

Guidance for Interested parties in making Representations

This guidance describes the process for making representations to Warwick District Council Licensing Authority 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

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 interested parties 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, they have 28 consecutive days starting on the day after the day on which the application was given to the relevant authority, to make a representation to that authority.

Details of how to do this are set out below.

Do WDC have a Licensing Policy

Before making representations, interested parties may wish to look at their local authority's "licensing policy statement", found on the Council's website, which sets out WDC's policies about licensing.

How do I make a representation?

Representations should be made in writing to the licensing authority where the premises are situated. WDC accepts representations by email.

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. Interested parties may, therefore, wish to document problems themselves by, for example, keeping a diary or photographic evidence of any incidents. Licensing authorities 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 licensing authority 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 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 frivolous representations if they plainly lacked seriousness.

Interested parties cannot make representations anonymously, even if somebody else (e.g. a local councillor) is presenting the representation on their behalf. This is because the licensing authority needs to be satisfied that the person making the representation lives in the vicinity of the premises, and is not being vexatious.

If interested parties are concerned about possible intimidation, they could consider asking the police, or another appropriate responsible authority to make a representation on their 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 licensing authority 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 licensing authority will write to you to inform you of the date and time of the hearing and will explain the format of the hearing.

What happens at the hearing?

Interested parties that made representations are required to give written notice to the licensing authority at least 5 working days before the start of the hearing, stating:

- Whether they will attend the hearing in person
- Whether they will be represented by someone else (e.g. councillor or lawyer)
- Whether they think that a hearing is unnecessary (if, for example they have come to an agreement before the formal hearing)
- If they want another person to appear at the hearing (not to represent them), a request for permission for the person to attend, and details of their name and how they may be able to assist the authority in relation to the application
- Interested parties 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 they wish to withdraw their representation.
- Hearings will generally be held in public, unless the licensing authority decides it is in the public interest to hold all, or part of the hearing in private.
- The licensing authority 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 authority, which will consist of 3 local authority elected councillors (this will be the licensing panel drawn from a full licensing committee of 15 councillors). The licensing authority will explain the procedure to be followed. It will determine any request for additional persons to appear at the hearing.
- Cross-examination of one party by another during a hearing is not permitted
- The parties are entitled to address the authority and will be allowed equal time to address the authority 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 Authority 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 is on WDC's website at www.warwickdc.gov.uk