

Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Orders 2022 and 2024

Guidance Notes for Objections/Representations Making an Objection or representation to a Licence

When can I make an Objection or Representation?

Under the terms of the Civic Government (Scotland) Act 1982 (“the Act”), all applicants who apply for a short-term let licence must display a notice for a period of 21 days, beginning with the date on which the application was submitted to the licensing authority, at or near the premises so that it can be conveniently read by the public. Any objection or representation in response to the application must be made within 28 days of the date of the notice. Details of all applications Aberdeenshire Council have received for short-term let licences are found on our public register, on our website at [Short-term lets public register - Aberdeenshire Council](#).

What information should an Objection or Representation against an application contain?

To enable Aberdeenshire Council, as licensing authority, (“the Council”) to consider an objection or representation, it must:

- be in writing (email is sufficient);
- specify the grounds of the objection or the nature of the representation;
- specify the name and address of the person making it;
- be signed by them or on their behalf;
- be received by the Council within 28 days from the date of when the notice of application is displayed.

Objections should be relevant to the statutory grounds that the licensing authority can take into consideration when refusing an application. These are set out in the 1982 Act, as follows:-

- (a) the applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either—
 - (i) for the time being disqualified under section 7(6) of this Act, or
 - (ii) not a fit and proper person to be the holder of the licence;
- (b) the activity 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;
- (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that

vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to—

- (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - (ii) the nature and extent of the proposed activity;
 - (iii) the kind of persons likely to be in the premises, vehicle or vessel;
 - (iv) the possibility of undue public nuisance; or
 - (v) public order or public safety; or
- (d) there is other good reason for refusing the application.

[Civic Government \(Scotland\) Act 1982](#)

Note – “other good reason” does not include matters which are irrelevant in terms of the Act for example points of conjecture around who may stay in the property, or points which are frivolous or vexatious.

It is not possible to raise issues with the Council which relate to matters out with the scope of the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Orders 2022 and 2024. For example, issues about parking, Title Deeds and Planning Permission are governed by other legislation and accordingly do not form grounds for refusal.

What information should a Representation in support of an application contain?

If you are submitting a representation in support of an application, you should set out the reasons why you are in favour of the application being granted.

- You may submit photographs in support of your objection or representation;
- If you are of the view that the application could be granted if the applicant agreed to specific conditions or modified their application, you should set that out in your objection or representation.

What is the deadline for submitting an Objection or Representation?

- Your objection or representation should be received by the Council on, or before, 28 days from the date of the notice of application;

- If your objection or representation is received after the consultation period, it will be treated as "late". This means that it may still be considered, but you will have to explain the reason why the objection or representation was not submitted in time;
- It will be for the Council's Licensing Sub-Committee to determine whether they are satisfied that there was good reason why your comments were submitted late and can be considered;
- Anonymous objections or representations will not be considered.

How do I submit my Objection or Representation?

Your objection or representation can be submitted:

By email to- stl@aberdeenshire.gov.uk

In writing to – Head of Planning and Economy (Environmental Health), Buchan House, St Peter Street, Peterhead, AB42 1QF

What happens next?

- We will send you an acknowledgement letter confirming receipt;
- We may carry out reasonable investigations into submitted objections or representations which means we may share information about the nature of your objection with other Council services;
- If the application is considered by the Licensing Sub-Committee your objection or representation will be shared with the members of the Committee determining the application;
- A copy of the objection or representation will be provided to the applicant and will include your name and address. All personal data will be processed in line with the following privacy notice - [STL privacy notice](#).

Determination of application where there is an objection/representation to be considered by Licensing Sub-Committee

- Applications will be heard in public unless required to be taken privately on the grounds of disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973.
- Once the application has been allocated to a meeting of the Licensing Sub- Committee, we will send you a letter inviting you to attend the meeting to speak to your objection or representation. You will receive this letter at least 14 days prior to the meeting;
- Your invitation letter will provide further information on the arrangements for the Committee meeting;

- A copy of the Council's hearing procedure can be found at **Appendix 1**;
- You are not required to attend the meeting. However, it does provide an opportunity for you to address the Committee if they have any queries regarding your objection or representation. You may be represented by a Solicitor or another person if you so wish. If you wish to be represented by a Solicitor or another person you must advise the Council of this at least 7 days prior to the hearing;
- In preparing the agenda for the Licencing Sub-Committee meeting, a redacted version of your objection or representation is uploaded to an electronic committee management system which enables the publishing of the agenda on the Council's website;
- You may lodge written submissions in support of your position as well as or instead of attending Committee. Such written submissions must be lodged at least 7 days prior to the hearing date;
- Should you decide not to attend, your written objection or representation and written submissions, if lodged, will be considered by the Committee in your absence.
- Both the applicant and the person(s) making an objection/representation can request a statement of reasons for the decision within 21 days of the date of the decision. The statement of reasons will be produced within 10 days of that request.

