



Review of Premises Licences and Club Premises Certificates

What is a Review?

Sometimes activities at licensed premises can lead to problems and from time to time licence holders can abuse privileges granted to them by a licence.

On the rare occasions this happens, neighbours, the Police, other responsible authorities and the Licensing Authority can intervene, usually on an informal basis in the first instance. However, this approach does not always work and it becomes necessary to resort to one form of formal action or another.

Any responsible authority, local resident or body representing a community can initiate a 'Review Hearing' to have a licence reconsidered. The Licensing Act 2003 sets out a procedure whereby individuals may make an application to the Licensing Authority for the review of a premises licence or club premises certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

In every case, the representation must relate to particular premises for which a licence or certificate is in force and must be relevant to the promotion of the licensing objectives.

The Statutory Guidance issued by the Secretary of State in accordance with the Act ("the Guidance") considers that the procedures to allow a review of a licence represent a key protection for a community where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.

It should be noted that the Guidance recognises that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, the general public and responsible authorities in pursuit of common aims. It is considered good practice for responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.

Similarly, in the case of persons and businesses, consideration should be given to whether their concerns could be effectively dealt with outside of the formal review process. Such steps could include: -

- Talking with the licence or certificate holder to establish whether there are any steps they may be willing to take to rectify the situation;
- Asking the Licensing Section to talk to the licence holder on your behalf;
- Asking your local MP or Councillor to speak to the licence holder on your behalf;
- Talking to the relevant responsible authority (e.g. Environmental Protection Team in relation to noise nuisance or the police in relation to crime and disorder) to establish whether there is other action that can be taken to resolve the problem.

Who Can Make an Application for a Review?

Anyone can initiate a review, this includes responsible authorities and members of the public, councillors etc.

What are the Licensing Objectives?

- The prevention of crime and disorder;
- Public safety;
- The protection of children from harm;
- The prevention of public nuisance.

(Note: The licensing objectives are of equal importance.)

How can an Application for Review be Made?

Any applicant for the review of a premises licence or club premises certificate must fully complete the prescribed application form and send it to the Licensing Authority. For applications made in a non-electronic form, on the same day as the application is served on the Licensing Authority, the applicant must send copies of the application to all of the responsible authorities and the holder of the licence or certificate.

What Happens When an Application is Made?

The Licensing Authority must first consider whether the reasons for the review are relevant to one or more of the licensing objectives. Secondly the Licensing Authority must be satisfied that the application is not frivolous, vexatious or repetitious. As a general guide: -

Frivolous and Vexatious

“Frivolous” or “vexatious” will bear their ordinary meaning. For example, the Licensing Authority might find the representations were vexatious if they arise because of disputes between rival businesses or frivolous if they clearly lacked seriousness.

Repetitious

A “repetitious” representation is one that is identical or substantially similar to:

- A ground for review in an earlier application, which has already been determined;
- Representations considered by the Licensing Authority when the premises licence was first granted;
- Representations made when the application for the licence was first made and were excluded because of the prior issue of a provisional statement;
- In addition to the above grounds, a reasonable interval has not elapsed since any earlier review or the grant of a licence.

The review process is not intended to be used simply as a second bite of the cherry following the failure of representations to persuade the Licensing Authority on earlier occasions. It is for the Licensing Authority to judge what should be regarded as a

“reasonable interval” in these circumstances. However, the Guidance suggests that more than one review from a member of the public should not be permitted within a period of twelve months on similar grounds, save in compelling circumstances (e.g. where new problems have arisen) or where it arises following a closure order.

What Happens if the Review Application is Considered Relevant?

The Licensing Authority will make arrangements for the display of a notice of the application for review of the licence or certificate as follows:

- Depending on the circumstances, a notice shall be prominently displayed at, on or near the site of the premises so that it can conveniently be read from the exterior of the premises by the public;
- At the North Devon Council, Lynton House, Commercial Road, Barnstaple, Devon, EX31 1DG in a central and conspicuous place; and
- On North Devon Council’s web-site: www.northdevon.gov.uk

The notice is required to be displayed for a period of 28 days (or, in the case of a review following a closure order by the Police, 7 days), during which time, any responsible authority or interested party may make a representation concerning the application.

Where Should Representations be Sent?

Any representations from an interested party or responsible authority must be in writing and include details of the party’s full name and address. They should be sent to:

Lead Officer – Licensing
Lynton House
Commercial Road
Barnstaple
Devon
EX31 1DG

Representations must be received no later than the last date specified in the notice, as the Act does not allow the Licensing Authority to consider late representations.

How is the Application Considered?

Copies of any representations received will be sent to the holder of the premises licence or club premises certificate in respect of which the application has been made and arrangements will be made for the Council’s Licensing Sub-Committee to hear the application and representations. Hearings will take place in public, although the Sub-Committee may, in certain instances, decide that it is in the best interest of the public to hold the hearings in private.

The details of all representations (including names and addresses) will be included in a report that will be prepared by officers from the Licensing Section. These reports are public documents and the Council is required to publish them.

The applicant for the review, the holder of the licence or certificate, any additional persons or responsible authorities making representations will be invited to attend the hearing. Any party to the proceedings will be able to be assisted or represented by any person at the hearing, regardless of whether or not that person is legally qualified.

Details of the date and time of the hearing together with details of the procedures to be followed will be sent to all those involved at least 10 working days before the day of the hearing.

The applicant for review and individuals making representations must give notice to the Licensing Authority at least 5 working days before the start of the hearing stating:

- Whether they will attend the hearing in person;
- Whether they will be represented by someone else (e.g. lawyer / councillor / MP);
- Whether they think a hearing is unnecessary (if, for example, parties have reached an agreement before the formal hearing);
- Any request for another person to attend the hearing, including how they may be able to assist the Licensing Authority in relation to the application.

Can an Application or Representations be Withdrawn?

Yes, an application for review of a licence or any representations can be withdrawn by way of giving notice to the Licensing Section no later than 24 hours before the day of the hearing or in person on the day of the hearing.

What Happens if I do not Attend the Hearing?

The Licensing Sub-Committee can still consider the application and any representations in the absence of any party.

What Action is Available to the Licensing Sub-Committee?

The Act sets out what steps the Sub-Committee can take in relation to an application for review of a premises licence or club premises certificate.

The Sub-Committee can either make a decision at the end of hearing or have up to a maximum of 5 days from the day of the hearing, or the last day of the hearing, to come to a decision.

Following consideration of the application, the Sub-Committee may:

- Decide that no action is necessary to promote the licensing objectives;
- Modify or add conditions to the licence;
- Exclude a licensable activity from the licence;
- Remove the designated premises supervisor;
- Suspend the licence for a period (not exceeding 3 months)
- Revoke the licence.

What Action can be Taken if an Applicant for Review, Licence Holder, Responsible Authority or Interested Party is Unhappy with the Decision of the Licensing Sub-Committee?

If an applicant, licence holder, responsible authority or interested party is aggrieved by the decision of the Sub-Committee, they can appeal against the decision to Barnstaple Magistrates Court within 21 days of receiving written notification of the Sub-Committee's decision. Any persons considering such action are advised to take professional advice prior to commencing such proceedings. The contact details for the Magistrates' Court are as follows: -

North and East Devon Magistrate's Court
The Law Courts
Civic Centre
North Walk
Barnstaple
Devon
EX31 1DX

Any Other Questions?

Please contact the Customer Service Centre on 01271 38870 and ask for the Licensing Section for further advice, or alternatively; email: licensing@northdevon.gov.uk