

## LICENSING ACT 2003

### MAKING REPRESENTATIONS ABOUT LICENCE APPLICATIONS

#### INTRODUCTION

This guidance describes the process for making representations to North Kesteven 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.

Anyone can make representations about licensing applications regardless of whether they live close to the premises concerned. The Licensing Authority will also publish details of applications on-line.

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**

- On A4 (or larger), pale blue paper.
- Printed legibly in black ink or typed in a font of at least 16.
- Placed **prominently** at or on the premises where it can be **conveniently** read from the **exterior** of the premises.
- Placed every 50 metres on the external perimeter of the premises abutting any highway (where applicable).
- The notice must be displayed for 28 days, starting on the day after the application is given to the licensing authority

#### **Placing a notice in a newspaper**

- Newspaper circulation must be in the vicinity of the premises (or if there isn't a local paper, in a local newsletter or circular).
- Advertisement must be at least once in the 10 days following the application being given to the licensing authority.

#### **Licensing Authority Notices**

- Licensing Authorities are now also required to advertise these applications. We will do this by placing Notices on our web site

If any person is 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.

**Representation Forms are available on the Business Licensing pages of our website [www.n-kesteven.gov.uk](http://www.n-kesteven.gov.uk) or by contacting the Licensing Team at the address below.**

### **VIEWING THE APPLICATION**

The application details may be viewed at our business licensing pages, and a draft version of the proposed licence may be viewed at our [Licensing Register](#) .

Full application details can be viewed in person at the offices of North Kesteven District Council (the address is shown below). Any person will be able 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.

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

For further information visit the Business Licensing pages of [our website](#) or [Contact us](#) , our details are at the end of this guidance.

### **NORTH KESTEVEN LICENSING POLICY**

Before making representations, persons may wish to look at North Kesteven's "Licensing Policy Statement". These set out the council's policies about licensing, and it may be of assistance when making representations.

### **MAKING REPRESENTATIONS**

Representations should be made in writing to the Licensing Team preferably on the appropriate form. We do accept representations by email, however you must also send in a hard copy.

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, therefore 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.

**Please note that any representation, along with your details, will normally be released to the applicant and/or their agents as part of the process. It may also be read out in public at the sub-committee hearing and made public, including being published on this council’s website. If you feel there are exceptional circumstances where you believe that your details should not be released please contact the Licensing Team.**

#### **WHAT HAPPENS AFTER A REPRESENTATION HAS BEEN MADE?**

If we consider that the representations are relevant and not frivolous or vexatious we must hold a hearing to consider those representations - 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 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 them 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 as set out above and parties will then have the opportunity to decide whether to make representations about the new application.

### **LICENSING SUB COMMITTEE HEARINGS**

**Parties that made representations are sent a Notice of Actions 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.

### **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.

### **CONTACT US**

YOU CAN CONTACT US BY:

Visiting the Council's website [www.n-kesteven.gov.uk](http://www.n-kesteven.gov.uk)

telephone the Licensing Team on 01529 414155

e-mail [licensingteam@n-kesteven.gov.uk](mailto:licensingteam@n-kesteven.gov.uk).

Alternatively you can also make an appointment with an officer of the Licensing team.

The Licensing Team  
Environment and Public Protection  
North Kesteven District Council  
District Council Offices  
Kesteven Street  
Sleaford  
Lincolnshire  
NG34 7EF

**PLEASE NOTE THAT THE INFORMATION CONTAINED IN THIS GUIDANCE DOCUMENT IS THE LICENSING AUTHORITY'S UNDERSTANDING OF THE CURRENT LEGISLATION. APPLICANTS ARE STRONGLY ADVISED TO SEEK ADVICE FROM A QUALIFIED PROFESSIONAL.**