Right of appeal

- The applicant and the person(s) making an objection/representation have a right of appeal to the Sheriff Court if they have taken every opportunity to state their case to the Committee, as has been made available;
- The Sheriff can uphold an appeal only if the sheriff considers that the licensing authority erred in law, based their determination on any incorrect material fact, acted contrary to natural justice or exercised their discretion in an unreasonable manner;
- Any appeal must be lodged by way of a summary application with the relevant Sheriff Clerk's office within 28 days of the date of the decision appealed against;
- Parties should seek their own independent legal advice in relation to an appeal.

APPENDIX 1 - Procedure for Licensing Hearings (APPLICATIONS)

- (a) Identify whether the applicant and his/her advisors are present.
- (b) Identify whether the Objector(s) and his/her advisors are present. [in turn]
- (c) If there are no protected convictions, go to (h) below.

PROTECTED CONVICTIONS

- (d) Where the applicant has protected convictions the Chair should:-
 - (i) Invite the representative of the Chief Constable to satisfy the Sub-Committee that justice cannot be done unless the protected convictions are taken into account. (In the undernoted case, it is indicated that it would be improper to invite the applicant to make comment on the spent convictions)
 - (ii) The Chair should invite members of the Sub-Committee to ask questions;

NOTE: In the case of O'Docherty v Renfrewshire Council 1998 SLT 327, it is suggested that "at the least some sort of inquiry as to the age and general nature of the convictions would be essential to any proper decision.

- (e) The Sub-Committee then has to determine whether or not it is satisfied that there is no other way of doing justice than to look at the protected convictions in considering the application. The Sub-Committee **MAY** go into private session to consider the submissions made. It is recommended, however, that the Sub-Committee not reach any decision during the retreat.

NOTE TO PARTIES

If the Sub-Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties from the meeting. Where the hearing is in public, the recording of the meeting will be paused. On resuming the bench, the Committee Officer will contact all parties to re-invite them back into the meeting. On confirming all parties are again present, the recording of the meeting will be restarted

- (f) Thereafter, the Chair should:
 - (i) Call for a motion regarding the protected convictions
 - (ii) Call for a seconder to the motion

- (iii) Call for any amendment to the motion
 - (iv) Call for a seconder to any amendment proposed.
 - (v) If there is no amendment, the Chair should confirm with the Sub-Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
 - (vi) If there is an amendment, then there **MUST** be a vote. The Chair has the casting vote.
- (g) If the Sub-Committee has determined to consider the protected convictions, they will then be circulated to Members separately by email for the Sub-Committee's perusal.

NOTE FOR PARTIES

Where the hearing is in public, the recording of the meeting will be paused until the Chair is satisfied that all members have read and understood the document circulated, at which point the recording will be restarted

THEREAFTER:

- (h) Invite the applicant to speak to his application (outline to the Sub-Committee why the application has been made and make any comments in relation to any observation/objection made in respect of the application)
- (i) Ask the Objector(s) to speak to the Objection(s) or Observation(s) [in turn]
- (j) Give the applicant an opportunity to address any issues raised by the Objector(s).

NOTE TO PARTIES

- **Presentation of a case may be through the use of documents (which must be provided to all parties prior to the start of the Hearing), oral submissions made at the hearing, written submissions lodged no later than 7 days in advance of the hearing, or a combination thereof;**
 - **Cross Examination by the parties is not generally permitted**
 - **Hearsay evidence is admissible.**
- (k) Members MAY then question all parties present.
- (l) Chair should invite concluding remarks (objector(s) then applicant), but no new evidence, before considering the application.

NOTE TO PARTIES

Once you have been asked to make concluding remarks you are not entitled to speak again, unless to answer a question from a Sub-Committee Member.

- (m) Members may then deliberate the application and/or ask for legal advice if required. Members can choose to deliberate the application in private, however, no decisions will be made during any adjournment to deliberate in this way.

NOTE TO PARTIES

If the Sub-Committee opts to adjourn the meeting to deliberate in private, the parties will be asked to leave the meeting, failing which, the Committee Officer will remove the parties from the meeting. Where the hearing is in public, the recording of the meeting will be paused. On resuming the bench, the Committee Officer will contact all parties to re-invite them back into the meeting. On confirming all parties are again present, the recording of the meeting will be restarted

- (n) Thereafter, the Chair should confirm with Members that they have sufficient evidence upon which to make a decision.
- If the Sub-Committee determines that there is not sufficient evidence upon which to make a decision, the application will be **deferred** to a future meeting of the Committee for further evidence to be obtained.
 - If the Sub-Committee determines that there is sufficient evidence upon which to make a decision, the Chair will then:
 - (i) Call for a motion
 - (ii) Call for a seconder to the motion
 - (iii) Call for any amendment to the motion
 - (iv) Call for a seconder to any amendment proposed.
 - (v) If there is no amendment, the Chair should confirm with the Sub-Committee that the decision is unanimous. **[This will be done by roll call vote for transparency purposes]**
 - (vi) If there is an amendment, then there **MUST** be a vote. The Chair has the casting vote.
- (o) The Legal Officer will confirm the decision taken by the Sub-Committee

NOTE TO PARTIES

The parties will then be asked to leave the meeting, failing which the Committee Officer will remove the parties from the meeting.