



Guidance for Interested Parties: Making Representation

This leaflet gives information about making representation to Arun District Council against licensing applications for Premises Licences and Club Premises Certificates. It contains information about what may happen before a hearing.

What to look out for

When applicants apply for a new licence, or to vary their existing one (for example to add activities or extend hours), they must advertise the application by:

- Placing a notice at or on the premises; and
- Placing a notice in a newspaper

The notice is to alert people that the application has been made and rarely gives full details of the application and you should seek more information from the Licensing Team.

Licensing Register

Full application details can be viewed on the Arun District Council "licensing register" at www.arun.gov.uk/licence/index/asp. The register holds 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" and found under the "Objectives" tab on the register.

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 people are concerned that the grant of a licence, under the terms it has been applied for, is likely to have an adverse effect on the promotion of one or more of the objectives; they have 28 consecutive days, starting on the day after the day on which the

application was given to the Council, to make a representation. Details of how to do this are set out below.

Licensing Policy

Before making representation, interested parties may wish to look at Arun's Statement of Licensing Policy. This sets out the Council's policy about licensing, it is available from www.arun.gov.uk/licensingact2003.

Operating Schedule

When considering the steps the applicant has volunteered to promote the licensing objectives, it is important to remember that applicants should already comply with legislation in other areas, and they may feel there is nothing additional they need to do to promote the licensing objectives. Some applicants may simply say something like "nothing beyond existing Health and Safety/Fire Safety etc. requirements" or if applying to vary a licence "nothing beyond the steps we currently take, which are already conditions of the licence".

For more information about Arun's Statement of Licensing Policy or details of applications received, please contact the Licensing Team.

Making Representations

Representations must be made in writing or by email to the Licensing Team. Email representations must contain a postal address to ensure the Interested Party lives in the vicinity of the Premises.

All representations must be about the likely effect the granting of the licence or certificate on the promotion of at least one of the four licensing objectives.

It is wise to explicitly link any representation to one or more of the objectives. It will help if the representations are specific to the premises and are evidence based. Interested parties may wish to talk to local police beforehand, or document problems themselves by 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 licensing authority can only consider representations that are not "vexatious" or "frivolous".

What does a frivolous or vexatious representation mean?

"Frivolous" or "vexatious" bear their ordinary meaning. Whether representations are frivolous or vexatious will be for the licensing authority to determine. E.g., the licensing authority may find the representations were vexatious if they arise because of disputes between rival businesses or they maybe frivolous representations if they plainly lacked seriousness.

Interested parties cannot make representations anonymously; even if a local MP or councillor is making the representation on their behalf. This is because the Council needs to be satisfied that the person making the representation lives in the vicinity of the premises, and is not being vexatious or frivolous. It is important that an applicant is able to respond to a representation. 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. Please note that the Council operates an "open file" policy to licensing and your comments will be open for anyone to view.

Things you may want to consider when making representations.

- Get the backing of other residents living, or businesses operating in the vicinity of the premises, or other "responsible authorities", such as the Police or Environmental Health.
- The "licensing register" will show if other people have asked for a review of the licence in the past.
- If you are thinking of raising a petition, it is important to ensure that the Council can determine all signatories live or work within the

'vicinity' of the premises. It is helpful if a spokesperson volunteers to receive details about the hearings or changes to the application and is willing to speak on behalf of the petitioners at any hearing.

You may ask another person, like an MP or local Councillor to represent you. Please make such a request in writing so that individual can demonstrate they were asked to act. It is for the MP or Councillor to decide whether they should agree to your request. They are not obliged to do so, however, most elected representatives are happy to help residents with this sort of issue.

Councillors who sit on the licensing committee to determine the application, will not be able to enter into discussions with you about the application, outside of the formal hearing.

What happens after a representation has been made?

If the Council consider the representations relevant (i.e. are from an interested party and are not frivolous or vexatious), it must hold a hearing to consider those representations - unless all parties can come to a consensus beforehand, and agree that a hearing is unnecessary. The Council may offer to try and resolve matters via a negotiated agreement outside a formal hearing. You will need to decide if this is appropriate for you, but you can, of course, insist upon the hearing. The licensing authority will write to you with the date, time, location and will explain the format of the hearing. If an applicant withdraws their application after a hearing date has been arranged, the licensing authority will let everyone know where possible that the hearing has been cancelled. Interested 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 as set out above. Interested parties will then have the opportunity to decide

whether to make representations about the new application.

Licensing Committee Hearings

Interested parties that made representations are required to give 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 / 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 with them 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 be held in public, but the deliberations will be conducted in private. The Council will keep a general record of the hearing. Hearings will normally take the form of presentations and discussion and will be led by the subcommittee or full committee, which will consist of 3 local authority elected councillors (the licensing sub-committee is drawn from a licensing committee of 15 members). A standard procedure will be followed. The committee will determine any request for additional persons to appear at the hearing. It will consider evidence produced before the hearing and can consider evidence produced by a party at the hearing, but only if all parties agree. Further evidence can also be produced if this was sought for clarification of an issue by the Council before the hearing.

Cross examination of one party by another during a hearing is not allowed, unless the licensing authority thinks it necessary. The parties are entitled to equal time to address the authority and

may ask questions. The authority will disregard any information it considers to be irrelevant.

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

NB - A hearing can still go ahead in the absence of any party

Hearing Decisions

At the hearing, the licensing authority may:

- Decide to grant or vary the licence under 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.
- Refuse to specify a person as the premises supervisor

The Council will give notice of its decision within 5 working days and issue information on the right of a party to appeal against the decision.

If you have difficulties or require further information please contact the Licensing Team:

**Licensing Team
Environmental Health Service
Arun District Council
Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex
BN17 5LF**

Tel: 01903 737755

Email: licensing@arun.gov.uk

www.arun.gov.uk/licensingact2003



CUSTOMER SERVICE EXCELLENCE