

Information Sheet Licensing Act 2003 Representations and Objections



Environmental Health Services

The Law is Changing!

This leaflet gives guidance on who can object to licence applications or request a review of a Premises Licence once it has been granted.

What are Licensable activities?

- The retail sale, or supply in clubs, of alcohol,
- The provision of regulated entertainment,
- The provision of hot food after 11.00 pm.

The Council, as the new Licensing Authority, will start to license these activities in February 2005 and will become solely responsible from November 2005.

What new licences will there be?

There will be a Premises Licence and if that permits the sale of alcohol then whoever sells the alcohol will need a Personal Licence as well. The Premises Licence will be a single licence that will permit any or all of the licensable activities.

Who can object to applications?

The legislation defines those who can generally lodge objections as the following:

'Interested Party'

- A person living in the vicinity of the premises,
- A body representing persons who live in the vicinity of the premises,
- A person involved in a business in that vicinity,
- A body representing persons involved in such businesses.

Local Members of Parliament or Councillors cannot object on behalf of constituents, although they can object in their own right if they fall into any of the above categories.

'Responsible Authority' includes

- Police,
- Surrey Fire and Rescue,
- Health and Safety enforcing authority,
- Planning Authority,
- Council as Pollution Control authority,
- Child Protection Team.

The Licensing Authority has no power itself to object to any licence or variation application or to call in a contentious application so that a licensing sub-committee can consider it. It cannot itself initiate a review of the Premises Licence. Other parts of the Council such as the Planning Division or the Environmental Health Division (acting in their Pollution Control role) may be able to object or request a Premises Review and they would then be treated as any other objector. If any licence application is not objected to, then the Council must grant the application and cannot attach any conditions of its own to the licence.

Converting existing licences

The Magistrates Court currently grant liquor licences whilst the Council issues Public Entertainment and Late Night Refreshment licences. Existing licensees can apply after 7th February 2005 to convert their existing licences to new successor Premises Licences and Personal Licences, which are likely come into force in November 2005. These licence conversions can only be objected to by the Police and no one else.

New Premises Licences

Any Interested Party or Responsible Authority can object to an application for a new Premises Licence.

Variations

Successor licences will be granted on a "like for like" basis and if changes are wanted then apply for a variation to the licence must be applied for. Similarly any changes to a new Premises Licence must be via a Variation application. Any Interested Party or Responsible Authority can object to variations.

New Personal Licences

Only the Police can object to the grant of a Personal Licence if the applicant has a criminal conviction and the grant of the licence would undermine crime prevention.

Temporary Event Notices

A Temporary Event Notice is used to authorise events lasting not more than 96 hours, which are for not more than 500 people. They are similar to occasional licences. Please see our separate leaflet on these. These Notices are served on the Council not less than 10 days before the event. Only the Police can object to such Notices. If they don't object, the Council must endorse the Notice and the function can go ahead.

How will I know if an application has been made?

Applications are entered into a public register held at the Town Hall and have to be posted at the premises as well as advertised in the local press. We will put details of applications on our website but we would not normally write to neighbouring properties to advise them of applications in their area.

Premises Licence Reviews

Any Interested Party or Responsible Authority may, at any time, apply to the Council, for a review of a Premises Licence.

What grounds can be used for an objection or Review?

The Licensing Act is based around four principles:

- Prevention of crime and disorder,
- Public safety,
- Prevention of public nuisance,
- Protection of children from harm.

Objections or Reviews must relate solely to these principles and not to other issues. Representations must be in writing and may be detailed at the subsequent hearing. However, only those issues in the original written objection may be addressed at the hearing and additional representations may not be made.

Frivolous, Vexatious, or Repetitious

The law requires that if an objection, or a request for a review, is considered by the Council to be frivolous or vexatious, then the objection or request will be denied. There is no appeal against such a decision. A request for a review can also be denied if it repeats the grounds of a previous Review. Reviews on similar grounds would not normally be permitted within 12 months of a previous review.

What happens to a valid objection?

The application, or Review request, is required to go before a sub-committee of three Councillors who will hear the matter and any representations. The Licensing Officers will usually give a background report on the premises. Please note that the Licensing Officers are not able to work on behalf of objectors to help them to prepare their representations or speak on their behalf.

The sub-committee may grant a licence with or without additional conditions, exclude from the licence a licensable activity, revoke or suspend for up to 3 months an existing licence, or reject the application or Review request. There is no power to grant a licence for a limited trial period.

Appeals

The applicant and anyone who lodged an objection may appeal to the Magistrates Court against the decision of the Council.

Other Legislation

The licensing system is not the only way of regulating licensed premises and other legislation may apply. The Act does not duplicate other legislation. Therefore legislation to control noise problems, health and safety at work, or fire safety may be more appropriate to deal with a particular problem.

General

This leaflet provides advice based on information available at the time of writing and this may change. It is intended for guidance only and does not provide authoritative legal advice

Further information

There are a number of information leaflets available from the Licensing Team at the Town Hall (tel: 01737 276428) Email licensing@reigate-banstead.gov.uk or via the Council's website which include: -

- § Children and Alcohol
- § Temporary Events
- § Late Night Refreshment
- § Licensable Activities
- § Licensee's Responsibilities
- § Conversion of Existing Licences
- § The New Law