

Making representations

A representation against an application to the Licensing Act 2003 should be made in writing to the licensing authority where the premises are situated. North Yorkshire Council provides a template for making representations. There is no obligation to use this template.

Any representation must refer to one or more of the following four licensing objectives:

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

Please be aware that the Licensing Act 2003 requires all parties that wish to make a representation against an application ensure that their name and addresses are included in the letter of representation to make it valid. Submissions made by email must also include this information.

Your name and address is required so that the Licensing Authority and the applicant or their representation can validate that the person making the representation qualifies to make the representation in terms of living or working in the vicinity to the premises concerned.

In exceptional cases an interested party can request the Licensing Authority to withhold their details, in any event the original letter must contain the information required.

All letters will be put out into the public domain and some will end up in reports that will be able to be viewed on the website.

If you attend a hearing these are normally voice recorded but this meeting may be filmed for live or subsequent broadcast via the council's internet site and can be viewed online by anyone who wishes to log on and view them.

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. Interested 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.

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 (eg. 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 isn't a “relevant” 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.

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). Please see [Guidance on mandatory licensing conditions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/licensing-conditions)
- It may be helpful to get the backing of other people living, or businesses operating in the vicinity of the premises, or other “responsible authorities”, such as the police or environmental health.
- If you are thinking of raising a petition, it is important to ensure that the licensing authority can determine whether all the signatories are within the ‘vicinity’ of the premise. So, including their addresses and indicating clearly what representation(s) they are all making would be helpful. It would also help if a spokesperson could volunteer to receive details about the hearings etc. from the licensing authority and may be willing to speak on behalf of the petitioners at the hearing.
- If you want to ask another person, such as an MP or local Councillor to represent you, it is advisable to make such a request in writing so that the individual can demonstrate

he or she was asked. It will be a matter 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, and there is no requirement for them to live in the vicinity of the premises in question for them to be able to make representations on behalf of residents that do.

Councillors who are part of the licensing committee hearing the application will not be able to enter into discussions with you about the application, outside of the formal hearing, so it is suggested that you do not approach them to try to.

- Consider & suggest 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 - unless all parties can come to an agreement beforehand, and agree that a hearing is unnecessary. For example, the licensing authority 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 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, the licensing authority will let them know 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 (eg 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.

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 shall ensure that a record is taken of the hearing. You can download the agenda and minutes of the Licensing Sub-Committee meetings from our Council Meetings page. If you attend a hearing these are normally voice recorded but this meeting may be filmed for live or subsequent broadcast via the council's internet site and can be viewed online by anyone who wishes to log on and view them.

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 sub-committee drawn from a full licensing committee)

The licensing authority will explain the procedure to be followed. 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.

Further evidence can also be produced if this was sought for clarification of an issue by the authority 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 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.

NB - A hearing can still go ahead in the absence of any party (eg applicant or interested party).

Information and guidance

Licensing Policy

The Licensing Policy which sets the approach the licensing authority will take can be found on the Council's website;

[Statement of alcohol and entertainment licensing policy | North Yorkshire Council](#)

Statutory section 182 Guidance

The Government issues guidance on the Licensing Act 2003 which Licensing Authorities must have regard to and assist it carry out its functions. It also provides information for those running premises and the general public. This can be found online: [Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK \(www.gov.uk\)](#)

Information on the Licensing Objectives

Crime and disorder

The police as the main source of advice and experts on crime and disorder. Matters relating to crime and disorder must be linked to behaviour and management of people under the direct control of a premise.

Public Safety

Licence holders & applicants have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act.

Public Nuisance

This is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

It is therefore important that in considering the promotion of this licensing objective, consideration is given to the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the

premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

Protection of children from harm

The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Applicants & Licence holders are bound by primary legislation regarding sales of alcohol to those under 18.

Regulated entertainment - Music and Dancing

Under the licensing certain types of entertainment need a licence. Recent changes to these laws have relaxed the need to have licences for entertainment in some cases. For example live music played through an amplifier is no longer needed in alcohol licensed premises such as pubs, and work places between 8am and 11pm (if no more than 500 people present). Live unamplified music, regardless of where it takes place between 8am and 11pm, no longer requires a licence. Dance facilities, such as a dance floor in a nightclub, and “facilities for making music”, such as a piano for customers to use for in a pub, also no longer need a licence.

Further information can be found here: [Entertainment Licensing - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Retail sale of Alcohol

“On supplies” only allows alcohol sold at the premises to be drunk in those areas shown on the licence plan (all licensed premises have an approved plan). If applicants wish to sell alcohol to be taken away or drunk in areas outside of the approved plan they will need to have permission for “off supplies”.

Late Night Refreshment

Late night refreshment refers to hot food or drink supplied between 11pm and 5am, which generally must be licensed.

Planning Law

Licensing and planning systems operate independently with the planning and licensing regimes involving consideration of different, albeit related, matters. Planning is the regime that is directed at development of land and the use of premises upon it. Licensing is the regime that is directed at licensable activities and responsible management of said premises upon that land. Licensing is not bound by decisions made by a Planning committee, and vice versa. For example, a premises licence or club premises certificate cannot be refused on the grounds that they do not have planning permission.

Licensing authorities are also able to specify different opening hours on a licence from those specified under Planning permission. This can seem somewhat incongruous, but the two schemes take different matters into account when determining hours, and the more

restrictive set of hours always applies. It is also important to note that any decision of the Licensing Authority on an application for a premises licence does not relieve the premises user of any requirements under Planning law for appropriate planning permission where it is required. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Therefore an objection or part of made in relation to planning permissions could not be considered.

Submitting Representations

Please see [Premises licence | North Yorkshire Council](#) to find the area location for the premise.

Representations can be emailed to the applicable local licensing team.

Craven – licensing.cra@northyorks.gov.uk
Hambleton – licensing.ham@northyorks.gov.uk
Harrogate – licensing.har@northyorkshire.gov.uk
Ryedale – licensing.rye@northyorkshire.gov.uk
Scarborough – licensing.sca@northyorks.gov.uk
Selby – licensing.sel@northyorks.gov.uk

Alternatively representations can be posted to:

North Yorkshire Council
Licensing
Racecourse Lane
Northallerton
DL7 8AD