

Information Sheet Licensing Act 2003 Licence Reviews

Environmental Health Services

If the local pub, club, restaurant etc is currently open and causing disturbance or problems, is it possible to request a review of the licence?

Yes. It is generally considered that the licence should run for a time to gauge its effectiveness on the objectives. However at any stage, following the grant of a premises licence, a responsible authority, or an interested party, such as a resident in the vicinity of the premises, may apply to the Licensing Authority to review the licence.

On receipt of an application the Licensing Authority must first consider whether the grounds stated are relevant to the licensing objectives and that they are not vexatious, frivolous or repetitious. If it is considered that the application falls into these categories then it may be rejected.

To assist the process, sufficient evidence should be collated prior to the application. Keeping logs/diaries of incidents and reports to the Police or the Councils Pollution Control team etc will provide essential background information to support the application. Other authorities can also provide evidence at the review and so provide a fuller picture of the problems alleged. Failing to report problems means that the Committee reviewing the application may not be in a position to verify the allegations and may have little choice but to reject the review.

Who can ask for a review?

The legislation defines those who can generally request reviews 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.

'Responsible Authority'

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

Can the licensing authority ask for a review of a licence?

No. The Act does not give the Licensing Authority the power to request a review of a premises licence. (The only exception being when a premises is situated in more than one local authority area and a different Licensing Authority is determining the application).

What grounds must be used for a 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 general issues i.e. parking.

What does frivolous, vexatious or repetitious mean?

Frivolous or vexatious will bear their ordinary meaning. The licensing authority will form a view as to whether a reasonable person would consider the observations frivolous or vexatious.

In the case of a review of the licence, the Act provides that for a ground to be a repetition it must be identical or substantially similar to a ground for review already made. Further, the Act provides that it will be a repetition if a reasonable interval has not elapsed since the earlier application or review. Reviews on similar grounds would not normally be permitted within 12 months of a previous review.

How do I apply for a review of a premises licence?

An application for the review of a premises licence or club premises certificate must be given in writing and be in the prescribed form. The is available from the Licensing Team at the Town Hall or on the DCMS website at http://www.culture.gov.uk/alcohol_and_entertainment/LicensingAct2003App.htm The person or body requesting the review must notify the holder of the premises licence and each responsible authority of their request, by sending them a copy of the application for review, together with any accompanying documents, on the same day as the application is given to the relevant licensing authority.

Do I have to pay a fee?

No. The Licensing Act 2003 (Fees) Regulations 2005 does not prescribe a fee for making representations, or applying for the review of a premises licence or club premises certificate.

What happens next?

The Licensing Authority will advertise the application for the review by displaying a pale blue A4 (or larger) notice, printed legibly in black ink or typed in black, in a size equal to 16 font (or larger):

- Prominently at, on or near the premises to which the application relates, where it can be conveniently read from the exterior of the premises by the public (where the premises covers an area of more than 50m squared, a further notice in the same form and subject to the same requirements every 50 metres along the external perimeter of the premises abutting any highway). The notice must be displayed for 28 consecutive days, starting on the day after the application is given to the relevant licensing authority
- At the offices, or the main offices of the licensing authority in a central and conspicuous place
- In a case where the relevant licensing authority maintains a website for the purpose of advertisement of applications given to it, by publication of a notice on that website.

The notice must be displayed for 28 consecutive days, starting on the day after the application is given to the relevant licensing authority, and an interested party or a responsible authority has a period of 28 days in which to make representations to the Licensing Authority.

What information needs to be included in the advertisement for review?

Notices advertising applications for reviews need to state:

- The address of the premises about which an application for a review has been made
- The dates between which interested parties and responsible authorities may make representations
- The grounds of the application for review
- That postal address and website address (if any) where the register of the relevant licensing authority is kept and where and when the grounds for the review may be inspected
- That it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable.

What happens to a valid review?

The Review request is required to go before a sub-committee of three Councilors who will hear the matter and any representations. Notice of the meeting will be sent to all relevant parties no later than 10 working days before the meeting along with a copy of the Councils' Hearing Rules and Procedures.

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.

At the conclusion of the review, the sub-committee may;

- Issue an informal warning and/or recommend improvements
- Modify conditions (which can be for a temporary basis for up to 3 months);
- Exclude any activity (which can be for a temporary basis for up to 3 months);
- Remove the Designated Premises Supervisor (this is not applicable to Club Premises Certificate holders);
- Revoke the licence

Can I appeal a decision made at the review?

Yes. A relevant party to the review may appeal the Committees' decision at the Magistrates Court. In general the Council will defend the decision of the Committee, and the appellant will have to convince the Magistrate that the decision was not the correct one. If the Court considers there were insufficient grounds to support an appeal, costs may be awarded against you.

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