

LICENSING (SCOTLAND) ACT 2005

HOW TO OBJECT TO OR MAKE A REPRESENTATION REGARDING AN ALCOHOL LICENCE APPLICATION

Background

Under the Licensing (Scotland) Act 2005 (“the 2005 Act”) West Lothian Licensing Board is responsible for determining applications in relation to licences for the sale of alcohol including applications for premises licences (including provisional premises licences), variation applications to change the operation of licensed premises and occasional licences. An occasional licence is a licence to sell alcohol temporarily in premises (including land) which is not covered by a premises licence.

Variation of a premises licence can include, for example, changing the licensed hours permitted by the licence, activities and services permitted on the premises, or the terms of the licence regarding access of children and young persons to the premises.

Objections and representations cannot be made regarding minor variation applications,

More information about the different types of variation applications can be found by clicking on the link below -

<https://www.westlothian.gov.uk/article/34775/Variation-of-a-Premises-Licence>

Under the 2005 Act “any person” may, by notice to the Board, object to or make a representation concerning

- a premises licence application (including provisional premises licences),
- a major variation application
- an occasional licence application

The phrase “any person” includes both individuals and bodies such as community councils.

This guidance note contains information regarding making objections and representations including the requirements of the 2005 Act in relation to each, relevant timescales and a form for making an objection or representation.

Objections and representations regarding premises licence (including provisional premises licences), and major variation applications

Any person may:

- object to an application for a **premises licence (including provisional premises licences)**, or **variation of a premises licence** (other than a minor variation) on any ground relevant to the grounds upon which the Board can refuse an application under the 2005 Act (see below).
- make representations to the Board concerning the application, these can
 - be in support of the application,
 - suggest modifications to the proposed operating plan
 - suggest conditions which should be imposed.

The time limit is within 28 days of the date on which the relevant application is first advertised on the Board's website. However, the Board has a discretion to consider late objections and representations if it considers there is good reason to do so.

If you have objected to or made a representation concerning these applications, you will be given written notice of the Board meeting at which the application is to be considered and determined by the Board. It is a matter for you as to whether you wish to attend the relevant Board meeting. There is no requirement for you to do so. However, you may wish to attend to observe the hearing and/ or to address the Board regarding your objection or representation. Should you decide not to attend, your written objection or representation will be considered by the Board in your absence. However, it will be a matter for the Board to determine what weight to attach to your objection or representation based on what has been received from you in writing alone.

The grounds of refusal for these applications available to the Board are:

- that the Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives:
 - preventing crime and disorder;
 - securing public safety;
 - preventing public nuisance;
 - protecting and improving public health; and
 - protecting children and young persons from harm;

- that, having regard to:
 - the nature of the activities proposed to be carried on in the premises;
 - the location, character and condition of the premises; and
 - the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol; and/ or

- that, having regard to the number and capacity of licensed premises, or licensed premises of the same or similar description as the premises, in the locality in which the premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of that description, in the locality. For the Board's current position regarding overprovision of licensed premises in West Lothian, please see the Board's Statement of Licensing Policy, a copy of which is available on the Board's webpages -

https://www.westlothian.gov.uk/media/1039/West-Lothian-Licensing-Board-Statement-of-Licensing-Policy-2018-2023/pdf/policy_statement_2018-2023.pdf

The other grounds of refusal are:

- that the premises are "excluded premises" within the meaning of section 123(2) of the 2005 Act (premises licence applications only);

- that the Board has refused an application made in respect of the same premises in the year preceding the application (however, there is an exception to this);

- in the case of any application for a 24 hour on sales licence, that the Board is not satisfied there are exceptional circumstances which justify allowing the sale of alcohol on the premises for such a period; and
- any off sales application for off sales hours before 10am or after 10pm on any day must be refused.

While the Board can consider objections containing reasons for objecting without direct reference to any of the legal grounds of refusal for applications referred to above, any person wishing to object to a premises licence application or premises licence variation application should (1) consider which of the ground(s) for refusal their reasons for objecting are relevant to, in order to ensure that their objection is legally relevant; and (2) it will assist the Board if they refer to the relevant ground(s) for refusal in their objection.

Objections and representations regarding occasional licence applications

Any person may

- object to an application for an occasional licence on any of the grounds detailed below
- make representations to the Board concerning the application, these can
 - be in support of the application, or
 - suggest conditions which should be imposed.

The time limit is within 7 days of the date on which the relevant application is first advertised on the Board's website.

Grounds for refusal of occasional licences

- that the Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives (see above)
- that, having regard to:
 - the nature of the activities proposed to be carried on in the premises;
 - the location, character and condition of the premises; and
 - the persons likely to frequent the premises,

the Board considers that the premises are unsuitable for use for the sale of alcohol;

- that the application must be refused under section 56(6A), 64(2) or 65(3)

Unlike objections, the 2005 Act does not contain the same requirement for representations to be relevant to the grounds for refusal contained in the 2005 Act (please see above). However, any person wishing to make a representation regarding an application may still wish to refer to the grounds for refusal before making their representation, and may wish to refer in their representation to any ground(s) for refusal they feel are relevant to it.

