

Regulatory Committee

10.00am, Monday, 4 December 2023

Regulatory Committee Workplan: Objections to Licence Applications

Executive/routine
Wards

All

1. Recommendations

- 1.1 Regulatory Committee is asked to:
 - 1.1.1 Note the content of this report and the draft guide;
 - 1.1.2 Agree to publish the guide on the Council website; and
 - 1.1.3 Discharge this item from the Work Programme agreed by the Regulatory Committee on 7 August 2023.

Paul Lawrence

Executive Director of Place

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Regulatory Committee Workplan: Objections to Licence Applications

2. Executive Summary

- 2.1 As included in the workplan agreed by the Regulatory Committee on [7 August 2023](#), this report presents Committee with a draft guidance note to assist those who wish to object to, or make representations about, applications for licences under the [Housing \(Scotland\) Act 2006](#), or the [Civic Government \(Scotland\) Act 1982](#).

3. Background

- 3.1 As Licensing Authority under the 2006 Housing Act for Houses in Multiple Occupation and under the 1982 Civic Government Act, for a variety of licensable activities (including Short Term Lets), the Council is required to consider objections to applications for licences under those Acts. The Council may also consider representations about such applications.

4. Main report

Purpose of guidance document

- 4.1 On 7 August 2023, Committee [agreed](#) to bring forward a guide which would make information available to members of the public who might wish to make a representation about, or object to, applications for annual licences.
- 4.2 The Council acknowledges that members of the public will not necessarily be familiar with what would constitute a valid objection under the terms of the legislation. Additionally, individuals may not be aware of the limits on the matters that the Committee is able to consider. This can lead to complaints when a decision to grant a licence is made despite objections having been submitted. Objectors may be dissatisfied with the outcome, however, in many cases they are unaware that their objection may have referred to matters outside of the Committee's areas of responsibility.
- 4.3 Guidance for those applying for licences is already available on the Council website and application forms. The additional guide (Appendix 1) has been prepared to

provide information on making objections or representations and will be useful to those who are unfamiliar with licensing matters.

- 4.4 The guide is designed to offer advice only, and does not constitute legal advice. It will not be a factor for the Committee in deciding whether or not a licence should be granted.

Legal background

- 4.5 The [Housing \(Scotland\) Act 2006](#) ('the 2006 Act') and the [Civic Government \(Scotland\) Act 1982](#) ('the 1982 Act') set out the legal requirements for an objection to be valid and capable of being considered by Committee. The legislation does not, however, set out any guidance as to the content of an objection, or to the likely weight that Committee would give to information set out in an objection. It is ultimately a matter for the Licensing Sub-Committee to decide what weight to attach to any objection on its own merits.
- 4.6 The following areas are indicative of the type of information which, in general, Committee would be unlikely to give great weight to, on the basis that it falls out with the purpose of the licensing legislation and/or is regulated by another statutory regime:
- 4.6.1 Any concern about loss of housing, as this is regulated in terms of planning legislation;
 - 4.6.2 Granting of the licence would have a negative financial or economic impact on other businesses;
 - 4.6.3 The granting of a licence may breach any conditions that form part of the title deeds and use of property;
 - 4.6.4 Generic concerns about the impact on a sector or that there are already too many of these types of businesses; and
 - 4.6.5 Perceived potential negative impacts as a result of a licence being granted, such as loss of parking, additional waste, potential for noise based on experience of the impact of another similar licence at another business/property.

5. Next Steps

- 5.1 If approved, the guide will be published on the Council's website.

6. Financial impact

- 6.1 There is no direct financial impact on the Council.

7. Equality and Poverty Impact

7.1 Not applicable.

8. Climate and Nature Emergency Implications

8.1 Not applicable.

9. Risk, policy, compliance, governance and community impact

9.1 The guide is intended to clarify the process for those wishing to object to or make representations about applications for licences under the [Housing \(Scotland\) Act 2006](#) or the [Civic Government \(Scotland\) Act 1982](#).

10. Background reading/external references

10.1 Regulatory Committee – 7 August 2023 – Regulatory Committee Work Programme.

10.2 City of Edinburgh Council guidance on [How to Comment on Planning Proposals and Applications](#).

11. Appendices

11.1 Appendix 1 – Guidance Note

Appendix 1 – Guidance Note

Making an objection to or representation about a licence application

Any member of the public can submit an objection or representation in relation to an application made under the Civic Government (Scotland) Act 1982 or the Housing (Scotland) Act 2006 if they disagree with an application, wish to bring some relevant information to the Council's attention or wish to support an application for licence.

There is no statutory right to object to a temporary licence and this guide does not therefore deal with temporary licences.

The Housing (Scotland) Act 2006 and the Civic Government (Scotland) Act 1982 set out the legal requirements for an objection to be valid and capable of being considered by the Committee.

