



## **A guide to making representations to licensing applications Licensing Act 2003**

This guidance describes the process for making representations to West Lindsey District Council (in its role as the licensing authority for the District) about applications for new premises licences or club certificates; variations to existing premises licences or certificates; or provisional statements. It also contains information about the hearings process. Unless stated otherwise, references to 'licences' in this text also apply to club premises certificates.

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Basic details of an application will be published on our website by way of a notice <http://www.west-lindsey.gov.uk/businesses/licensing/current-licensing-applications-and-review-of-premises-licences/>

Full application details, edited to comply with data protection legislation, can be viewed in person at the West Lindsey District Council office in Gainsborough (by appointment only) or by e-mailing [licensing@west-lindsey.gov.uk](mailto:licensing@west-lindsey.gov.uk)

If any person is concerned that granting a licence as it has been applied for is likely to have an effect on the promotion of one or more of the licensing objectives, they have 28 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.

The four licensing objectives are:

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

**Please note** the steps specified in an application, which the applicant volunteers to take in the promotion of the licensing objectives, are in addition to existing legislative requirements.

Before making representations, persons may wish to look at West Lindsey's 'Licensing Policy' which set out the council's policies about licensing and it may be of assistance when making representations <https://www.west-lindsey.gov.uk/my-business/licensing/licensing-and-gambling-policies/>

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### **Making a representation**

Representations should be made in writing to the Licensing team, preferably on the appropriate form. We do accept representations by email but you must also send in

a hard copy. A representation form can be obtained from our website <https://www.west-lindsey.gov.uk/my-business/licensing/current-licensing-applications-and-review-of-premise-licences/> or by e-mailing [licensing@west-lindsey.gov.uk](mailto:licensing@west-lindsey.gov.uk)

All representations must be about the likely effect of granting the 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.

It will also assist if the representations are specific to the premises and evidence based. Parties may wish to talk to local police beforehand or document problems themselves by, for example, keeping a diary or photographic evidence of any incidents. We 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, we 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.*

Parties cannot make representations anonymously; even if somebody else (e.g. a local MP or councillor) is making the representation on their behalf. This is because, for example, the licensing authority needs to be satisfied that the person making the representation is not being vexatious. It is also important that an applicant is able to respond to a representation, for example, if they believe that it is not a “relevant” representation. If parties are concerned about possible intimidation, they could consider asking the police, or another appropriate responsible authority to make a representation on their behalf.

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### **Once an application has been received**

If we consider that the representation(s) is relevant and not frivolous or vexatious we will notify the applicant and must hold a hearing to consider the representation(s) **unless** all parties can come to an agreement beforehand, and agree that a hearing is unnecessary. For example, the matter may be resolved through a negotiated agreement outside of a formal hearing. You will need to decide if this is appropriate for you, but you can, of course, insist upon the hearing.

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

If an applicant withdraws their application after a hearing date has been arranged, then we will let all parties know that the hearing has been cancelled. Parties should be aware that if they make representations about an application that is later

withdrawn, and the applicant makes a new, amended application, their representations will not automatically be taken forward. Any amended application would need to be re-advertised for 28 days and parties will then have the opportunity to decide whether to make representations about the new application.

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## **Licensing Sub-Committee hearings**

Parties that made representations are sent a hearing notice and attendance form which they need to return to us 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 / MP / 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

Parties must let us 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 Sub Committee decides it is in the public interest to hold all, or part of the hearing in private. We 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 Sub Committee, which will consist of 3 elected members of the Council. It will determine any request for additional persons to appear at the hearing. It will consider evidence produced in support before the hearing and can consider evidence produced by a party at the hearing, but only if all parties agree. The parties are entitled to address the Sub Committee and will be allowed equal time to do so and, with the permission of the Sub Committee, they will be given equal time to ask any questions of any other party. The Sub Committee will disregard any information it considers to be irrelevant.

NB - A hearing can still go ahead in the absence of any party, including that of the applicant.

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## **Hearing decisions**

As a result of the hearing, the Licensing Sub Committee must then decide how to proceed in order to promote the licensing objectives. It may:

- 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

The Licensing Sub Committee must give notice of its decision within 5 working days (if it does not give a decision at the hearing) and include information on the right of a party to appeal against the decision. A decision notice will then be sent to all parties who made representations and the applicants. Any party to the proceedings has a right of appeal to the Magistrates; any such appeal must be made to the relevant Magistrates Court within 21 days of the date of the decision.

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**Please note that the information contained within this guide is the licensing authority's understanding of the legislation. Applicants are strongly advised to seek advice from a qualified professional.**

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### Contact us

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