If you have objected to or made a representation concerning an occasional licence application this will normally be considered by the Board's Convenor in determining the application along with any comments from the applicant on what you have said. In some circumstances the Convenor may decide to refer the application to the Board to be determined. If that happens you will be given written notice of the Board meeting at which the application is to be considered.

If a hearing is arranged it is a matter for you as to whether you wish to attend the relevant Board meeting. There is no requirement for you to do so. However, you may wish to attend to observe the hearing and/ or to address the Board regarding your objection or representation. Should you decide not to attend, your written objection or representation will be considered by the Board in your absence. However, it will be a matter for the Board to determine what weight to attach to your objection or representation based on what has been received from you in writing alone.

Form of written notice of objection or representation to be given to the Board

All objections and representations require to be made in writing by email and you should be aware that these are copied to the applicant. The attached form can be used or referred to as a guide as to content.

Please send any objection or representation by email to:

licensingboard@westlothian.gov.uk

Following receipt of an objection or representation

Under the 2005 Act the Board is required to:

- give a copy of any objection or representation received to the applicant; and
- have regard to the objection or representation in determining the application, unless the Board considers the objection to be “vexatious or frivolous”.

The 2005 Act does not provide an explanation as to what “vexatious or frivolous” means for the purposes of the 2005 Act. The Board will generally only consider rejecting an objection or representation on these grounds if there is sufficient information to suggest that it is deliberately vexatious or frivolous rather than due to a lack of awareness or misunderstanding as to the licensing system.

If an objection or representation is rejected by the Board as being deliberately frivolous or vexatious, by law the Board may seek to recover any expenses it incurs in considering the objection or representation from the person who made the objection or representation.

Late objections and representations will not be considered by the Board unless the Board decides to exercise its discretion to consider the relevant objection or representation although late.

**REPRESENTATIONS OR OBJECTIONS IN RELATION TO
A PREMISES LICENCE (INCLUDING PROVISIONAL PREMISES LICENCES), OR
VARIATION APPLICATION**

Please read the Board's guidance notes on how to object or make a representation in relation to a premises licence (including provisional premises licences) or a variation application before completing this form. This form when completed should be returned to the Licensing Board using the contact details in the guidance notes.

1. Full name and address of person making objection/ representation:

Telephone Number:	
Email Address:	

2. Address of premises in respect of which objection/ representation is made:

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3. Details of any OBJECTION (please state your objection in writing in the relevant box, continuing on a separate sheet if necessary. If you are unsure which box to complete, please refer to the guidance notes above.)

1.	Excluded Premises	
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives <ul style="list-style-type: none"> • preventing crime and disorder • securing public safety • preventing public nuisance 	

	<ul style="list-style-type: none"> • protecting and improving public health; and • protecting children and young persons from harm 	
4.	Activities/ Premises/ Customers	
5.	Overprovision	

4. Details of any REPRESENTATION (please state your representation in writing in the relevant box, continuing on a separate sheet if necessary. If you are unsure which box to complete, please refer to the guidance notes above.)

1.	In support of application	

2.	Seeking an amendment to the operating plan (please state what amendment and why)	
3.	Seeking to add additional condition(s) to the licence (please state what condition(s) and why)	
4.	Other	

Signature:

Date of signature:

Privacy Statement – Data Protection

All personal information that you supply will be used to contact you in connection with your representation or objection. We are required by law to share a copy of your representation or objection with the applicant but in so doing we will redact your email address and telephone number.

REPRESENTATIONS OR OBJECTIONS IN RELATION TO AN OCCASIONAL LICENCE APPLICATION

Please read the Board's guidance notes on how to object or make a representation in relation to an occasional licence application before completing this form. This form when completed should be returned to the Licensing Board using the contact details in the guidance notes.

1. Full name and address of person making objection/ representation:

Telephone Number:	
Email Address:	

2. Address of premises in respect of which objection/ representation is made:

3. Details of any OBJECTION (please state your objection in writing in the relevant box, continuing on a separate sheet if necessary. If you are unsure which box to complete, please refer to the guidance notes above.)

1.	Excluded Premises	
2.	Section 56(6A), 64(2) or 65(3) applies	
3.	Licensing Objectives <ul style="list-style-type: none"> • preventing crime and disorder • securing public safety • preventing public nuisance 	

	<ul style="list-style-type: none"> • protecting and improving public health; and • protecting children and young persons from harm 	
4.	Activities/ Premises/ Customers	

4. Details of any REPRESENTATION (please state your representation in writing in the relevant box, continuing on a separate sheet if necessary. If you are unsure which box to complete, please refer to the guidance notes above.)

1.	In support of application	
2.	Seeking to add additional condition(s) to the licence (please state what condition(s) and why)	
3.	Other	

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Signature:

Date of signature:

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