An objection or representation should:

- Be made in writing (including by email)
- Be clear about what the objection or the representation is about
- Include the name and address of the person objecting/making the representation
- Be signed by that person or on their behalf (this can be done electronically)

What can an objection/representation be about?

An objection should set out any problems or difficulties that have been experienced relating to the activity covered by the licence that has been applied for. It should set out the reasons why a person thinks that a licence should not be granted, and these should be related to the grounds on which an application must be refused (see Appendix 1 of this Guide). A representation can contain any information a person thinks is relevant to an application and may also set out support for the grant of a licence.

When considering the information in an objection or representation the Committee will decide whether or not it thinks that this shows that one of the grounds of refusal may exist. The Committee cannot refuse an application based on information about matters outside of the terms of the legislation or information about something which is regulated by another statutory regime, for example:

- Loss of housing
- That the granting of the licence would have a negative financial impact on other businesses
- Any conditions that form part of the title deeds and use of property
- General concerns about the impact on a particular business sector or that there are already too many of these types of businesses
- Perceived potential negative impacts as a result of a licence being granted, such as loss of parking, additional waste, potential for noise, experience of the impact of another similar licence at another business/property.

What are the time limits for making an objection/representation?

- *Civic Government (Scotland) Act 1982*
Objection/representation must be received by the Council within **28 days** of the application being made¹.
- *Housing (Scotland) Act 2006*
Objection/representation must be received by the Council within **21 days** of the application being made, or by any date specified in the notice of application².

What if I miss the deadline?

- The Committee may consider late objections or representations if you include an explanation why the objection or representation has been made after the deadline and the Committee is satisfied that this sets out sufficient reason why it was not made in time.

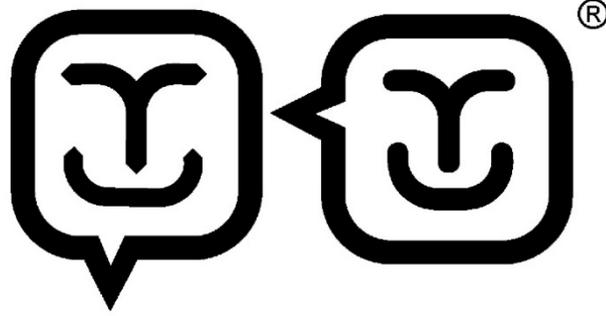
What happens after I submit an objection/representation?

- You will be invited to attend a meeting of the Licensing Sub Committee and 'speak to' (explain) your letter of objection/representation. If you decide not to attend the meeting this may have a negative impact on your rights to appeal if the Committee makes a decision that you do not agree with.
- At the Committee meeting, a Council officer will introduce the application and highlight any relevant information to the Committee. You or your representative will be given the opportunity to speak to your letter of objection/representation. You should be aware that at this point an objector is not allowed to add anything that was not included in the original letter of objection.
- The applicant or their representative will then be given the opportunity to respond to objections/representations and talk about why they think that the application should be granted. Members of the Committee may then ask questions. The Committee will then decide whether to grant or refuse the application, or they may decide to continue the decision until a later Committee meeting to allow for additional information/inspection to be undertaken. The decision and any voting will take place in public.
- Following the Committee meeting you will receive a letter confirming the decision that was made and explaining your right to appeal if you are not happy with the decision.

¹ Where the application relates to premises the applicant must display a notice at the premises giving details of the type of application.

² The applicant must display a notice on or near the relevant premises so it can be conveniently read by the public, stating that an application for a House in Multiple Occupation has been made for the living accommodation and giving the address of the property and the name and address of the applicant

If you want any further information about making an objection or representation, please contact the Licensing Service on 0131 529 4208 or at licensing@edinburgh.gov.uk.



HAPPY TO TRANSLATE

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Appendix 1 (to the Guide)

When can the Licensing Authority (the Council) refuse an application?

The legislation sets out the grounds on which an application must be refused, and these are summarised below.

Civic Government (Scotland) Act 1982:

- If it considers the applicant or anyone else on the application not to be a fit and proper person to hold a licence
- If it considers that the activity would actually be carried out by a person who is not the applicant, and if that person had applied he would have been refused
- Where the application relates to premises, a vehicle or a vessel that are not suitable for the activity, because of:
 - The **location, character or condition** of the premises or the character and condition of the vehicle or vessel
 - The **nature and extent** of the proposed activity
 - The **kind of persons** likely to be in the premises, vehicle or vessel
 - The possibility of undue **public nuisance, public order or public safety**
- Where there is other good reason – usually meaning that it is at odds with a licensing policy agreed by the council.

Housing (Scotland) Act 2006:

- If it considers that the applicant or anyone else on the application is not a fit and proper person to operate a House in Multiple Occupation.
- If the applicant or agent is disqualified from holding a licence or acting as agent for a licence holder.
- If it considers that the property is unsuitable for use as a House in Multiple Occupation or could not be made suitable by including conditions in the licence