

# Licensing Act 2003

## Guidance to the public on making Representations about licensing applications for variations



Ref: GN7

### GUIDANCE NOTE

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## SECTION 1 – INTRODUCTION

The purpose of this guidance is to offer assistance to members of the public wishing to make representations about an application to vary an existing licence, e.g. by extending the hours of opening or adding new activities which require a licence such as entertainment or alcohol which were not previously provided.

This guidance will explain who can make these representations, how these representations are to be made, and the format for making these representations.

Finally, this guidance will explain what happens after the Council has received representations.

Further details about the new Licensing Act can be found on the Council website ([www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)) or the website for the Department for Culture, Media and Sport ([www.dcms.gov.uk](http://www.dcms.gov.uk)).

The Licensing Act 2003 overhauls the way in which various licences are applied for and granted in England and Wales.

The new Act brings in a system of licensing into operation covering the:

- sale and supply of alcohol
- provision of regulated entertainment
- provision of late night refreshment between 11 pm and 5 am.

At the moment, the licensing of activities involving the sale and supply of alcohol, and club registration is the responsibility of the Magistrates' Court. The Council deals with entertainment and late night refreshment licences.

Under the new rules, the Council inherits the licensing responsibilities carried out by the Magistrates' Court.

Since the 7 February 2005, existing holders of licences have had the right to request that existing licences be converted into new style licences. Existing licence holders may also apply at the same time to vary the terms of their existing licences.

## SECTION 2 – APPLICATIONS TO CONVERT TO NEW STYLE LICENCES

Existing holders of liquor licences, cinema, theatre, stage play, public entertainment, indoor sport and refreshment house licences, have the right to convert these licences into a new style licence called a **Premises Licence**.

Clubs with a club registration certificate can convert to a Club Premises Certificate.

A Premises Licence allow a premises to be used for the sale of alcohol or to provide specific entertainment or to supply hot food between 11 pm and 5 am or a combination of all three.

Holders of existing liquor licences also have the right to convert their licence into a new style **Personal Licence**.

A Personal Licence is granted to an individual and allows that person to supply, or authorise the supply of alcohol in line with a Premises Licence.

Where an application is made to **only convert** an existing licence then only the Police have a right to object to the application.

Where there are no Police objections and the applicant's paperwork is in order, the Council must grant the application.

The new licence will be issued subject to the **same** conditions, restrictions and hours as the previous licence.

**SECTION 3 –  
WHERE THE LICENSEE WANTS TO CHANGE THE TERMS OF THE LICENCE –  
APPLICATIONS TO VARY**

The new Act will remove current permitted hours and many other restrictions. You may have heard about 24 hour opening for pubs and clubs under the new Act. However, there is no automatic right to open 24 hours. Existing licence holders will need to vary the terms of their existing licences before they can enjoy longer hours. Where a licence holder applies to vary the terms of their existing licence, they are required to advertise this application and publicise their intentions.

**Advertising Applications to Vary**

Applications to vary must be displayed on or at the licensed premises.

This will be in the form of a notice placed on or at the premises for 28 days. 28 days will start on the day on which the applicant sent their application to the Council.

You will recognise this notice as it will be on pale blue paper, in a prominent place at the premises, i.e. in the window of a pub or on the wall of a club or on a lamp post in the area.

Applicants will also need to place a notice about their application in a local newspaper that covers the area in which their club, or pub, is situated. This notice will appear within 10 days of the applicant making their application to the Council.

The notice and newspaper advert will summarise the basis of the application and the new hours, or activities, the applicant has applied for. They will both also tell you the last day on which you can make objections about the applications to the council

If you wish to see the full details of this application, then you can contact the Council's Licensing Section. This Section will hold details of the applicant's **Operating Schedule**. The Operating Schedule is a detailed breakdown of the applicant's intentions for the premises.

It will show:

- (a) What entertainment will be held on the premises and when.
- (b) At what time these activities will start and finish.
- (c) When the applicant intends to supply alcohol, on which days and at which hours.

The Operating Schedule will also set out what the Licensee proposed to do to make sure the proposed activities do not affect the local community.

**SECTION 4 –  
I'VE LOOKED AT THE APPLICATION AND I WANT TO OBJECT – WHAT DO I DO?**

The new Act allows individuals, or certain groups, to make **relevant representations** about an application to vary the terms of an existing licence.

A representation is a reason why the application should not be granted in its current form, or should not be granted at all.

If you are a person living in the **vicinity** of the premises for which an application is made, then you are entitled to make a relevant representation. Alternatively, a group, which represents people who live in the vicinity of the premises, can also make relevant representations on behalf of the residents living in the vicinity.

Relevant Representations can also be made by a person who is involved in a business **close** to the premises in question. Alternatively, an organisation, which represents a group of persons involved in business close to the premises, may also make relevant representations on their behalf.

For the first time premises outside Greater London selling takeaway food between 11 pm and 5 am will need to be licensed. New applications for these licences will need to be made. You will have the same right to make relevant representations about these and other new applications as you do for applications to vary.

## **SECTION 5 – ON WHAT GROUNDS CAN I MAKE A RELEVANT REPRESENTATIONS?**

In accordance with the new Act and the Council's licensing policy, the Council will hold a hearing to consider relevant representations concerning applications to vary.

However, the Council is only bound to consider representations on specific grounds. The Council will only consider representations that are about the likely effect of the Premises Licence on the promotion of the **licensing objectives**.

When making your representations, they must be based on the likely effect the granting of the application will have on the promotion of the following 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 Council.

The Council will also not consider representations that in the opinion of the Council are **frivolous** or **vexatious**.

E.G. A frivolous representation is one that does not have a serious purpose or is serious in its nature. While a vexatious representation is one that is made purely to cause annoyance to the applicant.

## **SECTION 6 HOW TO MAKE A REPRESENTATION**

Relevant representations must be in writing and submitted to the council. To assist objectors the Council has created a form for making representations which is available on the Council's website or you can contact the Council to have a form sent to you. The form is called "INTERESTED PARTIES Representation Form"

You should include your name and address when making this representation. This will help the Council decide whether or not you are living in the vicinity of the premises for which the application is made.

Please note your name and address will be disclosed to the applicant unless you tell the Council otherwise.

Your representations must reach the Council within 28 days of the application being made to the Licensing Authority. 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 notice advertising the

application. Alternatively the information is available on the Council's website [www.eastdevon.gov.uk](http://www.eastdevon.gov.uk).

## **SECTION 7 WHAT HAPPENS NEXT?**

If relevant representations are made about an application, the Council will hold a hearing to consider them unless the council, the applicant, and everyone else who has made representations agree that a hearing is not necessary. This might occur following mediation between the applicant, responsible authorities and interested parties. Although this is not part of the application process applicants are encouraged to mediate with Responsible Authorities and members of the public who are making representations in order to seek common ground.

The Council has established a Licensing and Enforcement Committee of 15 Councillors. This Committee has created Licensing Sub Committees of 3 Councillors. The Sub Committees will be responsible for considering representations at a hearing.

In making decisions about applications, and relevant representations, these Committees will take into account the licensing objectives set out in the new Act, the Council's Licensing Policy, and also guidance given by the Secretary of State.

## **SECTION 8 - WHAT HAPPENS AT A HEARING?**

The applicant for the licence and any objectors can address the sub committee before any decision is made. The sub committee will listen to the evidence of both sides before deciding whether to grant the licence. If you have made representations you will be invited to attend the hearing and address the Sub Committee should you wish to do so.

Even if you can't attend the hearing the sub committee will still consider your written representation.