

APPENDIX 1

ADVICE NOTE FOR WARD COUNCILLORS ON COMMUNICATIONS ABOUT LICENSING APPLICATIONS

1. Members will be aware that under the Licensing Act 2003 there is no automatic right for Ward Councillors to appear at contested licensing hearings to speak as a representative for their constituents.
2. Members may themselves make “relevant representations” (i.e. objections) to an advertised licence application but only if the Member is an “interested party” with a home or business in the vicinity of the premises to be licensed.
3. Alternatively, local residents or traders in the vicinity can make “relevant representations”. So can local residents’ or local business associations. These persons or bodies would then be “interested parties”.
4. A Ward Councillor, or another Member, can be asked by any interested party to act as a representative or advocate on behalf of that interested party at a licensing hearing. If so, the Member must reflect the views of the interested party or parties. There is no independent right for the Member to appear.
5. If an intending interested party failed to submit their relevant representations by the due date, or if an interested party withdrew a valid objection, then there would be no basis for further action by a Member on behalf of that party.
6. It is important to bear in mind that all “relevant representations” must be submitted within the deadline stated on the statutory form of public notice advertising the licence application. Every relevant representation must state the name and address of the person or body making it. The Licensing Authority cannot accept as valid any relevant representation which is made anonymously or without an address.

7. However, there may be other correspondence or communications that arise after, or in addition to, a valid relevant representation. These supplementary communications might be letters in support of an objection and in opposition to a licence application.
8. In some circumstances, it may be possible for these supplementary communications to be received and considered at a licensing hearing even though the name and address of the sender has been omitted. This might be justified where there was concern about the intimidation of local residents who were opposed to the grant of a licence by the applicant for the licence.
9. The procedure is set out in Rule 34 of the Local Licensing Procedure Rules. This rule permits an interested party, or a Member representing an interested party, to submit documentary evidence, including letters, with names and addresses omitted or deleted. The documents should still be submitted to the Licensing Service in the usual way at least 10 working days before the hearing.
10. The interested party, or Member representing an interested party, who wishes to rely upon documentary evidence from which names and addresses have been excluded must seek permission from the Licensing Sub-Committee at the start of the hearing. The Sub-Committee will have to decide whether the public interest in keeping the names and addresses confidential outweighs the public interest in having all the evidence in the public domain as is usual.
11. Before making such a decision on the public interest, as above, the Sub-Committee will hear the views of the respective parties to the hearing and take advice from its legal representative. It will be important for the Sub-Committee to balance the possible risk of intimidation against the prejudice to the applicant in not being able to know where the opposition comes from. For example, if the applicant cannot know whether those alleging noise nuisance are next door or some way away, it will make it more difficult to deal effectively with the allegation.
12. If the Sub-Committee agree to admit documentary evidence without names and addresses, the Sub-Committee Members may decide that it is fair to give less weight to evidence that cannot be fully tested by the applicant.

13. If Members would like any further advice or clarification about these matters, please contact Terence Mitchison on 8489-5936 or at terence.mitchison@haringey.gov.uk

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