



Sex Entertainment Venue Licence Objections and Representations

ANNEX D



Guidance on how to object or make a representation on an application for a Sexual Entertainment Venue Licence under the Civic Government (Scotland) Act 1982.

Background

These Guidance Notes contain information for individuals who wish to make representations or make objections in relation to applications for a Sexual Entertainment Venue Licence under the Civic Government (Scotland) Act 1982.

They give general guidance only and all persons seeking to make objections or representations in respect of an application are advised to seek legal advice. One of the important changes in the legislation is that any person may now object or make representations in respect of these applications. All objections or representations will be considered by the Committee unless the Licensing Committee has rejected the notice of objection or representation on the grounds that it is considered to be frivolous or vexatious. If an objection has been rejected by the Committee as frivolous or vexatious, the Committee may seek to recover expenses from the objector or person making representations.

Notices of Objection

Notices of objection must be in writing addressed to the Clerk to the Licensing Committee and must be lodged (either by email sent to licensing@highland.gov.uk or by post or hand delivery to one of the office addresses listed below) before the end of the period for objections. Applications may only be refused by the Committee if the Committee considers that one or more of the limited grounds of refusal applies to the application. If none of the grounds for refusal applies the Committee must grant the application. The grounds for refusal are as follows: -

1. that the applicant or, where the applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
2. that, if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
3. that the number of sex shops in the relevant locality at the time the application is made is equal to or exceeds the number which the Highland consider is appropriate for that locality; (This number could be zero);

4. that the grant or renewal of the licence would be inappropriate, having regard—
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel, or stall in respect of which the application is made.

The Highland council does not take any moral stand in adopting this policy. We recognise that Parliament has made it lawful to operate sexual entertainment venues, and that such businesses are a legitimate part of the retail and leisure industries. It is our role as the licensing authority to administer the licensing regime in accordance with the law.

For this reason, objections should not be made on moral grounds or values and we will not consider such objections as relevant.

Making Representations in respect of an Application

Any person may also, by notice to the Licensing Committee, make representations in relation to an application. These should be in writing and should be lodged before the end of the period for objections or representations in relation to the particular application. Representations can be in relation to any of the following matters:

- representations in support of an application
- representations seeking modifications to the layout plan accompanying an application
- representations as to conditions which the person considers should be attached to the sexual entertainment licence.

General

The Clerk's Office will send a copy of all objections and representations received to the applicant. If the Committee receive an objection a Hearing will be held at which both the objector and the Applicant will be given an opportunity to be heard. The Committee will expect any objection to be evidence based. Please note that with the exception of objections or representations which the Committee considers to be frivolous or vexatious, the Committee is obliged to consider all objections and representations received.

Submission of Objections/Representations:

By e-mail:

Objections/Representations should be addressed to the Clerk to the Licensing Committee and may be e-mailed to licensing@highland.gov.uk before the end of the period for objections or representations in relation to the particular application: or,

By Post or Hand Delivery: Objections/Representations should be addressed to the Clerk to the Licensing Committee and may be posted or hand-delivered to the nearest area office listed below before the end of the period for objections or representations in relation to the particular application: -

Inverness, Nairn, Badenoch & Strathspey Area
Town House High Street Inverness, IV1 1JJ Tel: (01463) 785098
Caithness, Sutherland & Ross-shire Area
Council Offices Caithness House Market Place Wick KW1 4AB Tel: 01955 608214
Council Offices Main Street Golspie KW10 6RB Tel: (01408) 635205
Skye & Lochaber Area at Council Offices
Tigh na Sgìre Park Lane Portree, IV51 9GP Tel: (01478) 613824
Council Offices Charles Kennedy Building Achintore Road Fort William

PH33 6RQ Tel: (01397) 707233

Your Data: Sexual Entertainment Venue licence objections and representations

How we use your information

Highland Council as the Licensing Authority collects and records information about you in order to process your objection or representation about a licensing application we have received. If you wish to submit an objection or a representation to a licence application, it can only be considered by the Council as Licensing Authority if it: -

- in writing
- specifies the grounds of the objection or the nature of the representation you wish to make
- states your name and address
- is signed by you or on your behalf
- is made within the statutory time limit (please refer to the public notice, advert or the application in each case to confirm the final date for submitting objections or representations)

*Late objections or representations may only be accepted at the discretion of the Licensing Committee where they are satisfied there is sufficient reason why it was not made in the time required.

Sharing your personal data is important within this process as it firstly allows us to share your information also allows the Councillors who sit on the Licensing Committee and to identify whether they have any declarable interest which, under the Councillor's Code of Conduct, would preclude their taking part in determining the application or complaint. This might arise where, for example, an objector or complainer was a friend or relative of one of these Councillors.

Secondly, where a licensing objection or representation is submitted to us, the Committee are generally obliged to give both you and the applicant or licence holder an opportunity to be heard at the Licensing Committee before any application you have objected to, or submitted representations on, is determined, or before any decision is taken in respect of any complaint you have submitted. Your personal information is therefore also required so that the Council or Board can contact you to invite you to attend the relevant meeting at which the application or complaint will be determined

If you attend the Licensing Committee meeting you will be asked to identify yourself by confirming your name and this will be noted. If you are represented at the Licensing Committee meeting, then the name of your representative will be noted. It is therefore

important that any representative or agent also read this notice and bring it to the attention of their client. In the event of an appeal, your personal data will be shared with the Sheriff Court.

What happens if I don't provide my information?

If you don't provide your name and address in your written objection, representation or complaint, we will be unable to consider it and you will not be given the opportunity to speak to your objection, representation or complaint before the Licensing Committee

Who we share information with?

We may carry out reasonable investigations into submitted objections which means we may share information about the nature of your objection with other Council services, Police Scotland or any other outside organisation or agency.

In processing and determining the relevant licence application, Highland Council as Licensing Authority are required to share a copy of your objection or representation with the applicant and/or their agent for their information. Although we will not share your personal data with the applicant and/or their agent the content of your objection may indirectly identify you. If the application is considered by the Licensing Committee your objection or representation will be shared with the members of the Committee determining the application.

How long we keep your information for

We will keep your objection or representation to an application for a licence which is granted for 2 years from the date the licence to which it relates expires. If the application is withdrawn or refused, your objection or representation will be retained for a period of two years from the date of withdrawal or refusal.

Committee Meeting Agendas, Minutes and accompanying papers including a copy of your objection or representations will be retained permanently and are published on the Council's website. If the Committee has deemed the application confidential and considered it in private, the minute which is published will be anonymised.

Highland Council records and webcasts Council meetings, including the Licensing Committee meetings. For further information please visit:

<https://highland.public-i.tv/core/portal/home>

Your rights

You have rights in relation to your data, including the right to ask for a copy of it. Further information about the rights that you have can be found using the following link https://www.highland.gov.uk/info/704/data_protection_and_freedom_of_information/341

[/information we hold about you](#), as well as the contact details for the Council's Data Protection Officer. You also have the right to make a complaint to the [Information Commissioner's Office](#). That is the body responsible for making sure organisations like the Council handle your data lawfully.

Our legal basis

Highland Council is the Data Controller for this information. Wherever the Council processes personal data, we need to make sure we have a legal basis for doing so in data protection law. The Council understands our legal bases for processing personal data in relation to your objection or representation is part of our public task, in that the Council is exercising its official authority and function under Parts 1 and 2 and Schedule 1 of the Civic (Government) (Scotland) Act 1982. In carrying out this function, the Council is likely to process special categories of personal data. The Council understands our legal basis for doing so is because it is necessary for reasons of substantial public interest.