

Guidance on making an objection or representation in relation to an application submitted under the Civic Government (Scotland) Act 1982

It is open to any member of the public to submit an objection or representation in relation to an application made under the Civic Government (Scotland) Act 1982.

To enable the Council to entertain an objection or representation it must:

- Be made in writing to the relevant office as detailed below.
- Specify the grounds of the objection or the nature of the representation
- Specify the name and address of the person making it
- Be signed
- Be received by the Council within 28 days of the application being made, or in the case of where the premises related to a premises, 28 days from when the notice of application is displayed. (The Council may consider late objections or representations only if they can be satisfied that there is sufficient reason why it was not made in time).

Where the application relates to a premises then a notice requires to be displayed at the premises by the applicant providing details of the type of application which is being applied for.

Members of the public may submit a representation or objection within 28 days of the notice being posted the date of which will be detailed on the notice.

In terms of the Civic Government (Scotland) Act 1982 a Licensing Authority may refuse an application for licence on any of the following grounds:

- The applicant or anyone else detailed on the application is not a fit and proper person
- The activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused
- Where the application relates to a premise, vehicle or vessel that the location, character or condition of the same is not suitable
- The nature and extent of the proposed activity is not suitable
- The kind of persons likely to be in the premises are not suitable
- Where there is the possibility of undue public nuisance, public order or public safety
- Where there is other good reason

The objection or representation should detail clearly the reasons for the objection/representation, justify why the applicant and /or premises are not suitable and should provide clear and concise reasons for the objection/representation.

The person(s) submitting the objection or representation will be invited to attend the Meeting and speak to the letter of objection/representation. The objector(s) must attend the Meeting should he/she wish to appeal to the Sheriff against the Committee's decision to grant or renew a licence.

The applicant or their representative will be given the opportunity to state why the application should be granted. Thereafter the objector or their representative will be allowed to speak to their letter of objection. Members of the Committee may then ask questions. The Committee will then decide whether to grant or refuse the application. The decision and any voting will take place in public. (A copy of the Council's hearing procedure is appended below).

Where the Committee decides to grant the application for a new licence or renewal the persons making the objection/representation may ask for reasons for the decision at the meeting or within 28 days of the meeting and the reasons will be produced by the Legal Manager within 10 days of the request.

The person(s) making the objection/representation have a right of appeal to the Sheriff Court only if they have taken every opportunity to state their case to the Committee as has been made available. The appeal must be lodged within 28 days of the meeting.

Should you require any further information in relation to making an objection or representation please find the relevant contact details below.

Contacts

Caithness Sutherland and Easter Ross

Geraldine Sutherland/Iona Cook,
Area Office,
Market Square,
Wick,
KW1 4AB.

Tel: (01955) 607790

Fax: (01463) 603021

E-mail: geraldine.sutherland@highland.gov.uk iona.cook@highland.gov.uk

Ross, Skye and Lochaber

Alasdair Mackenzie
Chief Executive's Office
Tigh na Sgìre
Park Lane
PORTREE
Isle of Skye
IV51 9GP
Tel: (01478) 613826

Fax: (01478) 704016

E-mail: alaisdair.mackenzie@highland.gov.uk

Inverness, Nairn and Badenoch and Strathspey

Michael Elsey,
The Highland Council,
Town House,
Inverness,
IV1 1JJ.

Tel: (01463) 724298

Fax: (01463) 724302

E-mail: michael.elsey@highland.gov.uk

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

PROCEDURE FOR HEARINGS

1. The Chairman will introduce the Members and Officials present. **If the representations/objection(s) were submitted timeously and there are no spent convictions to be considered then proceed directly to number 4.**
2. If the representation/objection (from the Police or any other party) has been received late the Committee must hear details as to why the representation/objection was late and be satisfied that there is sufficient reason why it was not made in the time required. If they agree that then the representation/objection can be heard otherwise it should be disregarded.
3. If spent convictions are to be referred to then the guidance notes for spent convictions (attached) should be followed for each conviction. **The Committee should resolve to go into private whilst considering spent convictions.**
4. The Hearing procedure below should now be followed.
 - (a) *The Applicant or his representative will put his/her case to the Committee.*
 - (b) *The person(s) who submitted the representation/objection(s) will have the opportunity to ask the Applicant relevant questions.*
 - (c) *The Committee Members will have the opportunity of asking the Applicant relevant questions.*
 - (d) *The person(s) who submitted the representation/objection(s) will put their case to the Committee.*
 - (e) *The Applicant will have the opportunity to ask the person(s) who submitted the representation/objection(s) relevant questions.*
 - (f) *The Committee Members will have the opportunity of asking the person(s) who submitted the representation/objection(s) relevant questions.*
 - (g) *The Applicant or his representative will sum up.*
 - (h) *The person(s) who submitted the representation/objection(s) will sum up.*
 - (i) *At the sole discretion of the Members, the Committee may decide to retire to consider the representations/objections in private.*
 - (j) *The Committee will invite the parties to return to the meeting and the Chairman will invite Members to take a decision. NOTE: If during private deliberations, the Committee receive advice on a legal submission from the Clerk which is contrary to the view of the party making the submission or the Committee believe additional information would be relevant, then these points should be raised with the parties, in public, prior to any decision being made.*
 - (k) *If the decision of the Committee is to suspend, refuse or refuse to suspend a licence, a relevant person has a right to request within 28 days of the meeting, the Committee's reasons for arriving at their decision, unless the circumstances of the case justify immediate suspension, the suspension shall not take effect for 28 days from the date of the decision.*

The Applicant shall be notified in writing of the decision within 7 days of the Hearing and shall be advised of his/her right to seek written reasons and appeal to the Sheriff Court.

Appeals against the decision of the Committee must be lodged with the Sheriff Clerk within 28 days of the date of the decision.