

Police Reform and Social Responsibility Bill - March 2011

Increase the opportunities for local residents or their representative groups to be involved in licensing decisions by removing the vicinity test for interested parties

Who is an 'interested party'?

The Licensing Act 2003 allows local residents to raise concerns regarding new licence applications or existing licensed premises. Local residents are classed as interested parties under the Licensing Act 2003, and as such are able to make relevant representations to licensing authorities about the impact of licensed premises on the promotion of the licensing objectives in their area.

Interested parties are defined within the Licensing Act 2003 as:

- A person living in the vicinity of the premises
- A body (e.g. a residents association) representing people that live in that vicinity
- A person involved in a business in the vicinity of the premises
- A body (e.g. a trade association) representing people involved in businesses in the 'vicinity' of the premises

What is vicinity?

The Licensing Act 2003 does not define 'vicinity'. Under current legislation licensing authorities use their discretion to set the 'vicinity' in their licensing area. This means that local residents living in the 'vicinity' can make a representation to the licensing authorities as an interested party. Local residents who live outside the 'vicinity' of licensed premises will be unable to make a representation as an interested party even if they may be able to justify that they are affected by those licensed premises.

What is the policy aim?

We will reduce any uncertainty amongst residents or other persons as to whether or not they are in the 'vicinity' of a premises, and therefore whether they are able to make relevant representations. This will be achieved by removing the requirement to show 'vicinity'. This means that any person, body or business will be able to make a relevant representation in relation to a premises, regardless of their geographic proximity.

What is the proposed change to be made through the Bill?

We will remove the 'vicinity' test. Given that interested parties are defined with reference to 'vicinity', this term will become redundant and the definition of interested parties will be removed from the Licensing Act 2003.

In addition, we will introduce a requirement to publish key information on licence applications on the relevant licensing authority's website. This will ensure that interested parties are aware of new (and other) licence applications and have access to the relevant information.

Doesn't removing the 'vicinity' test mean that anyone will have the right to make a relevant representation on a licensing application? Won't this just place an increased burden on licensing authorities to have to deal with unnecessary representations?

No, representations will still need to be relevant and relate to one or more of the licensing objectives. Existing safeguards to protect against vexatious, frivolous or repetitious representations will also still be in place.

Doesn't this proposal mean that competitors will be able to make representations against new premises that might introduce more competition into the local area?

Businesses, residents and bodies will be entitled to make representations against (or for) a new or existing premises licence. However, they will need to demonstrate that their representations relate to the promotion of one or more of the licensing objectives. A representation submitted on the basis of local competition would not be relevant and may be considered 'vexatious' by the licensing authority.

Main views of consultation respondents

Although criticisms were raised during the consultation that this proposal could lead to an increase in frivolous and vexatious representations, many respondents welcomed greater community involvement in the licensing process and acknowledged that licensed premises can have an effect beyond their immediate 'vicinity'. Whilst we understand the concern raised by respondents, we will mitigate any adverse impacts by amending the guidance to set out more clearly what is classed as relevant, frivolous and vexatious representation. We believe that this proposal will encourage greater community involvement in local licensing decisions.