

Representations should be made in writing to the council where the premises are situated. WDC accepts representations by email, but a hard copy must also be sent (this is a legal requirement, and representations sent by email alone cannot be considered).

All representations must be about the likely effect of granting that particular licence or certificate on the promotion of at least one of the four licensing objectives. 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. You may, therefore, wish to document problems themselves by, for example, keeping a diary or photographic evidence of any incidents.

The council will need to be satisfied that there is an evidential and causal link between the representations made, and the effect on the licensing objectives.

In addition, the council can only consider representations that are not “vexatious” or “frivolous”.

### **What does a frivolous or vexatious representation mean?**

“Frivolous” or “vexatious” will bear their ordinary meaning. Whether representations are frivolous or vexatious will be for the council to determine. For example, the council might find the representations were vexatious if they arise because of disputes between rival businesses or they might be frivolous representations if they plainly lacked seriousness.

As an Interested party, you cannot make representations anonymously, even if somebody else (e.g. a local councillor) is presenting the representation on your behalf. This is because, for example, the council needs to be satisfied that you live in the vicinity of the premises, and are not being vexatious.

If you are concerned about possible intimidation, you could consider asking the police, or another appropriate responsible authority to make a representation on your behalf.

### **Things you may want to consider when making representations**

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

It may be helpful to get the backing of other people living, or businesses operating in the vicinity of the premises.

Consider how you would like the situation to be rectified.

### **What happens after a representation has been made?**

If the council considers that the representations are relevant (ie are from an interested party and are not frivolous or vexatious), it must hold a hearing to consider those representations.

The council will write to you to inform you of the date and time of the hearing and will explain the format of the hearing.

### **What happen at the hearing?**

If you made representations, you are required to give written notice to the council at least 5 working days before the start of the hearing, stating:

- Whether you will attend the hearing in person
- Whether you will be represented by someone else (e.g. councillor or lawyer)
- Whether you think that a hearing is unnecessary (if, for example you have come to an agreement before the formal hearing)
- If you want another person to appear at the hearing (not to represent you), a request for permission for the person to attend, and details of their name and how they may be able to assist the council in relation to the application
- You must let the licensing authority know as soon as possible (by a notice no later than 24 hours before the start of a hearing, or orally at the hearing) if you wish to withdraw your representation.
- Hearings will generally be held in public, unless the council decides it is in the public interest to hold all, or part of the hearing in private.
- The council will ensure that a record is taken of the hearing.
- Hearings will normally take the form of a discussion and will be led by the licensing panel, which will consist of 3 local authority elected councillors (drawn from a full licensing committee of 15 councillors), and which is responsible for determining the application, on behalf of the council as the licensing authority. The licensing panel will explain the procedure to be followed. It will determine any request for additional persons to appear at the hearing. The licensing panel will be assisted and advised by a legal representative
- Cross-examination of one party by another during a hearing is not permitted
- The parties are entitled to address the licensing panel and will be allowed equal time for this and, if they have been given permission by the authority to do so, they will be given equal time to ask any questions of any other party. The authority will disregard any information it considers to be irrelevant.

### **What decisions may the Licensing Panel make?**

- 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 from the scope of the licence a licensable activity.
- In the case of a premises licence, refuse to specify a person as the premises supervisor

At the conclusion of the panel's deliberations at the conclusion of the hearing, the result will be announced. All parties have a right of appeal to the Magistrates court within 21 days of the receipt of the written decision.

**A form for making representations may be found on WDC's website at [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk)**