

# LICENSING ACT 2003

## MEMBERS' GUIDE

### The Legal Situation

- Applications are made to the Licensing Authority (WDC) for licences to cover licensable activities provided to the public as defined by the Act:
  - Sale or supply of alcohol
  - Music and dancing
  - Exhibition of films
  - Public performance of plays
  - Indoor sporting events
  - The provision of late night refreshment
- A premises licence will be required for any place where regulated entertainment and/or the sale or supply of alcohol will take place. Any sale of alcohol will need to be authorised by a personal licence holder.
- Applicants must serve all **variation** and **new** applications on 7 Responsible Authorities (police, fire, planning, control of pollution, health and safety, child protection and weights and measures) as well as advertising the details of the application both on the premises and in a local newspaper.

### How it affects Members

- Any Responsible Authority, Interested Party (any person living or business trading in the vicinity of the premises) or their representative can make a representation in relation to the application within 28 days of the application being submitted.
- A Parish Council acting as a body is considered to be an interested party and as such can make a representation in their own right where there is evidence to suggest that any application may adversely affect local residents. The same situation applies to other bodies which represent interested parties.
- Members of WDC are interested parties and may make representations and apply for a review of a licence in their own right if they believe the licensing objectives are affected.
- Parish Councillors and County Councillors, who are not also Members of WDC are entitled to represent any interested party (who has made a valid representation) at any stage of the process should they be requested to do so by that person (written evidence should be provided to this effect) and so long as they do not have a prejudicial interest.
- Members and Parish Councillors may also make representations if they are personally affected by any application.
- Any Member who has made a representation or applied for a review will almost certainly have a prejudicial interest and they should declare their interest. Under the new Code of Conduct, the Member will be able to attend that part of the Panel hearing in which members of the public have a right to attend and speak. Alternatively, they may appoint a representative to attend on their behalf.
- If a Member has made a representation in relation to an application for a licence, they may still have a prejudicial interest in any subsequent review or variation application.

- Members who have a prejudicial interest may not sit on a Licensing Panel to consider the application in which they have that interest.
- The Monitoring Officer will be able to assist with any queries in relation to prejudicial interests.
- Members who do not sit on the Licensing Panel should be careful about lobbying members of the Panel, to avoid the Panel Member being accused of bias. All written representations should be submitted to the Licensing Officer, instead of direct to a Panel member and Members are advised not to discuss individual cases with a Panel member outside the remit of a Panel hearing. A Member making a representation as an interested party has the same rights as any other interested party and must not seek to improperly influence any other Member or officer making a decision on a licensing matter.
- In addition, Members should not pressurise Licensing Officers to make any particular recommendation as regards applications or representations.
  - All ward Members and parish / town councils are notified of relevant new and variation applications.
- As an interested party, a Member may appeal against the decision of a Licensing Panel. However, the Member should seek advice on whether they are indemnified by the Council for any legal costs incurred in such an appeal.
- Full applications can be viewed or further details sought on any aspect of the application process by contacting the Licensing Unit on 01494 421222 or 421346.
- Any representation must be concerned with one or more of the licensing objectives:
  - **The Prevention of Crime and Disorder**
  - **Public Safety**
  - **The Prevention of Public Nuisance**
  - **The Protection of Children from Harm**
- Mediation is made available where appropriate, to allow relevant parties to attempt to resolve areas of conflict.
- Where mediation is not appropriate or is unsuccessful a hearing is convened for the Licensing Panel (sub-committee of the Licensing Committee) to hear all relevant parties and determine the application.

Should you require further information about the licensing regime please do not hesitate to contact:

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or

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