

Civic Government (S) Act 1982

**Objections and Representations**

This guidance note is designed to help those persons who wish to object to or comment upon an application for a licence issued under the Civic Government (S) Act 1982. It is also a useful guide for applicants on what constitutes an objection or representation. This is a guide for cases where a licence or renewal of a licence has yet to be granted. Where a licence has already been issued then please follow our complaints process.

**Who Can Object?**

When application is made for a licence under the Civic Government (S) Act 1982, then “***any person*** may, by notice to the Licensing Authority–

1. object to the application on any ground relevant to one of the grounds for refusal.., or
2. make representations to the Committee concerning the application, including, in particular, representations–
   1. in support of the application,
   2. as to modifications which the person considers should be made to the licence or
   3. as to conditions which the person considers should be imposed.”

The definition “any person” is clearly very wide and is not limited to those in the immediate vicinity or those that have business interests affected by the application.

However whilst there is no requirement to show a particular interest, the Moray Licensing Committee can reject “frivolous or vexatious” objections or representations and can also recover the cost of dealing with frivolous or vexatious objections or representations from the person that made them. Interested persons should therefore be sure of the grounds before considering an objection or representation.

**What are Objections and Representations?**

There is a clear difference between objections and representations. Objections should mean an objection to the granting of a licence at all. On the other hand, representations can be virtually anything. They are not an objection to the granting of a licence in principle. Rather they are more likely to be suggestions for changes to the proposed business plan or for conditions to be attached to the licence, to make the application more acceptable in the eyes of the representer.

Those intending to comment upon an application to the Moray Licensing Committee should therefore be sure of whether they wish to object to any licence being issued or whether they wish to make representations about possible changes.

**Grounds for Representations and Objections**

As per Para 5(3) of Schedule 1 to the Civic Government (S) Act 1982 a representation or objection can only be made when relating to the location, condition or character of the building or the nature and extent of the proposed activity or the persons likely to visit the premises or the likelihood of undue public nuisance or a threat to public order or safety.

**Police Objections**

The police have the power to object or make a representation. The chief constable may also give the Licensing Committee a report detailing incidences of criminal behaviour or complaints or other representations made to the police about incidences of antisocial behaviour either on or in the vicinity of the premises.

**What is the Relationship with Other Regulatory Regimes?**

As stated above matters raised must be on relevant grounds. Inevitably there will be a cross over between those and matters relevant to other regulatory regimes e.g. noise, planning, smoking, unsafe premises, fire prevention etc. Matters under these headings all relate to the licensing conditions, However, they are also covered by other legislation and other regulators.

Please note that the Scottish Government has made it clear that the licensing system must not duplicate other regulatory regimes. This means that the Moray Licensing Committee will **not** allow licensing to be used simply as a means of putting additional pressure on an applicant where matters complained of should be dealt with by another regulator.

Where it is considered that objectors or representers are merely using the licensing system to their own ends rather than addressing the license itself then matters raised may be rejected as vexatious.

**How do I Object or Make a Representation?**

Objections and representations must be made in writing (a form is available on our website) and must be addressed to:

The Clerk to the Moray Licensing Committee, Council Offices, High Street, Elgin, IV30 1BX or emailed to Licensing@moray.gov.uk

Please note that objections and representations must be received on time by the Clerk. On time means within the time period for objections and representations as set out on the Display Notice on show at the relevant premises. Proof of posting is not proof of delivery and late items will not be accepted.

**What will Happen if I Object or Make a Representation?**

Firstly the objection or representation will be screened to determine whether it complies with the legal requirements i.e. relevant grounds are disclosed and it is not frivolous or vexatious. Then if the objection or representation is accepted the Moray Licensing Committee will ensure that a copy is delivered to the applicant for comment. It is not necessary for you to deliver a copy to the applicant.

As objections go to the heart of the licence it will be necessary for all objections to be dealt with at a meeting of the Moray Licensing Committee with the attendance of all parties. You will be called to a

meeting in due course and you will be provided with details of the hearing procedures at that time

Where representations are concerned we will first review the applicant’s response. It may be possible to agree amendments to the business plan or conditions for the licence that would be acceptable to all parties. This may also be facilitated by mediation through the Licensing Standards Officer and the LSO might contact the parties to discuss the issues. In the absence of agreement between parties or sanction by the Committee the matter will again be dealt with at a full hearing with all parties being required to attend.

Meetings of the Moray Licensing Committee are set at regular interval and can also have a special meeting called as and when business demands. A list of meeting dates will be published on the licensing pages of the Council’s website. We may not be able to tell you precisely when a particular matter will be heard. All applications for a licence have a likely maximum processing time of 6 months. It may therefore be some time before we call you to a meeting.

**How will the Committee Decide?**

In respect of objections the Moray Licensing Committee must consider if any ground for refusal applies. If the Committee finds that grounds for refusal exist then the licence must be refused. However if the Committee finds that grounds for refusal do not exist then the Committee must grant the licence. Please note the mandatory nature of this process. The Committee is not left with any discretion.

In respect of representations, the Moray Licensing Committee must still consider whether any grounds for refusal exist as above. If not then the Committee will go on to consider whether it would be appropriate to address matters by an amendment to the business plan or placing a condition on the licence.